

compact for

RACIAL JUSTICE

An Agenda for Fairness and Unity



A proactive plan for fairness and unity in our communities, politics, the economy and the law



APPLIED RESEARCH CENTER

THE COMPACT FOR RACIAL JUSTICE

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THE COMPACT FOR RACIAL JUSTICE

INTRODUCTION

The Compact for Racial Justice is a proactive agenda for fairness and unity in our communities, politics, the economy and the law. It offers concrete strategies and proposals to reverse racial disparities and move our society towards full equity, inclusion and dignity for all people. The Compact transcends talk of personal prejudice with compelling evidence of institutional racism and realistic proactive solutions. It seeks to engage a broad multiracial base of activists, opinion leaders and policymakers in making government and powerful institutions accountable for eliminating racial inequality.

The broad vision of the Compact will be applied concretely in the first months of the new administration as we call for strengthening the role of the Office for Civil Rights, implementation of racial impact statements for major policy initiatives at all levels of government, and putting immigration reform back on the table.

Initiated by the Applied Research Center and several organizational allies, with the review and input of thousands of racial justice advocates across the country, the Compact includes three sections:

1. The Preamble, which provides a vision and ideals for achieving a racially just society, as well as a six-point Framework for Racial Justice
2. A review of the Bush Administration record on race
3. Issue analysis papers on current racial disparities and policy directives in the following areas: civil rights, biotechnology, criminal justice, green economies, healthcare, education, the economy and immigration.

THE COMPACT FOR RACIAL JUSTICE

PREAMBLE

Residents of the United States are experiencing an unprecedented, inspiring and transformational moment in our nation's history. Shouted by some in blazing daylight and whispered by others in dark corners, the lived reality of race and racism is at the center of the American conversation in ways we haven't seen in nearly half a century. Our ancestors could hardly have foreseen the swift and powerful move of a Black man to the very top rank of government. The rush of unfolding events at times obscures the deep currents that have moved us to this place. But this we know: this political moment is the fruit of centuries of struggle to create from the radical vision of democracy a liberating reality of government of, by, and for ALL the people. Far from being a post-racial moment, however, this is a time that calls for unique clarity about the possibilities and dangers we face, and for bold action that is based on our best thinking and highest hopes.

Our opponents have become masterful shape-shifters, promulgating racist policies while insisting that race is the furthest thing from their minds, aided and abetted by mass media that allow them to frame and control the national dialogue. Racist expression has taken new, coded and perverse forms:

- Dog-whistle racism, in which messages are conveyed on a separate frequency through racially coded words and phrases, reaching ears that have been primed and are highly attuned.
- Colorblind racism, in which the status quo is sustained by those who pledge allegiance to purportedly race-neutral policies that leave them free to focus on intent and ignore outcomes.
- Double-bind racism, in which those who make reference to the racial regime or advocate on behalf of anti-racist practices and policies are themselves accused of being racist by “playing the race card.”
- Image-borne racism, in which a picture that is purposefully deployed to trigger deeply ingrained stereotypes is worth a thousand color-coded words.

We could not ask for a sociopolitical context more in need of our ability to name our full vision. We deserve and demand a society that rejects the pessimism of unending racial conflict and embraces the optimism of a human community firmly anchored in justice and mutuality. Nothing could be more affirming of our individual and collective worth than our work to create a country where:

- The needs of our children are fully met so that they can thrive and develop their unique gifts to contribute to the common good.
- A commitment to internationally recognized human rights, at home and abroad, that structures our partnerships in the community of nations.
- The unwavering practice of justice and equity overcomes the centuries-old divisions of dominance and privilege along the color line.
- The global migration of humans is understood as a fundamental feature of our age, and all workers are compensated and routinely protected, whatever their place of birth.
- People choose partners, create families, and build households free from arbitrary, discriminatory limitations based on gender, sexual identity, or birth relations.

- The structural barriers to political participation are removed, creating electoral processes uncorrupted by the power of private wealth and ensuring access to government decision-making at all levels for all people.
- The social safety net is rewoven, its strongest cords a generosity of spirit toward the vicissitudes of the human condition and a recognition that no one deserves to live in desperation.
- The outlandish apportionment of public funds to militarism is diverted to address the climate and energy crises, rebuild neglected infrastructure and meet human needs.
- We respect and celebrate the rich diversity of belief, language and cultural practice that constitutes the national fabric.

It is up to us to rally our considerable resources and place them at the service of the struggle to build a society based on inclusion, justice, equity, dignity and respect for diversity and difference. We need the sustained, dedicated action of grassroots organizers, policy advocates, social analysts, artists, elected officials, union members, religious congregants of every faith, community leaders, technologists and new media makers. We need organizations, networks and alliances that carry our vision and values, sustain collective struggle, promote messages that inform and inspire, expand our capacity to be powerful and establish new policies and practices that institutionalize racial justice.

The seismic shift from institutionalized racial inequity to institutionalized racial equity requires a radical reorientation in policies and practices, a fundamental reordering of economic priorities, and, underlying these two things, a shift in culture and values. A movement of that magnitude comes about only when millions of people have begun to believe that change is possible and have been set in motion to bring it about. It has long been a political truism that the power of wealth can only be overcome by the power of the people, such as:

- Those who can strategically lead us in so thoroughly undermining the structures that degrade people of color that we can begin to build new ones that do not depend on hierarchies.
- Those who are committed to finding creative ways to bridge cultural differences in experience and perspective among different communities so we can build winning coalitions of conscience.
- Those who are willing to lead by example and teach us to become attuned to the compounding dynamics of race, class, gender, religion, sexual identity, citizenship status, and level of physical/mental ability, and whose work at these intersections empowers the multiply marginalized.
- And those spiritually committed seekers who show us the way to hope and courage as we take up the hard work of inspiring, mobilizing, educating, organizing, recruiting, and communicating.

At this, OUR moment of destiny, let us acknowledge with great gratitude that we build on the legacy of those who, down through the centuries, made our progress possible. May what they dreamed be ours to do. We are rich in resources, in the very first place the deep creativity, intelligence, and perseverance of communities who hunger for freedom. And so we, steadfast travelers on the long roadway to racial justice, are secure in the knowledge that our destination will be reached. We've come this far not just by faith, not just by leaning on what we hold sacred, but by the daily decision of each and every one of us not to turn around. We will never give up, we will never give in; we will find a way or make one, together.

STRATEGIC FRAMEWORK FOR ADVANCING RACIAL JUSTICE

- 1. Focus on *structural racism* and *systemic inequality* rather than simply *personal prejudice*.** Structural racism—the overarching system of racial hierarchy and inequality that routinely privileges whites and disadvantages people of color—profoundly affects most issues and institutions in the U.S. In addition to addressing historic underpinnings and root causes, speak to the cultural norms and popular ideas that contribute to current racial inequities.
- 2. Focus on impacts rather than intentions.** Racially disparate impacts and outcomes, regardless of intent, are sufficient evidence that racism exists. Impacts can be documented, while intentions are debatable and difficult to prove. Rather than dwell on who is a racist, it's far more useful to focus on the causes and effects of racism.
- 3. Address racial inequality explicitly but not necessarily exclusively.** Racism must be illuminated in order to be eliminated. Challenge so-called “colorblindness,” which seeks to deny the realities of racism and render people of color invisible. Often other significant factors are involved that must also be made visible, such as gender, class, ethnicity and immigrant status.
- 4. Propose solutions that emphasize equity and inclusion rather than diversity.** Racism is pervasive, but it need not be permanent. Offer proactive solutions that are equitable, inclusive, and viable. It is important to distinguish the principle of equity, which is fairness, from that of diversity, which is about variety.
- 5. Develop strategies to empower stakeholders and target institutional powerholders.** Build inclusive and cohesive cross-racial alliances that prioritize the full engagement of people of color as leaders. Make the powerholders who have decision-making authority to enact needed changes accountable for institutional racism.
- 6. Make racial justice a high priority in all social justice efforts.** A successful progressive movement must recognize racial justice as a central component of social justice. The struggle for racial justice is not a zero sum game. Instead of allowing racism to drive social division and disparities, we must make racial equity the driving force for uniting and benefiting all people.

BUSH OVERVIEW

By Dominique Apollon

OUR DEPARTURE POINT

Assessing Racial Injustice under the Bush Administration

INTRODUCTION

From the lack of enforcement of civil rights law to the continued chasms in health outcomes and access to health care. From a woefully under-funded national education platform, to the critical, persistent absence of jobs in far too many communities. From the dehumanizing disregard for the poor exhibited in the federal response to Hurricane Katrina to the unprecedented, targeted assault on immigrants of color in the name of the perpetual “War on Terror.” Eight years under the Bush Administration have left the growing population of people of color in this country far worse off than many of us might have imagined in the fall of 2000.

In fact, as Wall Street applauded the passage of a combined trillion dollars in federal bailouts of financial institutions in the fall of 2008, many people of color and racial justice advocates—who have never had access to Wall Street, nor the collective opportunities and advantages of predominantly white and middleclass “Main Street”—were still assessing and trying to repair the compounded damage from our nation’s ongoing crisis of indifference to structural racism. Before looking forward and articulating our vision for racial justice in a new political climate, it is appropriate to reflect upon a sampling of the recent damage, and the stalled progress that are the products of an administration that cared little for achieving racial equity in this country.

Eight years of evidence from the social and economic landscape reveal a nation in dire need of reassessing its priorities. While the Clinton administration and Republican Congress colluded during the 1990s to largely destroy this country’s safety net by dismantling welfare and devolving many social programs, the Bush Administration’s tax cuts for the wealthy and massive war spending have combined to bring on stagnation and/or real dollar budget cuts to almost every social program. Organizing efforts to provide adequate spending on education and early childhood development, health care and workforce development have more often than not been met with deaf ears.

Instead of erecting fences at our borders to keep people of color out, we need an administration committed to tearing down structural barriers to equality for all and lifting up our most consistently vulnerable populations. And while the President has at times paid lip service to the matters of critical importance to people of color — such as civil rights, health care, immigrant rights, and education (you will find a sampling of such appealing language from the White House in the pages that follow) — the evidence from his administration’s records recount a very different story.

CIVIL RIGHTS

“At the start of this new century, we will continue to teach habits of respect to each generation. We will continue to enforce laws against racial discrimination in education and housing and public accommodations.”

—G.W. Bush, Feb. 5, 2005, White House African American History Month Celebration¹

Consistent with the belief of many that racism no longer impacts life in a “post-racial” America, the Department of Justice (DOJ) under the Bush Administration largely abdicated its responsibility to enforce federal protections against racial discrimination. The DOJ leadership did this by dramatically de-prioritizing such racial discrimina-

¹“President Celebrates African American History” (Washington, D.C.: White House Office of the Press Secretary, February 5, 2005), <http://www.whitehouse.gov/news/releases/2005/02/20050208-9.html> (accessed September 15, 2008).

tion cases, particularly against African Americans, and by politicizing the hiring process so that qualified candidates with experience in civil rights law were often overlooked.

For example, the Voting Section of the DOJ's Civil Rights Division – the federal legal team responsible for enforcing such critically important laws as the 1965 Voting Rights Act and its amendments, the Motor Voter Law of 1993, and the Help America Vote Act of 2002 (HAVA) – did not bring a single African American voting discrimination claim in the Bush Administration's first term, and brought one case during his second. No cases were brought on behalf of Native American voters as of June 2007, and many Asian American voters suffered during the 2004 elections from inadequate enforcement of the language assistance provisions of HAVA.²

More specifically, the de-prioritization of racial discrimination claims can be seen in the Bush Administration's treatment of Section 5 of the Voting Rights Act. Since 1965, Section 5 and its periodic reauthorizations have required certain states and counties ("covered jurisdictions") that have a demonstrated history of restricting the registration and voting rights of people of color, to submit their proposed voting changes to the U.S. Attorney General for "pre-clearance" (e.g., changes in redistricting, polling place locations, etc.). Since July 1982, according to the U.S. Commission on Civil Rights, the Justice Department has filed 32 enforcement actions, or lawsuits, under Section 5 to demand compliance with the pre-clearance requirement – filing 14 in the 1980s, 18 in the 1990s and none in the current decade.³ A 2007 report of the Citizens' Commission on Civil Rights and the Center for American Progress found that neglect of Section 5 of the Voting Rights Act has resulted in the pre-clearance of discriminatory voting changes.⁴

Other spheres of protection under the DOJ during this administration have suffered from similar neglect. The Citizens' Commission report also found that in its first six years, the Bush Administration had filed only 32 employment discrimination cases under Title VII of the Civil Rights Act of 1964, fewer than the Clinton Administration had filed in its first two years in office. And whereas the traditional focus of the Criminal Section has been on prosecuting police misconduct and hate crimes, the section now prioritizes human trafficking, particularly forced prostitution of adult women and other sex trafficking. In 2005, a decade-low 20 prosecutions of law enforcement officers nationwide occurred, marking the first time in 20 years that such federal prosecutions declined significantly three years in a row.⁵ As the Leadership Conference on Civil Rights (LCCR) has argued, the Justice Department's budgetary decisions have greatly undercut its anti-discrimination efforts.⁶

Regarding the hiring practices at the DOJ, the Inspector General released a report in 2008 documenting "pervasive evidence of political hiring." The report's findings were previously supported by the testimonies of the former chief of the Voting Section, Joe Rich, and LCCR President and CEO Wade Henderson, both of whom testified before Congress on the extreme politicization of the hiring process.⁷ As a result, Attorney General Alberto Gonzales resigned from his post in disgrace in the aftermath of these events.

