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Articles

The Race/Class Conundrum and the Pursuit of Individualism in the Making of Social Policy

by

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status. This really amounts sometimes to a kind of social paranoia. One cannot afford to lose status on this peculiar kind of ladder, for the prevailing notion of American life seems to involve a kind of rung-by-rung ascension to some hideously desirable state. If this is one's concept of life, obviously one cannot afford to slip back one rung. When one slips, one slips back not a rung but back into chaos and no longer knows who he is. And this reason, this fear, suggests to me one of the real reasons for the status of the Negro in this country. In a way, the Negro tells us where the bottom is: because he is there, and where he is, beneath us, we know where the limits are and how far we must not fall. We must not fall beneath him. We must never allow ourselves to fall that low . . .

—James Baldwin

The policy of the United States is to bring the Negro American to full and equal sharing in the responsibilities and rewards of citizenship.

—The Moynihan Report

I. Introduction: The Post-Civil-Rights Query

There was a time when the favorite question of contemporary policymakers addressing the subordination of African-Americans

1. JAMES BALDWIN, NOBODY KNOWS MY NAME 111-12 (1963) (emphasis omitted).
3. Throughout this Article I use “African-American” and “black” and “European-American” and “white.” As I use “African-American” and “European-American” they are not mere synonyms for “black” and “white,” respectively. For bearers of the designation “European-American,” the idea of individual agency and importance yielded unparalleled personal freedoms, economic prosperity and political democracy, though these are far from unquestionably triumphant. See RICHARD D. ALBA, ETHNIC IDENTITY: THE TRANSFORMATION OF WHITE AMERICA (1990) (demonstrating the emergence of a “European-American” identity, an essential feature of which is a diffuse sense of connection to a history incorporating mythical accounts of immigration and socioeconomic mobility). Bear- ers of the designation “African-American,” on the other hand, are least associated with the fulfilled promises of American individualism. See discussion in Parts III.B-C infra. The relative disassociation between African-Americans and American individualism and the ways it has delineated the nation's character are due to racialization, the lumping of Mand- ingos, Mandes, Akans, Ibos and other African peoples into the category “black,” and of Europeans, who once identified themselves as “Christian, English and free” into the cate- gory “white.” See STANLEY LIEBERSON & MARY C. WATERS, FROM MANY STRANDS: ETHNIC AND RACIAL GROUPS IN CONTEMPORARY AMERICA (1988).

Thus, I use “African-American” and “European-American” to underscore alienation from or identification with American individualism. “Black” and “white” are used to sig- nify the ascription of racial meanings to relationships, behavior, practices, policies and other occurrences. See MICHAEL OMI & HOWARD WINANT, RACIAL FORMATION IN THE UNITED STATES: FROM THE 1960S TO THE 1990S (1994).
was whether race or class is the causal factor. That simple either-or approach to African-American subordination has run its course, giving way to the much more complex query: Whether African-American subordination is a race problem with a class component, or a class problem with a race component?

The reformulated question arises in a post-civil-rights America.

4. See, e.g., The Black Plight: Race or Class? A Debate Between Kenneth B. Clark and Carl Gershman, N.Y. TIMES, Oct. 5, 1980, § 6 (Magazine), at 22; see also RAYMOND S. FRANKLIN, SHADOWS OF RACE AND CLASS xii (1991) ("Is the subordinate position of the black population ultimately derived from the stigma of color, or is it due to the black population's inferior class or economic position?").

5. See, e.g., Michiko Kakutani, Books That Make a Case for Shades of Gray, N.Y. TIMES, June 18, 1993, at C1, C24 (discussing the tendency to see everything in terms of "either-or, all-or-nothing, left-or-right," and thus obscuring the "emotional and political nuances of the actual situation").

6. Detailing what Gunnar Myrdal has termed the "American dilemma," Roy L. Brooks writes:

   It is the problem of a people's painful vulnerability in a society that promises comfort and equality. And it is a problem that poses a simple question: how can African Americans be accorded genuine equal opportunity in American society?

   Whereas political inequality was once seen as the key element of the problem, social and economic disparities have become the central questions today.

   One can no longer talk meaningfully about the problems of African Americans and the resolution of those problems without merging the question of race (which triggers civil rights laws and policies) with that of class structure—it is not an either-or proposition. The issue of race versus class, in other words, is a red herring, a nonissue, in today's African American society.


7. The term "post-civil-rights" is problematic. Commonly, it evokes imagery of linear progress from a time of racial ignorance to a time of racial enlightenment, with each period demarcated by enactment of civil rights legislation. As such, the term threatens to obscure continuities in status and power imbalances that exist along racial lines. Cf. Anne McClintock, The Angel of Progress: Pitfalls of the Term 'Post-Colonialism,' SOCIAL TEXT, Spring 1992, at 1 (voicing misgivings about post-colonial theory, much of which is organized around a binary axis of time rather than power, and which, in its celebration of the pastness of colonialism, runs the risk of obscuring the continuities and discontinuities of colonial and imperial power).

   I use the term "post-civil-rights" to mark a transition from a period of racial domination to one of racial hegemony. See HOWARD WINANT, RACIAL CONDITIONS: POLITICS, THEORY, COMPARISONS 6 (1994) ("Racial attitudes, practices, representations, and institutionalized inequalities were no doubt rendered more problematic by the civil rights 'revolution,' but they were hardly destroyed. What the civil rights movement accomplished was to replace racial domination with racial hegemony . . . ."). Racial hegemony is the co-optation—rather than repression, exclusion or silencing—of racial differences and conflicts within the existing social order such that oppositional discourses and currents are deprived of their critical content. Id. at 29, 113. For example, African-American demand for the redistribution of wealth to redress the material consequences of racial discrimination has been channeled into existing public debates over such issues as meritocracy. Rechanneled
in which all outward indications signal a general discontent with social and civil rights gains accruing to African-Americans. These gains came as a result of the Civil Rights Act of 1964, the Voting Rights Act of 1965, the Fair Housing Act of 1968, and the race-conscious antidiscrimination policies popularly known as “affirmative action” that are pursued to decrease racial segregation in housing, employment and education.

The question also arises in the midst of a renewed debate among poverty scholars and experts on the determinants of black poverty. Together, the growing discontent with black civil rights advocacy and the renewed debate on the determinants of black poverty have fueled a white backlash that opposes race-conscious social policies and ad-

along less explicitly racial lines, the demand for race-justified reparations, if you will, loses its potential for social transformation.


13. See Parts IV.A-B infra.

14. In his last major work published before his recent death, social historian Christopher Lasch observed that liberalism, which embodies myths of progress and limitless abundance, has fallen on hard times, and that the explanation for this development is “white backlash,” a term encapsulating the “status anxiety” of white ethnics. He writes:

White ethnics have allegedly deserted the Democrats, their former benefactors, because they are now prosperous enough to resent high taxes and welfare programs but still insecure in their middle-class status. Status anxiety reinforces their racism and makes them irrationally jealous of the racial minorities currently favored by liberal policy. In 1980, the New York Times explained that liberalism once meant “helping the Irish and Italian families who were still mired in the lower working class” but that it now meant “helping poor blacks and other racial minorities”—something the “more prosperous” beneficiaries of an earlier liberalism could not seem to understand. The “deepest issue” in the controversies over busing and affirmative action, which had split the liberal coalition, was “racial.” White ethnics simply could not see that dark-skinned people need the same kind of help they themselves had received from the New Deal.
vocates for class-conscious social policies.\textsuperscript{15}

Advocates of class-conscious social policies propose income-based school busing rather than race-based busing.\textsuperscript{16} They propose that scholarship\textsuperscript{17} and fellowship\textsuperscript{18} programs reserved for members of specific ethnic and racial groups be abandoned in favor of need-based programs. They object to university admissions practices that rely on race.\textsuperscript{19} They object to the practice of setting aside federal contracts for firms owned by racial minorities.\textsuperscript{20} Their general tendency is to call

\textbf{Christopher Lasch, The True and Only Heaven: Progress and Its Critics 476-77 (1991).}

A small but increasingly vocal group of black conservatives has also expressed dissatisfaction with the traditional civil rights agenda. See Peter Applebome, \textit{Drive for Civil Rights in U.S. Faces New Agendas}, \textit{N.Y. Times}, Apr. 2, 1990, at B8 (discussing black conservatives' view that the traditional focus on racism and race-based remedies like affirmative action, instead of a focus on economic and social change within the black community, is not only out of date, but also harmful to black aspiration).

15. Though affirmative action is the social policy that concerns this Article, I do consider extensively other social policies—namely welfare—because in current debates, affirmative action policies are linked with welfare policies. Roger Wilkins, for example, writes:

Before the 1950s, whites who were busy denying that the nation was unfair to blacks would simply assert that we didn't deserve equal treatment because we were \textit{inferior}. These days it is not permissible in most public circles to say that blacks are inferior, but it is perfectly acceptable to target the \textit{behavior} of blacks, especially poor blacks. The argument then follows a fairly predictable line: The behavior of poor blacks requires a severe rethinking of national social policy, it is said. Advantaged blacks really don't need affirmative action anymore, and when they are the objects of such programs, some qualified white person (unqualified white people don't show up in these arguments) is (as [Senate majority leader Bob] Dole might put it) “punished.” While it is possible that color-blind affirmative action programs benefiting all disadvantaged Americans are needed, those (i.e. blacks) whose behavior is so distressing must be punished by restricting welfare, shriveling the safety net and expanding the prison opportunity. All of that would presumably give us, in William Bennett's words “what we want—a color-blind society,” for which the white American psyche is presumably fully prepared. Roger Wilkins, \textit{Racism Has Its Privileges}, \textit{The Nation}, Mar. 27, 1995, at 409, 414 (emphasis in original).


for "broad-based" economic reform\(^2\) or to stress assistance programs that benefit needy people regardless of race.\(^2\)

The advocacy for class-conscious social policies is frequently buttressed with reminders that it is un-American to make decisions or allocations on the basis of racial averages, preferences or groupings.\(^2\) Senator Joseph Lieberman of Connecticut, for example, is reported to have remarked:

You can't defend policies that are based on group preferences as opposed to individual opportunities, which is what America has always been about. . . . When we have such policies, we have the effect of breaking some of those ties in civil society that have held us together. . . . And those who are the victims of them and lose out when choices are made based on group preferences as opposed to individual ability naturally become disaffected from the process.\(^2\)

Senator Lieberman continued:

[T]his business of deciding by group, in a sense, is the flip side of the argument that has flared up here in the last year about genetics, if you will, and the argument that some make that some groups are genetically less able than others. . . . That's an un-American argument. . . . And it's an un-American argument because it's based on averages, not on individuals. And that's the same when we come to group preferences and quotas. America's about individuals, not about averages or groups.\(^2\)

Though much of the advocacy for class-conscious social policies has been occurring in the legislative and executive arenas, it also has been reflected in recent judicial decisions.\(^2\) Most recently in Podber-disadvantaged businesses owned by minorities or women; and that Senator Dole attacked programs requiring federal contractors to develop plans to increase the hiring and promotion of minorities and women); see also Paul M. Barrett, Federal Preferences for Minority Firms Illustrate Affirmative-Action Dispute, WALL ST. J., Mar. 14, 1995, at A16.

24. \textit{id}.
25. \textit{id}. Senator Lieberman's statement about the genetic argument is a reference to the controversy surrounding Charles Murray's and the late Richard Hernstein's \textit{The Bell Curve}, in which the authors attempt to link race, genes and intelligence in an argument against race-conscious affirmative action. \textit{Charles Murray \\& Richard Hernstein, The Bell Curve} (1994).
26. Judicial consideration of social policies not premised on race is, of course, not entirely new. See City of Richmond v. J.A. Croson, 488 U.S. 469 (1989) (invalidating a city's minority business set aside program). Writing for four Justices, Justice O'Connor in \textit{Croson} indicated that the program at issue was unconstitutional because, \textit{inter alia}, there was no evidence that the city considered any race-neutral alternatives. \textit{id}. at 507. Justice Scalia in dissent argued that "[a] state can, of course, act to undo the effects of past dis-
esk y v. Kirwan, the Fourth Circuit Court of Appeals struck down as unconstitutional a race-conscious remedial program under which only African-American students were eligible for scholarships. The court intimated that a scholarship program based on economic hardship could have been sustained. Further, in Adarand Constructors, Inc. v. Peña, the Tenth Circuit upheld the constitutionality of section 502 of the Small Business Act, which requires federal agencies to set aside contracts for small business concerns “owned and controlled by socially and economically disadvantaged individuals.” Thereafter, the United States Supreme Court vacated the Court of Appeals’s judgment and remanded the case with instructions to apply a strict scrutiny standard of review to any use of race-based presumptions in identifying socially and economically disadvantaged individuals. The Supreme Court apparently left undecided the issue of whether a strictly class-conscious basis (absent any presumption with respect to disadvantage based on race) for federal set aside programs would be constitutional. These judicial considerations of class-conscious social policies are important developments because policymakers must act within the boundaries of the Constitution, as interpreted by the judiciary.


28. 38 F.3d at 161.

29. 16 F.3d 1537 (10th Cir. 1994), vacated and remanded, 115 S. Ct. 2097 (1995).

30. Section 502 of the Small Business Act provides in pertinent part:


32. See Linda Greenhouse, Justices, 5 to 4, Cast Doubts on U.S. Programs That Give Preferences Based on Race, N.Y. TIMES, June 13, 1995, at A1, A9 (reporting that numerous issues were left unresolved, including “the fate of the preference program...which provides a financial bonus to contractors on Federal highway programs who subcontract part of the work to businesses owned by ‘socially and economically disadvantaged individuals.’ The presumption under the law is that blacks and members of other minorities meet that definition, although the presumption may be rebutted in individual cases and white contractors may seek to qualify as ‘disadvantaged.’”).

But should we constitutionalize "class-consciousness," and thus enshrine it into doctrine? What does it mean to be "class-conscious" in America? Does class-consciousness merely mean recognition of differences in income and wealth, or does it recognize something more? Would class-consciousness serve egalitarian principles? Would class-consciousness move America closer to its idealized self-image as a color-blind society?

This Article analyzes the advocacy for class-conscious policy initiatives within the context of recent debates over the contributing roles of race and class to the subordination of African-Americans. The analysis begins in Part II with a discussion of the components of the Article's title, "the race/class conundrum" and "individualism," and their centrality to the formulation of social policy in a post-civil-rights era.

The "race/class conundrum," discussed in Part II.A, is about social relationships and relationships of power. It is about the limits of static cataloguing and ordering. And it is about rejecting the notion that only one stable category—either race or class—matches up with the realities of the post-civil-rights era. Martha Minow has emphasized the importance of a "social relations approach" that questions the construction of certain social problems in either-or terms. She argues that a concern with the processes of assigning categories (that is,

34. I concentrate in this Article on African-American subordination as an act of "strategic essentialism." See Richard Delgado, Rodrigo's Sixth Chronicle: Intersections, Essences, and the Dilemma of Social Reform, 68 N.Y.U. L. REV. 639, 653 (1993). For reasons of limited space, data, and bibliographic sources, as I use it, "strategic essentialism" involves analysis of the effects of social policy on a selected racially defined minority group (here, blacks). But in focusing on this selected group, I in no way intend to convey the erroneous impression that the analysis is necessarily a black/white undertaking. See Elizabeth Martinez, Beyond Black/White: The Racisms of Our Time, 20 SOC. JUST. 22 (1993).

The relationship between race and class as determinants of Asian-American and Latino/Hispanic subordination is also a matter of open public debate. Today the complexity of the race/class dynamic is such that even within groups comprising a racial category, economic polarization, see, e.g., Sam Roberts, New York's Puerto Ricans Split in Economic Success, N.Y. TIMES, Dec. 28, 1993, at B3, engenders public discourse on the significance of race for policy initiatives. The relative socioeconomic success of Japanese-Americans, for example, is typically proffered as proof of Asian-American achievement unhindered by race and unaided by race-conscious policy. But not all Asian-Americans have enjoyed socioeconomic prosperity. See Ashley Dunn, Southeast Asians Highly Dependent on Welfare in U.S., N.Y. TIMES, May 19, 1994, at A1 (reporting that "more than 30 percent of all Southeast Asian households in the nation now depend on welfare for survival"); Al Kamen, Myth of 'Model Minority' Haunts Asian Americans, WASH. POST, June 22, 1992, at A1 (reporting poverty rates for Vietnamese-Americans (33.5%), Cambodian-Americans (46.9%), Hmong-Americans (65.5%) and Laotian-Americans (67.2%)).
labeling), and with the relationships between categories, would resist abstraction and demand context.  

My analysis of race and class issues in this Article is not unlike Professor Minow's social relations approach. The analysis pays attention to a particular social-historical context shaped by the ideas of "individualism" and "race." Particular attention is paid to the ways these ideas operate to categorize or label African-Americans and thus to impose upon African-Americans a cultural identity that has dire policy consequences. In other words, the analysis focuses on the social meaning of the African-American, as expressed by language, popular iconography, other signification systems, and the interpretation of everyday experiences.

I contend, for example, that the categorization of African-Americans as a people behaviorally, morally and culturally impoverished—as a people outside the pale of what characterizes "Americanness," and therefore justifiably relegated to the margins of society—has called into question the efficacy of all race-conscious policymaking. Additionally, European-American identity—oppositionally constructed as "race"-less and harmonious with American individualism—results in policy prescriptive, couched in the term "class," that preserve relationships of disparate power between blacks and whites.

Relational insights make possible the exploration of power and its social manifestations between European-Americans and African-Americans. Power, in this analysis, is not treated as a possession of individual social agents. Rather, the concept of power refers to the systematic and continuous ability of one social group to affect adversely the welfare of another. In post-civil-rights America, white power over racialized minorities is maintained by use and invocation of "individualism."

"Individualism," discussed in Parts II.B and III, is the title's short hand reference for what I call "individualistic democratic capitalism." In brief, individualistic democratic capitalism is the touchstone of American cultural identity. It valorizes the individual as the primary moral, political and legal subject; it fears the instrumentalities of gov-


36. See, e.g., THOMAS E. WARTENBERG, THE FORMS OF POWER: FROM DOMINATION TO TRANSFORMATION 17-27 (1990) (discussing the Platonic conception of power as an ability to affect or to be affected by something else).

ernment as potential obstructions to expressions of individual liberties; and it reveres the minimally regulated market place as the venue in which an application of reason will result in progress—defined as the expansion of individual liberties. As a conception of self and society, individualistic democratic capitalism in its broadest conceptual terms is committed to an abstracted universal subject capable of traversing all time and space.

Because of these universalizing tendencies of individualistic democratic capitalism, race\textsuperscript{38} undertakes to furnish specific identities to otherwise abstracted and alienated social actors.\textsuperscript{39} In so functioning, race becomes a central feature of individualistic democratic capitalism. Paradoxically, the more race characterizes individualistic democratic capitalism, the more insistent assertions of the irrelevancy of race become.

Michael Omi and Howard Winant's racial formation theory\textsuperscript{40} facilitates an understanding of race as a central axis of social relations that cannot be subsumed into some other category—in this analysis the category "class." Racial formation theory maintains that race pervades social life, operating at both micro- and macro-levels to permeate individual psyches and relationships as well as collective identities and social structures. Racial formation theory recognizes race as preeminently a sociohistorical concept. Race is not a natural attribute, though the racial dimensions of social structures, identities and signification systems are often naturalized. Racial formation theory confronts the unnatural attributes of race that result in the tendency to dismiss race.

\textsuperscript{38} The confounding question—what is "race"?—is not within the scope of this Article. For recent legal scholarship probing the nature of "race," see Jayne Chong-Soon Lee, \textit{Navigating the Topology of Race}, \textit{46 Stan. L. Rev.} 747 (1994) (reviewing Kwame Anthony Appiah, \textit{In My Father's House: Africa in the Philosophy of Culture} (1992), and arguing that race is defined not by its inherent meaning but by the social contexts through which it is constructed); Ian F. Haney Lopez, \textit{The Social Construction of Race: Some Observations on Illusion, Fabrication, and Choice}, \textit{29 Harv. C.R.-C.L. L. Rev.} 1 (1994) (advancing a theory of race as a social complex of meanings we continually replicate in our daily lives). \textit{See generally David Theo Goldberg, Racist Culture: Philosophy and the Politics of Meaning} 80-84 (1993) (maintaining that the meaning and significance of race are determined by the social thought and ideology prevailing during given historical epochs).

\textsuperscript{39} \textit{See Goldberg, supra} note 38, at 4.

\textsuperscript{40} \textit{See Omi \& Winant, supra} note 3, at 53-76; \textit{Winant, supra} note 7, at 115-17.
Using racial formation theory, Part III briefly chronicles the "racialization"41 of America's cultural identity—a process that acquired saliency by the mid-nineteenth century and that continues as we approach the twenty-first century. In broad strokes, I account for the nation's racialized colonial origins, and the early use of race to reconcile freedom—the central principle of individualistic democratic capitalism—with "unfreedom." By the time of the revolutionary era, individualistic democratic capitalism and race had consolidated such that the realization of political rights and economic opportunities was the exclusive preserve of European-Americans.

As the process of racializing the nation's character continued into the nineteenth century, the presence of racially degraded "others" enabled the majority of European-Americans to endure continuously the incongruous socioeconomic conditions that resulted from the practices of individualistic democratic capitalism. For instance, during the period of significant working class formation, a consciousness of not being deemed "black" typified working white Americans. They viewed "blackness" as the embodiment of habits and values inimical to an industrialized society, the demands of which they felt privileged to meet even though the resulting benefits were for their limited enjoyment. The overidentification of American white workers with their whiteness meant that race was a determining factor in the processes of class formation and of class consciousness among American white workers.

A review of the historical framework within which American cultural identity evolved has led me to believe that, in tandem, individualistic democratic capitalism and race impose their own conceptual limitations on the subjects of public debate. As such, they circumscribe the range of feasible responses to questions raised for solution. Additionally, I believe that certain traits of our racialized national character limit our policy perspective and, in turn, present troubling

41. The term "racialization" comes from Howard Winant. See WINANT, supra note 7, at 58-59. From a racial formation perspective, race is by nature historically specific, fluid and unstable. Thus, according to Winant, it is necessary to interpret the meaning of race not in terms of definition, but in terms of processes. Chief among these processes is the construction of racial identity and meaning—what Winant calls "racialization." He states that racialization refers to the extension of racial meaning to social relations, practices and groups. Id. at 59. It is because of the process of racialization that race has no fixed meaning. The concept of racialization is distinct from the concept of racism. Racism involves the "creat[ion] or reproduc[tion] of structures of domination based on essentialist categories of race," categories purporting to embody the human essences that exist outside or that are impervious to social and historical context. See OMI & WINANT, supra note 3, at 71.
policy issues. Such issues include how to accord genuine equality\textsuperscript{42} to African-Americans in a society reluctant to rectify social and economic imbalances that are deemed natural and deserved though they are clearly racial in nature.

These are the issues that provide the impetus for my focus in Part IV on the connections between an advocacy for class-conscious policy initiatives and a racialized national cultural identity. One of my objectives in Part IV is to lay out the renewed debate on the determinants of black poverty. Thus, Part IV details the paradox of black progress and black poverty and reviews competing theoretical explanations in conjunction with relevant policy responses. Part IV also reconstructs the backlash from which the call for class-conscious remediation resonated.

Racialization of America's national character is unchanged in a post-civil-rights era, though the processes by which racialization occurs are constantly evolving and in a state of flux. Thus, my other objective in Part IV is to demonstrate the linkage of race to poverty, social pathologies, personal morality and responsibility, economic decline, bureaucratic growth, and costly government programs that are deemed politically intolerable. Thereby, race is revealed as central to public discourse involving some of the most pressing social issues of the day. I conclude that the post-civil-rights advocacy for class-based policy initiatives is a reaction to these race-linked societal issues.

In short, class is an emerging construct through which racialization is perpetuated without explicit references to race and with express denials of the significance of race. The site of this perpetuation is the social policy arena (hence the call for class-conscious policy initiatives) where a melange of racialized character traits that define "Americanness" is represented, interpreted and contested.

In Part V of the Article, I ask what transformations should be made to our current regime of policymaking in order to counteract

\textsuperscript{42} Whenever there is talk of "equality" it is almost inevitable that someone will query, "What do you mean by equality? Do you mean equality of opportunity, or do you mean equality of results?" The question so posed indicates for me that the inquirer has firmly situated the concept of equality in the economic sphere. Thus, for me, that query begs the question, "Why is the concept of equality located in the economic sphere in the first place?" As I argue in Part II.B, the answer has to do with an application of the tenets of individualism to political and economic life that accommodates the coexistence of uniform legal and political rights and vast social and economic divisions. Rather than debate whether equality describes opportunity or result, why not engage in rigorous interrogation of the economic sphere, its practical consequences for our lives, and its implications for any theory of equality?
what Etienne Balibar calls "neo-racism"—the racism of a post-civil-rights future. My first recommendation is that African-Americans must act strategically to develop an identity with a view towards its concrete implications for social policy and citizenship in American society. My second recommendation is that policymakers in the legislative and executive branches refrain from predetermining policy decisions on individualistic democratic capitalism in their current, uncritical fashion. Rather, policymakers should adopt a method of asking how individualistic democratic capitalism has subordinated African-Americans. Asking that question, I argue, requires policymakers to search for latent racial bias underlying any proposed alternative policy criterion such as class. I offer concluding remarks in Part VI of the Article.

Before proceeding with the analysis, a word regarding its presentation is in order. I write in the tradition of the critical race theorist, a tradition that has produced scholarship that is "necessarily eclectic." As such, I attempt to do what critical race theorists do: mine the groves of established scholarly paradigms for themes and concepts that are then incorporated into the analysis to form a new critical


44. The arguments made in this part of the Article parallel those made by Professor Charles Lawrence in his seminal work on unconscious racism. See Charles R. Lawrence, III, The Id, The Ego, and Equal Protection: Reckoning with Unconscious Racism, 39 STAN. L. REV. 317 (1987). Professor Lawrence employs principles of psychoanalytic theory and cognitive psychology to demonstrate the pervasiveness of unconscious racism in American society. He argues that requiring proof of conscious or intentional motivation in racial discrimination cases disregards both the irrationality of racism and the profound effect that the history of American race relations has had on the individual and collective subconscious. Id. at 323.

While Professor Lawrence's central focus is on the judiciary and the intent requirement in the Supreme Court's equal protection jurisprudence, I concentrate on legislative and executive actors and the current advocacy for class-conscious social policy. I maintain that, like the judiciary, legislators and executives must recognize the presence of unconscious racism in social policy discourse. I argue that in considering a shift toward class-consciousness, policymakers must pay specific attention to "individualistic democratic capitalism"—the philosophical framework within which unconscious racism resides.

45. As traditions go, the Critical Race Theory movement is young, dating back only to July 1989. See Angela P. Harris, Foreword: The Jurisprudence of Reconstruction, 82 CAL. L. REV. 741 (1994) (summarizing the events leading to the rise and prominence of Critical Race Theory).