Was this what President Bush meant when he said his administration would teach the "habits of respect" to the next generation?

²Testimony of Wade Henderson, President and CEO Leadership Conference on Civil Rights before the House Judiciary Committee Oversight of the Civil Rights Division, June 21, 2007" (Leadership Conference on Civil Rights, June 21, 2007). Available at <http://www.civilrights.org/resources/testimony/pdfs/wade-testimony-house-judiciary-6-21-07-short-final.pdf>; Glenn D. Magpantay, *Asian American Access to Democracy in the 2004 Elections: Local compliance with the Voting Rights Act and Help America Vote Act (HAVA) in NY, NJ, MA, RI, IL, PA, VA*, (New York: Asian American Legal Defense and Education Fund, August 2005).

³U.S. Commission on Civil Rights, *Voting Rights Enforcement and Reauthorization: The Department of Justice's Record of Enforcing the Temporary Voting Rights Act Provisions* (Washington, D.C.: May 2006). Available at www.usccr.gov/pubs/051006VRAStatReport.pdf.

⁴William L. Taylor et al., "The Erosion of Rights: Declining Civil Rights Enforcement Under the Bush Administration," Report of the Citizens' Commission on Civil Rights and the Center for American Progress (Washington, D.C.: CCCR and Center for American Progress, 2007).

⁵Transactional Records Access Clearinghouse (TRAC). *Civil Rights Enforcement*. (Syracuse University, 2004) <http://trac.syr.edu/tracreports/civright/107/> (accessed on October 30, 2008).

⁶Leadership Conference on Civil Rights Education Fund, *The Bush Administration Takes Aim: Civil Rights Under Attack* (Washington, D.C. LCCREF, April 2003). Available at http://www.civilrights.org/publications/reports/taking_aim/

⁷See "Testimony of Wade Henderson President," *infra*, fn 2.

HEALTH CARE

“[G]iving employees the opportunity to make rational choices in health care is an important part of having a workforce that is vigorous, active and enthused about their jobs. And so, today I’m here to talk about innovation in the health place, how we can make sure the health care system in the United States of America remains the best in the world.”

—G.W. Bush, Feb. 15, 2006, speech at Wendy’s International, Inc. (Dublin, OH)⁸

“The best” health care system in the world? For whom? And by what measure?

An examination of the health outcomes and access to health care of people of color reveals alarming racial inequities for a health care system that the President and others claim leads the globe. Rapidly rising costs during this decade have deepened the crisis in insurance access, according to national surveys that show the primary reason people are uninsured is the lack of affordability.⁹ Would the so-called “best health care system in the world” allow an estimated 7 million people to lose their health insurance during the past eight years, two presidential vetoes of the child health care bill (SCHIP) expansion, and an American Medical Association recent estimate of 46 million uninsured (of some 300 million people in this country)? A country with an increasing numbers of uninsured citizens, many of whom are people of color, can hardly be crowned with such a title.

Communities of color have been especially vulnerable in our flawed healthcare system. For example, while women of color were one third of the U.S. female population in 2003, they were more than half (51%) of all uninsured women. In 2007, The Kaiser Family Foundation found that the rate of uninsured Latinos (34.3%) was almost double that of the population as a whole. Since 1996, federal law has even prevented most legal non-citizens from receiving Medicaid and SCHIP for the first five years they reside in the U.S.¹⁰

Regarding health disparities, the Department of Health and Human Services’ annual National Healthcare Disparities Report found that as of 2007, overall disparities in health care quality are not getting smaller. They acknowledged that while progress is being made, many of the biggest gaps in quality and access have not been reduced, especially in the rates of breast cancer deaths, maternal mortality, prenatal care, infant mortality, and the rate of HIV infections for people of color. These findings are supported by a 2002 study by the National Institutes of Health, which found that the maternal mortality rate for Black mothers was 25 deaths per 100,000 live births, compared to six deaths per 100,000 live births among white and Latina mothers, a figure that should have caused more alarm early in Bush’s tenure.¹¹

Other examples are equally dire. For instance, although there has been a significant decrease in the overall number of new AIDS cases, Blacks and Latinos constitute a disproportionate portion of new cases. For Asians, disparities can be found in the preventive care for pneumonia, and American Indian and Alaska Native (AIAN) women have been found to be twice as likely to lack prenatal care as white women. Even more alarming is the finding that AIAN and Black women have the shortest life expectancies of all the races and ethnicities studied.

Without addressing the problem of persistent lack of health insurance, the Department of Health and Human Services argues that a significant reduction in disparities is unlikely. But, health insurance alone won’t be sufficient. The Bush Administration demonstrated no inclination to highlight or address the negative health effects of disproportionately unhealthy working and living conditions suffered by people of color.

The supposed “best health care system in the world” is in need of immediate corrective surgery.

⁸“President Discusses Health Care” (Washington, D.C.: White House Office of the Press Secretary, February, 15, 2006) <http://www.whitehouse.gov/news/releases/2006/02/20060215-1.html> (accessed September 15, 2008).

⁹The Henry J. Kaiser Family Foundation. *Employee Health Benefits: 2007 Annual Survey* (Menlo Park, CA, September 11, 2006). Available at <http://www.kff.org/insurance/7672/index.cfm>.

¹⁰Henry J. Kaiser Foundation. *Summary: Five Basic Facts on Immigrants and Their Health Care* (Menlo Park, CA, March 2008).

¹¹National Institutes of Health. *Women of Color Health Data Book* (Washington, D.C., 2006).

IMMIGRATION

“We must also find a sensible and humane way to deal with people here illegally. Illegal immigration is complicated, but it can be resolved. And it must be resolved in a way that upholds both our laws and our highest ideals.”

—G.W. Bush, 2008 State of the Union address¹²

While the Bush Administration has relied heavily on immigration policy frameworks established during the Clinton Administration, it has fundamentally changed the practice of immigration enforcement in ways that don't come close to resembling our “highest ideals.” Instead, more often than not, the administration has pandered to base instincts of racist suspicion and stereotyping, promoting language that stamped “illegality” as the defining characteristic of individuals' entire beings. And most damaging, the administration has conflated immigration with crime, terrorism and national security, institutionalizing this approach in 2003 with the creation of the Department of Homeland Security. Subsequently, the creation of Immigration and Customs Enforcement (ICE) within the DHS has led to a dramatic increase of workplace raids and deportations from about 186,000 in 2001 to 277,000 in 2007—an increase that began during President Clinton's second term (70,000 deportations in 1996 to 114,000 the following year).¹³

Post-September 11th, the detention of Muslims, Arabs, and people from the Middle East in an expanding number of detention centers—including from Attorney General John Ashcroft's unwritten, but clearly understood and applied “Hold Until Cleared” policy—occurred in blatant disregard of our nation's highest civil liberties traditions. Even the Justice Department's own Inspector General published a report criticizing the department for making “little attempt to distinguish” between those suspected of playing a role in terrorist plots and those with no terrorism connection. The Inspector General also found that evidence indicated “a pattern of physical and verbal abuse by some correctional officers” and “unduly harsh” confinement conditions.

Much of our Constitution's Bill of Rights was designed to protect the individuals accused of crimes, regardless of citizenship, from tyrannical government. The 6th Amendment's right to an attorney and to be informed of the criminal charges for which an individual is being held? The 5th Amendment's due process rights guaranteed to all “persons” – not simply citizens – who are deprived of “life, liberty, or property”? The 4th Amendment's protection for “the people” against unreasonable searches and seizures by the government? These and other protections of our nation's Constitution have been gutted by the USA PATRIOT Act – rubber-stamped by a complicit Congress – and an Executive Branch that covets unlimited powers during an endless “war on terrorism.”

The administration has encouraged and recruited the cooperation of local police to enforce immigration laws they do not fully understand or care to understand, and were not intended to enforce. This localization of immigration enforcement has been a major new shift under the Bush Administration, which funnels federal funds to cooperating local departments. This has increased racial profiling, the number of deportations, and fear and distrust of local police in many immigrant communities, leaving them more vulnerable to crime. Moreover, the increasingly frequent workplace raids have had dramatic economic, social and psychological impacts on the children of immigrants, the majority of whom are U.S. citizens, and their splintering families.¹⁴

Millions more in taxpayer dollars have been spent on a border fence that is effective at little else beyond increasing the number of annual border-crossing deaths. Federal spending on border enforcement quadrupled during the Clinton Administration, just as it did during the Bush Administration's first five years.¹⁵ Will the next administration continue the same inhumane policies that do little to actually protect us from purported crime and terrorism, or show leadership in articulating and pursuing a humane course?

¹²White House, “Comprehensive Immigration Reform” (Washington, D.C.), <http://www.whitehouse.gov/infocus/immigration/> (accessed September 15, 2008).

¹³The Detention Watch Network reports over 280,000 detentions annually in 400 facilities at an annual cost of more than \$1.2 billion (\$95 per person per day for detention). See <http://www.detentionwatchnetwork.org/>.

¹⁴Randolph Capps, et al. *Paying the Price: The Impact of Immigration Raids on America's Children* (Washington, D.C.: Urban Institute & the National Council of La Raza, 2007). Available at <http://www.urban.org/publications/411566.html>.

¹⁵Joshua Holland, “Billions Spent on Border Security Have Failed” (AlterNet, May 9, 2006) <http://www.alternet.org/rights/35733/> (accessed October 23, 2008).

CONCLUSION

“Within the Gulf region are some of the most beautiful and historic places in America. As all of us saw on television, there’s also some deep, persistent poverty in this region as well. That poverty has roots in a history of racial discrimination, which cut off generations from the opportunity of America. We have a duty to confront this poverty with bold action. So let us restore all that we have cherished from yesterday, and let us rise above the legacy of inequality.”

—G.W. Bush, September 15, 2005, Post-Hurricane Katrina Speech

Chastened by the widespread and deserved outrage at his administration’s incompetent and callously indifferent response to the Hurricane Katrina disaster, President George W. Bush very briefly acknowledged the everyday reality for far too many people of color in the United States. The truth, however, is that the Bush Administration has shown little inclination to take any “bold action” to help this nation rise above its legacy of racial inequality. Not in New Orleans, or anywhere else.

This assessment has merely scratched the surface in describing some of the Bush Administration’s neglect of and damage done to communities of color in the areas of civil rights, health and immigration. Much more could be said about an array of other issues as well. In this 40th anniversary of the Fair Housing Act, we’ve seen skyrocketing foreclosure rates, particularly in Black and Latino communities, and the National Fair Housing Alliance lamented the continued underfunding of federal enforcement and the lack of federal oversight of mortgage lenders and brokers that helped cause the crisis. The President’s signature education bill “No Child Left Behind” indeed left the funding behind according to most critics. Funding for public education has been significantly reduced across the nation, as states find themselves in budget crises. Those hit first and hardest by these cuts are poor children of color, in property-tax poor school districts. The gap between the national median income of African American, American Indian, and Latino families and that of white families – a difference of approximately \$0.39 on the dollar – has shown little to no progress in closing throughout this decade. And many families in the Asian American community, including some of Hmong, Cambodian, and Vietnamese descent, also suffer invisibly from income inequality in several states.¹⁶

The essays that follow in this Compact for Racial Justice will elaborate upon these and other issues, including the critical employment needs in communities of color that visionary investment in a “green economy” could go a long way to alleviating. Our contributors offer a proactive vision for how racial justice advocates can push the next administration to both prevent the discrimination that continues in our society and promote the structural equity that we all deserve, that we must demand.

¹⁶National and state data from ARC tabulations of 2001-2007 American Community Survey data. See forthcoming Applied Research Center “Check the Color Line” income report, 2008.

CIVIL RIGHTS

RE-ENVISIONING CIVIL RIGHTS

By Karin Wang, Esq.
and Vincent Eng

The past century has witnessed extreme shifts in the struggle for civil rights. In 1900, race and other forms of discrimination were firmly entrenched in both public and private sectors of American life. In the era of “Jim Crow” laws, many Americans of color were treated as less than full humans, not only subject to racial segregation, but also prohibited from basic rights we take for granted today, such as the right to own property. But as the civil rights movement gathered momentum in the 1950s, we saw legally sanctioned discrimination diminishing. In particular, state and federal courts struck down “separate but equal” treatment of people of color, particularly African Americans, in everything from education to marriage, and the passage of the federal Civil Rights Act of 1964 barred discrimination based on race, color or national origin. Following on the heels of the Civil Rights Act, Congress dismantled restrictive immigration quotas that unfairly targeted Asia, Latin America and most other non-European nations.

But a half-century after some of these discriminatory laws crumbled under the weight of advancing equality and justice, civil rights activists find ourselves struggling with the concern that the progress we have made in racial and social justice is being slowed or reversed.

In some cases, we have not necessarily retreated on major civil rights issues, but demographic shifts have complicated social dynamics, making progress harder to measure and evaluate. The key change is that before the civil rights movement helped to open up immigration from Latin America and Asia, the struggle for civil rights dealt mostly with a binary paradigm of “black and white.” But as immigration from across the globe has changed the face of our nation, ideas of racial justice have broadened over time to reflect this demographic shift, e.g., incorporating issues around language or immigration status. Other groups have gained a voice over time so that our civil rights struggles now include issues of gender and sexual orientation. While these are distinct from racial justice struggles, the reality is that all the groups within the movement for social justice share common opponents and limited resources. We are inextricably linked, and losing the war on one front affects the battles along all of the others.

Besides demographics, the other major factor causing a shift in racial justice was September 11th. There is no denying that post-9/11, fundamental civil liberties and civil rights have taken a backseat to national security and the “War on Terror,” with people of color bearing the brunt of this shift and most of the resulting racial injustices being perpetrated by government institutions. Civil rights issues now include new developments like detention and torture, issues that were once discussed solely in the global human rights paradigm but now face us here at home. In addition, the recent spike in immigration raids and cases of brutal treatment in detentions has thrust immigration-related civil rights issues into the forefront.

Too often, the focus on race in our nation pits groups against each other. That is a red herring. The real battle, which the Applied Research Center has helped to lead the charge on, is against institutionalized racism. As many of us know, past racism has left a legacy of institutions, structures and policies that perpetuate white privilege, perhaps not in so many words, but policies and institutions can perpetuate racism without blatantly saying so on their face.

In antidiscrimination law there is something called the intent doctrine, which requires proof that discrimination was intentional. But we live in a day and age when discrimination is no longer so overt and apparent. Whether it’s because people are less intentionally discriminatory or whether they have learned to hide it is not clear. The

intent doctrine presumes individual actors and does not address the real problem, which is a larger system that favors those already in positions of privilege (e.g., whites, heterosexuals) and as a consequence perpetuates discrimination in a less direct way. While individuals can be racist or discriminatory, the kind of discrimination that holds back an entire community is not individual discrimination per se—it is institutional discrimination perpetrated by large entities like government agencies or corporations. For example, in the past eight years, the U.S. Department of Justice has shifted significant civil rights resources toward prosecuting labor and sex trafficking, which focuses on mostly individual or smaller groups of smugglers as opposed to traditional civil rights prosecutions to hold local police departments accountable for race discrimination or abuse of power. While going after human traffickers is both serious and necessary, the main enforcer of our nation's civil rights laws should not trade off one for the other. The end result is that racial justice and fighting institutional discrimination are no longer priorities for our federal government.

With a new presidential administration taking office on January 20, 2009—the first one in over 20 years that will not have an incumbent President or Vice President—we have the best opportunity in a generation to reinvigorate our federal government's commitment to civil rights and racial justice.

To shift away from the current status quo on racial and social justice, the next administration must take a number of steps, some immediate, some longer-term, to affirmatively reprioritize civil rights.

Given that five of the nine justices are currently aged 70 or older, the next president will likely have the opportunity to appoint at least two U.S. Supreme Court justices. The three youngest justices are among the Court's most conservative voices and have clearly indicated that issues of racial justice, like school desegregation, are not priorities. The next President must balance the current voices on the U.S. Supreme Court with justices who are capable of compassionate and fair-minded decisions on issues impacting communities of color—not just issues of race, per se, but issues such as criminal justice, low-wage labor, etc. that disproportionately affect people of color. The appointment of Supreme Court justices is the greatest legacy that any President can have, because Supreme Court justices average 25 years on the bench, more than six presidential terms. Also important for the next President will be the appointment of fair-minded federal district and circuit court judges, which creates a pipeline for possible future Supreme Court nominations. The lower court appointments are also critical from a local, community perspective in that these lower court judges hear and decide the majority of cases brought by civil rights lawyers, and only a minute percentage of cases in federal court ever find their way to the Supreme Court.

In Congress, the next administration must prioritize passing legislation that reverses civil rights setbacks of the past few decades. An immediate goal is to pass currently pending legislation such as the Ledbetter Fair Pay Act, which would ensure that employees alleging discrimination be able to sue over unequal pay once the discrimination is discovered and regardless of when it started (a matter that the current Supreme Court has already rejected), and the Employee Free Choice Act, which would make it easier for employees to unionize.

Several longer-term priorities would be to correct recent U.S. Supreme Court decisions that undermine the rights of workers. For example, the Supreme Court in *Hoffmann Plastic Compounds, Inc. v. NLRB* held that undocumented workers who are illegally fired for engaging in union organizing activities are not entitled to back pay, overturning a long-standing precedent and creating an incentive for non-unionized companies to hire and exploit undocumented workers. Without a solution to address Hoffman Plastics, that decision will expose an estimated 8.6 million low-wage immigrant workers who lack legal status to further exploitation.

Another longer-term priority would be to correct *Alexander v. Sandoval*, a 2001 U.S. Supreme Court decision that essentially eliminated private lawsuits under Title VI of the Civil Rights Act of 1964 that allege “disparate impact” (meaning unintentional) discrimination. The consequence of this decision is that it is very difficult now for an individual to bring a lawsuit alleging racial or national origin discrimination, since, post-Sandoval, a plaintiff can only allege intentional discrimination. This leaves the enforcement of civil rights in the hands of government agencies, which can still bring cases on behalf of individuals, but the federal government has not

prioritized these types of cases for many years. This fix is critical for issues like language access challenges, where the discrimination can be profound but is often difficult to characterize as intentional.

Also critical for the next Congress to address are barriers to voting, particularly for low-income and new voters, as well as people convicted of felonies; for example, the new administration should seriously prioritize getting states to rectify poor compliance with the National Voter Registration Act, which is commonly known as Motor-Voter and requires states to offer voter registration to citizens when they apply for public assistance. The new administration should also consider other proposals to increase voter participation such as Election Day voter registration, as well as take steps to mitigate the impact of, or even bar outright, restrictive voter identification laws.

In addition to correcting missteps of the past, Congress must also pass legislation that expands civil rights, not just puts us back where we were in the past—for example, repealing the Defense of Marriage Act and the federal bar on same-sex marriage. A near-term fix is to pass the Local Law Enforcement Hate Crimes Prevention Act that would expand protected categories to include gender, sexual orientation and disability, as well as strengthen federal ability to investigate and prosecute hate crimes cases. And Congress and the new administration must also affirmatively assess the racial and social justice impact of other laws, such as those being passed to address the nation's current economic crisis. For example, as the nation continues to grapple with the onslaught of home foreclosures, foreclosure and counseling mitigation services going forward must be provided equitably to all communities, particularly communities of color and limited-English-speaking communities, who were disproportionately targeted for fraudulent loans.

The next President will also have wide latitude to influence the operations of the federal agencies within the President's Cabinet—these are the government entities that operate or fund all of the major government programs in our country. Chief among the next President's priorities should be refocusing the Department of Justice (DOJ), which is the federal government's chief enforcer of laws. In particular, the DOJ's Civil Rights division, which was established in 1957 during the era of massive civil rights changes, must reprioritize its original mission of fighting racial discrimination. As civil rights laws have expanded over the years, it is both natural and desirable that the DOJ's mission has expanded to include fighting discrimination on other bases, such as disability. However, in recent years the DOJ's Civil Rights division has shifted from being at the vanguard of championing the rights of the most vulnerable in our society and taking on those who perpetuate systemic discrimination to focusing on issues like freedom of religion that do not clearly benefit vulnerable populations, or human trafficking, which targets individual actors instead of institutions. The DOJ's own Bureau of Justice Statistics released a 2008 report showing that the number of civil rights cases brought by the department has dropped significantly in recent years, falling 21% from 2000 to 2006. The next President also needs to depoliticize the DOJ in order to rehabilitate the agency's reputation after the recent scandals involving the influence of partisan politics on hiring and enforcement decisions.

The next administration must also ensure that the civil rights enforcement divisions of the other federal agencies refocus on enforcing racial and other related social justice issues (e.g., access for persons with limited English proficiency or physical disabilities). Over the past few decades, many of these civil rights agencies, which have a great day-to-day impact on key programs like Medicaid and public education that affect people of color and low-income communities, have lost so much funding and support that they cannot effectively carry out their missions. Some of these agencies have also absorbed significant new "mandates" that in some cases have overwhelmed the traditional civil rights mission—for example, the Office for Civil Rights of the U.S. Department of Health & Human Services now also enforces the Health Insurance Portability & Accountability Act, meaning that privacy investigations now dominate many of these offices.

Besides reviving the original civil rights mandate for the federal civil rights enforcement agencies, the next administration should also highly prioritize the improved and expanded collection of federal data on race, ethnicity, national origin, primary language and religion. An immediate priority should be ensuring the success of the 2010 Census. But a longer-term priority is to ensure the overall quality of Census data collection. For example, the

Census is shifting away from a decennial survey to the American Community Survey (ACS), which will collect data on a rolling and ongoing basis. As the Census shifts towards the ACS, issues have arisen about the inability of the ACS to accurately capture data at small geographies and for small populations, such as language minorities. Without such detailed data, communities of color and other communities struggling for justice will be at a significant disadvantage in advocating for increased support and funding.

In summary, the next President and Congress must seize the opportunity to reinforce and expand the civil rights of communities of color, poor communities and others who struggle every day for justice, prioritizing:

- Appointing U.S. Supreme Court and lower court justices, as well as Cabinet members and agency heads, who are committed to racial justice and equity
- Passage of legislation that reinforces and expands civil rights
- Incorporating a civil rights analysis into laws that do not clearly target people of color
- Improving and expanding federal data pertaining to race, national origin, primary language and religion

BIOTECHNOLOGY

By Sujatha Jesudason, PhD

FACING FORWARD

The Fate of Race and Genetics in the Twenty-first Century

In his landmark speech “A More Perfect Union,” delivered March 18, 2008 at Constitution Center in Philadelphia, Barack Obama said:

“I am married to a [B]lack American who carries within her the blood of slaves and slaveowners—an inheritance we pass on to our two precious daughters...[My] story...hasn't made me the most conventional candidate. But it is a story that has seared into my genetic makeup the idea that this nation is more than the sum of its parts—that out of many, we are truly one.”

Given that Barack Obama is probably the last man who would argue that his life has been predetermined by his biology and genes, why would he reference genetics this way? As human beings, we often use the language of blood and genes to tell our stories about families, communities and ourselves. It is a language that can unite families and communities or separate us from others. With visceral and physical power, this language reaches back in history and carries that history forward to the present and into the future. It links us to our individual identities, our families and our past in uniquely descriptive forms that we identify with on a non-verbal, gut level. This does not mean, however, that what we say should be taken literally. Racial groups are socially constructed categories reflecting politically structured hierarchies, different life experiences and a diversity of cultural, geographic and linguistic origins, but they are not scientific, biological or genetic categories of difference.