47. Professor Calmore writes that "critical race theory is necessarily eclectic, incorporating what appears to be helpful from various disciplines, doctrines, styles, and methods." Id. at 2164-65.
framework for understanding the social relations of subordination and of power. Thus, my focus is decidedly extralegal and contextual.48

I take this analytical approach because, as John Calmore writes, it enables, without the restrictions inherent in traditional doctrinal analysis, the critique and reinterpretation of law, society and culture—the three large "texts" to which groups turn for the symbols, representations and expressions pertinent to their identity.49 This analytical approach, however, is not without unavoidable features that might be problematic for some readers. For some readers, fragmentation among the parts of the Article will be an issue. But other readers will recognize a complex relationship among the parts of the Article and their respective themes. These readers appreciate that, though presented and read sequentially, each piece forms part of an ensemble that must be heard at once.50 Let us now listen to the analysis.

II. Ideological Determinants and Constraints

A. The Race/Class Conundrum

Assessing the soundness of class-conscious policymaking is a perplexing undertaking. First, there is the absence of any sustained class analysis in the dominant discourse on equality and inequality51 that could form a predicate for such policymaking.52 Indeed, in the Ameri-

48. Id. at 2165.
49. Professor Calmore treats "law, society, and culture ... [as] texts—not so much like a literary work, but rather like the traditional black minister's citation of text as a verse or scripture that would lend authoritative support to the sermon he is about to deliver." Id. at 2162. Calmore writes: "Texts are not merely random stories; like scripture, they are expressions of authority, preemption, and sanction." Id. Having so defined "texts," Calmore argues that culture constitutes the forms of symbolization, representation, and expression through which a group secures its identity and solidarity. Id. (citing JOHN BRENKMAN, CULTURE AND DOMINATION 26 (1987)). Thus, for the critical race theorist challenging the oppressive and subordinating features of post-civil-rights America, the texts of law, society and culture must be subjected to fundamental criticism and reinterpretation for it is there that identities delineating the oppressed and the oppressor are forged.
50. See Calmore, supra note 46, at 2133 ("[E]ach of the major parts [of Calmore's article] could read as a separate article, but they are not; they form an ensemble piece that unfortunately must be read sequentially instead of heard at once.").
51. See J. R. POLE, THE PURSUIT OF EQUALITY IN AMERICAN HISTORY xi (1978) (noting that "a remarkably small proportion of the debates on equality recurring throughout American history has been taken up by such questions as the redistribution of wealth or any effective re-evaluation of the criteria by which economic rewards are allotted").
52. To be sure, poverty was "discovered" in America after the publication of Michael Harrington's The Other America, and Americans launched an anti-poverty effort. MICHAEL HARRINGTON, THE OTHER AMERICA (1962). That, however, is not the same as the discovery of class followed by an appropriate policy response. The discovery of poverty spurned a policy industry because poverty is generally regarded as an eminently cura-
can experience, the generally accepted belief is that class bears little, if any, relevance to conceptions of equality and inequality. Consequently, class distinctions qua class distinctions historically have not provoked significant social policy initiatives.

Second, the resulting analytical void has had a dynamic impact on policy discussions regarding the possible import of the modern phenomenon of a black population increasingly stratified into socioeconomic classes. Since race in the American experience has been the stark embodiment of inequality, many African-Americans express reservations about a generalized class approach to policymaking. They argue that such an approach threatens to disregard the continuing and lasting subordinating effects of racism on all segments of the African-American community. The perception is that emphasis on socioeconomic stratification within the African-American community, and a concomitant shift to universal class-conscious policies, are attempts to avoid remedying racial discrimination.
Indeed, invocation of class differentials by the African-American community itself to name and to identify the source of its ailments is almost nonexistent.\textsuperscript{58} Prevailing notions of racial solidarity within the African-American community seem to discourage such \textit{intra}-racial distinctions.\textsuperscript{59} As a consequence, significant segments of the African-American community treat class talk\textsuperscript{60} as coded terminology that views violence, adolescent and out-of-wedlock pregnancies, drug abuse and chronic unemployment as congenital pathologies that inhere in all blacks.\textsuperscript{61} As such, the invocation of class in social policy discourse is widely regarded as a proxy for “those black people with

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\item \textsuperscript{58} "The main event intellectually for blacks seems to be ethnic and cultural identity, not the tensions between rich and poor . . . ." Nicholas Lemann, \textit{Black Nationalism on Campus}, \textit{Atlantic}, Jan. 1993, at 31. A committee on the status of black Americans explained the absence of a “class” critique as follows:

The growth of the new black middle class, contrary to some expectations, has created a black bourgeoisie that is more predisposed to align itself politically with the black lower class than was the case earlier. This pattern may be due to a “structural liberalism” stemming from a shared interest, reinforcing considerations of ideology or race solidarity, in seeing the public sector expand. It may be significant that a large proportion of lower status blacks receive public assistance and community services from programs that are disproportionately staffed by black professionals. Thus, the lack of a pronounced class differential in black attitudes toward the public sector can be partly attributed to the fact that the class structure and vested interest in the expansion of the public sector intersect in a very different way among blacks than among whites.


\item \textsuperscript{59} See Constance Johnson, \textit{The Hidden Perils of Racial Conformity}, U.S. News & World Rep., Dec. 24, 1990, at 42 (reporting that the racial solidarity stance and “the reluctance of many blacks to countenance criticism of the civil-rights agenda” are damaging to poor blacks). For a recent discussion on ideological conformity within the African-American community see \textit{Ishmael Reed, Airing Dirty Laundry} 3 (1993) (“The profitable literary scam nowadays is to pose as someone who airs unpleasant and rank facts about the black community, only to be condemned by the black community for doing so.”).

\item \textsuperscript{60} See \textit{Benjamin Demott, The Imperial Middle: Why Americans Can’t Think Straight About Class} 95-109 (1990).

\item \textsuperscript{61} Professor Calmore observes that “[m]uch of today’s racialization is coded and covert. Ironically, we have now a policy of what I call ‘racialized color blindness,’ that never explicitly refers to race in talking about cultures of poverty, welfare cheats, inner-city poor or underclass poor, etc. In such instances, the unstated reference is to blacks.” See Calmore, supra note 46, at 2160 n.105.

The observation that “class talk serves as a means of releasing hostility to ‘inferiors,’ usually blacks and minorities,” see Demott, supra note 60, at 95, is not intended as a diversion from the real social problems of violence, adolescent pregnancies, drug abuse and unemployment. The point is that these problems are inadequately addressed because they are inextricably associated with race. See Thomas Byrne Edsall & Mary D. Edsall, \textit{Race, Atlantic}, May 1991, at 53 (demonstrating that when the official subject is presidential politics, taxes, welfare, crime, rights or values, the real subject is race).
the dysfunctional culture.”

Further compounding these difficulties in responding to advocates of class-conscious policymaking is a nationalist ethos that equates “authentic blackness” not only with poverty, but with poverty of the urban variety. Black urban poverty is regarded, therefore, as a unique testament to ineradicable racial subordination. Nonetheless, advocates of class-conscious policymaking continue to regard white poverty and black poverty as equal inequities—as a mere function of wealth and income deprivation. Advocates of class-conscious policymaking conflate white poverty and black poverty, subjecting them both to a single “cure-all” premised on generalizations and with no analysis of the differing causes and manifestations of white and black poverty.

In the words of Benjamin Demott, “Americans can’t think straight about class.” Thus, “social wrong is accepted in America partly because differences in knowledge about class help to obscure it, and the key to those differences is the degree of acceptance of the myth of classlessness.”


63. See Henry Louis Gates, Jr., “Jungle Fever” Charts Black Middle-Class Angst, N.Y. TIMES, June 23, 1991, § 2, at 20 (reviewing the film “Jungle Fever”), in which Professor Gates comments on a “new nationalist ethos in the late 60’s and 70’s” regarding black social advancement as follows:

As ghetto or street culture became romanticized, many blacks became defensive about a middle-class past or future. “Authentic” black culture, in other words, was lower-class culture, from speech and attitude to clothes and coiffure. As if to assuage guilt for having escaped, new arrivals in the black middle class, unable or unwilling to visualize themselves in their own terms, embraced the affectations of the ghetto, though without its pain, frustration and suffering. For one of the few times in black history, the “blackest” aspects of black culture were thought to be those least related to economic success. To be black and middle class was to betray, somehow, one’s black heritage.

Thus, for example, the media depiction of the obviously upper middle class Huxtables on the Bill Cosby Show generated much debate (among both white and black viewers) on the representational nature of the show. Even in a fictitious context, a unity of blackness, economic prosperity, bourgeoisie consumption patterns and lifestyle was incredulous. Americans, both black and white, consign blacks to the lowest ranks in American society. Black and poverty (and here “underclass” or “lower class” may substitute for the word “poverty”) are synonymous terms in public debates.

64. Increasing attention is now being paid to the rise in black rural poverty. See, e.g., Peter Applebome, Deep South and Down Home, But It's a Ghetto All the Same, N.Y. TIMES, Aug. 21, 1993, at A1.

65. See Demott, supra note 60.

66. Id. at 10-11.
The advocacy for class-conscious policies appears to contradict Demott's observations. A class-conscious advocacy presumably—by its very nature—rejects the mythology of classlessness. By acknowledging the existence of class differences, social wrongs visited upon Americans, regardless of race, are rendered ameliorable with appropriate public policy.

Notwithstanding their rhetorical recognition of socioeconomic stratification, class advocates fail to confront and account for a more theoretical conceptualization of class, its historiography, nature and function in relation to American identity. I believe this is so because of a dialectic interplay between individualistic democratic capitalism and race that creates conditions that negate theoretical attention to class even when the concrete features of socioeconomic differentiation are pervasively evident. Unless policymakers reckon with this dialectic that informs all of the race/class debate, their policy judgments will be inherently limited and resulting initiatives will be wholly inadequate.

My argument, in other words, is that advocates of class-conscious policies dangerously abstract wealth and income differentials from the

67. As I argue in this Article, the best way to think about class is as a relational construct. The italicized class denotes this construct. The relational model of class, which embraces the concept of the social group as constituent of the individual, is at variance with notions emphasizing, for example, income and occupational differentials among individuals who are grouped for the sake of statistical comparisons. The practice of what I will call "comparative grouping" does not take the concept of class seriously. Comparative grouping sees individuals in possession of income and occupational attributes that were acquired as a result of individual choice, effort and merit, regardless of social group history and affiliation.

68. My thesis is influenced by Professor Peggy Davis's observations regarding the importance of culture, perspective and sensibility in shaping "law," and here I will add "policy." Professor Davis writes:

When legal scholars believed that law was only and always derived by reasoning from fixed principles, legal scholarship was confined, justifiably, to the critique of deductive syllogisms within the judicial opinion. Our beliefs have become more complicated. We no longer imagine law, or much of anything, to be a matter of simple deduction. Instead, we understand that law is created by people—people who reason within a culture, from a perspective, and with a set of sensibilities. Accordingly, we see that law is shaped by culture, perspective, and sensibility as well as by logic. Mastery of the deductive syllogism is still foundational, but no longer sufficient, to fulfillment of the legal scholar's obligation to provide critical commentary as law evolves. The thorough scholar looks not only to the logic of principles that we call law, but also to the characteristics of interactive, cultural processes that comprise lawyering and judging. S/he takes as texts both the statutes and judicial opinions that constitute law and the discursive acts by which law is articulated, debated, and applied.

beliefs and practices of American life, representing them alone as intrinsic properties of subordination. Extracted from the specificities of "Americanness," the distillates wealth and income threaten to congeal into social policies that effectively neglect the complex problems they purport to solve.

In order to substantiate my thesis, I must first ask, What is class? According to Paul Fussell, "[n]obody knows for sure what the word class means." Societal members use the term class to reference social valences. For social theorists, the term class is a referent to social status distinctions or to modal relations. As it relates to social status, class is a function of a range of variables including income, wealth, occupation, education, consumption capacity and lifestyle. As a referent to modal relations, class focuses on modes of economic production and on economic and structural relationships.

69. Angela Harris argues that feminist theorists’ emphasis on gender constructed through male domination and sexual exploitation treats race and racism as inessential to understanding women’s lives. See Angela P. Harris, Race and Essentialism in Feminist Legal Theory, 42 STAN. L. REV. 581 (1990). Borrowing from Professor Harris’s critique of feminist theorists, I charge the class advocates with “essentialism,” which in class-conscious advocacy assumes multiple forms, including:

a) overgeneralizations—enlarging wealth and income characteristics to embrace a variety of social attributes that are better explained with the (il)logic of race ideology;

b) forced fragmentations—splitting socioeconomic characteristics from other core constituents of social identity;

c) false consciousness—believing that the distribution of people into wealth and income categories happens independently of a social context determined by racism and individualism; and

d) reductionism—maintaining a primacy of wealth and income characteristics as self-explanatory organizers of society.

70. See NATHAN GLAZER, THE LIMITS OF SOCIAL POLICY 6-7 (1988) (discussing the tendency of social policy to target identifiable problems, while ignoring other problems that are equally important).

71. PAUL FUSSELL, CLASS 12 (Touchstone ed. 1983) (emphasis in original). Fussell explains his use of the term as follows:

Followers of the sociologist Max Weber tend to say class when they're talking about the amount of money you have and the kind of leverage it gives you; they say status when they mean your social prestige in relation to your audience; and they say party when they're measuring how much . . . built-in resistance you have to being pushed around by shits. By class I mean all three, with perhaps extra emphasis on status.

Id. (emphasis in original).

72. See DEMOTT, supra note 60, at 17-27 (providing examples of “class” vocabulary or talk that is used to categorize behavior, clothes and people). However, class as a referent to social valences is not the central concern of this Article.


74. See ERIK OLIN WRIGHT, CLASSES 10 (1989) (explaining that in Marxist discourse
Common use of class, to denote either status or modal relations, appears to presume that class has a real existence that is objectively verifiable. Take, for example, the use of class in a recent account of one family’s hardships featured in *The New York Times.75* The family’s chief income earner is Craig Miller, a laid-off sheet-metal worker for TWA, whose “middle-class status was stamped on the pay stub: $15.65 an hour.”76 Miller’s former occupation and income enabled the family to maintain “two cars in the garage and a swing set in the backyard, . . . [and to fall] easily into the suburban rhythms of Johnson County.”77 Additionally, the Millers “moved comfortably in a social circle that included college graduates, people who wore suits to work and were therefore deemed ‘professional’ but who often earned no more than the Millers.”78

By contrast, a $5 per hour job relegates Miller to “behind the counter in a McDonald’s, hustling orders for Quarter Pounders and chicken fajitas and deferring to teen-age customers with ‘Yes, sir’ and ‘Thank you, ma’am.’”79 The reader is told that “Mr. Miller doesn’t care to talk much about McDonald’s. He sat in the living room with a visitor for two hours one evening, never taking off the jacket that covered his McDonald’s shirt. Finally, for a brief moment, he unsnapped the buttons to reveal the uniform. ‘There, you see it,’ he said, with a blush of embarrassment and perhaps a glint of rage. Then he closed the jacket again.”80 On the job Mr. Miller had even devised a tactic for dealing with the customers: “[H]e always tries to wear a polite smile, but he doesn’t always meet their eyes.”81

Throughout the *Times* account of the Millers’ situation, income and occupation, imminently verifiable indices, were proffered as proof of the Millers’ class standing.82 Mr. Miller, a sheet metal worker, earned at least $31,000 in 1992, above the median income for the na-

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76. Id.
77. Id.
78. Id. at A14.
79. Id. at A1.
80. Id. at A14.
81. Id.
82. Professor Roy Brooks has noted that the occupational approach to defining class status is problematic because it can be a misleading indicator of income level, “the most
tion’s workforce. Some might venture, as the Times did, to classify him as a member of the middle class because he occupies an intermediate position between the professional and business classes and the “underclass.” Additional proof of the real existence of the Millers’ middle-class standing was the common lifestyle they shared with “professionals.”

When the layoff disrupted Mr. Miller’s stream of income, and he did not secure an appropriate lateral position, the Times more than intimated that classification of the family’s class standing changed. The proof consisted of Mr. Miller’s $5 per hour wage earned at McDonald’s. The Times reported that “[c]ounting all their part-time jobs, the Millers will make about $18,000 this year [1994].”

important determinant of socioeconomic status and the primary measure of class standing.” See Brooks, supra note 6, at 35. Professor Brooks offers the following example:

A Legal Aid attorney might earn only $18,000 a year, a salary ordinarily inadequate to allow one to “buy into” the middle-class dream: comfort and security, a nice home, a late-model car, household appliances such as a microwave oven or VCR, an annual vacation, savings and investments—in general, a stable, even thriving existence. Yet a plumber earning $60,000 a year could easily afford such a lifestyle.

Id. And though Professor Brooks favors an income approach, that too has its deficiencies:

A . . . fundamental problem with an income approach is that it provides little information about occupational status, earnings stability and potential, or educational background. A young business lawyer who earns $40,000 a year, a janitor who moonlights as a taxicab driver and has a combined annual income of $40,000, a high school teacher who earns $40,000 after twenty years on the job, and a family in which the husband works in a factory and the wife cleans offices to earn a combined annual income of $40,000 all have the same “middle class” income—but their occupations, their degree of job security and mobility, their future earnings potential, and their educational backgrounds are vastly different.

Id. at 36. Professor Brooks has ample reasons to worry himself with the unreliability of occupation and income as indicators of class position. But, by thinking about class as an historical relationship, the greater worry is the manipulation of occupation and income categories to fabricate group interests in a struggle over the distribution of limited social resources such as education and employment, to name just two.


84. See Lasch, supra note 14, at 479-80 (“[W]orkers can be considered a middle class only in the sense that they occupy an intermediate position between the professional and business classes on the one hand and the ‘underclass,’ largely black and Hispanic in composition, on the other.”).


matic lifestyle changes were introduced as additional evidence of the family's reclassification:

The couple buy one newspaper a week, for the food coupons, and only one light burns in the house at a time. When a child forgets to flip off the switch, Mrs. Miller chides gently: "Have you got stock in the electric company? Well, neither do I." 87

Discussion of Mr. Miller's altered social relations with other persons served a similar evidentiary function. No longer the proud socialite among the "coat and tie set," Miller kowtows to youthful customers. He is unable to meet the eyes of those with whom he interacts. As discussed, he is ashamed to the point of psychologically retreating (on several levels) from his immediate community. Only reluctantly, and with great pain, does he reveal to a visitor evidence of any connection with McDonald's, which presumably is an indicator of his diminished personal worth.

Yet Mr. Miller remained adamant about the family's middle class standing: "We are middle-class people . . . . It is just that we have a lower-class income." 88 His words belie any attempt to establish a class to which his family belongs with empirically objective measurements. Indeed, from his words, it would appear that the concept class is little more than a construct externally imposed on the Millers. 89

As a descriptive term, class evades as much as it defines. 90 That is because, as E.P. Thompson writes, class is not a "structure" or even a "category." Class is "something which in fact happens (and can be shown to have happened) in human relationships." 91

[T]he notion of class entails the notion of historical relationship. Like any other relationship, it is a fluency which evades analysis if we attempt to stop it dead at any given moment and anatomise its structure. The finest-meshed sociological net cannot give us a pure specimen of class, any more than it can give us one of deference or of love. The relationship must always be embodied in real people and in a real context. . . . [C]lass happens when some men, as a result of common experiences (inherited or shared), feel and articulate the identity of their interests as between themselves, and as against other men whose interests are different from (and usually opposed to) theirs. The class experience is largely determined by the productive relations into which men are born—or enter

87. Id. at A14.
88. Id.
91. Id.
involuntarily.  

Mr. Miller's insistent claim to the middle class is understandable when the Times's lack of historical context is taken into account. It is possible that the Millers were clinging to more than an occupation and an income. Perhaps Mr. Miller's words were a linguistic sack in which he could preserve patterns of relationships, habits of thoughts, and entitlements to scarce social goods that arose over a considerable period of time. Readers of the Times will never know because the reality of the Millers' material condition is examined without historical background or foreground. As such, the Times simply featured a family experiencing occupational insecurity and income loss in an economy in transition from a manufacturing to a service orientation. In so doing, the Times offered the public a crude notion of class that perpetually insinuates itself in social policy discourses, especially discourses about the determinants of African-American subordination.

E.P. Thompson was convinced that "we cannot understand class unless we see it as a social and cultural formation, arising from processes which can only be studied as they work themselves out over a considerable historical period." I share his conviction. In this Article, I explore the concept of class within the limited universe of American society as it has been shaped by the complex historical development of the interactive ideologies of individualistic democratic capitalism and race. The discussion that follows will demonstrate how the concept of class, as I am redefining that term, is mediated by the pursuit of specific interests—interests represented by racialized ex-

92. Id.
93. Id. at 11.
94. The word "ideology" carries with it certain baggage I wish to avoid. In the tradition of Marxist orthodoxy, "ideology" is understood as a false body of ideas used consciously and unconsciously to conceal or excuse vested interests. See Melvin Rader, Marx's Interpretation of History 41-45 (1979). By "ideology," I refer to the seldomly articulated conceptions, beliefs, conventions, doctrines and principles that provide coherence, structure and form to social and political discourses. See Martha L. Fineman, Images of Mothers in Poverty Discourses, 1991 Duke L.J. 274, 289-93. Viewed in this way, ideology has no life of its own. Instead, it comes into existence "at a discernible historical moment for rationally understandable historical reasons and is subject to change for similar reasons." Barbara Jeanne Fields, Slavery, Race and Ideology in the United States of America, 181 New Left Rev. 95, 101 (1990). Ritual repetition makes for the continuity of ideology, not the handing down of appropriate attitudes. Id. "[I]deology must be constantly created and verified in social and political life; if it is not, it dies[]." Id. at 112.

The re-creation and verification of ideology entail "rearticulation," "a practice of discursive reorganization or reinterpretation of ideological themes and interests already present in the subjects'... consciousness, such that these elements obtain new meanings or coherence." Omi & Winant, supra note 3, at 99 n.11. An example of this rearticulation process is provided in Bourdieu, supra note 89, at 9.
pressions of individualistic democratic capitalism. Based on my understanding of these complex historical processes, we must resist conceptualizations of class that unacceptably focus on taste, style, mannerisms, consumption patterns, income or occupation. If conceptually recast to reflect a formation process, class is irreducible to such objective manifestations. Rather, as I argue, class refers to the hierarchical relations unfolding over a period of time while in pursuit of individualistic democratic capitalism.

The difficulty in utilizing the class concept as a basis for social

95. According to Barbara Fields, the concept of class is ideologically mediated. She writes:

At its core, class refers to a material circumstance: the inequality of human beings from the standpoint of social power. Even the rather diffuse definitions of applied social science—occupation, income, status—reflect this circumstance, though dimly. The more rigorous Marxian definition involving social relations of production reflects it directly. Of course, the objective core of class is always mediated by ideology, which is the refraction of objective reality in human consciousness. No historical account of class is complete or satisfying that omits the ideological mediations.

Barbara J. Fields, Ideology and Race in American History, in Region, Race, and Reconstruction: Essays in Honor of C. Vann Woodward 143, 150 (J. Morgan Kousser & James M. McPherson eds., 1982). An analogous point is made by Erik Olin Wright in his discussion of concept formation:

Scientific concepts, no matter how embedded in an elaborated theoretical framework, are never constrained exclusively by theoretical presuppositions. They also face what can be called 'empirically mediated real-world constraints,' or simply 'empirical constraints' for short. This cumbersome expression—'empirically mediated constraints'—is meant to convey two things: first, that the constraint in question come from real mechanisms in the world, not simply from the conceptual framework of the theory; and second, that this real-world constraint operates through data gathered using the concepts of the theory. The constraint is thus empirically mediated, rather than directly imposed by the 'world as it really is.'

Wright, supra note 74, at 20.

96. Regrettably, as Wai Chee Dimock and Michael Gilmore remind us, the word class "has come to deem no more than a flat description, a matter of taxonomy, shorn of the animated coloration of will and necessity, incipience and dialectic." Wai Chee Dimock & Michael T. Gilmore, Rethinking Class: Literary Studies and Social Formations 1 (1994). Commenting on the social significance (or insignificance) of the word class, R.H. Tawney writes:

Refined and sublimated by the wholesome acid of free competition, the word "class" itself was purged of the invidious associations which formerly had clung to it. It shed the coarse integuments of status and caste, and emerged as a fluid economic group, which all, if they pleased, were free to enter, and from which all, if they chose, were at liberty to escape. In a world where the law offered no obstacles to aspiring enterprise, class privilege and class tyranny were evidently impossible. A society marked by sharp disparities of wealth and power might properly, nevertheless, be described as classless, since it was open to each man to become wealthy and powerful.

policymaking in America is that the historical invention, and continual reinvention, of the American occur without regard to the political significance of these hierarchical relations. Such relations hinge on the status and power that are manifestations of individualistic democratic capitalism. As a result, it is generally accepted that socioeconomic standing or position in relation to modes of production—a consequence of the practices that sustain individualistic democratic capitalism—do not determine access to cultural capital, social institutions and political power.98

Given this inexpressive quality that is attributed to class, race—that "unstable and 'decentered' complex of social meanings constantly being transformed by political struggle"99—became the analytical

97. The term "cultural capital" originates with Pierre Bourdieu, who uses it to refer to forms of cultural knowledge, competencies or dispositions. See Pierre Bourdieu, The Field of Cultural Production: Essays on Art and Literature 7 (Randal Johnson ed., 1993). I use the term to denote a type of asset that can be used to leverage one's influence in social policy discourses. Compare John Hagan, et al., Cultural Capital, Gender, and the Structural Transformation of Legal Practice, 25 Law & Soc'y Rev. 239 (1991) (defining cultural capital as the "nontechnical social and symbolic assets") with Robert Wuthnow, The Struggle for America's Soul: Evangelicals, Liberals, and Secularism 14 (1989) (discussing the movement toward a more impersonal society "with a highly professional work force and large, diversified conglomerate corporations... where 'only the professional elite has the cultural capital with which to engage in effective discourse about public issues').

98. But see Laurence H. Tribe, American Constitutional Law 1658-59 (2d ed. 1988) (commenting on the failure of contemporary constitutional jurisprudence to understand that one's economic class has wide-ranging social significance).

99. See Omi & Winant, supra note 3, at 55. Yehudi Webster takes issue with the socially constructed status of the concept of race. He posits, instead, that race exists only because human experiences and social problems have been subjected to a practice of racial classification or thinking that enjoys a privileged status:

American society is being tied into painful knots by virtue of legislative, social scientific, and media practices of racially classifying persons. These practices are evinced in racial descriptions of past and contemporary social relations and socioeconomic conditions and experiences as well as in explanations of behavior in terms of either nonwhite biological deficiencies or a white moral deficiency, racism.

... In the social-constructionist approach, it is argued that since laypersons are attached to race, public policies and social studies must deal with race as a social reality. Even if race is a reality (and it is not clear which of the many definitions of "reality" is being utilized), the question remains: How is this reality to be dealt with, subversively or subserviently? Public policies and academic research deal subversively with race, then claim that laypersons are attached to race. The realness of race, therefore, may be said to be a result of this subservience. So intensely have people been bombarded with this thesis of race's realness that they are bound to be convinced of the unchallengeability of racial classification....

It is not "race," but a practice of racial classification that bedevils the society.
prism through which Americans would have to, even be forced to, confront and contest maldistributions of status and power.\textsuperscript{100} Such a role was suitable for the construct race because it is a structural force that supports American society's political\textsuperscript{101} and economic\textsuperscript{102} composition. Race populates our cultural canons.\textsuperscript{103} Race infuses our
thoughts, attitudes, beliefs, character, personality, and identity. Race organizes both public and private relations. Race maps the terrain on which we engage each other individually as well as collectively. As such, in the words of Cornel West, "Race Matters."