When Barack Obama spoke of the “blood” that he and Michelle are passing on to Malia and Sasha, he meant they are passing on a specific history and set of values deeply rooted in life experiences, family and community ties, and a particular worldview. He didn't really mean that the story “seared into my genetic make-up” is actually burned into his genes, that his experiences as a Black man in America raised by white grandparents and attending some of the best schools in the country are coded into his genes. He knows that his blood and his genes in this story are not the same as blood and genes in a scientific context, and still he uses those references to tell a vivid story because of their power.

Unless we are careful in this age of rapidly developing genetic discoveries and applications, any conflation between race and genes in a social context and race and genes in a scientific context can lead us to dangerous places. There has been a long history of efforts to align lived experiences and structural inequalities with biological categories of difference, of trying to map social hierarchies onto genetic differences, of using scientific justifications for unequal treatment and abuse. This includes ugly chapters when science—in the forms of scientific racism and eugenics—tried to weigh in on the sociopolitical debates about racial hierarchies. Many promising advances and benefits in science and technology can have a shadow side. Now, as discoveries and innovations in genetic science develop rapidly, we are faced again with the challenge of ensuring that this science not be used to justify or promote structural discrimination and inequality, particularly on the basis of race.

Governmental investment and leadership in the Human Genome Project, a 13-year program to decode and sequence human DNA, paved the way for a multibillion-dollar biotechnology industry in the United States and has supported a hopeful array of new developments in medicine and health. During the life of this project, a fair amount of attention was paid to social, ethical and legal issues in explicit recognition of the kinds of social and political concerns that can arise in research on the human genome. A central concern for advocates of racial justice in genetic research is that the despicable historical alliance between science and racism not take on a new genetic form. In the quest to understand the links between human genetics and health, the social,

environmental and structural causes of health disparities in communities of color must not get lost in an avalanche of weak claims about the genetically determined nature of racialized health disparities.

Most scientists, in their unflagging commitment to understanding the mysteries of human DNA and developing treatments for medical conditions, are not racists. They pride themselves on fighting the good fight for our collective wellbeing. However, this is a place where intent and impact can painfully diverge. In the quest to explore and understand genetic variation, social categories of difference can, intentionally or unintentionally, become entwined and mapped onto genetic differences. This conflation can imply that social differences are scientifically determined. Non-racist intentions can assume racist life in the form of genetic categories of race.

Given popular understandings of genetics, this could regress us back to forms of genetic determinism where racial and social hierarchies are justified by supposed group genetic variation. A few current examples of this relationship between race and genetic science include:

- FDA-approved race-specific medications like BiDil (intended to treat heart disease in Blacks) erroneously reinforce the unproven idea that there are medically relevant genetic differences between Blacks and other racial groups. The dubious claims of efficacy of this new breed of race-specific drugs may be a good marketing ploy, but it's bad science, lacking any credibility in sound research. A genetics-race focus on health shifts attention away from the social and environmental causes of health disparities toward predetermined genetic causes of disease and illness.
- Currently, DNA forensic databases contain disproportionately more profiles of Black and Latino people, a result of racial bias in arrests and the criminal justice system. As more states mandate the collection of DNA samples from people who are arrested—even if never convicted—this racial disparity is likely to grow worse. This increases opportunities for erroneous, coincidental or wrong profile matches and exacerbates existing racial biases in the system. Constructing genetic heritage and phenotypic profiles from DNA to catch crime suspects is based on little-tested, problematic science, conflating genetic profiles with social categories of race. The interest in using these databases to explore biological links to criminal behavior can lead to unfounded connections between race and crime.
- Assisted reproductive technologies are routinely used now to screen for and deselect specific genetic characteristics and conditions. As this science develops, will we also see people genetically select their children's eye color, hair texture, skin tone and "intelligence" characteristics currently imbued with racialized meaning? If assisted reproductive and genetic technologies develop to the point where we can design our babies, what racialized visions of perfection will be reinforced?

ENSURING THE FUTURE OF EQUITY AND EQUALITY

In decoding the mysteries of human DNA, scientists have found that we are all 99.9% genetically the same; there is more genetic variation within any given human group defined linguistically, geographically or culturally than there is between any two groups of humans. Genetic variation is at the individual level, not at the group level. Given the amazing diversity in human lives, cultures and experiences, this is a powerful affirmation of our shared humanity and human variety—so long as we don't try to link those genetic variations to social categories and group hierarchies.

Progress and improvements in race relations in the United States and around the world come about only when we accept and acknowledge that race is a sociopolitical category based on structural inequities and cultural practices. There is no socially meaningful biological difference between human beings, and there is certainly no hierarchy in the small variations between us. Now is not the time to turn back the clock to unfounded and determinist visions for our world. In discourse and policies, we can prevent the perception and practice that race is a

biological and scientific category and focus instead on working actively to undo the very real structural inequities and practices that impact the health and well-being of so many communities of color.

Our challenge for the 21st century is to learn from the past and pay close attention to the ways we link race with genes in our daily lives, scientific research and consumer products. Our vision for the future is that we all enjoy those applications of genetic science that promote individual and social well-being without falling into the quicksand of scientific justification for social differences and exclusion. We want affordable, effective medicine and health care for all based on each person's unique needs. Universal accessibility needs to be built into research and development with an affirmative role for government to prevent race from becoming an unproven scientific category and to ensure affordability and accessibility in diagnosis and treatment. The benefits of the publicly funded Human Genome Project should not be privatized for the few, but shared by all.

Our goals for 21st century genetic science are twofold: eliminate any conflation between race and genetic variation, and promote the beneficial uses of genetic science for all. We already have the tools to help us achieve these goals.

First, to avoid this conflation, a multidisciplinary group of Stanford University faculty proposed ten guiding principles for using racial categories in human genetics. To encourage accurate, rigorous and disciplined uses of racial and ethnic categories, they explicitly remind us that there is no scientific basis for claims that human genetic variations support hierarchically organized categories of race and ethnicity, that sociopolitical racial categories change and shift over time and that there is more variation within than between human groups. In human genetic research, they specifically recommend that scientists:

- Recognize both cultural and geographical ancestry in addressing health disparities.
- Be explicit about how and why researchers are using racial or ethnic categories in the initial research design.
- Avoid overstatements of the contributions of genetic variation to phenotypic variation, especially in the media and in translation of research findings.
- Include historical and social scientific information in the teaching of genetics.
- Take a multidisciplinary approach to studying human genetic variation by including a broad range of experts from the humanities and social and life sciences.
- Avoid making naïve leaps to genetic explanation for group differences in complex traits, particularly behavioral traits.
- Avoid using race as proxy for biological similarities and instead focus on individuals rather than groups in clinical medicine.

Second, in order to ensure that all enjoy the benefits of human genetic research we should implement the use of Race and Equity Impact Assessments. These can be used to:

- Identify unwarranted racial impacts and inequities in access and affordability.
- Consider alternative means of achieving the health and public benefits of genetic science without reifying race, exacerbating existing racial inequities or creating new inequities.
- Facilitate adjustments that will maximize the beneficial effects and minimize any harmful effects on racial justice, inclusion and equity.

This tool can help ensure that intent and impact are consistent and aligned—that work in the area of human genetics advances a public and policy agenda of fairness and equity while addressing historic patterns of institutional bias and discrimination.

Impact Assessments would require public policy professionals and scientists to systematically expand the public debate on genetics and consult with stakeholders to assess the effect any existing or proposed policy might have on any particular racial group. This creates the possibility for public and policy dialogues on race and equity that acknowledge the existing assumptions about race and difference, and provides a way to reduce unfair and unjust disparities. It will help disentangle existing assumptions about race and biological variation in science and public policy.

PRESIDENTIAL TASK FORCE ON RACE, EQUITY AND ACCURACY IN THE GENETIC SCIENCES

In order to promote the beneficial uses of genetic science for all and eliminate any conflation between race and genetic differences, we call on the new administration to issue an Executive Order to form a Task Force on Race, Equity and Accuracy in the Genetic Sciences that will develop protocols to promote responsible uses of racial categories in research and commercial product development; require Race and Equity Impact Assessments for genetic science at all levels of government; and develop recommendations for the institutional integration and incorporation of the Stanford guidelines, *The Ethics of Characterizing Difference: Guiding Principles on Using Racial Categories in Human Genetics*, at multiple levels. Impact Assessments would be required of government-funded research, institutional review boards, professional associations, and presidential and governmental agencies such as the Office of Science and Technology Policy, President's Council of Advisors on Science and Technology, the National Institutes of Health, Food and Drug Administration and the Department of Justice.

The protocols to be developed for the Race and Equity Impact Assessments should include:

1. Requiring the participation of a minimum number of community—not just industry or scientific—representatives
2. Developing a clear set of values to guide the process
3. Tracking, evaluating and reporting mechanisms to collect and document impact data
4. Developing and recommending policy alternatives to address and prevent unintended racialization or adverse equity effects

Because of our historical uses of science to justify the dehumanization of some peoples, we must pay close attention to balancing the benefits and risks of genetic science. Given the powerful relationship genes have to human understandings of ourselves—who is defined as family and how communities are constituted—unproven and little-tested claims about genetic differences that map onto social categories of race can have profound consequences. They can deeply divide us as a society or unite us in powerful ways.

The benefits of most scientific discoveries and innovations are easily balanced against potential disadvantages. In a commitment to ending the Bush Administration's neglect of and disregard for science, let us not blindly accept research claims that link genetic variation to social hierarchy. It will feed into another kind of agenda—perpetuation of a racialized and racially inequitable society—based on racist pseudoscience passing as legitimate science. Racism, however sophisticated in its trappings, must have no place in modern biotechnology, lest we forget the lessons of yesterday's eugenics movement. The rapidly advancing field of human genetic science holds great promise for benefiting all of us in many ways. As we stand on the verge of a new era in race relations in the United States, let us ensure that we reap the benefits of genetic science and avoid the dangers.

CRIMINAL JUSTICE

RACE AND CRIMINAL JUSTICE

By Ashley Nellis, Judy Greene,
Patricia Allard, Tanya Krupat
and Angelyn Frazer

INTRODUCTION

Over 30 years of “get tough” solutions to crime in the United States have produced the world’s largest prison population and incarceration rate, over 60% of whom are people of color. A large proportion of today’s prisoners are victims of the failed “War on Drugs,” which pulled in thousands of people convicted of low-level offenses for long, mandatory sentences. Workplace raids and other enforcement campaigns by Immigration and Customs Enforcement (ICE), as well as the mandatory detention provisions of the 1996 immigration laws, have spurred an escalating use of detention for immigrants awaiting civil immigration hearings, contributing to our jails and prisons swelling beyond capacity. In addition, the treatment of children and adolescents in the justice system has become increasingly punitive, with enforcement and detention policies and practices that draw youth of color into the system at an alarming rate.

Perhaps the most devastating result of these policies has been the disruption of many families in low-income communities of color around the U.S. For instance, there is a large and still growing number of children under the age of 18 who have a parent in prison, up nearly 14% between 1997 (1.4 million children) and 2004 (1.7 million). The next administration and Congress must begin to remedy the array of consequences that have resulted from pursuing a variety of unsound criminal justice policies during the past three decades.

There is a dire need to identify and address the drivers of racial and ethnic disparity and to support rational solutions such as the implementation of racial impact statements; curtailing “crack down” law enforcement campaigns such as those used to implement the drug war and immigration raids that, in their effect, target and criminalize people of color; elimination of mandatory detention of immigrants; elimination of mandatory minimum sentencing laws; and provision of support and resources for individuals returning to the community from custody and for their families.

20TH CENTURY PROBLEMS

In 1972, the U.S. prison and jail population stood at about 300,000 and had remained relatively stable during the previous 50 years, settling at a rate of about 160 per 100,000 by the early 1970s. Since then the prison and jail population has increased more than six-fold, now totaling 2.3 million people nationally.¹ The U.S. rate of incarceration is the highest in the world, and about five to eight times that of other industrialized nations.

The rise in incarceration was driven in large part by growing public fears about crime and the unfortunate convergence of opinion from some social scientists and policymakers from both sides of the aisle that rehabilitation does not work. This ideological shift was quickly followed by changes in state and federal crime policy dominated by reduced judicial discretion and enhanced use of fixed-length prison sentences that were long and much more frequently applied.²

The late 1980s and early 1990s witnessed a rising juvenile crime problem that was accompanied by the nearly immediate popularity of harsh policy responses, including various gang suppression techniques that claimed

¹Sabol, W., and Couture, H. (2008). Prison Inmates at Midyear 2007. Bureau of Justice Statistics, Washington, D.C.; Sabol, W., and Minton, T. (2008). Jail Inmates at Midyear, 2007. Bureau of Justice Statistics, Washington, D.C.