In other words, it is because of this "naturally determining role" that race has had, and continues to have, undeniable significance in the making of the American, and hence in the making of social policy. The problem with locating maldistributed status and power within the paradigm of race, however, is that only people who are designated "of color" have "race," and thus it would appear


107. See, e.g., PAUL M. SNIDERMAN & MICHAEL GRAY HAGEN, RACE AND INEQUALITY: A STUDY IN AMERICAN VALUES (1985) (pointing out that although Americans have minimally organized ideas on many issues of policy, they are likely to hold settled and coherent ideas about why blacks are less well off than whites).


109. See, e.g., GERALD EARLY, TUXEDO JUNCTION: ESSAYS ON AMERICAN CULTURE (1989) (essays exploring the culture from which black and white identities emerge).


112. Barbara Flagg's insightful analysis of how whites are without "race" is worth setting forth at length:

White people externalize race. For most whites, most of the time, to think or speak about race is to think or speak about people of color, or perhaps, at times, to reflect on oneself (or other whites) in relation to people of color. But we tend not to think of ourselves or our racial cohort as racially distinctive. Whites' "consciousness" of whiteness is predominantly unconsciousness of whiteness. We perceive and interact with other whites as individuals who have no significant racial characteristics. In the same vein, the white person is unlikely to see or describe himself in racial terms, perhaps in part because his white peers do not regard him as racially distinctive. Whiteness is a transparent quality when whites interact
that only the claims of those people have the moral authenticity to support political and legal action. Relatedly, claimed socioeconomic inequities by people without "race"—that is, whites—would appear to lack the capacity either to arouse our moral indignation or to inspire political or legal action.

To rectify the situation, the natural tendency as exemplified by class advocates is to attempt a transfer of maldistributed status and power to a venue where all claimed inequities, regardless of the claimants' racial identity, will be ostensibly recognized and redressed. I am doubtful, though, that the transfer of those maldistributions to the venue of class is the right move. If we were to look at class within the ideological framework of individualistic democratic capitalism, we would see individuals autonomously pursuing their own destinies, and we would be indifferent to the resulting differentiated distributions of status and power. But as Nobel laureate Toni Morrison, in another context, stated: "In a society with a history of trying to accommodate both slavery and freedom, and a present that wishes both to exploit and deny the pervasiveness of racism, black people are rarely individualized." Without individuation, there is no destiny for black individuals to pursue independently. Their status and power (or lack thereof) result not from free competition, but from collective subordination.

with whites in the absence of people of color. Whiteness attains opacity, because apparent to the white mind, only in relation to, and contrast with, the "color" of nonwhites.

I do not mean to claim that white people are oblivious to the race of other whites. Race is undeniably a powerful determinant of social status and so is always noticed, in a way that eye color, for example, may not be. However, whites' social dominance allows us to relegate our own racial specificity to the realm of the subconscious. Whiteness is the racial norm. In this culture, the black person, not the white, is the one who is different. The black, not the white, is racially distinctive. Once an individual is identified as white, his distinctively racial characteristics need no longer be conceptualized in racial terms; he becomes effectively raceless in the eyes of other whites. Whiteness is always a salient personal characteristic, but once identified, it fades almost instantaneously from white consciousness into transparency.


113. See, e.g., Anthony E. Cook, Beyond Critical Legal Studies: The Reconstructive Theology of Dr. Martin Luther King, Jr., 103 Harv. L. Rev. 985 (1990) (arguing that knowledge and appreciation of the unique struggles of the powerless and oppressed are indispensable to any critical legal studies movement).

My view, therefore, is that there is no exclusive perch for maldistributed status and power. These maldistributions are manifestations of race. They are also inherent to individualistic democratic capitalism. Consequently, the racial dimensions of maldistributed power and status cannot be ignored, and our understanding of them is necessarily enriched with an accounting of class. The race/class conundrum, then, is how not to abandon race as a policy predicate in a period of racial hegemony, and at the same time to enlarge the scope of analysis and inquiry in the social policy arena to account explicitly for the operation of individualistic democratic capitalism.

B. Individualistic Democratic Capitalism

Americans, "characterized by the fact that they had escaped from something or other," are at once individualistic, democratic and capitalistic. These fused attributes reflect a religious-like fun-

115. ERIK H. ERIKSON, CHILDHOOD AND SOCIETY 285, 294 (1985). In conducting psycho-cultural analysis of American identity formation, Erikson writes, "[i]n this country the image of the freeman is founded on that northern European who, having escaped feudal and religious laws, disavowed his homeland and established a country and a constitution on the prime principle of preventing the resurgence of autocracy." Id. at 304.


118. Here I use Elizabeth Fox-Genovese's definition of "capitalism," which turns on the organization of labor power. She writes:

Many scholars use capitalism in a general, heuristic fashion to apply to concentrations of wealth, participation in commerce, the presence of banks, and the quest for income. Although such definitions, properly qualified, may serve some useful analytical purposes, they carry the debilitating tendency to conflate all historical experience by focusing on ubiquitous—and therefore ahistorical—attributes of all or most economic life. . . . I understand capitalism to consist in historically specific, if diverse, social relations of production. Capitalism as a social system depends upon the divorce of labor from the land, the transformation of labor-power (not labor) into a commodity, and the political recognition of both land and labor as entities of absolute property that can be freely exchanged on the market.


James Oakes also defines capitalism to focus on the free alienability of interests held in property, and the organization of labor power:

The development of capitalism, while underway for hundreds of years, was not complete until "absolute" property rights had fully replaced the feudal system. . . . This seemingly simple shift in the way property was held in fact implied a wholesale revolution in the way labor was organized throughout Europe and its
damentalism. I refer to this faith when I speak of the ideology of individualistic democratic capitalism.

Colonies. With private property came various forms of free labor as well as an extraordinary revival of the ancient system of slave labor. Not for another two centuries would the industrial revolution bring this process to its culmination with the spread of a wage-labor economy. But long before then free laborers—whether independent yeomen, self-employed shopkeepers, or tenant farmers—had become the most important source of productivity and economic dynamism. Absolute property had been secured by the English Revolution of the 1640's and, thereafter, decisions about what should be produced and how goods should be distributed in society were increasingly determined by the impersonal forces of the market.


Max Weber argued that capitalism, a modern economic order, is the social counterpart of Calvinist theology, a conception of religion that canonized as economic virtues the habits which in earlier ages had been denounced as vices. See generally Max Weber, The Protestant Ethic and the Spirit of Capitalism: The Relationships Between Religion and the Economic and Social Life in Modern Culture (1958). In his foreword to Weber's work, R. H. Tawney writes:

The central idea to which Weber appeals in confirmation of his theory is expressed in the characteristic phrase "a calling." For Luther, as for most medieval theologians, it had normally meant the state of life in which the individual has been set by Heaven, and against which it was impious to rebel. To the Calvinist, Weber argues, the calling is not a condition in which the individual is born, but a strenuous and exacting enterprise to be chosen by himself, and to be pursued with a sense of religious responsibility. Baptized in the bracing, if icy, waters of Calvinist theology, the life of business, once regarded as perilous to the soul... acquires a new sanctity. Labour is not merely an economic means: it is a spiritual end. Covetousness, if a danger to the soul, is a less formidable menace than sloth. So far from poverty being meritorious, it is a duty to choose the more profitable occupation. So far from there being an inevitable conflict between money-making and piety, they are natural allies, for the virtues incumbent on the elect—diligence, thrift, sobriety, prudence—are the most reliable passport to commercial prosperity. Thus, the pursuit of riches, which once had been feared as the enemy of religion, was now welcomed as its ally.


Tawney, in his own scholarly endeavors, investigated the changes in religious attitudes contributing to the rise of capitalism. See generally R. H. Tawney, Religion and the Rise of Capitalism (1926). For a general treatment of the religious dimensions of American society, see Robert N. Bellah, America's Myth of Origin, in The Broken Covenant: American Civil Religion in Time of Trial 1-35 (2d ed. 1992) (discussing some of the ways in which biblical, and other, imagery has operated powerfully, consciously and unconsciously, to shape the American interpretation of reality and to some extent the actions of Americans in the world).

I prefer this admittedly cumbersome phrase over the term "liberal" because it avoids the notorious meanings ascribed to that word in contemporary American politics. "Liberal" was once a term designating "a party, a policy, an opinion that favored freedom as opposed to authoritarianism." See J. Salwyn Schapiro, Liberalism: Its Meaning and History 9 (1958). Today, "liberal" is a pejorative. Under the influence of George Wallace and Richard Nixon, in the 1960s and 1970s "liberalism came to connote ... the favoring of blacks over whites and permissiveness towards drug abuse, illegitimacy, welfare
In American political discourse, capitalism and democracy are historically linked. Capitalism, a modern mode of economic organization, rests on Enlightenment notions of the rational, self-knowledgeable individual owning one's self and labor, and attuned to a market of opportunities for profit. Wealth accumulation, according to Enlightenment thinkers, is a form of individual self-preservation with which the state should not interfere. At the heart of liberal democracy is the same rational, self-knowledgeable individual who is free to make choices consistent with the liberty of others and without


More importantly, my preference for the phrase “individualistic democratic capitalism” reflects my efforts to confront the paradoxes arising from an application of the philosophy of Individualism to economic and political life.

121. “[T]he system of material production (and relationships of material production) we call ‘capitalism’ is . . . historically associated with a political and social system we call ‘liberal democracy.”’ Philip Green, The Pursuit of Inequality 2 (1981).


All systems either of preference or restraint, therefore, being thus completely taken away, the obvious and simple system of natural liberty establishes itself of its own accord. Every man, as long as he does not violate the laws of justice, is left perfectly free to pursue his own interest his own way, and to bring forth his industry and capital into competition with those of any other man, or order of men. The sovereign is completely discharged from a duty, in the attempting to perform which he must always be exposed to innumerable delusions, and for the proper performance of which no human wisdom or knowledge could ever be sufficient; the duty of superintending the industry of private people, and of directing it toward the employments most suitable to the interest of society.

123. See John Locke, The Second Treatise of Government 66 (C.B. Macpherson ed., 1980) (1690) ("The great and chief end . . . of men uniting into common-wealths, and putting themselves under government, is the preservation of their property."). Professors Bailey Kuklin and Jeffrey Stempel interpret Locke's conception as follows:

Locke's conception of property has been particularly influential. The natural right to property follows from its necessary linkage to the right of self-preservation. To live, a person must have the means to obtain food and shelter. Hence, property expresses God's dominion on earth, and the use of property evidences God's grace. An individual possesses herself absolutely, and thus owns that which she 'mixes' her labor. While the earth was originally owned by all in common, one may appropriate that which one removes from the state of nature by means of personal labor, so long as the goods removed do not go to waste and the removal does not deprive others of their means of self-preservation. The creation of money, which is a nondecaying medium of exchange, avoids the . . . limitation . . . that the goods do not spoil, and facilitates the accumulation of wealth.

state intervention.\textsuperscript{124} That governance must rest on the consent of the governed; that state power and authority are tolerable only so far as they are accountable to the polity; and that differences of character and capacity are inconsequential among human beings given their common humanity are cornerstone principles of a liberal, political democracy.\textsuperscript{125} Thus, capitalism and liberal democracy are linked by individualistic conceptions of personhood and by notions restricting the scope of state authority. Indeed, individualistic theories of humanity and society undergird both capitalism and liberal democracy.

Notwithstanding this linkage, there are fundamental tensions between capitalism and liberal democracy. R.H. Tawney declared that the inequality of economic and social opportunity is the essence of capitalism.\textsuperscript{126} Philip Green, for one, echoes Tawney: "The ethos of capitalism is systematized inequality."\textsuperscript{127} Inequalities in a capitalist political economy are esteemed as expressions of individual achievement or failure to achieve. Thus, "[t]hey are twice blessed. They deserved moral approval, for they corresponded to merit. They were economically beneficial, for they offered a system of prizes and penalties."\textsuperscript{128}

Whereas the ethos of capitalism is systematized inequality, the ethos of liberal democracy is equality:

Despite vast economic divisions we learn that we are all citizens and in some sense equally citizens; that every citizen should count for one and none for more than one; . . . that the system promises worldly 'success' to all of us who are not incorrigible idlers: every man (if not woman) can be king. Authority is alleged to result only from merit, not from wealth, and wealth itself is justified as only a reward for serving an important social function.\textsuperscript{129}

The combination of the inequality of economic and social circumstances with the equality of civil and political rights has meant that "economic divisions between men take the place of legal ones,"\textsuperscript{130} and equality has come to mean a uniformity of legal rights:

Rightly interpreted, equality meant, not the absence of violent con-

The only freedom which deserves the name is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it.

\textsuperscript{125} See \textit{Locke}, \textit{supra} note 123, at 52.

\textsuperscript{126} \textit{Tawney}, \textit{supra} note 96, at 30.

\textsuperscript{127} \textit{Green}, \textit{supra} note 121, at 1.

\textsuperscript{128} \textit{Tawney}, \textit{supra} note 96, at 102.

\textsuperscript{129} \textit{Green}, \textit{supra} note 121, at 2.

\textsuperscript{130} \textit{H. See, Les Origines du Capitalisme Moderne} 183 (1926), \textit{quoted in Tawney}, \textit{supra} note 96, at 112.
The race/class conundrum

...trasts of income and condition, but equal opportunities of becoming unequal. It is true that few could take part in the competition, but no one was forbidden to enter it, and no handicaps were imposed on those who did. To ensure that it was fair, it was sufficient... to insist that the law should neither confer advantages nor impose disabilities. 131

Further, this combination has also limited any search for more equality within the very economic sphere that produces inequality. 132 In addition, the combination has elevated the individual over the collective as the primary, if not the only appropriate, concern of social justice. 133 The primacy of the individual, in turn, has rendered factually and morally suspect conceptualizations of “the good society” that are premised on collectivity. 134

Throughout American history, conflicts arising from the relationship between capitalism and democracy have been repeatedly resolved in favor of capitalism. Theodore Lowi recalls several instances in which “capitalism won out in a straight fight” with democracy:

The issue could be Dred Scott v. Sanford, in which slaves were incorporated into the system by confirmation that they are property under the Fifth Amendment. Or the issue could be popularly enacted state regulatory laws, invalidated as unreasonable restraints on contract; many were invalidated as interference with even the process by which contracts are made. Or the issue could be that of the corporation itself, which was given two advantages in nineteenth-century jurisprudence; taken together they strain heavily upon one’s sense of logic. On the one hand corporations were

131. Tawney, supra note 96, at 103.
132. “[T]he advance of capitalism has everywhere deepened the social division of labor and thus inequality on the one hand, and inspired and broadened the search for more equality on the other.” Green, supra note 121, at 1.
133. John Rawls, a philosophical descendant of Enlightenment thinkers, identifies two basic principles of justice. One principle requires an equal right to liberty, while the other—the “difference principle”—allows social and economic inequalities only when they stem from opportunities that are fairly open to all and are reasonably expected to be to everyone’s advantage. See John Rawls, A Theory of Justice 60 (1971).
134. As Philip Green puts it:

Individualism is certainly as central to the ethos of liberal society as is egalitarian-ism. ... [T]wo aspects of liberal individualism ... —the principle of equal opportunity for individuals and the principle of limiting government interference with the ‘free’ market—might at first glance seem to be unrelated to each other; certainly many people who uphold the first of those principles would repudiate the second unqualifiedly. But in practical fact they are deeply related. Each makes individual well-being the source as well as the criterion of social justice, and considers versions of the good or the just which define them collectively as factually and morally false. Each too ... proceeds by the almost unnoticed expedient of accepting past assertions of collective good while opposing any attempt to extend them to present-day groups who are excluded from the benefits of the past.

Green, supra note 121, at 10-11 (emphasis in original).
merely property, for which the owners, the shareholders, received for themselves total protection and full claim to all profits. On the other hand corporations were defined as persons separate from their owners, so that the death of a corporation affected no owner beyond his shares—because stockholders are not responsible for the debts of the corporation—and yet this "person" was held to enjoy almost all the rights of citizenship under the Bill of Rights and the Fourteenth Amendment.\footnote{Theodore J. Lowi, The End of Liberalism: Ideology, Policy and the Crisis of Public Authority 6 (1969).}

My conscious disaggregation of the triad individualism, democracy and capitalism is intended to bring into sharp relief the different political and economic obstacles to a full realization of the egalitarian doctrine—the point of reference from which Enlightenment thinkers pontificated.\footnote{See M. Jane Frances Ferguson, The Philosophy of Equality xi-xiv (1943).} This disconnection of formal political equality from the particulars of the socioeconomic milieu from which political equality derives meaning impedes realization of the egalitarian doctrine. So too does the unequal sharing of socioeconomic prosperity brought about by coordinated efforts.

My disaggregation of individualism, democracy and capitalism is also an attempt to leave open the possibility of government provision without conjuring up the specter of compromised individuals, freedoms and markets. If indeed it is the state's obligation to protect individual liberty—and thus ensure equality among the individuals constituting a civil society—and, if indeed, the economic sphere is the repository of more equality, then a revision of the noninterventionist view is required if the state is to fulfill its obligation.\footnote{For the contemporary formulation of the noninterventionist, or "minimal," state see generally Robert Nozick, Anarchy, State, and Utopia (1974).}

This Article does not seek primarily to interrogate the philosophical claims of Enlightenment thinkers.\footnote{The literature critiquing the philosophy of Individualism is voluminous. See generally Liberalism and Its Critics (Michael Sandel ed., 1984) for a debate on the contemporary ramifications of individualistic self-conceptions that pervade American culture.} Rather, it engages in an exposition of individualistic democratic capitalism as it has been socially constructed\footnote{Social constructionists assert that "human 'knowledge' is developed, transmitted and maintained in social situations." See Peter L. Berger & Thomas Luckmann, The Social Construction of Reality: A Treatise in the Sociology of Knowledge 3 (1966).} in the American context. My concern is with a distinctive American cultural identity that is imbued with these long-ago articulated notions that pervade our thinking and practices regarding
social policy for the twentieth century and, in all likelihood, for centuries to come.\textsuperscript{140}

Enlightenment notions of individual autonomy drive social programs designed to "help the poor help themselves," to "avoid welfare dependency" and to "get them off the dole" with deliberate speed.\textsuperscript{141} Thus, rather than effectuating economic redistribution, our current so-

\textsuperscript{140} The view that there exists a distinctive American cultural identity imbued with Enlightenment notions that are rooted in centuries past suggests that there is a reified, transcendental nature to those notions. Moreover, that view competes with the assertion that Enlightenment notions are adaptable to changing and specific socio-cultural contexts.

A social constructionist understanding of reality, however, is helpful in striking an accommodation of these seemingly competing views. Berger and Luckmann write that:

Reification is the apprehension of human phenomena as if they were things, that is, in non-human or possibly supra-human terms. Another way of saying this is that reification is the apprehension of the products of human activity as if they were something else than human products—such as facts of nature, results of cosmic laws, or manifestations of divine will. Reification implies that man is capable of forgetting his own authorship of the human world, and further that the dialectic between man, the producer, and his products is lost to consciousness.

... Typically, the real relationship between man and his world is reversed in consciousness. ... Human meanings are no longer understood as world-producing but as being, in their turn, products of the 'nature of things.'

BERGER \& LUCKMANN, supra note 139, at 89 (emphasis in original).

Enlightenment notions are products of human activity, and are thus made and remade in an ongoing human production. This means that in a sense they are artificial. However, because they are habitually reproduced, they have a self-evident quality. They possess a reality of their own that appears unbounded temporally and spatially. These characteristics cause me at times to speak of the Enlightenment notions embodied in individualistic democratic capitalism as timeless, transcendental principles, as a sort of grand theory around which all cohere.

I also speak of the adaptability of individualistic democratic capitalism, and I make appeals for specificity and historical contextualization. This is not because I intend to be contradictory. Rather, it is because I recognize that the continuing legitimacy of so-called timeless, transcendental principles is dependent upon their availability and plausibility for particular societies. The timeless quality of Enlightenment notions cannot be appreciated without exploration of how they thrive in—are rearticulated in—particular cultural and historical circumstances.

cial policies are limited to providing incentives of various sorts for the poor to assimilate into an entrenched capitalistic economy that compels the very existence of a poverty class. Enlightenment concepts of meritorious ascension up a scale of rewards and opportunities provide justification for any failure to move from the margins of economic existence. Thus, no serious consideration is given to alternate modes of economic organization.\textsuperscript{142}

In addition, the fear of centralized government and the faith in a market economy restrict governmental efforts to provide for the public weal. Furthermore, the dominant perspective is that servient government undermines the capitalism that is of vital importance to a strong sense of individual independence.

I do not contend that the abstract philosophical claims of the Enlightenment thinkers are inherently racially oppressive.\textsuperscript{143} Rather, I maintain that expressions of individualistic democratic capitalism in the American experience tend to be informed and determined by race.\textsuperscript{144} Individualistic democratic capitalism, in its abstract form, posits a vision of society comprised of rational, free-choosing persons,

\textsuperscript{142} Liberal democracy is so linked with capitalism that the legitimacy of socialism, an alternate mode of economic organization, is undermined by representing it as at variance with democracy. But socialism is a criticism of capitalism that is congruous with democracy. Tawney writes:

Socialism accepts . . . the principles[ ] which are the corner-stones of democracy, that authority, to justify its title, must rest on consent; that power is tolerable only so far as it is accountable to the public; and that differences of character and capacity between human beings, however important on their own plane, are of minor significance compared with the capital fact of their common humanity. Its object is to extend the application of those principles from the sphere of civil and political rights, where, at present, they are nominally recognized, to that of economic and social organization, where they are systematically and insolently defied.

Tawney, supra note 96, at 197.

\textsuperscript{143} Professor Richard Delgado, in Rodrigo's Seventh Chronicle: Race, Democracy, and the State, 41 UCLA L. Rev. 721 (1994), appears to suggest otherwise, contending in one instance that “racism and enlightenment are the same thing. They go together; they are opposite sides of the same coin,” id. at 729, and, in another, that “[l]iberal democracy and racial subordination go hand in hand, like the sun, moon, and stars. Enlightenment is to racism as sexuality is to women's oppression—the very means by which [racialized peoples] are kept down.” Id. at 734-35.

\textsuperscript{144} Here, I employ the idea of race, see \textit{Thomas F. Gossett, Race: The History of an Idea in America} (1963) (discussing the importance of European contact with the indigenous populations in the Americas in generating modern race theories), not to denote racial prejudice, but rather to denote white supremacy. Compare \textit{Gordon W. Allport, The Nature of Prejudice} (25th Ann. ed., Addison-Wesley 1979) (1954) (discussing race as a contributing factor to intergroup prejudice) and \textit{Joel Kovel, White Racism: A Psychohistory} (1970) (discussing racism as a source of gratification to whites) with \textit{George M. Fredrickson, White Supremacy: A Comparative Study in American
each knowledgeable of his or her own interests and capable of advancing those interests in a market place accessible to all. However, in a racialized American society, the vaunted freedoms of personhood are recalibrated. As such, they almost always assure greater liberties to white persons and lesser, or none, to people of color. As a consequence, people of color, while striving for parity, tend to exist at the political, economic and legal peripheries of American society.

So profound is the influence of race on the core ethos of the nation's identity that it is common to speak of the United States of America as “a white country.” Commenting on life in America, the historian Roger Wilkins writes:

Whites have an easy sense of ownership of this country; they feel they are entitled to receive all that is best in it. Many of them believe that their country—though it may have some faults—is superior to all others and that, as Americans, they are superior as well. Many of them think of this as a white country and some of them even experience it that way. They think of it as a land of opportunity—a good place with a lot of good people in it. Some suspect (others know) that the presence of blacks messes everything up.145

Political theorist and social commentator Andrew Hacker, for example, asserts that “America is inherently a ‘white’ country: in character, in structure, in culture.”146 Toni Morrison recently made a similar observation:

Deep within the word “American” is its association with race. To identify someone as a South African is to say very little; we need the adjective “white” or “black” or “colored” to make our meaning clear. In this country it is quite the reverse. American means white.[.]147

AND SOUTH AFRICAN HISTORY (1981) (discussing race as a qualification for membership in the civil community and the alien or outsider status of persons of color).

Professor Frances Ansley best articulates my understanding of white supremacy. She writes:

By “white supremacy” I do not mean to allude only to the self-conscious racism of white supremacist hate groups. I refer instead to a political, economic and cultural system in which whites overwhelmingly control power and material resources, conscious and unconscious ideas of white superiority and entitlement are widespread, and relations of white dominance and non-white subordination are daily reenacted across a broad array of institutions and social settings.

Frances Lee Ansley, Stirring the Ashes: Race, Class and the Future of Civil Rights Scholarship, 74 CORNELL L. REV. 993, 1024 n.129 (1989).

145. Wilkins, supra note 15, at 410 (emphasis in original).


147. MORRISON, supra note 103, at 47. America’s identity and culture, as defined by European ancestry, are in a state of crisis as Americans who trace their descendants to Africa, Arabia, Asia, the Pacific Islands and the Latino worlds challenge the dominant
Much of my thesis depends upon an understanding of American identity, character and culture as it has been racialized over several centuries. According to anthropologist Sidney Mintz, culture can be "a kind of resource."148 "[C]ulture," Mintz writes, "is used; and . . . any analysis of its use immediately brings into view the arrangements of persons in social groups, for whom cultural forms confirm, reinforce, maintain, change, or deny particular arrangements of status, power, and identity."149 Cultural expressions of the racialized tenets of individualistic democratic capitalism have been used to establish what Michael Omi and Howard Winant identify as a "racial dictatorship" against which all U.S. politics must be measured:150

From 1607 to 1865—258 years—most non-whites were firmly eliminated from the sphere of politics. After the Civil War there was the brief egalitarian experiment of Reconstruction which terminated ignominiously in 1877. In its wake followed almost a century of legally sanctioned segregation and denial of the vote, nearly absolute in the South and much of the Southwest, less effective in the North and far West, but formidable in any case. These barriers fell only in the mid-1960s, a mere quarter-century ago. Nor did the successes of the black movement and its allies mean that all obstacles to their political participation had now been abolished. Patterns of racial inequality have proven, unfortunately, to be quite stubborn and persistent.151

Because my task here is to interpret and comprehend the politics of American social policy, I must explicitly consider the cultural continuities and adaptations that sustain and normalize the racialized structures within which our current social policy is developed. Thus, in the next section, I provide an analysis of the historical relationship between individualistic democratic capitalism and race in America, their influence on the nation's culture, character and identity, as well as their organization and structuring of social and political discourse.

This history, sometimes prominent in our collective consciousness and, at other times, a vague recollection ensconced in the recesses of our minds, contains powerful ideological themes that are played out in current attempts to understand the social standing of African-Americans in a post-civil-rights era. Indeed, one might argue that our spe-
cific policy treatment of African-Americans reflects the larger sociopolitical and economic events that have shaped the development of the American character. Thus, a brief, historical examination of individualistic democratic capitalism and race, and their linkages, is a necessary prerequisite to the analysis of specific social policies.

III. A Brief History of American Cultural Identity

A. The Central Principle of Individualism

Individualism is rooted in the belief that humans exist to fulfill themselves. Set apart from other animals by their intellect and capacity to reason, humans are self-aware and knowledgeable of their interests, desires, and preferences. Moreover, humans possess, or are capable of possessing, scientific ideas that enable the realization of those interests, desires and preferences. This self-realization is possible only when individuals have the freedom to determine the course of their lives—the freedom of choice.

The private ownership of property and a free market system are central to the concept of freedom. Property ownership prevents dependence on and exploitation by others. One need not offer up oneself as a wage-earner. Independence and security can be attained through one’s own toil. Rational, self-reliant and in total control over his or her production, the individual is suited to venture out into an open market place, where, for one’s exclusive benefit, one barters and trades at will. Self-realization is not only possible—it actually occurs in this market place.

The economic identity acquired as a result of venturing into the market place has crucial significance for individualism. A person’s economic identity speaks volumes about and gives meaning to the civil and political freedoms enjoyed by that person.

As feminist historian Elizabeth Fox-Genovese has noted, the de-

152. As discussed in Part III.B.4 infra, an ideology of individualism equates wage work with bondage and unfreedom.
153. Though I acknowledge that abstracted individualism does not account for gender differences etched in social reality, I do not pursue that line of critique in this Article. For the feminist critique of the individualistic underpinnings of liberal societies, see generally FEMINIST CHALLENGES: SOCIAL AND POLITICAL THEORY (Carole Pateman & Elizabeth Gross eds., 1986) (providing a feminist analysis of conventional or ‘male-stream’ political and social theory).
154. I do not make the facile argument that economics determines all. Rather, I contend that the economic self is a dominant feature among the interdependent constituents of the free individual. The economic is dialectically interactive with, for example, the political and the cultural, which are cause and effect of each other.
velopment of individualism as an expression of Western culture was evolutionary:

Individualism did not emerge all at once as a full-blown ideology. It developed slowly and piecemeal. The Renaissance, the Reformation, the Scientific Revolution, and the rapid expansion of commerce have all been related to the growth of "individualism" in Western culture, although in significantly different ways. As cultural and ideological movements, the Renaissance and the Reformation both introduced a new emphasis on the individual into Western culture, although neither resulted in its political consolidation. The Scientific Revolution fostered a growing confidence in the capacity of the human mind to understand and master the workings of nature. The rapid expansion of commerce and colonialism, combined with the decline of feudalism and corporatism—那就是，the growing separation between laborers and the land, between people and communities—fueled a social and economic transformation that encouraged the gradual application of aspects of secular and religious culture to political life and that eventually culminated in the series of political revolutions that inaugurated our modern world.155

B. Individualism in the American Context

1. The Colonial Era and the Emergence of Divergent White and Black Social Economic Identities

The first full-blown expressions156 of individualism in the Western world occurred in America, a nation said to have been "conceived in liberty."157 During the two centuries preceding the American conception, existing western societies—notably England—had powerful monarchies, aristocratic classes and gentry that sought to secure and maintain their dominance over other sectors of society.158 The colonization of the vast American frontier presented a means by which the

156. To be sure expressions of individualism were evident throughout the Western world. But, as Gordon Wood observes:
   For the revolutionary generation America became the Enlightenment fulfilled. The settlement of America, said John Adams in 1765, was “the opening of a grand scene and design in Providence for the illumination of the ignorant, and the emancipation of the slavish part of mankind all over the earth.” The Revolution was simply the climax of this grand historic drama. Enlightenment was spreading everywhere in the Western world, but nowhere more promisingly than in America.
   WOOD, supra note 117, at 191.
158. For an example, see SIDNEY LENS, POVERTY: AMERICA’S ENDURING PARADOX: A HISTORY OF THE RICHEST NATION’S UNWON WAR 11-15 (1969) (describing the impact of “the first taste of individualism” on sixteenth and seventeenth century England). Lens
upper classes could preserve a favorable social order. The abundant American land was promised to any dispossessed person willing to conquer it from its aboriginal peoples.

Lowly Europeans escaped a life of dependence and exploitation by migrating to the American colonies. Land was too accessible and cheap to restrict its ownership. Most colonial males owned land and, consequently, controlled their own means of production as well as the resulting product.

The widespread ownership of property by Europeans in colonial America facilitated a way of life, the likes of which had never before been seen. No remnants of a feudal society with its nobilities, privileges of birth and social strictures curtailed the pursuits of the colonial soil tillers. Their labor, unlike the labor of their non-colonial brethren,

documents the rise of an insidious pauperism as England replaced its stagnant and immobile feudal economy with an economy based on mercantilism:

The population, of course, had always been poor, in the sense that the average man lived from hand to mouth. But in earlier times he had had a certain security; he had had a few patches of land to work and a reasonable expectation that he would continue to work them. But wool, England's chief export for a long time, made a shambles of the former way of life. By age-old custom each village had a commons, used by the lowly as well as the mighty to graze cattle. Presumably the commons was commonly owned, but in their zeal to find pasture land for their sheep, the gentry built enclosures—fences—around this common property to make it their own. Tenants and small farmers were left to graze their cattle on already inadequate holdings, or slaughter them, and in many cases give up their land.

Id. at 13.

159. Lens noted that the availability of land in America “was no sure-fire guarantee against poverty,” id. at 21, and that the English upper classes at all times secured and pursued their own riches:

England's men of power understood that by opening up America they were offering a mecca to the poor—draining off, as the London Company put it, “the fuel of dangerous insurrections.” Their first concern, however, was for themselves. The monarchs doled out America's largesse in large chunks to the high and mighty. The whole area from Maine to the middle of South Carolina, two hundred miles inland, for instance, went to two stock companies made up of the biggest entrepreneurs of the time on condition they would pay James I one-fifth of the gold and silver they found there. One of these charters—for the Massachusetts Bay Company—was given to twenty-six men, mostly affluent Puritan merchants. . . . The Carolinas went to eight proprietors . . . Maryland was given to Lord Baltimore and the Calverts; Pennsylvania, to William Penn; New York (and New Jersey), to the Duke of York.

Id.

160. See William L. Barney, *The Passage of the Republic: An Interdisciplinary History of Nineteenth Century America* 9 (1987) (“In sharp contrast to Europe, land was cheaper, more accessible, and comparatively widely owned in the colonies. . . . [Most] colonial males had neither the incentive nor the need to offer themselves as wage earners.”).
ren, brought them not only wealth and prominence, but also self-fulfillment. Upwardly mobile and untethered from aristocratic conventions, European colonists confidently asserted their intrinsic worth and right to self-determination.

Race eventually substituted for the status of birth and fortune—social constructs that were, theoretically, exorcised from a society imbued with the idea of equal individuals with indistinguishable liberties—to structure the cultural and social realities of the colonial American. As racialized beings, Africans were deemed inferior to Europeans, and thus were excluded from the autonomous existence that accompanied the settlement of the colonies.

The historical record indicates that in 1619, twelve years after the settlement of Virginia, the first Africans, twenty in all, arrived in Jamestown, apparently as indentures sold to the highest bidder for a predetermined number of years. Like European indentured servants, African indentures secured their freedom at the expiration of their terms of servitude. Subsequently, they "accumulated land, voted, testified in court and mingled with whites on a basis of equality." This form of equality, however, was short-lived. By the 1640s, lifelong servitude was imposed on African indentures, but not on European indentures. The basis for this emerging distinction between black and white bondage, Professors Franklin and Moss explain, had to do with Virginians' efforts to satisfy the colony's labor needs:

"As time went on Virginia steadily fell behind in satisfying the labor needs of the colony with Indians and indentured servants. It was then that the colonists began to give serious thought to the "perpetual servitude" of Negroes. Virginians began to see what neighboring islands in the Caribbean had already recognized, namely that Negroes could not easily escape without being identified; that they could be disciplined, even punished, with impunity since they were not Christians; and that the supply was apparently inexhaustible."

By 1680, European indentured labor had precipitously declined, only to be replaced with an explosive demand for African slave labor. Ninety-five percent of African slaves brought to the New World came

161. For a discussion of the racialization of Native Americans that accompanied the settlement of the colonies, see Takaki, supra note 147, at 24-50.
163. Id. at 35.
after the mid-seventeenth century. The degraded status of Africans, from servants to slaves, and the increase in their numbers in the colonial population coincided with the mass arrival of European settlers. The total colonial population in 1650 was only 50,368, with enslaved blacks constituting three percent. By the end of the seventeenth century, the total colonial population grew to 250,888, with enslaved blacks making up eleven percent of the population. Just one year before the American Revolution of 1776, the total population of the colonies had swelled to 2,460,000, with enslaved blacks accounting for twenty percent of the population.

Thus, as the mass settlement of the colonies occurred, early American individualism endowed the population with inalienable rights in a racially discriminatory manner that favored whites (both free and indentured) over blacks. Consequently, European colonists pursued the freedoms and opportunities associated with the ownership, possession and use of land, while Africans were likened to chattel, enslaved and subjected to the complete authority and control of European settlers.

Thenceforth, white socioeconomic identity would be fastened to historic themes of flight from authority and opportunities in the “frontier.” Black socioeconomic identity, by contrast, would be directly linked to a history of subjugation and exclusion from the “frontier” experience.

Legalized slavery in each of the colonies provided the staging ground for the divergence of white and black socioeconomic identities. In the North, by 1790, 2.1 percent of the colonial population were enslaved blacks who served as domestic servants and skilled

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165. See OAKES, supra note 118, at 46-53.
168. I purposely say a “history of subjugation,” and not a “history of slavery,” to recognize that even after the abolition of slavery, other means—sharecropping, Jim Crow-ism, segregation, terrorism, disenfranchisement, and discrimination—were devised to ensure dominion over blacks.
169. The recent experience of black immigrants to the United States, especially those from the West Indies, has caused a significant fusion of the two economic identities. As a Jamaican growing up in the boroughs of New York City, it was not uncommon for me to hear my parents and their contemporaries talk in terms of flight from economic oppression “back home,” and the possibilities of unlimited opportunities in “buckra country.” The word “buckra” was used to denote white authority (historically, the overseer of slaves), and my parents’ and their friends’ use of it communicated their awareness of their paradoxical existence—expatriates of color in search of opportunities that are race-determined.
craftsmen. By contrast, in the southern colonies, 33.5 percent of the population were enslaved blacks.\textsuperscript{170} The preponderance of enslaved blacks in the South made possible a "slave society," as distinguished from—as in the case of the North—a society with slaves.\textsuperscript{171} Historian James Oakes writes that to appreciate fully the qualitative distinction between a society with slaves and a slave society, one has to imagine the Old South without slaves:

Everything is different. The Proverbial social pyramid — slaveholders on top, nonslaveholders in the middle, slaves on the bottom — does not simply change with the hypothetical removal of slaves, it collapses altogether. ... Yet if all the slaves had hypothetically been removed from the northern colonies, the structure of society would not have fundamentally altered. The basis of the economy, the organization of politics, and the social hierarchy might have changed somewhat, but they would not have been radically transformed.\textsuperscript{172}

"A slave society," Oakes continues, "was one in which a relatively high proportion of slaves signaled the central place of slavery in the social hierarchy, the economic structure, and the political system. Social standing was determined by whether one was slave or free and, if free, whether one owned or did not own slaves."\textsuperscript{173}

The slave societies of the Old South were imbued with the ideology of individualistic democratic capitalism.\textsuperscript{174} That germinal ideology had to account for a system of slavery that so clearly contradicted its most fundamental tenets—universal rights, individual independence and the pursuit of self-interest. One paternalistic view insisted that black people were naturally unfit to enjoy the freedoms flowing from inalienable rights and personal autonomy.\textsuperscript{175} Deemed so unsuited, they were reduced to "property" with the attendant rights of use, possession and ownership vested in white persons.\textsuperscript{176} Held as "property," blacks were absolutely denied the tenets of individualistic

\textsuperscript{170} PETER KOLCHIN, AMERICAN SLAVERY: 1619-1877, at 242 (1993).
\textsuperscript{171} See OAKES, supra note 118, at 36-39.
\textsuperscript{172} Id. at 37-38.
\textsuperscript{173} Id. at 38. Oakes also notes that "[i]n colonial New England a substantial proportion of the most prominent leaders were slaveholders." Id. at 37-38.
\textsuperscript{174} For a discussion of other ideological strains infused with Old South slave societies, see generally MARK TUSHNET, AMERICAN LAW OF SLAVERY (1987).
\textsuperscript{175} See Howard McGary, Paternalism and Slavery, in BETWEEN SLAVERY AND FREEDOM: PHILOSOPHY AND AMERICAN SLAVERY 16-17 (Howard McGary & Bill E. Lawson eds., 1992) (arguing against the "paternalistic" aspect of the "were slaveholders ignorant or evil?" debate, which is an explanation of slavery that claims slaveholders held slaves because they felt that they truly served the slaves’ interests).
\textsuperscript{176} See Cheryl I. Harris, Whiteness as Property, 106 HARV. L. REV. 1707, 1716 (1993) (discussing the historical idea of racial characteristics as property).
democratic capitalism and, with the aid of the law, placed outside of society where they experienced "social death."

In other words, the slave societies of the Old South infused the ideology of individualistic democratic capitalism with race to justify, preserve and perpetuate the social and economic order of the day. Importantly, it was a social and economic order from which a mere minority of whites benefitted directly. Only one in five white households actually owned slaves. Most whites were nothing more than aspirants to planter status—that is, ownership of enslaved blacks. Yet their aspirations to rise above their actual circumstances were fueled with the knowledge that their own loss of freedom by enslavement was impossible because they were deemed not "black." Non-slaveholding whites, however, posed no ideological challenge to the existing state of inequity even though the practices engendered by individualistic democratic capitalism were clearly economically—and, derivatively, politically—disadvantageous to them.

177. See Hon. A. Leon Higginbotham, Jr., In the Matter of Color: Race and the American Legal Process: The Colonial Period 78-82 (1978) (discussing the construction of the colonial legal system to entrench non-white servitude and limit and dehumanize non-whites).


179. Orlando Patterson, Slavery and Social Death: A Comparative Study 38 (1982).

180. Writing on class and labor relations in the late antebellum south, historian Jacqueline Jones notes that depending on the locale, as many as 20 to 33 percent of Southern whites in [as late as] 1860 possessed neither slaves nor land; about one-fifth of all white households owned at least one slave (with 1 percent of that number qualifying as "planter-aristocrats"), and about half of the total white population were yeoman farmers.


181. Professor Cheryl Harris argues that "[b]ecause the 'presumption of freedom [arose] from [the] color [white]' and the 'black color of the race [raised] the presumption of slavery,' whiteness became a shield from slavery." Harris, supra note 176, at 1720 (quoting Thomas R.R. Cobb, An Inquiry into the Law of Negro Slavery in the United States §§ 68-69, at 66-67 (1858)).

182. The upcountry yeomen's protest against the predominance of planters' interests over their own in state legislatures is not the ideological challenge of which I speak. Nor are the efforts of white artisans who sought to avoid competition from the use of slave labor. Upcountry yeomen and white artisans only sought inclusion as equal participants in and beneficiaries of individual democratic capitalism. See Fields, supra note 94, at 108-109 (discussing the economic independence and local self-determination of nonslaveholding whites).
2. Individualism in the Revolutionary Era

The early exclusion of blacks from a polity that guaranteed individual freedoms and protection continued well into the Revolutionary era. Not coincidentally, it was an historic period punctuated with the rise of racism based on physiognomy. Historian James Oakes explains:

Nationalism is a language of inclusion within . . . the “imagined community” that constitutes the nation. By contrast, racism is a language of exclusion that “erases nation-ness by reducing the adversary to his biological physiognomy.” Thus it is not entirely surprising that the birth of the “first new nation” was accompanied by the disturbing articulation of a racist ideology. For the emergence of nationalism generated novel pressures to re-affirm the slave’s place outside the “imagined community” of the modern American nation.

The form of racism articulated during the Revolutionary era contributed to a constitutionalization of the “outsider” status of blacks that would prove resistant to future reformatory efforts. Indeed, notwithstanding the extension of the formal privileges and immunities of American citizenship to African-Americans in the nineteenth and twentieth centuries, social critics of those epochs would continue to recognize that though blacks were in American society, blacks were not of American society.

183. On the hypocrisy of slaveholders devoting themselves to freedom see EDMUND S. MORGAN, AMERICAN SLAVERY, AMERICAN FREEDOM: THE ORDEAL OF COLONIAL VIRGINIA 363-367 (1975) (discussing how the presence of slavery instilled in Virginians a special appreciation for political freedom from the English).

184. OAKES, supra note 118, at 74 (quoting BENEDICT ANDERSON, IMAGINED COMMUNITIES: REFLECTIONS ON THE ORIGINS AND SPREAD OF NATIONALISM 135 (1983)).

185. Though neither the term “black” nor “slave” appears in the text of the 1787 Constitution, the institution of slavery, and thus the exile of blacks to a place beyond the imagined community of the modern American nation was written into its subtext. See DAVID R. ROEDIGER, THE WAGES OF WHITENESS: RACE AND THE MAKING OF THE AMERICAN WORKING CLASS 34 (1991) (noting that the Constitution managed to continue “Black Slavery” via its provisions for return of escaped slaves, representational aggrandizement of slaveholding districts, and 20-year non-interference with the slave trade “all . . . without using the words slave or slavery”).

186. “[B]ecause slavery thrived in republican America, [blacks] could be stigmatized as the antithesis of republican citizens.” Id. at 36 (emphasis in original). For the argument that the opposite is also true—that republicanism made it increasingly difficult to maintain the outsider status of blacks, see WOOD, supra note 117, at 186-87 (arguing that “the republican attack on dependency compelled Americans to see the deviant character of slavery and to confront the institution as they never had to before”).

187. See generally GUNNAR MYRDAL, AN AMERICAN DILEMMA: THE NEGRO PROBLEM AND MODERN DEMOCRACY 956-94 (1944) (discussing the “peculiarities” of black culture and personality). Emphasis on the extension of formal privileges and immunities of American citizenship to persons who are black has had ironic consequences. Indeed, that
Though the colonial revolutionaries had brought forth a new nation that idealistically embraced individualism as a guiding principle in political and economic life, the new republic was, in fact, undemocratic even among whites. Participation in the political process was conditioned on substantial property ownership, thus revealing an underlying assumption "that only those with a financial stake in the society could be safely trusted with its management." The exploding white population faced a shortage of cultivable land, which curtailed its tendency toward acquisition. Moreover, economic stagnation prevented established farmers and other rural traders from gaining a stake in American society through the accretion of private property. Lack of, or insignificant, property holdings among whites implied political subordination and economic dependency.

3. Individualism in Antebellum America

The land needed for greater realization of political and economic

emphasis enervates and threatens to undermine race-specific remedies because such remedies are vulnerable to attack on grounds that they offend principles of neutrality, objectivity, and color blindness. See Neil Gotanda, A Critique of "Our Constitution is Color-Blind," 44 Stan. L. Rev. 1, 62 (1991) (suggesting an alternative to "color-blind constitutionalism"). Additionally, such remedies have proven to be inattentive to race ideology and neglectful of the operation of white nepotism that impedes meaningful racial reform. See Derrick Bell, Faces at the Bottom of the Well: The Permanence of Racism 56 (1992) (discussing racial nepotism with the fictional lawyer-prophet Geneva Crenshaw). Consequently, in the closing decades of the twentieth century, legal scholars like Professor Kimberle Crenshaw insightfully observe that attempts at race reform that pivot on notions of formal equality, in fact, preserve existing hierarchical structures of American society. See Kimberle W. Crenshaw, Race, Reform and Retrenchment: Transformation and Legitimation in Antidiscrimination Law, 101 Harv. L. Rev. 1331 (1988).

188. Among historians, considerable controversy exists over the brand of individualism prevalent in eighteenth century America. At one extreme, the individual is self-interested and especially focused on private rights and profit-making. At the other, self-interestedness gives way to disinterestedness—to a common concern for the public good. For a review of this controversy see Gordon S. Wood, The Virtues and the Interests, New Republic, Feb. 11, 1991, at 32 (reviewing Isaac Kramnick, Republicanism and Bourgeois Radicalism: Political Ideology in Late Eighteenth Century England and America (1991)). Wood argues against the sharp dichotomy of views expressed in this controversy in his book, The Radicalism of the American Revolution, supra note 117.


190. Barney explains that the post-Revolutionary American economy was stagnant. In Massachusetts, for example, the state government sought to collect taxes in hard currency though there was a shortage of specie. There was a ripple effect: urban merchants squeezed hard currency out of rural traders, who in turn looked to farmers as a source of specie. Legal proceedings to collect the farmers' debts ensued, often resulting in the confiscation of entire farms. Even short of confiscation, the debt collection proceedings sapped farmers of their capital and capital-producing resources. Barney, supra note 160, at 185-89.
liberty among whites became available with the enactment of the Northwest Ordinance of 1787 and the purchase of the Louisiana territories in 1803, both of which opened the western frontiers. 191 In the Old Northwest, migrants pursuing independence and self-sufficiency transformed millions of forest acres into farms, which they cultivated to sustain their families. 192 Southern whites, also seeking independence and a competency, transplanted the plantation agriculture of the South Atlantic region to the Old Southwest. 193 Just as the North American frontier was a mecca for Europe's commoners, the western frontier held the same allure for America's masses from the east. 194

Individual entrepreneurship and commercialization slowly and erratically emerged alongside (and oftentimes supplanted) the acquisitive, property-based individualism of colonial America. The introduction of steamboats, the construction of canals, the building of railroads—in essence the transportation revolution—and the mechanization of farm labor encouraged commercial farming in the Old Northwest. Farmers originally in pursuit of self-sufficiency and familial security were now bent on accumulating capital through the marketing of income-producing crops. As a market economy grew, nonfarm opportunities increased, and concomitantly, the number of would-be farmers laboring for wages multiplied.

Slavery fueled the emerging market economy of the Old Southwest. In response to the demands for cotton by Europe's textile manufacturers, planters of the Old Southwest exploited the labor of enslaved Africans and African-Americans to cultivate cotton. Conse-


194. "Free land... tended to relieve poverty outside the West, and on the frontier itself it fostered economic equality. Both these tendencies made for an increase of democracy... [The West offered freedom and subsistence to all...""] Henry Nash Smith, Virgin Land: The American West as Symbol and Myth 252 (1950).
quently, a planter's wealth became directly related to the size of his slave holdings because the greater the number of slaves, the greater the size of his plantation and, hence, the greater his capacity to produce marketable cotton. In the market economy of the old South, white southerners who were landless and without slaves found themselves obligated to planter aristocrats for credit, food, jobs, and loans of slaves.195

Back in the East, particularly the Northeast, the revolution in transportation opened up new domestic markets for raw materials and the finished goods of artisans. As markets were established, the desire for finished goods grew, in turn triggering a demand for raw materials and an increase in production. Mechanization and specialization of the production process was inevitable, and factories soon engulfed or replaced the artisans.

Though the geographic boundaries of young America expanded westward, the republic still failed to produce a predominant society of independent farmers and artisans among whites. Ironically, the westward expansion made possible the conditions for wage labor, which in the eyes of the Jacksonian American bespoke of degradation and "white slavery."196

4. Individualism, Racialized Identities and the Emergence of Wage Labor

In fourteenth- and fifteenth-century England when wage labor first emerged, it connoted freedom when contrasted against the condition of serfdom.197 However, when the white wage earner first appeared in nineteenth-century America,198 the emancipatory meaning of wage labor was less evident. The economic and political landscape had been so defined by individual self-sufficiency and independence that white Americans understood the experience of working for wages as dependence, bondage and subjection to capital represented by planters, banks, railroads and towns.199 Indeed, white Americans

195. See JONES, supra note 180, at 55-58.
196. For a discussion of the etiology of the term "white slavery," see ROEDIGER, supra note 185, at 65-87 (chapter describing the emergence of white slaves, wage labor and free white labor).
198. See ROEDIGER, supra note 185, at 20 (noting that in America the white worker arrived in the early nineteenth century).
199. See JONES, supra note 180, at 55-57; see also ERIC FONER, FREE SOIL, FREE LABOR, FREE MEN: THE IDEOLOGY OF THE REPUBLICAN PARTY BEFORE THE CIVIL WAR xvii (1995) ("The rise of wage labor, and its institutionalization in the law, posed a
who, as a result of commercialization and industrialization, had to sell their labor in order to survive comprehended their status as wage laborers as a form of "unfreedom."  

This "unfreedom" experienced by the emerging white American wage earner underscored the nineteenth-century reordering of the social relations of production, which in turn augured new forms of social divisions, anxieties and consciousness. J. R. Pole succinctly summarizes the social reordered arising from commercial manufacturing as follows:

Manufacturing industry advanced with the increasing concentration and division of labor in factories rather than small workshops, and with a deepening distance between owners and managers on one side and workers on the other. . . .

The changes that were affecting the economy promoted among the mechanics a wholly new sense of class, which began to take the place of the older sense of belonging to a specialist trade and skill. Workers were experiencing a disturbing sense of distance and alienation from their employers and customers, together with a felt loss of control over their livelihood and conditions of work.  

Initial resistance to the new social relations thrust upon the nineteenth-century American was (predictably) organized around the tenets of individualistic democratic capitalism. Formerly independent farmers, acting in the name of freedom and democracy, revolted. Artisans attempted to counter the disruption of their system of labor by mobilizing in ways designed to preserve, in one form or another, a modicum of their independence—a condition revered by individualistic democratic capitalism.

Resistance, however, gave way to reinterpretations of individual-
istic democratic capitalism that enabled white American workers to accept the realities of socioeconomic stratification and the subordination of wage labor to capital. Universal suffrage for white males had been achieved before the emergence of the American wage earner. Thus, free from political dominance and submission, members of the emerging white working class believed that they could, in an unconstrained fashion, pursue opportunities to earn and consume in an open market place. So, rather than occupy themselves with oppositional struggles against capital, white workers pursued opportu-

204. I do not suggest here a total absence of opposition to socioeconomic stratification or class. Indeed, as T.B. Bottomore explains, the class critique is a direct by-product of the development of individualism in western societies:

Only in modern times, and particularly since the American and French Revolutions, has social class, as a stark embodiment of the principle of inequality, become an object of scientific study, and at the same time of widespread condemnation in terms of new social doctrines. The revolutionary ideal of equality, however variously it was interpreted by nineteenth-century thinkers, at least implied an opposition to hereditary privileges and to an immutable hierarchy of ranks. The revolutions of the late eighteenth century and the early nineteenth century, directed against the legal and political privileges which survived from the system of feudal estates, brought about an extension of civil and political rights and a greater degree of equality of opportunity. But at the same time they created a new social hierarchy, based directly upon the possession of wealth, and this in turn came to be attacked during the nineteenth century by socialist thinkers who believed that the ideal of equality ultimately implied a "classless society."

Bottomore, supra note 73, at 4.

205. See Louis Hartz, The Liberal Tradition in America: An Interpretation of American Political Thought Since the Revolution 89 (1955) (arguing that "[i]n a society . . . where the aristocracies, peasantries, and proletariats of Europe are missing . . . virtually everyone, including the nascent industrial worker, has the mentality of an independent entrepreneur").