²Greene, Judith. “Getting Tough On Crime: The History And Political Context Of Sentencing Reform Developments Leading To The Passage Of The 1994 Crime Act.” in *Sentencing and Society: International Perspectives*, eds. Cyrus Tata and Neil Hutton. Hampshire, England: Ashgate Publishing, Ltd.

to address the so-called emerging breed of especially violent juveniles, or superpredators, that media and policy-makers frequently warned about during this period. Though juvenile crime never escalated to the predicted levels and has been going down for some time now, these policies remain. Not surprisingly, their impact on youth of color has been especially severe.

The shift in the treatment of drug offenses was especially apparent and a direct result of the set of policies collectively dubbed the “War on Drugs.” From 1980 to 2003, the number of adults sentenced to prison for drug crimes rose from 41,100 to 493,800.³ Perhaps the most drastic policy has been the harsh penalty adopted for federal crack cocaine offenses, based on the 100-to-1 disparity in the quantity of powder cocaine versus crack cocaine required to trigger a five-year mandatory minimum sentence. More than 80% of persons charged with crack offenses are Black, while those charged with powder cocaine offenses are more likely to be white or Latino. This, along with other racially punitive crime policies, is part of the shift toward the criminal justice system becoming the “policy of choice” for responding to problems in low-income communities of color, rather than addressing socioeconomic disadvantages that contribute to crime.

Immigrant detainees are currently the fastest growing segment of prisoners in federal custody. Whereas in 1994, 5,500 detainees were housed in the custody of the Immigration and Naturalization Service (INS), this figure had jumped to 19,500 by 2001.⁴ A massive build-up of detention bed capacity through contracts with private prison companies in the summer of 2006 allowed ICE detention capacity to explode.⁵ Steady increases in contracting have raised the total to about 33,000 today. Immigrants arrive in detention in a variety of ways, but while they await their civil immigration hearing, they languish in prison and jail for months at a time, only to be deported in many cases and subsequently barred from returning to the country. Currently, more than 10 percent of the federal prison population is comprised of people convicted of immigration offenses, typically those who arrived in the country to obtain employment. Today, incarceration is used indiscriminately to deal with a great variety of social problems that would be better addressed through other means, such as substance abuse treatment for the health problem of drug addiction. The next administration and Congress will be challenged and obligated to not only reform these policies but also resolve the problems they have created. In this essay, we offer specific solutions to remedy them.

21ST CENTURY SOLUTIONS

The American justice system is overrepresented by racial and ethnic minorities at each decision point. Racial and ethnic disparity begins with mass arrest policies that characterize the drug war. While there is a clear need for improvements in many areas of the criminal justice system, this section proposes specific reforms for problems in the areas of law enforcement, prosecution and sentencing, the appropriate use of incarceration, support for reentry programs and services, remedying collateral consequences, and the reunification of incarcerated parents with their children.

End Racially Disparate Enforcement, Prosecution, Sentencing and Immigrant Detention Practices.

One area of reform that is necessary is to end law enforcement campaigns, prosecution and sentencing policies and practices that result in racial and ethnic disparity. The most egregious example of this, noted above, is the 100:1 drug quantity difference for applying mandatory sentences for crack versus powder cocaine offenses. Two recent victories should serve as momentum for continued work toward revising sentence structures. In 2007, the United States Sentencing Commission (USSC) lowered the sentencing guidelines for crack cocaine offenses and recommended that Congress address the lengthy mandatory minimum sentences for these offenses. The U.S. Supreme Court ruled that judges may consider the excessive nature of penalties for crack cocaine offenses for the purposes of sentencing defendants below the recommended sentencing guidelines. And, Congress has four bipartisan crack sentencing reform bills pending, including legislation in the Senate and House of Representatives

³King, R. (2008). *Disparity by Geography: The War on Drugs in America's Cities*. Washington, D.C.: The Sentencing Project.

⁴Miller, Teresa A. (2001). *The Impact of Mass Incarceration on Immigration Policy*. In (Mauer, Marc and Chesney-Lind, Meda). *Invisible Punishment: The Collateral Consequences of Mass Imprisonment* (pp 214-238). New York: The New Press.

⁵Greene, J. and Patel, S. (2008). *The Immigrant Gold Rush: The Profit Motive behind Immigrant Detention*. Submitted to the U.N. Rapporteur on the Rights of Migrants.

that would equalize penalties for crack and powder cocaine offenses without increasing mandatory sentences.

At the federal level, much work remains, however, and it should focus on correcting the inequity in crack cocaine penalties. The mandatory sentencing structure still in place results in average sentences for crack cocaine offenses that are three years longer than those for powder cocaine. Black defendants have a 20% greater chance of being sentenced to prison than white drug defendants do. Incarceration is used too frequently to treat what is often a drug addiction. We support efforts to resolve these problems in the community with substance abuse treatment so that lives, families, and communities are not needlessly disrupted by lengthy stays in prison.

Research on drug enforcement strategies at the local level provides many examples of how the drug war is waged in communities of color. A 2004 study by University of Washington Professor Katherine Beckett found that several police practices explain racial disparity in drug arrests, including a law enforcement focus on crack offenders, and the priority placed on outdoor drug venues. She documented that these practices are not determined by race-neutral factors such as crime rates or community complaints.⁶

There are numerous other examples of prosecution and sentence structures that negatively impact persons of color. For instance, drug-free zones were originally designed to keep drug sales from occurring on school property. It has recently been demonstrated that the broad enactment of drug-free zones soon blanketed entire cities where people of color reside with overlapping drug-free zones, which caused racial disparities to increase.

More than a decade ago researchers at Northeastern University examined Boston police records for cocaine cases handled in the Dorchester District Court and found that while roughly 80 percent of all drug arrests took place within a school zone, only 15 percent of white defendants were charged with an eligible offense (distribution or possession with intent) compared to 52 percent of non-white defendants. When researchers interviewed police officers about their charging practices, they were told repeatedly, “it has to do with whether it’s a good kid or a bad kid.”⁷

Immigrants have increasingly become embroiled in the criminal justice system through Immigration and Customs Enforcement (ICE) raids. Arrests in worksite raids have jumped by 481 percent since 1994.⁸ The terrorist attacks of September 11, 2001 easily allowed for the practice of ICE raids and other means of detaining scores of immigrants to expand once the issue was framed as a threat to national security.⁹

While youth crime in the United States remains near the lowest levels seen in the past three decades, public concern and media coverage of gang activity have skyrocketed since 2000. The public face of the gang problem is young men of color, but whites make up a large portion of gang membership, though reports conflict about exact figures.¹⁰ White gang youth closely resemble Black and Latino counterparts on measures of delinquency and gang involvement, yet even though they are virtually absent from most law enforcement and media accounts of the problem.

Black and Latino communities bear the cost of failed gang enforcement initiatives. For example, the Los Angeles district attorney’s office found that close to half of Black males between the ages of 21 and 24 had been entered in the county’s gang database even though no one could credibly argue that all of these young men were current gang members. Communities of color suffer not only from the imposition of aggressive police tactics that can resemble martial law, but also from the failure of such tactics to make their neighborhoods more peaceful.¹¹

⁶Beckett, Katherine. “Race and Drug Law Enforcement in Seattle,” available online at: <http://www.soc.washington.edu/users/kbeckett/Enforcement.pdf>.

⁷Greene, J., Pranis, K., and Ziedenberg, J. (2006). *Disparity by Design: How Drug-Free Zone Laws Impact Racial Disparity—and Fail to Protect Youth*. Washington, D.C.: Justice Policy Institute.

⁸Bacon, David. “Railroading Immigrants.” *The Nation*, October 6, 2008.

⁹Thompson, S. G. (2008). *Speech: Latinas and their Families in Detention: The Growing Intersection of Immigration Law and Criminal Law*. William and Mary Journal of Women and the Law, 14, 1-20.

¹⁰Law enforcement sources report that over 90 percent of gang members are nonwhite, but youth survey data show that whites account for 40 percent of adolescent gang members.

¹¹Greene, Judith, and Kevin Pranis. (2007) *“Gang Wars: The Failure of Enforcement Tactics and the Need for Effective Public Safety Strategies*. Washington, D.C.: Justice Policy Institute.

Address Collateral Consequences of Imprisonment.

A variety of collateral sanctions were enacted by Congress in the 1990s for those convicted of drug offenses. One is the lifetime termination of access to welfare and food stamp benefits for individuals with felony drug convictions. The result is that individuals coming out of custody are now at a great disadvantage in attempting to remain crime-free. We advocate for the elimination of restrictions on access to welfare benefits, residence in public housing and student loans for higher education.

People with felony convictions are also subject to the effects of felony disenfranchisement laws that restrict the right to vote for an estimated 5.3 million persons. These laws apply not only to people in prison, but in 35 states also to persons on probation and/or parole, and in 11 states, even for people who have completed their sentence. Of the total disenfranchised population, four million are living in the community excluded from the ballot box. Not surprisingly, the racial disparities of the criminal justice system translate into disenfranchisement as well, with one in eight Black males now ineligible to vote.¹²

Federal law, via the Second Chance Act, now mandates that child welfare agencies and prisons work together to create a protocol for improved child-parent relationships for families with a parent in prison. Specifically, they should pursue efforts to maintain the parent-child relationship during incarceration, offer programs that allow parents to improve their parenting skills and support parental involvement in their child's future decisions.

In addition, an exception for parents in prison should be made to the Adoption and Safe Families Act (ASFA) mandate to sever parental rights if a child has been in foster care for 15 months out of any 22-month period. In present form, this mandate automatically terminates parental rights for incarcerated parents. This law disproportionately affects incarcerated mothers, since mothers are more likely than incarcerated fathers to have their children placed in foster care when they go to prison. It is estimated that 10-20% of incarcerated women have children in foster care.¹³

As approximately 700,000 people exit from prison each year, plans should be firmly in place to provide the communities to which they are returning with adequate resources and support. Resources should also be in place to support the individuals who are reentering society so that they have the best possible chance to reclaim a positive life.

ACTION NOW

1. Implement racial impact statements.

Just as policymakers routinely require fiscal or environmental impact statements for proposed changes that may have unanticipated impacts, so too should lawmakers be required to prepare a racial impact statement prior to the adoption of any legislation that might affect the size of the prison population. Such statements, developed by analyzing current crime and sentencing data, would project the relative racial composition of new prison sentences. With hindsight, we can now see that Congress should have conducted such an analysis prior to consideration of the crack cocaine mandatory sentencing laws in 1986. Had it done so, perhaps documentation of the anticipated racial impact might have caused lawmakers to consider the intolerable level of disparity it would produce. Both Iowa and Connecticut enacted racial impact statement requirements in 2008, and Minnesota's Sentencing Guidelines Commission already forecasts the impact of sentence structures on different racial and ethnic populations. Congress should now follow their lead for federal legislation as well. Racial impact forecasting would focus attention on "race-neutral" policies such as drug-free zones and zero-tolerance policies. Implementing racial impact statements in the area of sentencing is only a first step. The expansion of racial impact assessments across a whole spectrum of criminal justice-related issues could become a key tool to consciously consider and reduce racial disparities.

¹²Human Rights Watch/The Sentencing Project (1998). *Losing the Vote: The Impact of Felony Disenfranchisement Laws in the United States*. Washington, D.C.: Human Rights Watch/The Sentencing Project.

¹³Hagey, K. (2008). *Dodging ASFA's Hammer*. New York City: Child Welfare Watch.

2. Abolish Mandatory Detention of Immigrants.

The United States should end the policy of mandatory detention and should reexamine whether the use of detention is necessary and proportional. As long as the law requires the mandatory detention of immigrants without due process rights, the country will continue to see growth in prisons, jails and private contract facilities, increasingly driven by profit-making motives, as well as by anti-immigrant hysteria. Effective alternatives to detention have proven their worth.¹⁴ They should be fully implemented throughout the country.