206. On the failure of American workers to pursue supposedly "radical" politics in the nineteenth century and thereafter, see generally William M. Dick, Labor and Socialism in America: The Gompers Era (1972). See also Aileen S. Kraditor, The Radical Persuasion 1890-1917, Aspects of the Intellectual History and the Historiography of Three American Radical Organizations (1981) (analyzing why the Socialist party, the Socialist Labor Party and the Industrial Workers of the World failed their goal of revolutionizing the United States); Failure of a Dream? Essays in the History of American Socialism (John H.M. Laslett & Seymour Martin Lipset eds., 1974) (examining the weakness of American socialism). American workers were not "radical" in a European socialist sense. To the extent there was confrontation between the American worker and capital—and there was—the nature of the confrontation was determined by the cultural ideals of individualistic democratic capitalism. Like other Americans, the American worker was faithful to the ideology of individualistic democratic capitalism, and his fidelity permitted him only to find new expressions of its tenets that would not exclude him from the idealized society it envisioned. For example, Stephan Thernstrom has observed that nineteenth century American workers were not anticapitalist, but urban nomads in an almost perpetual search for capitalist opportunities:

For all the brutality and rapacity which marked the American scene in the years in which the new urban industrial order came into being, what stands out most is
nities for personal advancement, and wage labor was the instrument of that pursuit. Economic self-interest was rewarded with wealth. The resulting privileges and hierarchy based on the possession and concentration of wealth were accepted as meritorious distributions reflecting personal talents and achievements as well as shortcomings and failures. A consensus of equal access to riches, therefore, stifled philosophical attention to, and critique of, wealth-based stratifications.

The relative absence of collective working-class protest aimed at reshaping capitalist society... The American working class was drawn into the new society by a process that encouraged accommodation and rendered disciplined protest difficult. Within the urban industrial orbit, most of its members found modest but significant opportunities to feel that they and their children were edging their way upwards. Those who did not find such opportunities were tossed helplessly about from city to city, from state to state, alienated but invisible and impotent.


Indeed, decades prior to the formation of the American working class, Samuel Latham Mitchell articulated the prevailing attitude towards wealth-based stratification and hierarchy as follows:

All citizens are acknowledged equal as to their rights, and the only inequality subsisting is that which arises necessarily from office, talents or wealth. But as the road lay open for everyone to aspire to these, it is the exercise of one or more of his rights that a man acquires these means of influence.


As a theory of American history, the idea of consensus emerged in Richard Hofstadter, *The American Political Tradition and the Men Who Made It* (Vintage Books 1989) (1948) (expounding the view that American political history should be considered in light of a tradition of consensus about fundamental principles), and was subsequently expanded in Daniel J. Boorstin, *The Genius of American Politics* (1953) (expounding the view that the practical, shared experiences of Americans on a continent believed to be without any physical limitations precluded ideological antagonisms) and Hartz, supra note 205 (expounding the view that in the absence of a feudal heritage, Americans imported a liberal philosophy from Europe which flourished without any opposing ideals). Of course, the fact of consensus is not the whole story of the American experience. Intense conflict, crisis and violence are also part of the American heritage. See, e.g., Bernard Sternsher, *Consensus, Conflict, and American Historians* 211-230 (1975) (reviewing the consensus historians' neglect of violence in the American past).

Though my focus in this Article is on the antagonisms between whites and blacks, it is not without recognition of the diversity—and hence conflict—within these respective groups. A diversity of experience among whites and among blacks has yet to displace powerful, orienting themes in American society such as inherent rights, privatized property interests, individual effort and success, equality of opportunity (self-help), material abundance and equality before the law.

Richard Hofstadter, reviewing the significance of Hartz's work, supra note 205, writes that "[l]acking the opposition of feudal classes, American bourgeois thought never had to develop a keen militant spirit to match its self-confident rhetoric; hence, in contrast..."
Race ideology was also a central factor in the white American workers' acceptance of their "wage earner" status and the new social relations that emerged in early nineteenth-century America. During the time that the American wage earner first emerged, the institution of slavery was still dominant, and its existence profoundly affected the self-identification of white Americans laboring for wages. The labor provided by enslaved blacks had to be distinguished from the labor provided by white wage earners. To that end, white workers developed language that enabled them to identify "their freedom and their dignity in work as being suited to those who were 'not slaves' or 'not negurs'." Historian David Roediger notes:

"[I]n a society in which Blackness and servility were so thoroughly intertwined—North and South—assertions of white freedom could not be raceless. . . . The existence of slavery (and increasingly of open Northern campaigns to degrade free Blacks) gave working Americans both a wretched touchstone against which to measure their fears of unfreedom and a friendly reminder that they were by comparison not so badly off. It encouraged an early language of labor that was at once suffused with concern for 'republican liberty' and at the same time willing to settle for . . . 'evasions'. Amidst much assertion of independence, the term hired subtly became one to be embraced. As hired was increasingly placed in front of man, woman and girl, it was also placed before the old term hand, especially when referring to farm laborers. In the latter usage . . . labor is clearly a commodity, separable from its owner and for sale. Some of the sting had been taken from the connection between hireling and slave."

The emerging exaltation of white wage labor over black slave labor was based on a comparison of the two, and the conclusion that wage labor is inherently commodifiable. Thus, wage labor could be meaningfully distinguished from slave labor and was, consequently, worthy of honor. Amid a new industrial discipline that demanded regular, timed and routinized labor, white workers longed for the debaucheries of the preindustrial past. To prevent white workers from

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to the European bourgeoisie, it had no corresponding militancy to communicate to the working class." Richard Hofstadter, The Progressive Historians: Turner, Beard, Parrington 446 (1968).

210. "Slavery was meant for blacks, freedom for whites, and what was degrading in wage labor was reducing white men to the same level as African-Americans." Foner, supra note 199, at xix.

211. Roediger, supra note 185, at 49.

212. Id. at 49-50 (emphasis in original) (footnotes omitted).

reverting to their preindustrial selves, Roediger argues, specific behaviors that whites simultaneously scorned and longed for were projected onto blacks.\textsuperscript{214} Thus, white working Americans added to the mix a "desire not to be considered anything like an African-American"\textsuperscript{215} and, consequently, encased themselves in "whiteness."\textsuperscript{216}

In other words, racial demarcation was endemic to the development of the American working class.\textsuperscript{217} Wage earners were white individuals—free, disciplined and, indeed, privileged to meet the labor demands of a regimented, industrialized society. Infused with new meaning, those excluded from the normative, as well as descriptive, embrace of the term "wage earner" were defined, and personified dependency and subjection.\textsuperscript{218} African-Americans were the antithesis of wage earners.

Nineteenth-century white American workers had to come to terms with the new social relations of the times, and they did so by rearticulating the cultural meanings of individualism, democracy and capitalism. Barney explains that although the growth of a new class of salaried and nonpropertied workers was striking, these workers were considered failures because they lacked both land and independence. Gradually, however, nineteenth-century American workers redefined the fundamental terms by which American society measured status and achievement:

Property in the traditional, republican sense of landed security now took on myriad meanings related to a good salary and the accumulation of material goods. Individualism shifted in meaning from economic independence to upward career mobility in a business organization or professional association. Indeed, [salaried and nonpropertied workers] claimed that their careers embodied the very essence of American individualism. Without the advantages of prior wealth or privileges, they had democratically earned esteem and recognition by mastering a skill in public demand.\textsuperscript{219}

Moreover, race ideology synthesized with the ideology of individ-

\textsuperscript{214} Roediger, supra note 185, at 95-133 (addressing the specific behaviors that whites projected onto blacks during the formation of the first American working class).

\textsuperscript{215} Id. at 68 (emphasis in original).

\textsuperscript{216} White workers sought refuge in their whiteness in response to a "fear of dependency on wage labor and to the necessities of capitalist work discipline." Id. at 13.

\textsuperscript{217} By contrast, race ideology played a negligible, if any, role in the making of the English working class.

\textsuperscript{218} See Nancy Fraser & Linda Gordon, Decoding "Dependency": Inscriptions of Power in a Keyword of the Welfare State 8-14 (unpublished manuscript on file with author) (arguing that with the emergence of capitalism and industrial society, the meaning of wage labor had to be reinterpreted so as to divest it of the association with dependency).

\textsuperscript{219} Barney, supra note 160, at 338-39.
ualistic democratic capitalism to facilitate nineteenth-century working white Americans’ acceptance of their new circumstances.\textsuperscript{220} Their acceptance through a reinterpretation of what it meant to have “freedom,” to be “independent,” and to be a “wage earner” did nothing to disrupt the racial organization of nineteenth-century America. Indeed, a subordinated African-American population provided a caricatured group against which whites—who migrated from craftshop and farm to factory, and immigrated from Europe to meet America’s labor demand—could measure their freedom, independence and wage earner status. As a result, a race consciousness—a consciousness of not being deemed “black”—was a defining characteristic of nineteenth-century working white Americans.

C. The Relationship Between A History of Racialized Individualism and the Contemporary Advocacy for Class-Conscious Social Policies

This is just a broad outline of the historical development of individualism in the American context. I have shown that the core value of American individualism is “freedom” achieved through property ownership, and that African-Americans were precluded from owning property and, consequently, precluded from enjoying the freedoms derived from property. I have also shown that European-Americans have strived for a democratization of property ownership among themselves, and thus for greater political freedoms and personal economic security among themselves. When the market revolution of the nineteenth century transformed the social relations of production, the meaning of “freedom” and how it was to be achieved changed. “Freedom,” in substantial part, thereafter referred to wealth accumulation achieved in pursuit of market opportunities. What remained unchanged, however, was the withholding of “freedom,” however redefined, from African-Americans, whose state of subordination functioned to endow nineteenth-century European-Americans with a form of primal equality notwithstanding a growing chasm between rich and poor.

Given this understanding of the historical development of individualism in the American context, what are we to make of the racialization of American individualism, and of the concepts of freedom,

\textsuperscript{220} Nineteenth century white American workers did not bear sole responsibility for the rearticulation of ideology in a rapidly changing society. I have focused on them because their efforts to reshape America in their own image aptly illustrate how concepts central to American culture—freedom, autonomy, equality—are adaptable to specific historical exigencies.
political enfranchisement and economic independence embodied therein? In what way is the racialization of individualistic democratic capitalism in earlier centuries related to the contemporary advocacy for class-conscious social policies? The answers lie in the fact that racialization is continuing. This continuing racialization, as we will see, explains the convergence of class advocacy with socioeconomic cleavage within the black community, and class anxiety within the white community.

In large measure, the strain of consciousness among white American workers that emerged from the social transformations of the nineteenth century has had important consequences in the political domain for subsequent generations of Americans, including the post-civil-rights generation. Today, the experience that defines the quintessential American character is that of the immigrant European laborer whose emigration coincided with the economic and social transformations of the nineteenth century. The story of the European immigrant highlights arrival to America with neither social status nor honor, and with few, or no, possessions of value. The burgeoning political economy of the late nineteenth through early twentieth centuries presented untold opportunities for personal advancement. Thus, through personal sacrifice and hard work, which contributed to the building of the nation, the European immigrant conquered poverty and discrimination, and secured a better life for future generations.\textsuperscript{2}

The tale of the European immigrant is transethnic in the sense that it is told by Americans of various European ancestries (i.e., Irish, Italian, English, Dutch). As such, the tale unites European-Americans despite their diverse backgrounds and cultures. Its thrust is to defend the individualistic view of the American system because it portrays the system as open to those who are willing to work hard and pull themselves over barriers of poverty and discrimination. Importantly, this tale sets the terms by which other groups of Americans are to achieve socioeconomic and political success.\textsuperscript{222} Richard Alba writes:

Since Americans of European ancestry constitute a numerical majority of the population and are superordinate to other ethnic groups, their view of their past is of considerable consequence for


\textsuperscript{222} ALBA, supra note 3, at 314-15.
defining the nature of the American system—their justification of their superior position implied in the historical account of their ancestors' experiences amounts to a definition of the 'rules of the game' by which other groups will be expected to succeed in American society.\footnote{223}

The expectation that other groups, especially African-Americans, would follow in the footsteps of their European-American predecessors and carve out their own rightful place in American society through hard work and personal sacrifice, has been greatest since the enactment of the 1960's civil rights statutes. That expectation has been fostered by influential policy theorists such as Nathan Glazer and Daniel Patrick Moynihan who view civil rights statutes as the legislative removal of obstacles to African-American participation according to the "rules of the game."\footnote{224} The views of Glazer and Moynihan are appropriately summarized by Omi and Winant:

[B]lacks already had equal opportunity in the North; what more could they demand? Once equal opportunity legislation along with its judicial and administrative enforcement were accomplished facts, it fell to blacks to follow in their "predecessors'" footsteps. Through hard work, patience, delayed gratification, etc., blacks could carve out their own rightful place in American society. In the North, where blacks were still recent "immigrants" (from the South), this would involve some degree of assimilation. It would involve the development of a new postimmigration cultural identity, and it would require engagement in mainstream pluralist politics. Race relations would thus continue in what Nathan Glazer was later to call the "American ethnic pattern."\footnote{225}

The tale of European immigration—embodying the powerful concepts of freedom, independence and self-sufficiency through wage work, as they have been reinterpreted since the nineteenth century—provides a dominant "text" against which social and political claims are made and measured in the twentieth century.\footnote{226} For example, in the post-civil-rights decade of the 1980s—in which questions regarding the subordination of African-Americans revolved around the black underclass—when African-Americans sought affirmative protections

\footnote{223. \textit{Id.} at 316.}
\footnote{224. \textit{See, e.g., Glazer & Moynihan, supra} note 221, at x (suggesting that since the demands of the Civil Rights Movement—equality in voting, equality in the courts, equality in representation in public life, equality in public accommodations—exist in New York City, African-Americans would become part of the game of accommodation politics in which posts and benefits were distributed to groups on the basis of votes, money and political talents).}
\footnote{225. \textit{See Omi & Winant, supra} note 3, at 19.}
\footnote{226. I use "text" in the same manner that Professor John Calmore does. \textit{See} Calmore, \textit{supra} note 46, at 2161-62.}
against racial discrimination, European-Americans responded with a version of "my ethnic group faced discrimination and we overcame without special attention or legal protection":

[M]any whites . . . [were] stimulated to think about the relevance of their own ethnic history when confronted by a challenge cast in racial/ethnic terms and justified by the historical burdens borne by a specific group. The reply of many whites, especially of white ethnics who had only recently made it out of their own ghettos, was: our groups too faced prejudice and discrimination; we haven't made it to the top of American society, either, as is shown by our sparse representation at elite levels; and it is not fair to change the rules in midstream, after we have committed ourselves to them.\footnote{Alba, supra note 3, at 317.}

To European-Americans, African-Americans were impermissibly using "race" to create a competitive advantage in the American distributive system, thereby changing the rules of the game in midstream. European-Americans seemed not to consider the advantages that their "race"—whiteness—had bestowed on them as they played the game, because the tale of the European immigrant identified them in terms of bridgeable ethnic differences.\footnote{The advantages of whiteness in playing by the "rules of the game" are further obscured when European-Americans reference the socioeconomic success of some Asian-Americans—a so-called "model minority"—as proof that the rules of the game are race-neutral and fair. Some Asian-American legal scholars, however, have objected to this ploy. See, e.g., Robert S. Chang, Toward an Asian American Legal Scholarship: Critical Race Theory, Post-Structuralism, and Narrative Space, 82 Cal. L. Rev. 1243, 1264 (1993) (arguing, inter alia, that the model minority myth works a harm against other racial minorities who are blamed for not being successful like Asian-Americans).}

An understanding of the social and political demands in terms of the "race" of African-Americans renders those demands culturally illegitimate when measured according to the standards embodied in the tale of the European immigrant.\footnote{See also Kamen, supra note 34, at A1 (reporting myth of the "model" Asian minority).} Such an understanding, for example, caused Bradford Reynolds, head of the Justice Department's Civil Rights Division in the early 1980s, to declare a halt to perceived race-based distributions. In a complex statement that combined appeals to American individualism with an attack on racism, Reynolds asserted:

The use of race in the distribution of limited resources in the past decade has regrettably led to the creation of a kind of racial spoils system in America, fostering competition not only among individual members of contending groups but among the groups themselves. Racial classifications are wrong—morally wrong—and ought not to be tolerated in any form . . . . It must be remembered that we are—each of us—a minority of one. Our rights derive from the uniquely
American belief in the primacy of the individual. And in no instance should an individual's rights rise any higher or fall any lower than the rights of others because of race.  

The next section considers in detail the material conditions of the African-American community that caused others, like Reynolds, to demand a halt to race-conscious remediation, and still others to advocate a class-conscious alternative. Building on the themes articulated in this section, I explore the way in which racialized individualistic democratic capitalism shapes the discourse of the race/class debate within the social policy context in the post-civil-rights era.

IV. Racialized Individualism and Social Policy

A. Black Progress, Black Poverty

Well into the mid-twentieth century, black and white Americans were not only spatially segregated as mandated by custom and law, they also inhabited socioeconomically distinct milieus. More than seventy percent of the black adult population had no formal education beyond the eighth grade. 62% of working black men and women were employed in either agricultural or menial personal service jobs. More than half of the black population lived in households with incomes below the poverty line. Furthermore, black per capita income was a mere fifty percent of that of whites.

By contrast, sixty percent of the white adult population had a formal education beyond the eighth grade. Approximately twenty percent of employed white men and women held professional and managerial positions, and more than fifty percent were employed in blue collar jobs or service occupations. Only one of every eight white families had an income below the poverty line.

White domination of political, social, cultural and economic institutions—stitutions that embodied American norms, standards, myths and values—reinforced and reflected the ignominious material

231. See A COMMON DESTINY, supra note 58, at 335.
232. Id. at 164.
233. Id.
234. Id. at 272.
235. Id. at 335.
236. Id. at 312.
238. A COMMON DESTINY, supra note 58, at 272.
condition of blacks in American society. Blacks were denied participation in the political life of American society. Segregation laws restricting all social contacts between blacks and whites prevailed. Black employment and economic opportunities were also limited.

Brown v. Board of Education raised black expectations for an all-embracing society. As momentous as the Brown decision was, however, maneuvers that did more than undermine the legal foundation of segregation were necessary to recast the American social order. A decade-long, and sometimes violent, struggle ensued, culminating in the Civil Rights Act, the Voting Rights Act, the Fair Housing Act and a plethora of programs designed to expunge black poverty.

Blacks made many substantial gains. As the 1960s drew to a close, a new category of middle-income blacks had emerged.
proximately fifty-eight percent of black adults between the ages 25 to 35 completed high school. Blacks entered traditionally white-dominated occupations in record numbers. Twenty six percent of black workers held white-collar jobs. Twenty one percent of black families had incomes above the median income of white families. These very visible social and economic gains contributed to the belief that American society had been purged of its racism.

The three decades following Brown were not solely characterized by black progress. As significant percentages of black families gar-

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Id. at 121.

247. A COMMON DESTINY, supra note 58, at 169.
248. Id.
249. See Thomas F. Pettigrew, The Changing, But Not Declining, Significance of Race, 77 Mich. L. Rev. 917, 922 (1979) (arguing that the conspicuous movement of middle class blacks into traditionally white residential areas lends visible support to the “myth that the racial problems of the country were solved during the civil rights era of the 1960s”).

250. Noted civil rights advocate, Vernon Jordan, observed:

Millions of black people were not only untouched by Brown, but they have been bypassed by the other breakthroughs in employment, housing and other key areas. For many millions of black people the promise of Brown and the advances of the 1960’s have been illusory. Their needs have been ignored, their aspirations trampled upon and their desire for equal opportunity scorned.


Newsweek also reported that two striking developments mark the situation of African-Americans since the ‘60s:

One is the emergence of an authentic black middle class, better educated, better paid, better housed than any group of blacks that has gone before it. As measured sometimes by white-collar occupation—anything from bank clerk to engineer—sometimes by incomes of $20,000 a year and up, the middle class grew to near 56 percent of black wage earners by 1980. . . .

The second development is, in a way, the reverse side of the first. As compar-
nered higher incomes, they fled American cities to settle in suburban areas like other economically-able groups. Sociologist William Julius Wilson posits that the effect of such an exodus was to create an urban "underclass" of "individuals who lack training and skills and either experience long-term unemployment or are not members of the labor force, individuals who are engaged in street crime and other forms of aberrant behavior, and families that experience long-term 

atively well off blacks move to better neighborhoods, they have left behind a stripped-down, socially disabled nucleus of poor people who have come to be called (somewhat pejoratively) the "underclass." David Gelman et al., *Black and White in America*, Newsweek, Mar. 7, 1988, at 18, 19-20; see also Richard Bernstein, *20 Years After the Kerner Report: Three Societies, All Separate*, N.Y. Times, Feb. 29, 1988, at B8 (detailing the "underside of progress"). 


252. In his important work, *The Black Underclass: Poverty, Unemployment, and Entrapment of Ghetto Youth* (1980), Professor Douglas G. Glasgow comments on the emergence of the "underclass" nomenclature: 

The term underclass has slowly, almost imperceptibly eased its way into the nation's vocabulary, subtly conveying the message that another problematic group is emerging that needs society's help. While still somewhat unclearly defined, and even thought by some not to be deserving of serious attention, a permanently entrapped population of poor persons, unused and unwanted, accumulated in various parts of the country. 

Id. at 3. 

Even though researchers have provided overwhelming empirical proof to the contrary, the popular view is that blacks and Hispanics are the exclusive members of the underclass. See, e.g., Ronald Miny, *Is There a White Underclass?* (1988) (using census tract data to show that whites represent 28 percent of the concentrated poor); see also Peter Passell, *Chronic Poverty, Black and White*, N.Y. Times, Mar. 6, 1991, at D2 (noting that "[w]hites represent 28 percent of the population of underclass neighborhoods in cities of less than one million, and roughly 20 percent of the underclass population in all metropolitan areas"). The racialization of the term and concept of the underclass has caused William Julius Wilson to urge social policy researchers to drop the term and to select another to describe and highlight the theoretical linkage between a disadvantaged group's position in the labor market. See Jason DeParle, 'Underclass' Reconsidered: What to Call The Poorest Poor?, N.Y. Times, Aug. 26, 1990, § 4, at 4; see also Herbert J. Gans, *Fighting the Biases Embedded in Social Concepts of the Poor*, Chron. Higher Educ., Jan. 8, 1992, at A56 (noting how writers for the commercial media, with the help of academics, have used the word "underclass" to lump together into one scientific-sounding stereotype images of sinister-looking and promiscuous young blacks and Hispanics whom the white population fears and disapproves).
spells of poverty and/or welfare dependency." Wilson writes:
Whereas today's black middle-class professionals no longer tend to live in ghetto neighborhoods ... the black middle-class professionals of the 1940s and 1950s ... lived in higher-income neighborhoods of the ghetto and serviced the black community. Accompanying the black middle-class exodus has been a growing movement of stable working-class blacks from ghetto neighborhoods to higher-income neighborhoods in other parts of the city and to the suburbs. In the earlier years, the black middle and working classes were confined by restrictive covenants to communities also inhabited by the lower class; their very presence provided stability to inner-city neighborhoods and reinforced and perpetuated mainstream patterns of norms and behavior.

This is not the situation in the 1980s. Today's ghetto neighborhoods are populated almost exclusively by the most disadvantaged segments of the black urban community, that heterogeneous grouping of families and individuals who are outside the mainstream of the American occupational system.

At the time of Wilson's observations—the mid-1980s—statistical indicators of the social and economic well-being of families and individuals depicted an African-American community in which the jobless rate for its members had soared to a depression-level of twenty percent. When employed, a black family head earned fifty-nine cents for every dollar earned by white family heads. Approximately ten percent of black families had incomes below $5,000, the bottom of the income distribution. The poverty rate among African-Americans was thirty-three percent, with slightly less than three-fourths (74.2%) of all black children under the age of six living in single-parent households below the poverty level.

As early as 1977, journalistic scrutiny focused on "the American underclass." But rather than an analysis in terms of socioeconomic

254. Id. at 7-8 (footnotes omitted).
disparity, journalistic scrutiny was limited to an examination of narcotic use and addiction, crime and delinquency, teenage pregnancy and joblessness.\textsuperscript{260} One journalist, Ken Auletta, even devised four categories within which to group persons identified as belonging to the "underclass":

(a) the \textit{passive poor}, usually long-term welfare recipients; (b) the \textit{hostile} street criminals who terrorize most cities, and who are often school dropouts and drug addicts; (c) the \textit{hustlers}, who, like street criminals, may not be poor and who earn their livelihood in an underground economy, but rarely commit violent crimes; (d) the \textit{traumatized} drunks, drifters, homeless shopping-bag ladies and released mental patients who frequently roam or collapse on city streets.\textsuperscript{261}

These journalistic presentations of the "underclass" have provided the American public—the overwhelming majority of whom have had no actual contact with American inner-cities and their occupants—with the controlling iconography of the individuals comprising the "underclass."\textsuperscript{262} As such, the American public perceives the exist-

\textsuperscript{260} For example:
Behind [the ghetto's] crumbling walls lives a large group of people who are more intractable, more socially alien and more hostile than almost anyone had imagined. They are the unreachables: the American underclass. . . . Their bleak environment nurtures values that are often at radical odds with those of the majority—even the majority of the poor. Thus the underclass minority produces a highly disproportionate number of the nation's juvenile delinquents, school dropouts, drug addicts and welfare mothers, and much of the adult crime, family disruption, urban decay and demand for social expenditures.

\textit{Id.} at 14; \textit{see also} \textsc{Ken Auletta, The Underclass} xiii (Vintage Books 1983) (1982) (defining "underclass" as a group suffering from "behavioral as well as income deficiencies") (emphasis in original).

\textsuperscript{261} \textit{Id.} at xvi. Michael Katz has observed that Auletta's convenient lumping of people with varied problems into the category "underclass" is consistent with social welfare practices rooted in the nineteenth century:
Auletta's description of the underclass has a nineteenth century ring because it compounds various forms of dependence and deviance into one convenient and derogatory category defined more by behavior than poverty. Long-term poverty, crime, and mental illness blend into a serviceably updated image of the unworthy poor. But how is one to distinguish the \textit{passive} from the nonpassive poor? Why is it helpful to lump people with such varied problems as drug addicts, women supported by AFDC, and former mental patients in one category? Will it point policy in useful directions or increase compassion for the victims of America's structure of inequality? Even if, as I believe, the answer is no, the concept of an "underclass" serves a useful rhetorical purpose for the war on welfare. By drawing a sharp line between the working class and the very poor, it fractures a potential source of political mobilization, justifies mean and punitive social policies, and keeps the working poor at low-paid jobs, any jobs, to avoid descent into the underclass.

\textsc{Michael B. Katz, In the Shadow of the Poorhouse: A Social History of Welfare in America} 277 (1986).

\textsuperscript{262} For a discussion on the role that journalists play in shaping public perceptions of
ence of an "underclass," not primarily as a socioeconomic crisis, but as a reflection of individual immorality.263 This imagery is at the center of the discourse about the determinants of African-American subordination, and around which explanatory theories are woven.

B. Explaining the Divide

Theories explaining "the divergence"264 in socioeconomic status within the black population abound. As referenced earlier, William Julius Wilson posits that inner-city neighborhoods have experienced an outmigration of black working- and middle-income families previously confined to those neighborhoods by racially discriminatory laws and practices.265 This outmigration caused a concentration of poverty in inner-city neighborhoods. The economic transformation of those neighborhoods, and of long-standing institutions, combined with the continuous restructuring of American capitalism266 to create a social


263. The notion of poverty as a matter of individual morality has a long history. See generally Katz, *supra* note 261, at xi-xii; James T. Patterson, *America's Struggle Against Poverty 1900-1985* (1986).


265. See supra notes 252-254 and accompanying text. But see Reynolds Farley, *Residential Segregation of Social and Economic Groups Among Blacks, 1970-80*, in *The Urban Underclass* 274, 293 (Christopher Jencks & Paul Peterson eds., 1991) (arguing that after an inspection of data for Chicago, "[o]ne cannot so readily reject Wilson's conclusions that poor blacks lived in proportionally more impoverished neighborhoods in 1980 than in 1970. This is an accurate conclusion, but the situation has occurred because of overall increases in black poverty rather than because of higher levels of residential segregation by social class or a new outmigration of prosperous blacks.").

266. Wilson hypothesizes that minorities are extremely vulnerable to recent shifts in the economy:

Urban minorities have been particularly vulnerable to structural economic changes, such as the shift from goods-producing to service-producing industries, the increasing polarization of the labor market into low-wage and high-wage sectors, technological innovations, and the relocation of manufacturing industries out of the central cities. . . . [T]hese urban centers are undergoing an irreversible structural transformation from 'centers of production and distribution of material goods to centers of administration, information exchange, and higher-order ser-
milieu plagued by massive joblessness, flagrant and open lawlessness, and low-achieving schools. The thrust of Wilson's thesis, then, is that the transformation of the structure of the black community coupled with certain macroeconomic trends explain the widening socio-economic divisions among blacks.267

Whereas Wilson's explanatory thesis is "structural" in nature, vice provision.' The central-city labor market, particularly in northern areas, has been profoundly altered in the process.

Wilson, supra note 253, at 39 (footnote omitted).

267. Wilson summarizes his thesis—that social isolation in impoverished neighborhoods with weak labor force attachment is the central problem of the black underclass—as follows:

In short, the communities of the underclass are plagued by massive joblessness, flagrant and open lawlessness, and low-achieving schools, and therefore tend to be avoided by outsiders. Consequently, the residents of these areas, whether women and children of welfare families or aggressive street criminals, have become increasingly socially isolated from the mainstream patterns of behavior.

If I had to use one term to capture the differences in the experience of low-income families who lived in inner-city areas from the experiences of those who live in other areas in the central city today, that term would be concentration effects. The social transformation of the inner city has resulted in a disproportionate concentration of the most disadvantaged segments of the urban black population, creating a social milieu significantly different from the environment that existed in these communities several decades ago.

Wilson, supra note 253, at 58. Having linked the socioeconomic status of members of the African-American community to mobility opportunities made possible by antidiscrimination laws and to macroeconomic trends, Wilson has argued that race per se is of declining influence in predicting the life chances of individual blacks. See William Julius Wilson, The Declining Significance of Race: Blacks and Changing American Institutions 1 (2d ed. 1980) ("Race relations in America have undergone fundamental changes in recent years, so much so that now the life chances of individual Blacks have more to do with their economic class position than with their day-to-day encounters with Whites."). Recent reports indicate that Wilson's thinking has evolved, and that he has changed his mind on his hypothesis regarding black economic well-being and racism. See Gretchen Reynolds, The Rising Significance of Race, Chicago Mag., Dec. 1992, at 81.

268. The "structural" view of poverty, which emerged at the end of 1963, conceptualizes poverty not as an aberration or matter of individual indolence, but as structurally built into the American social system. Reviewing and providing his own conservative analysis of the structural approach to poverty, Charles Murray writes:

In a technical sense, the structuralists made a case only for the proposition that much, not all, of American poverty derived from structural characteristics. Their message was an antidote to the old wisdom that anyone with enough gumption could make a good living. But the "passionate sense of urgency" got in the way of balance. What emerged in the mid-1960s was an almost unbroken intellectual consensus that the individualist explanation of poverty was altogether outmoded and reactionary. Poverty was not a consequence of indolence or vice. It was not the just desserts of people who didn't try hard enough. It was produced by conditions that had nothing to do with individual virtue or effort. Poverty was not the fault of the individual but of the system.

Charles Murray offers a "pathological"269 theory for the existence of black poverty.270 Recognizing "a bifurcation within the black commu-

the 1960s in that, as Peter Edelman writes, it looks to the state of the economy, the state of opportunity, the state of education and ethnic and racial discrimination as factors converging to cause poverty:

[The structural theory] says people are willing to work if jobs are available for which they are qualified, if they are better off working than not working, and if they can find care for their children while they are at work. . . . [The structural theory] sees a lack of good jobs as a fundamental cause of the problem, as well as lack of preparatory opportunity for the jobs that are available and a maldistribution of those jobs among those who compete for them.


[Wilson's] thesis . . . . brings together arguments affirming the negative impact of the economy and culture on the underclass. . . . [It] is serially ordered . . . . because cultural arguments explaining the plight of the underclass cannot be justified, as they are in the 'culture of poverty' thesis, independently of arguments explaining that plight by structural problems in the economy. Cultural arguments are indeed necessary for Wilson's thesis, but they can neither precede nor exclude the socioeconomic ones.

269. The "pathological" theory of poverty originates from the works of social scientist Oscar Lewis. See generally Oscar Lewis, The Children of Sanchez (1961); Oscar Lewis, Five Families: Mexican Case Studies in the Culture of Poverty (1959); Oscar Lewis, La Vida: A Puerto Rican Family in the Culture of Poverty—San Juan and New York (1966); Oscar Lewis, The Culture of Poverty, 215 Sci. Am. 19 (1966). Poverty is understood as "both adaptation and a reaction of the poor to their marginal position in a class stratified, highly individuated, capitalistic society." Oscar Lewis, The Culture of Poverty, in On Understanding Poverty: Perspectives from the Social Sciences 187 (Daniel P. Moynihan ed., 1968) [hereinafter On Understanding Poverty]. Lewis contended that once in existence, poverty "tends to perpetuate itself from generation to generation because of its effects on the children. By the time the slum children are age six or seven they have usually absorbed the basic values and attitudes for their subculture and are not psychologically geared to take full advantage of changing conditions or increased opportunities which may occur in their life-time." Id. at 188.

Murray extends Lewis's basic culture of poverty thesis by arguing that the subculture of which Lewis speaks is created by federal assistance programs. Murray, supra note 268. 270. Though Murray's ostensible concern is "the poor" (see Murray, supra note 268, at 8 where he asks, "What really has been happening to the poor"?), he does single out the black poor for special treatment by linking the debilitating psychological effects of racism with social programs to help the poor. He argues:

Virtually every commentator on what it is like to grow up black in America, whether novelist or sociologist or memoirist, has reflected on the devastating effects of racism on self-confidence. Inside the ghetto, the rules and rule-setters are known. Moving outside, competing on white terms for what have traditionally been white perquisites, is objectively difficult. When the real difficulties are compounded by the fears engendered by centuries of white propagandizing that white is smarter (and by elements of self-denigration by blacks), the result can be immobilization of even the most able and ambitious.

This debilitating aspect of black socialization is not a recent creation. The problem is that post-1964 social policy fed it. Every assumption that a young
Murray attributes the rise in black poverty to welfare and the Great Society compensatory programs. Murray claims that such programs encouraged black dependency on government checks and favors by changing the rewards and penalties that govern human behavior. For example, rather than punishing indolence, according to Murray, federal assistance programs rewarded such behavior, and consequently created important disincentives for segments of the African-American community—typically poorly educated, unmarried young women and the fathers of their children—to achieve economic independence and success. With these disincentives in place, the black in the ghetto might make about his inability to compete with whites was nourished by a social policy telling him, through the way it treated him day to day, that he was an un-responsible victim.

Murray, supra note 268, at 187. Indeed, in Losing Ground, the entirety of Part II, which consists of chapters on, inter alia, poverty, employment, wages and occupations, education, crime and the family, is a discussion on "Being Poor, Being Black." Id. at 53-142.


272. Murray's argument is as follows:

Basic indicators of well-being took a turn for the worst in the 1960s, most consistently and most drastically for the poor. In some cases, earlier progress slowed; in other cases mild deterioration accelerated; in a few instances advance turned into retreat. The trendlines on many of the indicators are—literally—unbelievable to people who do not make a profession of following them.

The question is why. . .

The easy hypotheses—the economy, changes in demographics, the effects of Vietnam or Watergate or racism—fail as explanations. As often as not, taking them into account only increases the mystery.

Nor does the explanation lie in idiosyncratic failures of craft. It is not just that we sometimes administered good programs improperly, or that sound concepts sometimes were converted to operations incorrectly. It is not that a specific program, or a specific court ruling or act of Congress, was especially destructive. The error was strategic.

The most compelling explanation for the marked shift in the fortunes of the poor is that they continued to respond, as they always had, to the world as they found it, but that we—meaning the not-poor and un-disadvantaged—had changed the rules of their world. Not of our world, just of theirs. The first effect of the new rules was to make it profitable for the poor to behave in the short term in ways that were destructive in the long term. Their second effect was to mask these long-term losses—to subsidize irretrievable mistakes. We tried to provide more for the poor and produced more poor instead. We tried to remove the barriers to escape from poverty, and inadvertently built a trap.

Murray, supra note 268, at 8-9. For the argument that Murray's claim is factually indefensible, see Christopher Jencks, Rethinking Social Policy: Race, Poverty, and the Underclass 70-91 (1992) (arguing that social transfer programs from 1964 to 1980 did help the poor).

273. To make his point, Murray provides a fictional account of a young unmarried couple, pregnant Phyllis and unemployed Harold. Contrasting their situation in 1960 with
segments of the African-American community receiving federal assistance, and comprising the black poor, replicate themselves rather than escape from poverty.

Lawrence Mead, like Murray, assigns a central role to federal assistance programs in his analysis of black poverty. But while Murray argues that such programs create harmful disincentives for economic advancement, Mead envisions a redemptive potential for federal aid if its distribution is expressly conditioned on compliance with certain behavioral standards. Mead, in other words, contends that federal assistance programs are simply too permissive because they do not require recipients to demonstrate fulfillment of a "good citizenship" criterion of sorts before receiving aid. If federal assistance recipients were required to work for benefits, Mead argues, their desire for economic independence and advancement would remain in their situation in 1970, Murray attempts to demonstrate that given a paucity of welfare benefits in 1960, it was better for Phyllis and Harold to marry and for Harold to seek employment. However, in 1970, Murray argues, it was advantageous for the couple to remain unmarried, for Harold to remain unemployed, and for Phyllis to receive federal assistance. Murray then posits that, without federal assistance programs that taught Phyllis and Harold that it did not pay to maintain a stable family and a job, they would have avoided poverty by working in an expanding economy. See Murray, supra, note 268, at 156-164.


275. Though Mead writes of "the poor," defined as "those Americans whose income falls under a threshold calculated to provide a minimal living standard," see *The New Politics*, supra note 274, at 14, for all intents and purposes he too writes almost exclusively about the black poor, because "most of today's long-term poor are nonwhite." See Lawrence M. Mead, *The Logic of Workfare: The Underclass and Work Policy*, 501 Annals Am. Acad. Pol. Sci. 156, 160 (1989). For Mead "nonwhite" is a referent to "blacks." Id.

276. *Beyond Entitlement*, supra note 274, at 46-47 ("The politics of programs caused them to be permissive. They did not set standards for their recipients with any authority. They did not obligate them to function in integrating ways, such as work, in return for support."); *The New Politics*, supra note 274, at 24 ("There is a culture of poverty that discourages work, but the poor will work more regularly if government enforces the work norm.").
tact and, consequently, they would eventually rise above poverty.277

Also an adherent of the "pathological" theory, Nicholas Lemann argues that a culture of poverty within the African-American community predates the Great Society programs of the 1960s. He contends that such a culture was long extant among southern rural blacks who transported it to northern inner cities during the mass black exodus of the 1940s and 1950s:

The black underclass did not just spring into being over the past twenty years. Every aspect of the underclass culture in the ghettos is directly traceable to roots in the South—and not the South of slavery but the South of a generation ago. In fact, there seems to be a strong correlation between underclass status in the North and a family background in the nascent underclass of the sharecropper.278

Thus, for Lemann, premigratory socioeconomic status explains the divergence that emerged within the African-American community during the 1970s and 1980s.279

Another explanatory theory for the divergence in socioeconomic status within the African-American community is offered by Douglas Massey and Nancy Denton. Massey and Denton argue that theoretical concepts such as structural economic change, the culture of poverty, and welfare disincentives and permissiveness "systematically fail[] to consider the important role that segregation has played in mediating, exacerbating, and ultimately amplifying the harmful social and economic processes they treat."280 Further, Massey and Denton contend that issues of race and racial segregation (black-white segregation, in particular) are fundamental to our thinking about the status of black Americans and the origins of the urban underclass.281 They write:

Our fundamental argument is that racial segregation—and its characteristic institutional form, the black ghetto—are the key structural


278. Origins of the Underclass, supra note 262, at 35.

279. Though Lemann subsequently expanded on his rural-to-urban migration explanation for the black underclass in his book The Promised Land, see Lemann, supra note 242, the notion has been discredited. See Wilson, supra note 253, at 55-56, 177-80 (arguing that systematic research on urban poverty and recent migration consistently show that southern-born blacks who have migrated to the urban north experience greater economic success in terms of employment rates, earnings and welfare dependency than do those urban blacks who were born in the north).


281. Id.
factors responsible for the perpetuation of black poverty in the United States. Residential segregation is the principal organizational feature of American society that is responsible for the creation of the urban underclass.\footnote{282}

Residential segregation, according to Massey and Denton, creates "underclass" communities because an increase in the poverty rate of a residentially segregated group leads to an immediate, if not automatic, increase in the geographic concentration of poverty. The concentration of poverty, in turn, is associated with a wholesale withdrawal of commercial institutions and the deterioration or elimination of goods and services that increase the susceptibility of these areas to crime, decay and social disorder. Such concentrations of poverty are also associated with the development of an "oppositional culture," with behavioral norms that hinder social mobility in the larger society.\footnote{283}

In sum, these diverse theories are offered to explain socioeconomic divergence within the African-American community as a consequence of the dynamic interaction of several factors: postindustrial economic trends, government intervention, individual responsibility, geographic mobility, and residential segregation. None of the several theorists discussed, however, has sought to explore the socioeconomic divergence within the African-American community in terms of class, in terms of relations of subordination and relations of power.

Liberal individualists and conservative individualists alike dismiss the concept of class as being theoretically unimportant to an understanding of poverty generally, or the black poor in particular. In the liberal camp, for example, Paul Peterson has this to say about the urban underclass terminology:

The urban underclass is at once a characterization of a fragment of American society, a statement about the interconnections among diverse social problems, and an attempt to theorize about the paradox of poverty in an affluent society. The term is powerful because it calls attention to the conjunction between the characters of individuals and the impersonal forces of the larger social and political order. "Class" is the least interesting half of the word. Although it implies a relationship between one social group and another, the terms of that relationship are left undefined until combined with the familiar word "under."\footnote{284}

I agree with Peterson that the prefix "under" is an important indi-

\footnote{282. Id. at 9.}
\footnote{283. Id. at 9-16.}
\footnote{284. Paul E. Peterson, The Urban Underclass and the Poverty Paradox, in The Urban Underclass, supra note 265, at 3 (emphasis added).}
cator of relations among groups. I would even venture to say, as Stephen Steinberg does, that the significance of the concept of the underclass is not only its acceptance of social stratification, but its acceptance of certain people as languishing outside, or below, the accepted boundaries of stratification. Unlike Peterson, however, I would not relegate class to the realm of the "least interesting" because, as I contend throughout this Article, class plays a pivotal role in explaining not only poverty, but also the policy response and approach to poverty.

In the conservative camp, Lawrence Mead writes:

Economic inequality has recently increased, and some think a new age conflict between rich and poor is upon us. Short of an economic collapse, I find that difficult to imagine. Most Americans are a lot more afraid of rising crime, welfarism, and declining schools than they are of their employers. Government is perceived as having failed to solve today's social problem. Until it succeeds, it will receive no new mandate to tackle the older problem of unequal fortunes.

I believe that Mead is substantially correct in his observation that, short of economic collapse, Americans generally lack a consciousness of socioeconomic inequality. Mead fails to consider, however, the ideological composition of American society that requires such extreme consequences as a precondition to such consciousness.

Indeed, the

285. The paragraph from which I quote continues:

This transformation of a preposition into an adjective has none of the sturdiness of 'working,' the banality of 'middle,' or the remoteness of 'upper.' Instead 'under' suggests the lowly, passive, and submissive, yet at the same time the disreputable, dangerous, disruptive, dark, evil, and even hellish. And apart from these personal attributes, it suggests subjection, subordination, and deprivation.

Id.
287. I have interpreted Peterson's "class" as being the equivalent of class, as I have defined that term in this Article. See supra note 67 and accompanying text.
288. See infra Part IV.C in which I argue that the social stratification accompanying poverty in America is inadequately redressed because the resulting stratification occurs along racial lines, with African-Americans forming the bottom of the hierarchy.
289. The New Politics, supra note 274, at 3.
290. To the extent that Mead addresses any facet of the ideology of individualistic democratic capitalism, he laments the so-called demise of "the competence assumption," which in liberal western societies led "ordinary people to advance their own interests." Id. at 19-24. Mead attributes growing incompetence in the United States, on which much of American social policy is premised, to the need to focus on a "disadvantaged subset of the population." Comparing American social policy since 1960 with that of European nations, Mead argues that American social policy is comparatively backward:

[T]he seeming American backwardness is . . . explained by the fact that the new social problems appeared in the United States earlier than in Europe. . . . [T]he
ideo logical context in which Americans become aware of conflict between rich and poor determines how Americans fight it out. Ideology—and how it mediates our general understanding of American socioeconomic reality—as well as our particular understanding of the socioeconomic divergence within the African-American community are, therefore, important.

The diverse theoretical explanations discussed in this section have generated and influenced social policy discourse and initiatives since the 1980s. Wilson's structural explanation for socioeconomic divergence within the African-American community and the existence of a black "underclass" has been especially influential, as has Murray's pathological hypothesis. Consequently, the policy continuum is marked on one end with a guidepost reading "structural," and at the other with one reading "pathological." The next section explores the choice among policy alternatives presented on this policy continuum.

C. The Social Policy Response

Historically, social policy addressing poverty targeted particular constituents of the poor—e.g., the old, the young, the widowed, the disabled and the temporarily destitute. Social policy responded to racial inequality by extending the formal privileges and immunities of United States has had more contact than Europe with the Third World, originally with Africa, due to slavery, and most recently through immigration from Latin America and Asia. The backgrounds of many of these peoples, combined with their hardships in the United States, have generated unusual poverty levels, driving American social policy in fresh directions. Id. at 232. Mead's policy framework within which "ordinary people" are contrasted against an alien presence of Africans, Latin Americans and Asians is an homologue to the producer/parasite paradigm discussed in Part V.


293. See Katz, supra note 261, at 86-91.
American citizenship to persons whose race historically placed them at the margins of American society. However, neither form of social policy has effectively redressed the social problems presented by the black "underclass." 294

Antipoverty programs narrowly conceive poverty as a problem of unavailable income or assets, 295 and consequently focus on either income maintenance 296 or income acquisition. 297 Eligibility for relief is means-tested and means-determined. Social stigma accompanies the

294. By bifurcating social policy into that which addresses poverty and that which addresses racial discrimination, I do not suggest that such policy objectives are mutually exclusive. Indeed, the history of antipoverty and antidiscrimination social policies not only indicates coexistence but, more importantly, symbiosis. See Charles V. Hamilton & Dona C. Hamilton, Social Policies, Civil Rights, and Poverty, in FIGHTING POVERTY, supra note 242, at 286, 288 (arguing that an economically-oriented antipoverty movement is a logical and necessary consequence of a substantially successful constitutionally-oriented antidiscrimination movement, and that socioeconomic issues cannot be dealt with until certain basic conditions of constitutional status and citizenship rights are established).

It is worth noting, however, that close association between antipoverty and antidiscrimination efforts has not always been beneficial to either effort. According to Hugh Helco:

The civil rights movement generated powerful white support so long as it concentrated on issues perceived as moral questions (such as segregation, voting rights, antiblack violence); it lost that capability when the movement's focus shifted to the economic aspects of racial inequality.

Helco, supra note 242, at 323.

295. A more comprehensive conception of poverty accounts for a complex and ongoing socioeconomic transformation that disrupts streams of income and limits accumulation of assets, as well as for "a political reality capable of animating social action." Helco, supra note 242, at 337. See generally Greg J. Duncan, YEARS OF POVERTY, YEARS OF PLENTY: THE CHANGING ECONOMIC FORTUNES OF AMERICAN WORKERS AND FAMILIES (1984) (demonstrating that poverty stems from changes within the American political economy); Rebecca M. Blank & Alan S. Blinder, Macroeconomics, Income Distribution, and Poverty, in FIGHTING POVERTY, supra note 242, at 180 (reviewing the evidence on how macroeconomic activity affects the poor).


grant of benefits,\textsuperscript{298} and the beneficiaries thereof are stereotypically viewed as blacks who lack an appropriate work ethic.\textsuperscript{299} Viewed as such, political support for such programs is always dubious\textsuperscript{300} because African-Americans are expected to conquer poverty without legislati-ve aid or assistance.

Antidiscrimination policies emanate from the liberal idea that each person possesses an inviolability and integrity worthy of respect. Discrimination, therefore, is understood as the violation of the liber-


\textsuperscript{299} A structural feature of American antipoverty policy is the distinction between the politically suspect public assistance programs (which include Aid to Families with Dependent Children and General Assistance) and the politically supported social insurance programs (mainly Social Security). See \textit{Katz}, supra note 261, at ix. Public attitudes toward each category of programs are race-linked. For example, commenting on public perception of the recipients of AFDC, economist Lester Thurow writes:

\begin{quote}
The war on poverty started as a war on white poverty in the late 1950s but it had become, and was perceived as, a war on black poverty and low relative incomes by the middle of the 1960s. This perception has both its strength and its weakness. The need to do something about blacks led to the passage of many of the programs, but many of the programs failed to reach their funding goals because they were seen as programs that aided blacks and not whites. One cannot understand the problems with AFDC mothers unless one understands that the public generally thinks of this program as one that aids "black" mothers.
\end{quote}


By contrast, social insurance programs are not viewed as primarily targeting blacks, and thus enjoy greater public support. As originally conceived, social insurance programs were of no benefit to those who were too poor to help provide for their own security:

Social Security offered insurance-based annuity for those who enjoyed a stable attachment to the work force and who were well enough off to achieve security by combining a modest government pension or unemployment check with personal savings and private insurance. Roughly 90 percent of the black work force were thereby excluded from Social Security coverage. Those blacks who were included could anticipate an old-age pension amounting to between $4.50 and $54 per year. Helco, \textit{supra} note 242, at 316.


ties of persons with biologically immutable racial characteristics, which is remediable with laws enhancing individual freedom without regard to racial categorization. The emphasis of antidiscrimination policies on individual freedoms facilitated the entry of well-trained, talented, and educated minorities into the American mainstream. However, not being similarly positioned, blacks who comprised the “underclass” could not transform individual freedoms into opportunities for mobility.

Concerned with public opposition to antipoverty policies as well as with the demonstrated inability of antidiscrimination policies to redress “the deteriorating economic plight of the truly disadvantaged minorities,” Wilson proposes a social policy of “universal programs that enjoy the support and commitment of a broad constituency.”

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302. See Regents of the Univ. of Calif. v. Bakke, 438 U.S. 265, 299 (1978) (“[I]t is the individual who is entitled to judicial protection against classifications based upon his racial or ethnic background because such distinctions impinge upon personal rights . . . .”).

303. I do not contend here that the life of the African-American in the American mainstream is without racial incident or discrimination. It is quite the contrary. See generally Ellis Cose, The Rage of a Privileged Class (1993) (examining discrimination facing affluent African-Americans); George Davis & Gregg Watson, Black Life in Corporate America: Swimming in the Mainstream (1982) (exploring the ways black managers deal with racism in corporate setting).

304. See Wilson, supra note 253, at 113-14. The intersection of race subordination and socioeconomic stratification raises the proverbial chicken-or-the-egg problem. Wilson seems to posit that a minimum level of socioeconomic resources is a precondition for reaping the benefits of policies predicated on antiracist principles. Id. at 112-18. But others, like Hamilton & Hamilton, supra note 294, at 297, maintain the opposite, that racial barriers had to be overturned before the benefits of social welfare policies could be realized by black Americans.

305. Wilson, supra note 253, at 121. Wilson castigates those who confront the issues raised by the black “underclass” in terms of race:

[T]hose who argue that the deteriorating economic plight of the truly disadvantaged minorities can be satisfactorily addressed simply by confronting the problems of current racial bias fail to recognize how the fate of these minorities is inextricably connected with the structure and function of the modern American economy. The net effect is the recommendation of programs that do not confront the fundamental causes of poverty, underemployment, and unemployment. In other words, policies that do not take into account the changing nature of the national economy—including its rate of growth and the nature of its variable demand for labor; the factors that affect industrial employment, such as profit rates, technology, and unionization; and patterns of institutional and individual migration that result from industrial transformation and shifts—will not effectively handle the economic dislocation of low-income minorities.

Id. at 121-22.

306. Id. at 120.
He contends that programs targeted at particular groups, whether identified by class or race, should be "deemphasized—considered only as offshoots of, and indeed secondary to, the universal programs." Wilson's proposal, however, carries a "hidden agenda": "to improve the life chances of groups such as the ghetto underclass by emphasizing programs in which the more advantaged group of all races can positively relate." 307

The policy choice between targeted programs and universal programs is controversial, 308 mainly because social theorists who influence policy initiatives are still grappling with what Wilson calls "the real challenge"—i.e., how "to develop programs that not only meaningfully address the problems of the underclass but that draw broad support." 309

D. The Societal Backlash

The focus on social and economic divergence within the black community ignited a new wave of attack on race-conscious affirmative

307. Id. (emphasis omitted).
308. Concerned with sustained public support for antipoverty programs, Theda Skocpol recommends "Targeting within Universalism." Skocpol, supra note 291, at 414. Skocpol explains:

Rather than devising new programs narrowly focused on low-income people or the urban poor, and rather than seeking to reform or expand aid to families with dependent children and other means-tested public assistance programs, policymakers should work toward displacing welfare with new policies that could address the needs of less privileged Americans along with those of the middle class and the stable working class. New policies must speak with a consistent moral voice to all Americans who would be recipients and taxpayers. The policies should reinforce fundamental values such as rewards for work, opportunities for individual betterment, and family and community responsibility for the care of children and other vulnerable people.

Id. at 428-29.

Robert Greenstein, on the other hand, argues that "too heavy an emphasis on costly universal approaches could result in too few resources being directed to those at the bottom of the economic ladder." Greenstein, supra note 291, at 457. Greenstein, therefore, recommends a mixture of universal and targeted approaches to fighting poverty:

Achieving a larger impact in reducing poverty is likely to require a mixture of universal and targeted approaches. Such a strategy would combine programs such as universal access to health care and assured child support with such carefully designed targeted approaches as further expansion of the earned income credit (particularly for large families), increased child care and housing assistance for low- and moderate-income working families, and increased funding for Head Start, WIC, childhood immunization, prenatal health care services, compensatory education for disadvantaged children, and other early-intervention programs that have good records and enjoy growing political support.