3. Support people in reentry and the communities where they return.

In 2008, Congress passed the Second Chance Act, landmark legislation designed to establish model programs to enhance the reentry prospects for people returning to the community from prison and jail. While the act was passed with broad bipartisan support, Congress failed to provide the necessary funding that is critical for efforts to expand and enhance reentry initiatives across the nation.

Second, federal restrictions on access to welfare, public housing and student loans provide no demonstrable benefits to the public and, in fact, run counter to the community's interest in promoting public safety. Such blanket denials of public benefits serve no rational purpose and should be repealed by Congress and state legislative bodies.

Third, while the Constitution grants states the power to establish voting qualifications, Congress may set standards for federal elections. Currently, as a result of varying state policies, one's ability to vote for national leadership is dependent on the state of residence. Legislation introduced in the Senate by Senator Russ Feingold and the House of Representatives by Representative John Conyers would permit non-incarcerated persons to vote in federal elections, even if prohibited from voting in state elections.

Finally, support and services should be provided to children of incarcerated parents. These services should go beyond mentoring and include visiting support and subsidized guardianship (outside of the child welfare system) for caregivers. Moreover, parents should not have their parental rights automatically terminated because of their incarceration.

4. Make racial equity a standard for all criminal justice policy and practices.

Many current policies and practices related to law enforcement and criminal justice, especially those that aggravate racial disparities, need reexamination, reform or repeal. Making racial equity a defined, conscious and enforceable standard for actions and outcomes at every step in the criminal justice system would aid in identifying and eliminating bias—whether the increased militarized police presence in public schools in communities of color, racial profiling by law enforcement, restrictions on due process and fair treatment for people of color and immigrants, lack of access to quality legal representation for people with low incomes or the racially disproportionate application of the death penalty. Where disparities persist, law enforcement agencies and criminal justice entities should be required to produce, with public input, concrete goals, plans and timetables for eliminating them.

CONCLUSION

Crime is a local problem. A national strategy should promote public safety through empowering communities to engage in solving problems while supporting racial equity. Research now documents that taxpayers spend as much as a million dollars a year for incarceration in some urban areas; meanwhile, schools, health care institutions and treatment programs in these same areas are woefully underfunded.

It is impossible to design solutions to the myriad problems within the criminal justice system without talking about race. The harsh criminal justice policies that have dominated the past 30 years have contributed to the overrepresentation of people of color in the criminal justice system. We must compel the next administration and Congress to enact policies that support both public safety and racial fairness.

¹⁴Sullivan, Eileen, Felinda Mottino, Ajay Khashu, and Moira O'Neil. (2000) "Testing Community Supervision for the INS: An Evaluation of the Appearance Assistance Program." New York: Vera Institute of Justice.

GREEN ECONOMIES

By Van Jones

THE GREEN COLLAR ECONOMY

In Search of Eco-Equity

The accelerating environmental crisis has pushed the human family to a moment of decision. The time for debate is running out. Humanity must figure out, once and for all, if it can find a way to live with the planet.

If it cannot, you can bet that the ensuing climatic catastrophes will hit poor people and people of color first and worst. It only makes (tragic) sense that historically neglected populations will get the least support in preventing and mitigating natural disasters. Hurricane Katrina, and the government's criminal indifference to the people caught in its fury, illustrated this in chilling fashion.

But what if humanity DOES find a way to live with the planet—but doesn't find a way to live with itself? It's not a stretch, based on what we've seen so far.

In America, the benefits of the emergent green economy have flowed almost exclusively to affluent white consumers and entrepreneurs. Meanwhile, people of color and people of modest means continue to bear a disproportionate share of the burdens associated with the failing, pollution-based economy. If green economic development continues on this course, we could end up with eco-apartheid.

Neither eco-apocalypse nor eco-apartheid is acceptable. Both are avoidable. But only if we know what it is we are fighting for.

THE VISION: ECO-EQUITY

Let's start with the urgent and immediate: we want a world that is not imperiled by global warming, where we do not have to worry that we are in the final countdown to the last generation of humanity.

But the world we dream of has more than just a stable, healthy climate. We dream of a society that also takes care of its people, where no one is left behind and everyone has a chance to succeed. That society upholds three basic principles: equal protection for all, equal opportunity for all, and reverence for all creation. We call it "eco-equity."

Equal Protection

As we confront both ecological devastation and economic downturn, it is obvious that the most vulnerable of us will bear the brunt of these twin crises. They will feel the pains first. They will be hurt the worst. And they will have the hardest time putting their lives back together once the storm passes. It is a moral and political imperative that we protect EVERYONE from the disasters that are coming. We saw in New Orleans what happens when we ignore this imperative: many lose their lives, and many more lose their livelihoods.

Equal Opportunity

As the new "clean and green" economy emerges, there will be countless opportunities for people to improve their work, wealth and health. Those opportunities must be available to everyone—especially those people who have found opportunities so hard to come by in the pollution-based economy. People of color need to get in on the ground floor if we're to have any shot at getting a fair shake in this new economy. If not, it will be tainted by the same racial and class stratification that has for so long prevented America from fulfilling its promise of freedom.

Reverence

Here in the United States, we have been acting as if we have a disposable planet—and disposable people. A couple of statistics bring this into sharp and disturbing relief. We have just 4% of the world's population. But we emit a quarter of the world's greenhouse gases. And we jail a quarter of the world's prisoners. We seem to have no qualms about throwing anything away, from resources, to species, to neighborhoods, to children. We need to correct that. The green economy must be built on a fundamental respect and reverence for all creation, all life, both human and non-human.

A future based on these three principles is one worth fighting for, working for, living for.

But knowing what we want the future to look like does not tell us how to get there.

THE VEHICLE: A GREEN NEW DEAL

Make no mistake about it. Reversing global warming and achieving eco-equity will not be easy. We cannot get there by doing more of what we've been doing. We cannot drill and burn our way out of this crisis. But, working together, we can invent and invest our way out.

To do so, we have to radically change our economy, our politics and our culture. Such a shift will require collective will and effort on a scale not seen in this country for generations.

When I think about what we need to do, I think about the New Deal. The New Deal was a massive and deliberate reorganization of the country's resources and priorities, all with an aim to end the Great Depression and restructure American society to manage 20th century capitalism. We need a similar endeavor to reverse global warming and restructure our society for the 21st century.

Think about the work necessary to re-balance earth's ecosystem. Installing millions of solar panels. Manufacturing millions of wind-turbine parts. Planting and caring for millions of trees. Building millions of plug-in hybrid vehicles. Constructing thousands of solar farms, wind farms, and wave farms.

That's millions of jobs, provided by thousands of entrepreneurs, producing billions of dollars of wealth.

That is also a million headaches, missteps and failures if we aren't moving forward together as a country, united. After eight years of the most divisive presidential administration in memory, it is time for the federal government to once again inspire the country and bring it together.

We need a comprehensive and coordinated suite of programs designed to put the country to work repairing the planet. Piecemeal, patchwork policies will not be enough. Only a concerted effort will unite the country the way we need to get the job done. The wonderful thing is that, along with giving us a chance to reverse global warming, such an effort will give us a chance to put millions of people to work and create powerful new engines of wealth creation.

Instead of taking the side of the polluters, the warmongers, the incarcerators, we need the government to become a partner to the innovators, the scientists, the eco-entrepreneurs, the neighborhood heroes, the ones who are close to both the problems and the solutions. We cannot drill and burn our way out of this crisis. But we can invent and invest our way out.

THE ALLIANCE: CROSS-CLASS, CROSS-RACE, CROSS-EVERYTHING

A Green New Deal would be a massive political undertaking. It cannot happen without a strong, durable, and broad-based coalition with the political muscle to move such a comprehensive agenda. It will not be easy. The

current economy, based on pollution and exclusion, still has many powerful supporters entrenched in Washington and on Wall Street.

No, it will not be easy. But it is necessary, and possible. Once again, the experience of the original New Deal is instructive.

The New Deal was not simply the brainchild of FDR and his allies in Congress. It had the support of a powerful electoral coalition that included farmers, workers, ethnic minorities, students, intellectuals, progressive bankers, and forward-thinking business leaders.

We need a similar alliance now—a “Green Growth Alliance.” The program we are suggesting can attract that kind of support. It has something for almost everybody—workers, environmentalists, activists, students, people of faith, small farmers, progressive business and finance leaders, entrepreneurs, intellectuals and scientists.

And, yes, people of color.

This is our best shot to advance a serious racial justice agenda on a national level. A brand new economy is emerging. If we are smart and willing to work, we can make sure our communities’ needs and perspectives are built into this new economy from the beginning.

Most importantly, this could provide the material basis to pull our communities out of the spiral of violence and suffering that has engulfed them since deindustrialization began. The economic crisis, environmental devastation and a dearth of hope or common purpose may be new on the national scene, but they showed up in our neighborhoods first. They are still sharpest in our communities. But now we have a chance to change that.

The generations before us fought to racially integrate the poisonous, pollution-based economy. The best way to honor them now and continue their legacy is to make sure that the new, clean and green economy has a place for everyone from the beginning.

THE ACTION: WHAT TO DO RIGHT NOW

Whether you are part of a powerful organization or an interested individual, there are steps you can take to help forge this Green New Deal.

Support the Clean Energy Corps.

On September 27, Green For All launched a national campaign to establish a Clean Energy Corps (CEC). A successor to the Civilian Conservation Corps and Works Progress Administration of the 1930s, the CEC would be a combined service, training, and employment effort. Concentrated in cities and neglected communities, it would aim to combat global warming, grow local and regional economies and demonstrate the equity and employment promise of the clean energy economy.

Over time, the CEC would seek to develop “green pathways out of poverty” for at least 1 million people. This means providing them with the training, work experience, job placement, and other services needed to gain family-supporting jobs within the green economy economy. The CEC would directly engage millions of Americans in diverse service and volunteer work related to climate protection. And it would create financing mechanisms that would allow the pooling of public and private capital to cover the up-front costs that currently pose a significant barrier to broad-scale retrofitting and environmental restoration, and the associated creation of numerous community jobs.

This kind of national effort holds the seed of a Green New Deal. You can help plant that seed by signing the “I’m Ready” petition online at <http://www.greenjobsnow.com/hq/ready-petition>. If you work with or know of local

programs similar to those we propose in the CEC, let us know. The more that we can point to existing programs, the easier it will be for others to understand what an exciting opportunity the CEC is.

Check back with us often at <http://www.greenforall.org> to get the latest information on how you can support the Clean Energy Corps.

Local Action and the Green Jobs Pledge

The Clean Energy Corps is a national proposal, but the green economy is already growing in cities, counties and towns all over the country. That's why Green For All, the Apollo Alliance, Center for American Progress, and ICLEI-Local Governments for Sustainability have issued a joint call to action to build a green economy from the bottom up.

You can do a lot to help create the green-collar economy right where you live.

It starts with getting your mayor to sign the Local Government Green Jobs Pledge (<http://www.greenforall.org/resources/policy-legislation/local-government-green-jobs-pledge>). This will affirm your community's commitment to green-collar jobs, build public will and raise the visibility of this crucial issue. More than a dozen cities have already signed on. Don't let yours fall behind the pack.

Local government is not enough, though. You also need to bring other stakeholders to the table. Get your local government to establish a Green-Collar Jobs Taskforce, with stakeholders from labor, business, the workforce development sector, community groups, schools and advocates. Together, their expertise, political capital and resources can do more for the green economy than any of them could do alone.

With the support of local government and the stakeholders in the Green-Collar Jobs Taskforce, your city can create a local green economic action plan. Build your plan around local priorities, business conditions, and economic strengths. The plan should accomplish two basic things: creating demand for green-collar workers (job creation) and preparing a workforce to meet that demand (job training). Create green-collar jobs with policies, investment, and incentives that expand the market for green products and services. Prepare a green-collar workforce by building on existing training programs that provide job seekers with "pathways out of poverty" and family-supporting, career-track jobs.

Make no mistake about it. Our world is in peril. And if the ship is taking on water, then our communities are already neck deep and deeper. But with quick, decisive and collective action, we can meet the challenges of the new century.