Id. at 456.
action. Race-conscious affirmative action was pronounced ineffectual, and deemed neglectful of blacks at the lower socioeconomic echelons.

310. Old critics objected to race-based affirmative action on the ground that, inter alia, it undermines meritocracy and reinforces perceptions of black incompetence, see, e.g., Randall Kennedy, *Persuasion and Distrust: A Comment on the Affirmative Action Debate*, 99 Harv. L. Rev. 1327, 1331-32 (1986) (noting "the objection that affirmative action represents a deviation from meritocratic standards" and the fear that blacks are elevated "to positions for which they are unqualified and in which they fail"), stigmatizes blacks, see, e.g., Charles Murray, *Affirmative Racism: How Preferential Treatment Works Against Blacks*, The New Republic, Dec. 31, 1984, at 18 (defining "the new racists" and noting their "local view... that the blacks they run across professionally are not, on the average, up to the white standard"), consists in discrimination against whites, see, e.g., Richard A. Posner, *Duncan Kennedy on Affirmative Action*, 1990 Duke L.J. 1157 (referring to affirmative action as 'reverse discrimination'), and damages black self-image, see, e.g., Glenn C. Loury, *Beyond Civil Rights: The Better Path to Black Progress*, The New Republic, Oct. 7, 1985, at 22, 25 (stating that "preferential treatment undermines the ability of [blacks]... to assert... that they are as good as their accomplishments would seem to suggest"). Apparently, such sentiments have begun to shape the current social and political climate in California—a state that many experts suggest will be the bellwether for the rest of the country. See, e.g., Max Vanzi, *Affirmative Action Opponents File Initiative with State Officials; Submission for Legal Review is Step Toward November, 1996 Ballot*, L.A. Times, Aug. 8, 1995, at A3 (describing latest efforts of backers of the so-called "California Civil Rights Initiative" that would ban practice of granting ethnic and gender preferences in state hiring, contracting and college admissions); Susan Yoachum & Edward Epstein, *UC Scraps Affirmative Action*, S.F. Chron., July 21, 1995, at A1 (describing historic University of California Board of Regents vote that reversed 30-year old policies calling for affirmative action in faculty hiring, contracting and admissions); see also Dave Lesher & Amy Wallace, *UC Vote to End Affirmative Action Echoes Across U.S.*, L.A. Times, July 22, 1995, at A1 ("Education leaders [predict] that California's decision... is likely to be repeated nationwide.").

311. The general sentiment is that "after a generation of racial preferences things only got worse." A recent article in Forbes articulated the sentiment as follows:

Quotas have obviously failed to prevent continuing catastrophe in much of black America. Prevailing taboos make this subject difficult to discuss. ... In 1950 only 9% of black families were headed by a single parent; in 1965, 28%; now, fully half. In 1959 only 15% of black births were illegitimate; in 1992, 66%. One in four black men in their 20s is either in jail, on probation or on parole. Clearly, affirmative action has done nothing to reverse the dismal trends. Peter Brimelow & Leslie Spencer, *When Quotas Replace Merit, Everybody Suffers*, Forbes, Feb. 15, 1993, at 99; see also Edsall & Edsall, supra note 8, at 243 (discussing the declining public commitment to antidiscrimination laws and affirmative action programs should black poverty and the problems linked to such poverty—illegitimacy, joblessness, drug abuse, criminality—worsen after the enactment of such laws and programs); Special Report: Black and White in America, Newsweek, Mar. 7, 1988 (special issue on race relations in America).

312. That race-based affirmative action benefitted only educated, skilled blacks has been the rallying critique:

Between 1970 and 1990 black median family income, adjusted for inflation, crept snail-like from $21,151 to $21,423. But the proportion of black families earning above $50,000, jumped sharply, from about 10% to nearly 15%. Dragging down the median: the increase in black families receiving below $15,000, now nearly
National and international economic trends resulted in the fall of white middle-income families into lower income brackets, which reinforced white discontent with race-conscious affirmative action. A 40%. So quotas may have helped create a black middle class (although educated blacks might have done well anyway; after all, the proportion of white high-income families also rose in this period). But the black poor have not benefitted. Brimelow & Spencer, supra note 311, at 80; see also Shelby Steele, The Content of Our Character: A New Vision of Race in America 124 (1990) (asserting that race-based affirmative action "benefit[s] those who are not disadvantaged—middle class white women and middle-class blacks"). Steele suggests returning affirmative action "to its original purpose of enforcing equal opportunity—a purpose that in itself disallows racial preferences." Id. at 123. Citing his own children's middle income background, Steele further asserts that "[p]references are inexpensive and carry the glamour of good intentions. . . . To be against them is to be unkind. But I think the unkindest cut is to bestow on children like my own an undeserved advantage while neglecting the development of those disadvantaged children on the East side of my city who will likely never be in a position to benefit from a preference." Id. at 124. See Roy L. Brooks, Shelby Steele and the Subtext of Our Developing Civil Rights Laws, 9 LAW & INEQ. J. 359 (1991), for a critique of Steele's claims.

Legal scholar Stephen Carter criticizes race-based affirmative action for its alleged failure to redress the disadvantaged socioeconomic conditions of lower class blacks. In Carter's view, race-based affirmative action creates the impression of racial justice, but in fact perpetuates racial injustice because affirmative action is most beneficial to educated, highly trained blacks who would probably have advanced in its absence given the success of the civil rights movement and legislation. Carter asserts that affirmative action creates this false impression of racial justice because of its failure to address structural causes (economic organization and distribution) of the degraded socioeconomic status of lower class blacks. See Stephen L. Carter, Reflections of an Affirmative Action Baby (1991); see also Robin D. Barnes, Politics and Passion: Theoretically a Dangerous Liaison, 101 YALE L.J. 1631 (1992) (critiquing Carter's claims).

Syndicated columnist William Raspberry has commented that while the plight of poor blacks usually provides a statistical base for many affirmative action proposals, the benefits of such proposals go primarily to blacks whom he terms as "already advantaged," and nothing goes to the black poor. See William Raspberry, Should Blacks Help To Exploit Blacks?, PLAIN DEALER, Sept. 4, 1990, at 7B.

313. See generally Barry Bluestone & Bennett Harrison, The Deindustrialization of America (1982) (arguing that systematic disinvestment in the nation's basic productive capacity results in long term earnings loss); Barry Bluestone & Bennett Harrison, The Great U-Turn: Corporate Restructuring and the Polarizing of America (1988) (arguing that shrinking corporate profits, because of declining productivity relative to growing international competition, resulted in zero growth in family income and a drop in buying power of the average wage); Barbara Ehrenreich, Fear of Falling: The Inner Life of the Middle Class (1989) (discussing the nervous stress of middle-income earners tormented by the prospect of their decline).


314. For analysis linking downward mobility of white middle-income families and dis-
major consequence has been an increased demand for some form of social policy initiative premised not on race, but on wealth and income differentials or class.

To make their case, class advocates frequently call attention to the deprived socioeconomic status of a hypothetical white Appalachian, whose plight is allegedly unaddressed by existing race-conscious policies that unfairly benefit racial minorities. Class advocates contend that class-conscious initiatives are more equitable than race-conscious policies for several reasons. First, class-conscious initiatives are deemed inherently just because their intended beneficiaries are racially unidentifiable. As a consequence, class-conscious initiatives purportedly avoid any allocation of social benefits on the basis of racial group identification. Without race-conscious entitlements, the argument goes, the deprived socioeconomic condition of both "truly content with race-based affirmative action, see EDSALL & EDSALL, supra note 8, at 172-97; KATHERINE S. NEWMAN, FALLING FROM GRACE: THE EXPERIENCE OF DOWNWARD MOBILITY IN THE AMERICAN MIDDLE CLASS 172-97 (1988) (reporting that blue-collar workers blamed their downward mobility on government-imposed preferential hiring of particular racial and ethnic groups). For white attitudes on affirmative action, see Louis Harris et al., A Study of Attitudes Toward Racial and Religious Minorities and Toward Women (Louis Harris 1978) (approximately 75% of whites perceived no discrimination in hiring, paying and promoting blacks by the end of the 1970s), cited in Jennifer L. Hochschild, Equal Opportunity and the Estranged Poor, 501 ANNALS AM. ACAD. POL. SCI. 143, 148 n.11 (1989); Blacks and Whites Differ on Civil Rights Progress, THE GALLUP POLL MONTHLY, Aug. 1991, at 56 (55% of Americans believed that the U.S. had enough laws addressing racial discrimination); Treatment of Blacks Viewed Differently by Two Races: Affirmative Action, THE GALLUP REP., Feb. 1981, at 37 (only 7% of whites in 1981 and 11% in 1991 supported affirmative action in hiring).

Legal commentators have noted the influence of attitudes regarding race-based affirmative action on the United States Supreme Court. See, e.g., Giradeau A. Spann, Pure Politics, 88 MICH. L. REV. 1971, 1973 (1990) (Supreme Court has responded to a conservative shift in majoritarian attitudes about race discrimination by subtly incorporating contemporary attitudes into its judicial opinions); Kathleen M. Sullivan, City of Richmond v. Croson: The Backlash Against Affirmative Action, 64 TUL. L. REV. 1609, 1622-24 (1990) (social backlash has set in against affirmative action and the Croson decision suggests that the backlash has touched the Supreme Court).


316. Professor Richard Delgado offers a more basic explanation for white resistance to race-based remediation:

[Governmental programs for blacks always have generated resistance. For, under the principle of formal neutrality, we are invariably led to see them as favoritism. They violate the rule against special treatment; we will tolerate them only for a short time, all the while conscious of their costs.


317. See, e.g., Regents of the Univ. of Calif. v. Bakke, 438 U.S. 265, 298 (denying con-
disadvantaged" blacks and poor whites is better addressed. Finally, class-conscious initiatives are viewed as a palliative for an unfair competition of sorts that allegedly emerges when middle-income blacks use race to garner education and employment opportunities to the detriment of middle-income whites.

In sum, the advocacy for social policy initiatives premised on wealth and income differentials is a reaction to specific contemporary developments in American race relations, as well as to insecurities stemming from socioeconomic upheavals and uncertainties. It is an advocacy fueled, in part, by resentment of perceived ineffectual race-conscious preferences and, in part, by resentment of the loss of economic benefits and advantages to which whites have been exclusively entitled. I argue in the next section that this kind of advocacy is a pretext for the social subordination of African-Americans. It is symptomatic of a more subtle and silently sophisticated ordering of whites over blacks, and operates to preserve white dominance over blacks.

E. Class-Conscious Advocacy: Preserving Power

Key events surrounding recent presidential elections illustrate how a class-conscious advocacy (re)inscribes political rule and power for European-Americans. At the close of the 1992 presidential election, The New York Times reported that then-President-elect Bill Clinton would take office with a mandate for domestic change. Clinton, according to The New York Times, created the mandate "with incessant talk about the middle class and relative quiet on topics like inner institutional protection for classifications premised on membership in particular racial group).

318. See Frederick A. Morton, Jr., Note, Class-Based Affirmative Action: Another Illustration of America Denying the Impact of Race, 45 Rutgers L. Rev. 1089, 1123-25 (1993). Morton takes issue with the notion that race-based affirmative action has not achieved its goal of redressing indigence:

[T]he myth that affirmative action programs were designed to assist the socioeconomically disadvantaged is supported only by assuming that at the time race-based affirmative action was first being considered, race was used as a proxy to identify the socioeconomically disadvantaged. There is nothing in the history of affirmative action, however, that would suggest that race was used as a proxy or that class was originally the basis for such programs.

Id. at 1123 (footnote omitted) (citing James E. Jones, The Origins of Affirmative Action, 21 U.C. Davis L. Rev. 383, 387 (1988)).

319. See, e.g., Michael Kinsley, The Spoils of Victimhood, The New Yorker, Mar. 27, 1995, at 62 (discussing how "the fairness argument" sustains opposition to race-conscious affirmative action, and the "good" kind of affirmative action, which is affirmative action by social or economic class).
cities, the homeless and the underclass.”320

In his campaign speeches, Clinton sought to develop themes of individual responsibility and market opportunities, themes purportedly reflecting only the “values” of a middle class. He spoke of “the quiet, troubled voice of the forgotten middle class, lamenting that government no longer looks out for their interests or honors their values—like individual responsibility, hard work, family, community.”321 He called for a “new covenant” that “will say to our corporate leaders at the top of the ladder: We’ll promote growth and the free market, but we’re not going to help you diminish the middle class and weaken the economy . . . . The new covenant will say to people on welfare: We’re going to provide the training and education and health care you need, but if you can work, you’ve got to work, because you can no longer stay on welfare forever.”322

Clinton’s unabashed appeal to a “middle class” was an appeal to whites sensing a loss (actual and perceived) of their majority status since the enactment of civil rights legislation. Thomas and Mary Edsall explain how the costs associated with civil rights enforcement contribute to a sense of loss and foster a middle class identification among whites:

The issues of race and taxes fostered the creation of a middle-class, anti-government, property-holding, conservative identification among key white voters who had previously seen their interests as aligned with a downwardly-redistributive federal government. . . .

Race and taxes—with their “values,” “rights,” and redistributive dimensions—functioned to force the attention of the public on the costs of federal policies and programs. Those costs were often first experienced in terms of loss—the loss of control over school selection, union apprenticeship programs, hiring, promotions, neighborhoods, public safety, and even over sexual morals and a stable social order. Those losses or “costs” were then driven home by rising tax burdens to pay for such services as busing, Medicaid, subsidized public housing, law enforcement, prisons, welfare, and new lawyers of civil rights enforcement at every level of government.

The race and tax agenda effectively focused majority public attention onto what government takes, rather than onto what it gives. . . .

The costs and burdens of . . . policies seeking to distribute economic and citizenship rights more equitably to blacks and to other minorities fell primarily on working and lower-middle-class whites who frequently competed with blacks for jobs and status, who lived

321. See EDSALL & EDSALL, supra note 8, at 290.
322. Id.
in neighborhoods adjoining black ghettos, and whose children attended schools most likely to fall under busing orders.

The class-tilt of the costs of integration and of racial equality—a disproportionate share of which was borne by low and lower-middle-income whites—turned resentment of those white working-class voters into a powerful mobilizing force.\(^{323}\)

By the time of the 1992 presidential election, it is likely that Clinton was aware of prevailing white resentment towards blacks.\(^ {324}\) To ensure its victory in the presidential elections of the 1980s, the Republican Party exploited white resentment towards blacks by rearticulating blatantly racist sentiments as “interests” in the preservation of middle American values.\(^ {325}\) Thus, to recapture the presidency for the Democratic Party, Clinton, with abandon, trumpeted the causes of the “forgotten middle class.”\(^ {326}\)

\(^ {323}\) Id. at 11-12.

\(^ {324}\) A local arm of his own party had documented prevailing white attitudes about blacks in the \textit{Report on Democratic Defection}, the infamous study of “Reagan Democrats” in Macomb County, Michigan. The following was reported:

These white Democratic defectors express a profound distaste for blacks, a sentiment that pervades almost everything they think about government and politics. . . . Blacks constitute an explanation for their [white defectors’] vulnerability and for almost everything that has gone wrong in their lives; not being black is what constitutes being middle class; not living with blacks is what makes a neighborhood a decent place to live.


\(^ {325}\) See generally \textit{Edsall & Edsall, supra} note 8, at 137-53 (discussing Republican strategies to lure embittered white Democratic constituents to vote the other way).

\(^ {326}\) Admittedly, blacks played important roles to ensure Clinton’s ascendency to the office of the President. But, as commentators like Andrew Hacker observed:

Clinton kept his black advisers under wraps and made few appearances before black groups. Jesse Jackson, after his convention speech, agreed to accept a modest role, including an itinerary that kept him at a distance from the candidates. The campaign avoided making any promises aimed specifically at black citizens. For the first time in almost half a century, the [Democratic] party’s platform made no mention of redressing racial injustice. As a result, race never became an issue in 1992.


According to Omi and Winant, “the pragmatic politics of winning a presidential election in the aftermath of twelve years of Republican rule” account for the omission of race from the 1992 presidential elections. They observe that as a “new Democrat,” Clinton, and other neoliberals, sought to avoid, as far as possible, framing issues or identities racially: Neoliberals argue that addressing social policy or political discourse overtly to matters of race simply serves to distract, or even to hinder, the kinds of reforms which could most directly benefit racially defined minorities. To focus too much attention on race tends to fuel demagogy and separatism, and thus exacerbates the very difficulties which much racial discourse has ostensibly been intended to solve. To speak of \textit{race} is to enter a terrain where \textit{racism} is hard to avoid. Better to address racism by ignoring race, at least publicly.
The recent past teaches that political mobilization of whites on the basis of a middle class identity permits whites to extract from the state a social policy agenda that is only equivocally committed to racial justice. This policy stance, coupled with certain supply-side economic initiatives, then preserves for whites a race-based advantage in the distribution of tangible benefits (e.g., income, employment, education, housing), as well as intangible benefits (e.g., social status and influence and political power and authority).

Gary Orfield and Carole Ashkinaze succinctly describe the federal executive branch's lackadaisical approach to civil rights enforcement in the 1980s. They write:

Under the Reagan administration, there was no serious enforcement against civil rights violations by schools, colleges, or job training institutions. Instead, civil rights agencies slashed data collection, investigations, and public release of information. The U.S. Civil Rights Commission, the Justice Department's Civil Rights Division, and other key agencies were put under the authority of officials who attacked the goals of the nation's major black and Hispanic organizations. Civil rights research funding was reduced or eliminated in federal agencies. Some research was commissioned to provide ammunition for the Justice Department's attack on previously established school desegregation orders.

Although the laws were still on the books, the basic attitude was to minimize enforcement. Nothing was done. In the job training program enacted in 1982, civil rights regulations were never even issued in spite of the 1964 Civil Rights Act's prohibition against dis-

OMI & WINANT, supra note 3, at 147-48 (emphasis in original).

It is still too early to assess comprehensively the neoliberal's attempt to suppress matters of race from public discourse.

327. I adopt a broad view of "the state" that encompasses all the "administrative, legal, bureaucratic, and coercive systems" that structure social relations. See Theda Skocpol, Bringing the State Back In: Strategies of Analysis in Current Research, in BRINGING THE STATE BACK IN 3, 7 (Peter B. Evans et al. eds., 1985).


329. Commenting on the political and economic setbacks blacks experienced in the 1970s and early 1980s, times of economic restraint, Walter Stafford asserts that: [M]any middle-class white groups had positioned themselves in the economy so that restraints would not mean large losses. And those with resources definitely were not willing to relinquish them to appease groups at the bottom of the economic ladder. Indeed, one of the effects of the affluent society is that Americans are unwilling to relinquish access to resources in a shrinking economy. Instead, they became more concerned about competitively positioning themselves for access to college and other social and political indexes of status and influence. With a shrinking economic pie, therefore, social, political, and economic rights were vigorously protected.

Stafford, supra, note 230, at 26-27.
crimination in federal programs. In higher education there were no sanctions against colleges. In fact, the Justice Department successfully urged the Supreme Court, in the Grove City College case, to narrow its interpretation of the sex discrimination and civil rights law. Then, citing the Grove City decision to justify its inaction in other civil rights cases, it simultaneously opposed Congressional attempts to strengthen the law. Congress finally enacted the 1988 Civil Rights Restoration Act over the President's veto, but the administration continued on the same course of nonenforcement.  

Minimal enforcement of civil rights regulations reflected the middle class view that the state had done all it could to make access to opportunities equal and to produce social progress. Further state action, according to this view, would threaten democratic doctrines of equality. Indeed, no additional state action was required because the relative social position of African-Americans is determined independently of race and racial conflict. Rather, the status of African-Americans in a highly stratified society is determined by the workings of the free market and that is where recourse, if any, lies.

I again turn to Orfield and Ashkinaze for an explanation of the economic dimensions of this view:

The idea that government has both the responsibility and the power to make opportunities more equal in a highly stratified society, a central driving goal of the Great Society, gave way to the belief that government had gone as far as it could. The hope for a solution, if there was one, was transferred to the market. If the economy could expand sufficiently, by unleashing private capitalism, the jobs and income created would provide new opportunities. The savings would go into job-creating investments, not paternalistic services, and produce an economic boom that would put low-income minority people to work. Welfare cuts and work requirements would increase the incentive to work, and freezing the minimum wage for nearly a decade would lower the cost to employers of hiring more workers.

The prime vehicles for implementing this economic dogma embraced by the middle class have been the Economic Recovery Tax Act


331. "The basic conservative policy was acceptance of the ghetto system as natural and denunciation of policies intended to challenge or end the color line—such as busing, dispersion of subsidized housing, and tough fair-housing enforcement—as unworkable and unfair to whites." Id. at 210.

332. For an opposing view, see Boston, supra note 328, at 98 (asserting that "every major improvement in the economic status of blacks was caused by coercive political intervention rather than by free market forces").

333. ORFIELD & ASHKINAZE, supra note 330, at 4.
of 1981\textsuperscript{334} and the Omnibus Budget Reconciliation Act of 1981,\textsuperscript{335} both of which proved to be racially retrogressive. The Edsalls report that tax cuts harmed racial minorities while helping whites:

\begin{quote}
[I]n terms of . . . racial impact, the 1981-82 changes in federal tax burdens meant that in 1985, 36.4 percent of all black households and 28.7 percent of Hispanic households fell into the category forced to pay higher federal taxes—the bottom quintile—compared to just 18.2 percent of white households. Conversely, 21.4 percent of white households were in the top quintile getting the largest tax cuts, compared to only 9 percent of all black households and 10.9 percent of Hispanic households.\textsuperscript{336}
\end{quote}

Benefit cuts had similarly disproportionate adverse consequences for racial minorities. Professor David Stoesz explains the reduction in public assistance benefits and the punitive eligibility guidelines that were established:

The new AFDC eligibility guidelines were particularly punitive since they were directed at poor families who were participating in the labor force. Suddenly, AFDC family heads who were trying to improve their economic lot found that they could deduct only $160 per month per child for child care, that the deduction for work expenses was limited to $75 per month, and that the earned income disregard (the first $30 per month and one-third of income thereafter) was eliminated after four months. [In addition], [a]s if to strangle the welfare bureaucracy in paper work, OBRA [the Omnibus Budget Reconciliation Act of 1981] required the welfare department to redetermine \textit{monthly} the eligibility of those on AFDC who insisted on working.\textsuperscript{337}

In racial terms, reductions in AFDC benefits in the 1980s affected only two percent of white households, but fifteen percent of black households, and ten percent of Hispanic households.\textsuperscript{338} For blacks, the economic consequences were dire because public assistance benefits are a source of income for a seventh of all black households.\textsuperscript{339}

In their case study of Atlanta, Georgia, Orfield and Ashkinaze chronicle the failure of conservative policies and market mechanisms to narrow disparities between white and black Atlantans’ access to

\textsuperscript{338} Edsall & Edsall, supra note 8, at 162.
\textsuperscript{339} Id.
economic opportunities,\textsuperscript{340} housing,\textsuperscript{341} education,\textsuperscript{342} and job training.\textsuperscript{343} In fact, they found that conservative policies and market mechanisms were critical to the social and economic deterioration of Atlanta's African-American community.\textsuperscript{344}

Orfield and Ashkinazé's assessments are consistent with other studies that were broader in scope. For example, economist Thomas Boston concluded:

\begin{quote}
The high-sounding promises of supply-side economics have not materialized . . . . Freer markets have not reduced poverty but worsened it. Lower taxes have created a colossal deficit rather than a balanced budget. Finally, race relations have not improved with the dismantling of affirmative action and reversal of the Justice Department's enforcement of civil rights. Instead, they have reached their lowest ebb in decades . . . .
\end{quote}

At the base of policies that purport to express the views of a middle class lie the predominant themes of American individualism: the rational, self-knowledgeable holder of equal political rights competing in an open and minimally-regulated economic market. Through direct and indirect invocation of these themes, such policy initiatives reproduce social and economic advantages and disadvantages along racial lines. Such policies, as Walter Stafford argues, effect a distribution of resources in times of restraint such that established arrangements remain unchallenged.\textsuperscript{346}

The ability to affect the social policy agenda such that the status quo is reproduced or remains unchanged is an exercise of power.\textsuperscript{347} This power in these circumstances reinforces the social positions of European-Americans at the considerable expense of African-Americans.

\begin{thebibliography}{99}
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\bibitem{340} Orfield & Ashkinazé, \textit{supra} note 330, at 45-68.
\bibitem{341} \textit{Id.} at 69-102.
\bibitem{342} \textit{Id.} at 103-73.
\bibitem{343} \textit{Id.} at 174-204.
\bibitem{344} \textit{Id.} at 205-34.
\bibitem{345} Boston, \textit{supra} note 328, at 159.
\bibitem{346} See Stafford, \textit{supra} note 230, at 28-30.
\bibitem{347} A form of power involves the "mobilization of bias," defined to mean:

A set of predominant values, beliefs, rituals, and institutional procedures ('rules of the game') that operate systematically and consistently to the benefit of certain persons and groups at the expense of others. Those who benefit are placed in a preferred position to defend and promote their vested interests.

\end{thebibliography}
V. Social Policy in a Post-Civil-Rights Future

Omi and Winant contend that right-wing efforts declined to embrace overtly racist politics in order to dismantle the gains of the civil rights movement for racial minorities. Indeed, the racial upheavals of the 1960s precluded reliance on the overtly racist notions of biological inferiority and superiority.\textsuperscript{348} The key device employed to dismantle the political gains of racial minorities has been the use of "code words"—which have been defined as "phrases and symbols which refer indirectly to racial themes, but do not directly challenge popular democratic or egalitarian ideals (e.g., justice, equal opportunity)."\textsuperscript{349} "Working class" and "middle class" are "code words," as defined by Omi and Winant. The use of these terms has galvanized whites, who feel threatened by minority gains, to transform the social policy agenda of the post-civil-rights era.

That whites in a post-civil-rights era would find a new category, such as class, on which to base their identity, and around which to act collectively to resist diminishment of their majority status, is not surprising. Having dominated racialized minority groups, it is almost inevitable that whites would employ economic, political, and legal resources as well as metaphors of individualism to block resistance to their privileged status and to transform their identities consistent with the nature of the resistance.\textsuperscript{350}

This "tactical adaptation," as Etienne Balibar would call it,\textsuperscript{351} is all the more indicative of the fact that, in Gramscian language, "something like a hegemony . . . [has] develop[ed] here."\textsuperscript{352} The shift to the vocabulary of class—an advocacy that incorporates differences in behavioral and cultural characteristics—and the invocation of American individualism provide justifications for the continuation of certain structural inequalities (e.g., economic stratification, residential segregation, employment discrimination). At the same time, the change in vocabulary strategically avoids an overt appeal to racial prejudice or discrimination. Thus, differences between blacks and whites are perceived to be rooted in ostensibly incompatible lifestyles and cul-

\textsuperscript{348} But see generally Charles Murray & Richard Herrnstein, The Bell Curve (1994) (signalling, albeit tacitly, a willingness to return to a focus on "genetic" factors that influence intelligence, and thus, social standing in the United States).

\textsuperscript{349} Omi & Winant, supra note 3, at 120.

\textsuperscript{350} Cf. Balibar, supra note 43, at 4 (asserting that a dominant group acquires political skills and a self-consciousness which anticipate the way that resistance to it would be expressed, and transforms itself with the nature of that resistance).

\textsuperscript{351} Id. at 17.

\textsuperscript{352} Id. at 20.
tures—i.e., in value systems that are either harmonious or discordant with American individualism. From this point of view, state practices and policies merely acknowledge, reflect and incorporate these differences. This is the "neoracism" of which Balibar speaks:

It is a racism whose dominant theme is not biological heredity but the insurmountability of cultural differences, a racism which, at first sight, does not postulate the superiority of certain groups or peoples in relation to others but "only"... the incompatibility of life-styles and traditions... .

In this era of racial hegemony, the "incompatible culture" arguments that are couched in the vocabulary of class become more central to state practices and policies. Thus, African-Americans must develop new survival strategies. The challenge, as Howard Winant suggests, is "to dismantle individualistic and essentialist conceptions of identity and culture." Individualistic and essentialist conceptions of identity and culture, as I have demonstrated, undergird state practices and policies that disadvantage and thus subordinate African-Americans.

In her book *Identity Politics*, Shane Phelan offers a prescriptive for the type of dismantling suggested by Winant. Phelan asserts that "identity formation, inevitably bound as it is to the location of community membership, is a matter not only of ontology but also of strategy." It would seem, then, that the most direct counteroffensive to racial hegemony is the strategic development of an African-American identity with a view toward its concrete implications for social policy and citizenship in American society.

There are signs of such a strategy developing. Leonce Gaiter rails against mainstream society's failure to acknowledge the complex nature of African-American culture, and its insistence that the black underclass represents the whole of the African-American community. His reprimand is informed by a sensitivity to the political stakes associated with the portrayal of African-Americans. He writes:

353. *Id.* at 21.
357. *Id.* at 136 (emphasis in original).
[A] reason the myth of an all-encompassing black underclass survives—despite the higher number of upper-income black families—is that it fits with a prevalent form of white liberalism, which is just as informed by racism as white conservatism. Since the early 70's, good guilt-liberal journalists and others warmed to the picture of black downtrodden masses in need of their help. Through the agency of good white people, blacks would rise. This image of African-Americans maintained the lifeline of white superiority that whites in this culture cling to, and therefore this image of blacks stuck. A strange tango was begun. Blacks seeking advancement opportunities allied themselves with whites eager to “help” them. However, those whites continued to see blacks as inferiors, victims, cases, and not as equals, individuals or, heaven forbid, competitors.

It was hammered into the African-American psyche by media-appointed black leaders and the white media that it was essential to our political progress to stay or seem to stay economically and socially deprived. To be recognized and recognize oneself as middle or upper class was to threaten the political progress of black people.359

Concerned that African-Americans are now hampered by the images maintained earlier to ensure progress, Gaiter speaks to the issue of blacks’ control over their identity:

Imagine being told by your peers, the records you hear, the programs you watch, the “leaders” you see on TV, classmates, prospective employers—imagine being told by virtually everyone that in order to be your true self you must be ignorant and poor, or at least seem so.

Blacks must now see to it that our children face no such burden. We must see to it that the white majority, along with vocal minorities within the black community (generally those with a self-serving political agenda), do not perpetuate the notion that African-Americans are invariably doomed to the underclass.

African-Americans are moving toward seeing ourselves—and demanding that others see us—as individuals, not as shards of a degraded monolith. The American ideal places primacy on the rights of the individual, yet historically African-Americans have been denied those rights. We blacks can effectively demand those rights, effectively demand justice only when each of us sees him or herself as an individual with the right to any of the opinions, idiosyncrasies and talents accorded other Americans.360

 Granted, African-Americans seeing themselves as individuals is crucial to the reconstruction of the identity of blacks in America. As a cultural product, individualism is not easily dispensed with in American society. Notions of individual autonomy, rights and freedoms pervade the social order. But, as African-Americans reconstruct their identity by demanding inclusion in the individualistic structure of

359. Id. at 43.
360. Id.
American society, vigorous critique of racial hegemony and agitation for a transformation of existing relations of power must accompany that demand. African-Americans must maintain a deliberate consciousness of the fact that prior as well as existing interpretations of individualism have rendered "blackness" a referent to characteristics that are deviant, inferior, and un-American. Uncritical endorsement of the individualistic structure of American society is simply out of the question.

The paradox of African-Americans is that even as we act strategically to avoid monolithic constructions of blackness, we cannot disregard the fact that all blacks are socially positioned in relation to all whites. The plain fact is that common experiences as African-Americans, as a community historically subjected to forms of disenfranchise-ment or oppression or both, create a black socioeconomic identity which, in turn, is the very basis for our distinctive political struggles over the meanings of equality for African-Americans. Given our shared, albeit imposed identity, no individual black ever rises above the community of African-Americans. Revolt, as they may, middle and upper income blacks cannot secede from blackness.

Notwithstanding these complexities, the success of any strategy of identity formation is, in part, dependent upon the rehabilitation of policymakers who, on one hand, affirm the socioeconomic identity of blacks in law and policy but who, on the other hand, have exhibited very little inclination to center their policy analysis around the ideologies and consciousness that both define and fracture the American identity. In order for policymakers to center their policy analysis around American individualism and its consequences for African-Americans (and other racialized minorities), policymakers should adopt a policy approach that self-consciously asks the following question: How has individualistic democratic capitalism subordinated African-Americans? This suggested policy approach is influenced by the work of feminist jurisprudents who question everything by regularly asking the "the woman question."361

Asking the woman question is a feminist method for inquiring into the consequences of forms of gender oppression and domination.362 As a method, asking the woman question does not dictate a


362. Professor Bartlett writes:
particular result:

Asking the woman question does not require decision in favor of a woman. Rather, the method requires the decisionmaker to search for gender bias and to reach a decision in the case that is defensible in light of that bias. It demands, in other words, special attention to a set of interests and concerns that otherwise may be, and historically have been, overlooked. The substance of asking the woman question lies in what it seeks to uncover: disadvantage based upon gender.\(^{363}\)

In several important ways the feminist method of asking the woman question can serve as a model for policymakers inquiring into the subordination of African-Americans. Like gender oppression, racial oppression is located not at the surface of doctrine but deep in the structures of American cultural identity and the socioeconomic identities of the American people. As discussed in Parts II.B and III of this Article, the cultural identity of America and its people is structured by individualistic democratic capitalism, which embodies ideas about freedom, political enfranchisement and economic independence. Moreover, individualistic democratic capitalism is a racialized concept that works at the representational level simultaneously to disempower (and thus subordinate) African-Americans, and to empower (and thus elevate) European-Americans.

When policymakers routinely predicate their decisions on the tenets of individualistic democratic capitalism, they ensure and reproduce an organization of power along racial lines. But if policymakers were to self-consciously ask how individualistic democratic capitalism has subordinated African-Americans, they might begin to pay attention to the ways in which American individualism has denied opportunities for self-identification to African-Americans, and has disempowered African-Americans by rigidly dictating who they are and what they mean.\(^{364}\)

Asking the woman question reveals the ways in which political choice and institutional arrangement contribute to women's subordination. Without the woman question, differences associated with women are taken for granted and, unexamined, may serve as a justification for laws that disadvantage women. The woman question reveals how the position of women reflects the organization of society rather than inherent characteristics of women. As many feminists have pointed out, difference is located in relationships and social institutions—the workplace, the family, clubs, sports, childrearing patterns, and so on—not in women themselves. In exposing the hidden effects of laws that do not explicitly discriminate on the basis of sex, the woman question helps to demonstrate how social structures embody norms that implicitly render women different and thereby subordinate.

Bartlett, supra note 361, at 843.

363. Id. at 846 (emphasis in original).

364. The argument being made here is analogous to that put forward by Shane Phelan
Modeling a social policy approach on the woman question focuses attention on the history of American individualism and on the fact that it has been an empowering source for European-Americans who are unwilling to depart from power. The power of whites over blacks in a post-civil-rights era is no longer manifested in explicit statutes, regulations, and customs. The power of whites over blacks in a post-civil-rights era is expressed in signification systems, which then structure racial identity and social and economic inequality. Asking how individualistic democratic capitalism has subordinated African-Americans possibly begins the process of confronting white power and its post-civil-rights configuration.

With this methodological prescriptive in mind, policymakers should begin their analysis of the advocacy for class-conscious policymaking by recognizing that identifying the black “underclass” is the first step in a process by which whites derive an understanding about all black people. This is because the black “underclass” is a representation of blackness. The black “underclass,” therefore, stands at the center of the contemporary race/class debate. It is the very existence of a black “underclass” in post-civil-rights America that sustains public doubt about the efficacy of race-conscious social policies and that has provoked debate over the legitimacy of welfare which, as I have established, is a race-identified policy.

With that recognition, policymakers can then begin to assess whether class-consciousness—the proposed alternative to race-consciousness—will ever advance substantive antiracist goals. And that assessment must account for several important characteristics of the modern race/class debate.

As the modern race/class debate unfolded, terms like “poverty” and “underclass” amounted to veiled allusions to racial minorities, es-

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when she contends that “oppression has less to do with what we are told we are like than it does with the rigidity with which we are told what we are like, what we mean, and how we should manifest that meaning.” Phelan, supra note 356, at 156. Taking this assertion to its logical conclusion, Phelan states that oppression “can be resisted only through rejection of the identities and explanations that are given to us.” Id. at 157. Moreover, she intimates that resistance is viable because “we do not, in fact, live the lives that our theoretic representations would suggest.” Id.

On the process of rejecting the identities given to us, see generally bell hooks, Outlaw Culture: Resisting Representations (1994).

365. For a thoughtful collection of essays on contemporary representations of blackness in a struggle over identity and access to political and social power, see bell hooks, Black Looks: Race and Representation (1992).

366. See Franklin, supra note 4, at 90.
especially African-Americans. “Poverty,” in particular, signified an adversity that naturally characterized African-Americans when they figured centrally, and recurrently, in social policy commentary. The association of poverty with the African-American community has affected the status of all its members.

African-Americans occupying the lowest socioeconomic echelons are dubbed the “underclass.” Rather than a mere referent to an extreme condition of poverty, “underclass” became a euphemism for racial subordinates, whose subordination was justified on the grounds of perceived immorality and pathological character and behavior traits. Attention is directed to attributes of individuals, and deflected from social group affiliation and history, and structures of inequality. Individuals comprising the “underclass” are disdained, not for their marginal economic position, but for their race-identified lifestyle and behavior. Indeed, their existence at the economic margins of society is accepted as being ordained by behavior, culture, and class.

Because social science explanations for the black “underclass” depend upon behavior, culture and so-called class characteristics, these explanations, in tautological fashion, contribute to black poverty. Joleen Kirschman and Kathryn Neckerman interviewed Chicago employers about their hiring and recruitment practices. They reported the following regarding the employers’ reliance on class and urban geography:

We found that employers ... used [those categories] to refine the category of race, which for them is primary. Indeed, it was through the interaction of race with class and space that these categories were imbued with new meaning. It was race that made class and space important to employers.

... 

Employers have become lay social theorists, creating numerous distinctions among the labor force that then serve as bases for statistical discrimination [the use of group membership as a proxy for aspects of productivity]. From their own experiences and biases, those of other employers, and accounts in the mass media, employers have attributed meaning to the categories of race and ethnicity, class, and space. These have then become markers of more or less desirable workers.

These categories were often confounded with each other, as

367. Historically, “poverty” and “underclass” were not as thoroughly racialized as they are today. But, “the grip of the black underclass on the American imagination serves to obscure the historical and economic processes that by the late twentieth century produced a multitude of underclasses, people who were neither black nor residents of Northern central cities.” Jacqueline Jones, Southern Diaspora: Origins of the Northern “Underclass,” in THE “UNDERCLASS” DEBATE: VIEWS FROM HISTORY 27, 29 (Michael B. Katz ed., 1993).
when one respondent contrasted the white youth (with opportunities) from the North Shore with the black one (without opportunities) from the South Side. Although the primary distinction that more than 70 percent of our informants made was based on race and ethnicity, it was frequently confounded with class: black and Hispanic equaled lower class; white equaled middle class. And these distinctions also overlapped with space: "inner-city" and at times "Chicago" equaled minority, especially black; "suburb" equaled white. In fact, race was important in part because it signaled class and inner-city residence, which are less easy to observe directly.368

Chicago employers identified as undesirable workers who exhibited certain behavior, culture and class characteristics that mirror the social science description of the "underclass." Commonly listed traits reportedly included:

unskilled, uneducated, illiterate, dishonest, lacking initiative, unmotivated, involved with drug and gangs, did not understand work, had no personal charm, were unstable, lacked a work ethic, and had no family life or role models.369

As proxies for race, these behavioral, cultural and class characteristics justify a determination not to hire blacks:

The minority worker is not as punctual and not as concerned about punctuality as the middle-class white. So they’re not as wired to the clock in keeping time and being on time as someone else who was raised in a family where the father went to work every day and the mother was up at the same time every day to make breakfast or go to work herself. It’s just a cultural difference.370

They [blacks] don’t want to work.371

They’ve [blacks] got an attitude problem.372

Most of them [blacks] are not as educated as you might think. I’ve never seen any of these guys read anything outside of a comic book. These Mexicans are sitting here reading novels constantly, even though they are in Spanish. These guys will sit and watch cartoons while the other guys are busy reading. To me that shows basic laziness. No desire to upgrade yourself.373

The association of "poverty" and "underclass" with African-Americans vitiates legally-protected residential and employment opportunities for African-Americans—even those at the upper socioeco-
nomic echelon—because, as Raymond Franklin states, the middle layers of white America cannot readily disassociate race and class:

The overrepresentation of black males in the lower classes . . . is intimately associated with race, affecting the status of blacks other than those in the lower class (middle-income blacks specifically . . .).

. . . .

The black population is defined by its residential segregation in the metropolitan area, by its social segregation in other spheres of life, and by its overcrowding in low-income and relatively unskilled positions. In the minds of Middle America, race and class become juxtaposed. In everyday social exchanges, the middle layers of white America cannot readily dissociate these two phenomena, be they actual or imagined; whites, therefore, resist entry of middle- and/or working-class blacks into “their” space (communities, schools, parks, and places of work) or feel demeaned by working under black supervision or alongside blacks on equally and personally empowered terms. The possibility of middle- or stable working class blacks integrating on genuine terms with whites of comparable class positions easily degenerates into race exclusion and put-downs, even in the absence of class differences. It is often middle-class black families fleeing black neighborhoods who encounter pure racial barriers established by middle- and affluent working-class whites. The Great White Fear is that the marginal entry of middle-class blacks like themselves will be followed by lower-class black “hordes” unlike themselves. Thus, income, status, and upward mobility of educated blacks are detrimentally affected because of overcrowding of blacks in the lowest occupational positions in the system. Race, therefore, becomes an independently experienced force determining the status of some portion of the black population who have the class credentials to integrate. But the race factor, its operative vitality, is not unrelated to class.374

The terms “poverty” and “underclass” socially differentiate African-Americans from European-Americans because their range of meanings has been narrowed to an almost exclusive reference to African-Americans. European-Americans, regardless of their actual socioeconomic situation, are, at least theoretically, excluded from “poverty” and the “underclass.” “Working class” emerges as the policy appellation for European-Americans.375

Use of the term “working class” is no random designation, or mere descriptive grouping, for European-Americans. Raymond Williams has traced the origin of the term “working class” to the sociopolitical and economic transformations that occurred in the late-

374. FRANKLIN, supra note 4, at 139-40 (emphasis added).
375. The term “middle class” is interchangeable with “working class” when used to denominate European-Americans. The historic relation between “working class” and “middle class” is discussed infra at note 379.
eighteenth through the mid-nineteenth centuries (namely, the American and French Revolutions and the Industrial Revolution) and to the development of an alternative vocabulary for a new sense of individual mobility in a new social system that created new kinds of social divisions.\textsuperscript{376}

The essential history of the introduction of \textit{class}, as a word which would supersede older names for social divisions, relates to the increasing consciousness that social position is made rather than merely inherited. All the older words, with their essential metaphors of standing, stepping and arranging in rows, belong to a society in which position was determined by birth. Individual mobility could be seen as movement from one \textit{estate}, \textit{degree}, \textit{order} or \textit{rank} to another. What was changing consciousness was not only increased individual mobility, which could be largely contained within the older terms, but the new sense of a society . . . or a particular \textit{social system} which actually created social divisions, including new kinds of division.\textsuperscript{377}

As the new vocabulary of class took hold, those who by “useful labours contribute[d] to the support and maintenance of society” sought to distinguish themselves from the privileged and the idle by embracing the term “working classes.”\textsuperscript{378} In addition to implying productive or useful activity, “working class” also denoted a fundamental economic relationship, as opposed to relative social position.\textsuperscript{379}

\begin{itemize}
  \item \textsuperscript{376} \textit{Raymond Williams}, \textit{Keywords: A Vocabulary of Culture and Society} 51-59 (1976).
  \item \textsuperscript{377} \textit{Id.} at 52 (emphasis in original).
  \item \textsuperscript{378} \textit{Id.} at 54.
  \item \textsuperscript{379} \textit{Id.} at 56. “Middle classes” emerged alongside “working classes,” thus both complicating and confusing the vocabulary of class. According to Williams, each term represents a separate, yet co-existing, model of class: \textit{middle} implied hierarchy and therefore implied \textit{lower class}: not only theoretically but in repeated practice. On the other hand \textit{working} implied productive or useful activity, which would leave all who were not \textit{working class} unproductive and useless (easy enough for an aristocracy, but hardly accepted by a productive \textit{middle class}). . . . The \textit{middle class} . . . is an expression of relative social position and thus of social distinction. The \textit{working class} . . . is an expression of economic relationships. Thus the two common modern class terms rest on different models, and the position of those who are conscious of relative social position and thus of social distinction, and yet, within an economic relationship, sell and are dependent on their labour, is the point of critical overlap between the models and the terms. It is absurd to conclude that only the \textit{working classes} work . . . , but if those who work in other than ‘manual’ labour describe themselves in relative social position (\textit{middle class}) the confusion is inevitable.
  \item \textit{Id.} at 55-56.
\end{itemize}

The continuing vitality of these separate, coexisting models of class is evident in David Halle's study of New Jersey chemical workers. \textit{See David Halle, America's Working Man: Work, Home and Politics Among Blue Collar Property Owners} (1984). Halle reports that white workers “have two-separate images of their place in the class.
As discussed earlier, the interpretation and meaning of wage work, and the identity of those performing it during the late-eighteenth through mid-nineteenth centuries, involved ideas about race and the social standing, practices and institutions determined thereby. When in conflict, evidence of their resolution was found in everyday speech. Use of the term "white worker,” for example, was a semantic attempt to deal with the limitations on early American individualism experienced by European-Americans.

Today, like then, the political economy of individualism presents issues and problems for European-Americans that engender comparable semantic resolution. Rather than continuing the linguistic practice of modifying “worker” with “white,” however, “working class” now stands unmodified. In an era of racial hegemony (as opposed to outright racial domination) any such modification is redundant, and thus superfluous. So, as Christopher Jencks suggests, a naked “working class” (or “middle class”) is an antonym to the concept of “underclass.”380 There is agreement with Jencks. Christopher Lasch flatly declares that Americans think of themselves as middle class "if only because they were doing better than their parents and better, certainly, than blacks and Hispanics who lived in the ‘culture of poverty.’”381

Deployed in relation to a discourse about the determinants of African-American subordination, use of “working class” fulfills its historic function of distinguishing the productive and useful from the structure, one referring to life at work (the ‘working man’), and one referring to life outside work (being ‘middle class,’ or ‘lower middle class’).” Id. at 228. He continues:

The two images of class . . . correspond to the position of workers in the class structure and reflect the clear difference between experience at work and experience in the residential setting. The concept of the working man implies, as its central idea, a moral and empirical distinction between blue-collar workers and the rest of the class structure. This reflects the fact that in men’s work setting there is a distinction between their situation and that of the white-collar sectors (though that distinction cannot be pushed too far).

The second image of class clearly expresses the material framework of men’s life outside work. And the various forms in which this second image exists among those blue-collar workers all have in common a blurring of the middle ranges of the class structure. Workers usually believe there is a top and a bottom, but the area in between is vastly increased, and within it blue and white-collar differences of occupation are muted and of minor importance. This reflects the reality of men’s residential, leisure, and family situation, where such differences in some ways are blurred.

Id. at 229 (emphasis in original).


381. LASCH, supra note 14, at 483.
unproductive and useless—i.e., those (to be) legitimated by individualistic democratic capitalism and those (to be) marginalized by individualistic democratic capitalism. Consider Jonathan Rieder’s report that white ethnics show their hostility to “people on welfare” by contrasting parasites and producers.\(^{382}\) He attributed the following to the spokesman for a civic group: “For years, we have witnessed the appeasement of nonproductive and counterproductive ‘leeches’ at the expense of New York’s middle-class work force.”\(^{383}\) The spokesman defined his white constituents as working or middle class by projecting inutility toward “people on welfare”—people who, in his estimation, are unworthy of any legitimation, recognition, or appeasement.

Consider also David Halle’s observations on the way New Jersey chemical workers identify themselves.\(^{384}\) When asked “What social class do you think of yourself as belonging to?” these workers chose “working class” from a possible range of options including “upper class,” “middle class” and “lower class.”\(^{385}\) Halle reports that those who chose the option “working class” did so because they think of themselves as “working men,” a concept which involves a cluster of related ideas.\(^{386}\) Embedded within the concept of the working man is a notion about who really works in America: “Big business don’t work, they just hire people who do,” and “People on welfare aren’t working men, they don’t want to work.”\(^{387}\) Thus, Halle reports, the concept of the working man implies as much hostility toward the poor as toward big business.\(^{388}\) Moreover, according to Halle, “one current underlying this hostility is a tacit racism, an implication that the poor


\(^{383}\) Id. at 101-02.

\(^{384}\) See HALLE, supra note 379, at 202-19.

\(^{385}\) Id. at 202-04.

\(^{386}\) According to Halle, the “job features” aspect of the concept of the working man includes the following:

a. *Physical work*. Working men do manual work, physical work, a laboring work. (“It’s hard physical work,” “It’s working with your hands.”)

b. *Dangerous or dirty work*. They are often exposed to physical discomfort and even danger on the job. (“We get our hands dirty,” “We breathe in chemical fumes.”)

c. *Boring and routine work*. Their work is repetitive and monotonous. (“We do the same thing over and again.”)

d. *Factory work*. They work in factories as opposed to offices.

e. *Closely supervised work*. They work under the close direction of supervisors. (“We have to punch in and out,” “We’re told what to do.”)

Id. at 205.

\(^{387}\) Id.

\(^{388}\) Id. at 219.
consist mostly of blacks and Hispanics, and that they are unwilling to work.\footnote{Id.} Thus, the concept of the working man suggests a racial identity, an unspoken but nonetheless acknowledged identification of whiteness with work.\footnote{Id.}

Today's vocabulary of class and the advocacy it engenders provide a structure within which the racialized tenets of individualistic democratic capitalism are rearticulated in language that is ostensibly race-neutral. It provides this structure by offering a description and analysis of social stratification in terms of the material and the cultural. These material and cultural conditions, in turn, are abstracted from the sociopolitical dimensions of American life that are deeply rooted in systems of racial classification and subordination. The unstated, but nonetheless evident, assumption is that social stratification is randomly determined by equal opportunity to economic competition for all. Any resulting inequality is justified and rendered acceptable with the meritocracy argument.\footnote{Id.}

Policymakers should be mindful, however, that social stratification under American individualism is not "a random harvest."\footnote{Id.} Race plays a corrosive and pervasive role not only in the creation of stratification, but also in the social response to, or more accurately, the social neglect of, stratification. After examining the consequences of social stratification (substandard housing, poverty, inadequate health services, crime), Robert Heilbroner asked why the United States, a nation that could, more easily than any other, afford to remove social and economic inequalities, has been among the more lag-

\footnote{Id.}
gard in doing so. Heilbroner concluded that "the important role played by race in the etiology of [social stratification] gives [a] clear-cut reason why the institutions of capitalism in America have failed to develop in the same way as in other nations."

It is the obvious fact that the persons who suffer most from the kinds of neglect . . . mentioned—residents of the slums, recipients of welfare payments, the medically deprived, and the inmates of prisons—are disproportionately Negro. This merging of the racial issue with that of neglect serves as a rationalization for the policies of inaction that have characterized so much of the American response to need. Programs to improve slums are seen by many as programs to "subsidize" Negroes; proposals to improve the conditions of prisons are seen as measures to coddle black criminals; and so on. In such cases, the fear and resentment of the Negro takes precedence over all the social problem itself.

Today's vocabulary of class overlooks the inherently racial dimensions of social stratification that concerned Heilbroner. Today's vocabulary of class defines the landscape of social relations in terms of politically, socially and historically unencumbered individuals whose liberties are given free expression in the market place. Today's vocabulary of class pretends that race has no hold on social relations, that race has no role in arming market participants with an identity that predetermines a hierarchy of winners and losers.

Within its general disavowal of the racial aspects of social stratification, today's vocabulary of class preserves political rule and power for European-Americans, beneficiaries of the frontier myth with its emphasis on individual self-reliance and limited government in the economic milieu. Rather than an overt consolidation of political rule and power around race, working (or middle) class status serves as a substitute anchor.

These insights into the modern race/class debate can reveal to policymakers the existence of racial bias surrounding the class nomenclature and the advocacy it engenders. It is part of a broader policy discourse in which European-Americans seek to perpetuate a kind of dominance over racialized minorities, especially African-Americans. Thus, as currently conceived, class is analytically inadequate

394. Id. at 297.
395. Id. at 296.
as a basis for policymaking because it engenders policies that tend to be antithetical to the egalitarian ideal.

An era of racial hegemony requires an analytic construct for policymaking that historicizes the relations of European-Americans and African-Americans in the United States. Historicization focuses the policy agenda not on the pathology of atomized individuals nor even on socioeconomic schisms within racialized communities. Historicization focuses the policy agenda on the saliency of collective identities acquired in specific ideological contexts.

It is here that the construct I have labelled class comes into play. By naming that "something which in fact happens (and can be shown to have happened) in human relationships," class compels policymakers to think in a relational mode—to see African-Americans (and other racialized minorities) in an historical relationship with European-Americans. It is not simply that class links the historical past to the present. Class exposes an ongoing struggle between European-Americans and African-Americans over the socioeconomic composition of American society—over the very meaning of Americanness. Class promises to expose how, at least in connection with race, individualistic democratic capitalism continually operates—notwithstanding its various incarnations—to disadvantage all African-Americans, some more than others.

VI. Conclusion

The policy of the United States is to bring the Negro American to full and equal sharing in the responsibilities and rewards of citizenship. Thirty years after that declaration of policy in the Moynihan Report, American society is still struggling with how best to make that policy a reality. American society is having a difficult time making that policy a reality because the problem has been and still is, as James Baldwin so eloquently reminds us, that life in America involves a status hierarchy with Negroes demarcating the bottom. It is an ugly reality that Americans pretend does not exist.

After a relatively brief experiment with race-consciousness as a means for leveling the American hierarchy, policymakers now propose an alternative that upon examination embodies a notion of class that stops short of its full conceptual limitations. Policymakers could choose instead the multimodal concept of class—that results from a dialectical interaction between race and individualism—that focuses the policy agenda on a process of domination in American history. American social policy is at a watershed, and the choice is theirs to
make. Only one choice, however, promises a fuller equality for African-Americans in America.