HEALTH CARE

By Leeann Hall

BEYOND UNIVERSAL COVERAGE

Building a Movement for Health Equity

On a hot day in July 2005, Roy Martinez found himself retching at the side of the highway. Mr. Martinez, a curly-haired Mexican with a broad smile, had begun weeding onions with a 10-inch-long knife at six that morning. At 10:00 a.m., he and the rest of the farm workers, unable to leave the fields to wash their hands, unwrapped burritos and began eating; by noon, all of them were violently ill. They had inhaled and ingested three dangerous pesticides that a crop duster had sprayed on the field the night before. Mr. Martinez was one of 29 workers exposed to toxic pesticides that day. The local fire department arrived on the scene wearing blue hazard suits. They made the farm workers strip and pass through a quickly erected “shower,” where they were hosed off and then transported to a nearby hospital. At the West Valley Medical Center, Maria Aguirre, one of the farm workers, was asked to interpret because the hospital had no interpreters available. They were treated and released. None of the farm workers had insurance and some needed, and had difficulty receiving, follow-up treatment. Mr. Martinez continues to have symptoms three years later and is unable to work.

Mr. Martinez’s experiences point to the complex systems that impact the health of people of color, including working conditions, environmental degradation, lack of insurance and cultural barriers to quality care. These pre-conditions for poor health can be found in various forms in communities across this country. This paper examines those conditions and calls for a radical intervention into the healthcare debate that transforms the debate from one about insurance to one about health. This analysis highlights the need to address the environmental conditions that undercut health, invest in public programs that ensure universal access to insurance and end discriminatory practices within the health system. In taking this position, we will educate the public about the realities and roots of health disparities and solutions to this parallel and intertwined crisis.

THE ROOTS OF HEALTH INEQUITY

Many pressing health issues stem from devastating inequities in jobs and wages, environmental pollution, education, housing and access to opportunity—the “social determinants” of health. This is exacerbated by a lack of health coverage; there are 46 million people without health insurance, and half of those are “ethnic minorities.” For many, the problem continues at the doctor’s office or in the hospital, where a lack of cultural understanding and overt biases color the care that patients receive.

On the Tohono O’odham Reservation, a child who is only four years old is diagnosed with adult-onset diabetes—a disease that 40 years ago was rarely heard about and now is an epidemic on the reservation. The root causes of the illness are imbedded in the erosion of culture—“traditional gardens, foods, games and dance have been replaced by high rates of unemployment, alcoholism and government commodities (processed food),” explains Terrol Johnson of Tohono O’odham.

In Brooklyn, New York, Adriana Mendoza goes to the doctor because of chronic asthma that has impacted her ability to participate in school. The doctor examines her and tells her mother that they must have their landlord exterminate their apartment—rid it of roaches and rats. The doctor writes two prescriptions, one for asthma medication and one telling the landlord to clean up the building. In this inner-city Latino neighborhood, rodents, poor housing conditions and poor air quality give rise to high rates of asthma and respiratory illnesses.

A senior citizen who is a monolingual Korean speaker in Los Angeles falls in a hospital and complains of pain—*apah*. The staff asks her husband, who also has limited English skills, what that means; they are told “pain” and give her medication. A week later, they discover that she has an infection in her arm that has traveled to her blood stream. This infection, complicated by diabetes, results in her death. Had there been adequate interpretation services, which are mandated by federal law, her death would have been preventable. These services are desperately lacking in many medical facilities.

As a result, people of color are more likely to die younger and to be treated worse—or not treated at all—by the U.S. medical system. Black and American Indian infants are more likely to die in every income bracket. Likewise, diabetes is higher among Blacks and Latinos, and increases people’s chances of dying from stroke and heart disease. And the list continues with obesity, cancer outcomes and other diseases (Kaiser: Minority Health Update). Simply put, racism in daily life makes people of color ill, and an unequal healthcare system results in inadequate care and shortened life expectancy.

PUTTING THE PICTURE TOGETHER

The complete story is surfaced by understanding the complex interplay between health coverage (insurance—public and private), the delivery system and the environmental backdrop that shapes our health. In the Idaho farm workers’ story, it was clear that institutions—in this case the hospital’s lack of interpretation services—created a significant barrier to care. The pesticide spraying that created an unhealthy working environment (and environment for those living in the area) represents the broader systems—including food, environment, housing and transportation—that are degraded, creating unhealthy communities and community members. These problems are further compounded by a broken private healthcare system, the failure of which leaves millions of people, including the farm workers, uninsured.

Dr. Steven Woolf has pointed out that equalizing mortality rates between Blacks and whites would have saved five times as many lives as all the advances in medical technology saved between 1991 and 2000. He challenges us to reverse the trend by “reconsider[ing] the prudence of investing billions of dollars in the development of new drugs and technologies, while investing only a fraction of that amount in the correction of racial disparities in health.” (Woolf 2004).

BUILDING A NEW HEALTHCARE SYSTEM

It is clear that to improve our health, we as a society must invest in a new approach to healthcare. The first solution is to recognize that healthcare is not a commodity that should be sold on the private market to only those who can afford it or are lucky enough to have the “good jobs” that provide it. Access to medical care and the prescribed remedies (whether it be drugs or extermination of roaches and rats in your home) should be available to everyone who needs it.

The foundation of this vision is built on national healthcare reform. The politicians need to turn their heads away from the insurance companies and toward the communities and listen to what is needed. Bold action is needed to make a public—yes, government-sponsored—health insurance option available to everyone regardless of employment status, race, income or immigration status. This program must have a rich benefits package addressing all of our health needs from birth until death. This system needs to provide people the healthcare they need when they need it. From a racial justice lens, we need to read the fine print to ensure that covering everyone includes immigrants, regardless of status, and ensures full funding of Indian Health Services. The national coalition Health Care for America Now! is promoting just such reform. Their efforts are structured around a set of principles against which legislation can be evaluated.

Although ambitious, national healthcare reform alone will not result in healthier communities and unbiased care. We need to take on the underlying causes and ensure that there is unbiased, culturally appropriate care.

LOCAL ORGANIZING HIGHLIGHTS PROMISING DIRECTIONS

The organizing campaigns led by American Indian communities in Arizona, Latino immigrants in the Northwest and Korean workers in Los Angeles offer just a few examples of the seeds of change growing across the country.

Terrol Johnson, a member of the Tohono O’odham Nation, is walking from Bar Harbor, Maine to southern Arizona to highlight how a return to cultural roots can be part of the remedy for the health crisis facing his community. “Type 2 diabetes is epidemic in my community,” he says, adding that the root causes of the illness are imbedded in the erosion of his culture. “Traditional gardens, foods, games and dance have been replaced by high rates of unemployment, alcoholism and government commodities (processed food).”

Terrol has led a community project to bring back health by returning to traditional ways, including food production and cultural projects. “We have everything we need to create wellness within our communities—our traditional foods, our cultural identity, our land and water, our elders and our youth.”

The steps that Terrol is taking to advance his community’s health are echoed around the country. Farm workers in Whatcom County, Washington, after realizing that they couldn’t afford the food they picked, are now working their own organic farm, selling produce locally and catering events for the community. This approach has improved their diets and health and transformed their relationship with the broader community. The South Central Foundation in Alaska is a nonprofit Indian health corporation that is realizing their vision of health, which emphasizes Indian culture, traditions and empowerment. In doing so, they have seen dramatic improvements in screenings and preventive testing, a reduction in hospitalization rates and improvement in overall health outcomes.

Groups across the country, including the Korean Resource Center, Washington Community Action Network and Idaho Community Action Network, are documenting the issues that poor communities and communities of color are having within hospitals. They are demanding and winning medically qualified interpretation services, multilingual billing practices and signage, access to no-cost or reduced-cost care, and training for staff around cultural issues. In doing so, they are improving the hospitals’ knowledge of the communities and cultures, as well as their ability to competently serve these communities.

ACTION NOW

It is time to build a new health justice movement—to stand up and demand a new approach to our health—that invests in healthier working conditions and communities, guarantees that people get medical attention when they need it and holds itself to a standard of care that is unbiased and culturally appropriate.

Toward this end, we need to:

- Aggressively address the environmental and social conditions that lead to poor health by making investments in living-wage jobs and affordable, healthy housing. Enforce and strengthen environmental justice protections to remediate compromised environments that lead to poor health outcomes. And, implement the use of health impact statements, which, like the environmental impact statement, will evaluate new public policies by asking the question, “Do these changes advance or undercut the health of our communities?”
- Ensure access to care by creating a mandate to revitalize our economy and communities through a massive restructuring of the healthcare system, making available a public insur-

ance option that would cover every man, woman and child living in the United States.

- Create a new health justice movement that highlights inequities, names the underlying racism and demands solutions. To be successful, this movement will require data collection on disease, performance, language access and quality care—data about how institutions behave. The health justice movement will demand new policies and practices. Some examples include:
 1. Interagency collaboration among departments responsible for public health, environment and economic development to coordinate strategies that result in healthy communities and families
 2. An enhanced role for the Office of Civil Rights to ensure that discriminatory barriers to accessing care are identified and removed
 3. Creating strong education systems that address the needs of children of color in K-12 so they can get out of high school and into college. Expanding admission slots and financial aid for those who choose medical professions; expanding the diversity and cultural competency of medical professionals

If we expect to honestly address the healthcare crisis in this nation, then we must fundamentally change our approach to healthcare. That shift requires treating access to quality and accessible healthcare as a right, not a privilege. It mandates expanding our definition of health to include the living and working conditions of our communities, and respecting the cultures and needs of people in them. If we truly believe in racial justice, then this is a vision that must come to fruition.

By Tammy Johnson

EDUCATION

RACIAL EQUITY AND THE FUTURE OF PUBLIC SCHOOLS

For many of the 20 million students of color in the United States¹, attending a public school is a daily trial by fire. They do battle with a system that methodically alienates their parents and routinely fails them. Black students were nearly twice as likely to drop out of high school as whites in 2005, and Latinos were over three times more likely to drop out than whites. According to the 2000 U.S. census, of 25-year-olds with less than a high school education, Hmong were at 59 percent, Cambodian at 53 percent and Vietnamese at 31 percent.² And in 2006, 15 percent of American Indian/Alaska Native young adults were status³ dropouts, compared to 7 percent of their white peers.

For some, getting to the bottom of the problems in education means eliminating the academic achievement gap—the racial disparities seen in test scores, grade point averages and college entrance rates. But defining the cause of academic failure in this way relies primarily on the agency of individual students while ignoring decades of systemic decay and neglect common to schools serving mostly students of color. This masks a cruel truth: U.S. public schools have a racialized opportunity gap.

Volumes of research clearly demonstrate that students of color disproportionately face severely limited access to the “opportunities to learn” reflected in key educational components such as the assignment of qualified teachers, the content of instructional materials and the condition of facilities. For instance, Black and Latino students are more likely than their white peers to be taught by teachers who are inexperienced or lack majors in the subject they teach.

This essay presents a prescription to undo this damage. The way we fund schools, prepare and engage teachers, and hold the system accountable must change. But before we apply the cure, we must diagnose the illness.

NINETEENTH CENTURY SCHOOLS STUNTING TWENTY-FIRST CENTURY LIVES

The racially disparate treatment of students in America is not an accident. Birthed in 1805 by wealthy business interests calling themselves the *New York Public School Society*, the factory school model focused on discipline, obedience and rote teaching. As the decade drew to a close, the nation experienced an influx of 3.1 million southern and eastern European immigrants. It must be noted that, upon arrival, this particular group had not yet been granted the privileged status of whiteness in the normative racial hierarchy of that era. At the same time, Blacks were migrating from southern rural areas to northern urban industrial centers. As the urgency behind dictating the trajectory of this workforce grew, the white power elite took steps to ensure that public schools became the setting for the assimilation and indoctrination of future factory workers.

Almost simultaneously, a growing eugenics movement promoted false claims about the genetic inferiority of darker skinned and foreign-born groups. They successfully implemented their pseudoscientific ideology through the popularizing of IQ testing, which led to the assignment of students to a course of study based on a single score.

¹Give Kids Good School Organization. (2008). Public schools in the United States. Retrieved September 26, 2008 from: http://www.givekidsgoodschools.org/main/learn.cfm?Category=Public_School&Section=FAQ_About_1

²Institute of Educational Sciences. (2003). U.S. Center for Education Statistics: status and trends in the education of racial and ethnic minorities. Retrieved September 26, 2008 from: http://nces.ed.gov/pubs2007/minoritytrends/ind_2_7.asp.

³National Association for the Education and Advancement of Cambodian, Laotian, and Vietnamese Americans. Retrieved on October 1, 2008 from: <http://www.nea.org/mco/dropoutsupport.html#naealva>

⁴National Assessment of Educational Progress. 2005. National Indian Education Study. Retrieved on September 27, 2008 from: http://nces.ed.gov/nationsreportcard/nies/nies_2005/l2001.asp.

In 2002, the federal Office of Civil Rights stated that using a single test score to make significant educational decisions for students “can undermine the quality of education and equality of opportunity.” Yet today, such a “high-stakes” test score is seen as a legitimate measure of an individual’s academic achievement, as well as a credible basis for the establishment of standards for curriculum and professional development. The No Child Left Behind Act popularized and proliferated standardized testing as a cornerstone of our modern-day education system.

The legacy of the eugenics movement—intent on sorting people and protecting privilege by whatever dubious means it took to gain public legitimacy—stretches throughout our nation’s history, reflected in the establishment of the Bureau of Indian Affairs boarding schools, the legal exclusion of Chinese immigrants from public schools until 1905, or the severe restriction of bilingual programs in California in 1998, to the stubborn pervasiveness of racially segregated public schools that exist to this very day.

For the privileged few, there are schools that have taken on another American model of public schooling. The Jeffersonian model⁴ promoted education as a means of creating a functional democracy through a well educated, self-actualized populus. It also deemed non-white members of society as unworthy of such lofty pursuits. A choice number of today’s public schools have actualized this idea and provide almost boundless learning opportunities for their students. They have access to experienced teachers who respect their students’ communities and culture. They have state-of-the-art libraries, gymnasiums, and computer and science laboratories. The curriculum encourages students to dream of a world beyond their own neighborhoods and prepares them for college and a life of their own choosing. Parents are welcomed and are fully integrated in the school community. Graduation rates are high. Drop-out and suspension rates are low. These schools exist in America, but they are predominately white and affluent.

The failure of U.S. public schools is reflected in the lives of generations of uneducated youth of color. The system’s failure demoralizes talented and dedicated educators, seeds racial disunity and predestines millions to lives diminished of the opportunities, rights and benefits they deserve. Despite rhetorical nods to democratic ideals, this system is not colorblind. In fact, it is a system that uses race as a means of solidifying our nation’s hierarchy of privilege and power.

TWENTY-FIRST CENTURY LIVES REQUIRE TWENTY-FIRST CENTURY SCHOOLS

Globalization has arrived at the schoolhouse door. It is in the cell phone in every teenager’s pocket, it’s in the language they speak, in the money they spend, in the music they hear and in the friendships that they make. That is why a 21st century model of public schooling must be one that keeps pace with our ever-changing world and meets the desire of students to be active agents of that change. But in order to do so there must be a conscious and immediate shift away from 19th century racist ideology about schooling. Today’s public schools must embrace the multiracial realities of its students in a way that validates who they are and nurtures the leaders that they want to be.

Our nation’s students come from and aspire to reach all corners of the globe. The Civil Rights Project of UCLA reported that white enrollment in public schools has dropped from 80 percent in 1960 to 57 percent in 2005, with Latinos comprising 20 percent, Blacks at 17 percent and Asians at 8 percent and growing fast.⁵ At the same time, these students live in communities bereft of quality grocery stores, safe public parks, affordable hospitals and health clinics, and reliable public transportation. Their parents are farm workers, nurse’s aides and secretaries who labor without healthcare benefits, decent wages and access to affordable housing. Yet despite all of this, they hold firm to high hopes for their children’s future. Over 80 percent of parents of color expect their children to obtain an associate degree or higher.⁶

⁴Thomas, J. (1903). Jefferson’s quest for knowledge. In A. A. Lipscomb & A. E. Bergh (Eds.), *The writings of Thomas Jefferson*, (pp. 3-26). Washington D.C.: The Thomas Jefferson Memorial Association.

⁵Orfield, G & Lee, C. 2007. *The Civil Rights Project: Historic reversals, accelerating resegregation, and the need for new integration strategies*. Retrieved on September 26, 2008 from: http://www.civilrightsproject.ucla.edu/research/deseg/reversals_reseg_need.pdf.

⁶The Applied Research Center. 2006. *New America media, great expectations: Multilingual poll of Latino, Asian and African-American parents reveals high education aspirations for their children and strong support for early education*.

Solutions exist. We see glimpses of a new way to learn and teach in a handful of schools across the country. These schools confront the challenges and embrace the opportunities that our 21st century society brings them:

- The Alaska State Board of Education adopted and implemented the Alaska Standards for Culturally Responsive Schools as a curriculum standard.⁷ Curriculum development is based on an understanding of how indigenous knowledge relates to academic disciplines. In addition to providing a culturally aligned, standard-based curriculum, the standards also serve as the basis of professional development for teachers and principals.
- When a survey showed that the majority of parents wanted English literacy and GED and college-level courses offered at the school site, teachers and parents at the Telpochcalli Elementary School set out to make it happen.⁸ Located on Chicago's South Side, the Telpochcalli Community Education Project offers a range of programs to adults and students, while incorporating the arts and culture as learning goals and standards.
- Some California schools are making the grade, as well. June Jordan School for Equity and Leadership in San Francisco utilizes student portfolios and community service internships as a part of a project-based college preparatory curriculum.⁹ And San Diego's Construction Tech Academy turns the racist tracking history of vocational education on its head with the integration of college preparatory coursework with internships in architecture, engineering and construction.

As inspiring as they are, when it comes to the millions of students of color who need quality education, we can no longer afford to be satisfied with islands of excellence.¹⁰ Now is the time to take the knowledge that we have acquired from these successes and bring them to scale, and with great speed.

Many of the values and policy changes needed to make a 21st century shift in schooling can be found in the Justice Matters Institute's *Racial Justice Education Framework*.¹¹ This approach supplants the factory school model with an explicit application of racial justice values and equitable policy demands. It is a model that understands that public schools must fully recognize the nation's multiracial realities and embrace its multiethnic communities in order to achieve academic excellence. Accountability is redefined to aggressively include community voice. And there is significant investment in the preparation, diversified recruitment and professional development of culturally competent teachers and principals. Justice Matters Institute Executive Director Olivia Araiza explains the shift in focus in this way:

“The myth of American schools is similar to the myth of the American Dream, that schools are race-neutral, level playing fields where anyone who works hard enough can pull themselves up by their bootstraps. Instead, our communities want racially just schools that speak to their experiences, histories and cultures, and provide students with an enriched learning experience and authentic opportunity to thrive. In transforming our schools to at last serve us, organized communities of color also demand a place at the table making decisions for their school system.”

TWENTY-FIRST CENTURY SCHOOLS REQUIRE TWENTY-FIRST CENTURY LEADERSHIP.

When it comes to fundamentally changing our nation's public school system, the first order of the day for the new President must be to publicly voice his support of a constitutional amendment establishing public education as a federal right for all U.S. residents. Providing high-quality public education, from pre-school to college, is a prerequisite for establishing an equitable education system that truly serves everyone. In light of where we have

⁷Justice Matters Institute. 2008. Racial equity framework; Native Alaskans shaping learning.

⁸The School of Redesign Network at Stanford University & Justice Matters. 2007. High schools for equity: supports for student learning in communities of color.

⁹Justice Matters Institute. 2008. Education Policy Academy: Creating a racially just education system.

¹⁰Dror, Y. (1986). Adjusting the central mind to adversity. *International Political Science Review*, 7(1), 11-25.

¹¹Justice Matters Institute. 2008. Education Policy Academy: Creating a racially just education system.

been and where we are now as a nation, a federal constitutional right to an education is a prerequisite for setting past wrongs right, for the collective advancement of all people and for the nation's ability to be accepted as a moral voice in the world. The President and Congress must re-envision our educational system, not as a tool of global dominance, but as an institution dedicated to empowering future ambassadors of peace, justice and shared prosperity. Our elected leaders must affirm this right in words and deeds.

After declaring public education as a federal right, the President would do well to take counsel from the *Schott Foundation's 50 State Opportunity to Learn Report*.¹² The report recommends a number of game-changing policy directives that, if implemented, would fundamentally improve the plight of students of color in public schools. The reauthorization of the Elementary and Secondary Education Act (ESEA) must primarily move the following recommendations.

Teacher Quality

A dual issue for low-income communities of color is access to the teaching profession and the placement of prepared, qualified teachers in the schools that their children attend. The next administration must revamp the very definition of teacher quality to include the following components:

- The recruitment of the workforce from culturally diverse communities
- Knowledge of practices that effectively engage English learners
- Credentialing within the subject matter in which they teach
- Ongoing professional development, with emphasis on cultural competency
- Compulsory engagement with the communities in which their students reside
- Institutional support in the areas of quality and relevant curriculum, peer mentorship and collaboration, sound and inviting facilities, and adequate compensation.

Title I Distribution

A criticism lodged by even supporters of President Bush's No Child Left Behind Act was that the law was significantly underfunded. That means taking particular aim at the Title I distribution formula. Title I is a federal support program designed to address the needs of poor and special needs students:

The current formula provides more Title I funds to states that spend more per pupil without consideration of the different levels of wealth that each state has to draw upon. The reauthorized ESEA should change the state distribution formula to better reflect the per-person income, property values and other potential sources of state wealth. The degree to which states have tapped into their capacity to provide for education should also be considered such that the federal distribution of Title I funds would send more money to poor states that were near their capacity to provide education (Schott 2008).

More specifically, such revision would require a larger amount of federal funding to states and school districts with at least 15 percent students in poverty. No longer would funding be based on the absolute numbers in a district, but on the concentration of poverty. Included in the new funding priorities in the reauthorized ESEA would be the full funding of universal pre-school through reform of Title I and the Individuals with Disabilities Education Act (IDEA).

Enforcement and Monitoring of Rights

Finally, we must call on the U.S. Department of Education's Office of Civil Rights to rededicate itself to its mission.

¹²The Schott Foundation. 2008. The Schott 50 state opportunity to learn report.

After Title VI of the Civil Rights Act was passed in 1964, the DOE's OCR played a major role in investigating forms of segregation, and taking enforcement action to address many other forms of discrimination in access to programs, discipline and resources. OCR is the primary federal monitoring and enforcement arm charged with preventing discrimination by gender, national origin and disability. OCR also has the unique charge of preventing unintentional forms of discrimination that pervade our public schools (Schott 2008).

A significant part of ensuring public education as a federal guaranteed right is ensuring that every student attends a school that provides a safe and nurturing learning environment. Racial tracking, the use of zero tolerance disciplinary practices, the segregation of resources based on race and countless other racially biased policies and practices must be stopped. The Office of Civil Rights must be fully funded and renewed in its charge of weeding out discrimination and protecting those least able to protect themselves.

A VISION REALIZED

A 21st century public education system is one that prepares the nation's children to be fully realized human beings. It embraces their culture. It sparks their curious minds and engages their able hands. It builds schools that become vital community centers that foster racial unity and social equity. It provides sustainable and fulfilling careers for teachers, principals and staff from an array of backgrounds. It measures success not only by the quality of schooling, but also by equity standards that ensure that racial disparities, discrimination and harassment are no longer tolerated.

And no matter who they are, where they are from or what language they speak, our nation's public schools must educate all of our children. It is essential for the redress of our nation's racially stained history. It is a demand required by our collective future. And for our new President and Congress, it must be a destiny realized.

ECONOMY

By Amaad Rivera

THINGS FALL APART; THE CENTER CANNOT HOLD

In the Preamble of our Constitution it reads that, “We the people ... [seek to] establish justice, insure domestic tranquility...promote the general welfare, and secure the blessings of liberty to ourselves and our posterity.” Sadly, in an economic sense, our dream continues to be deferred.

This country was founded on the principles of justice, fairness and equity. In this country’s long history of attempting to fulfill these promises, the quest for economic self-determination of workers, poor people and the racially oppressed has been lacking in our mainstream historical and contemporary discourse. But there has been no shortage of arguments for self-determination for large corporations and the wealthy, as embodied in the “greed is good” philosophy of the privatizers, deregulators and free traders.

Our current economic crisis—forewarned by advocates, policy makers and economists—sheds a light on this shaky, unjust foundation upon which we continue to build our economic future. The financial meltdown profoundly calls into question both the “free market” and the “post-racial” ideologies that helped justify decades of unprecedented transfer of wealth from the bottom to the top and a deepening of racial disparities.

More so than in recent memory, the financial meltdown shows that rampant injustice and inequity builds instability into the economic system. We not only have a crisis of knowledge about this instability, but even more problematic is our crisis of acceptance. This country continues to tolerate the vast chasm of economic inequality at all levels, and it systematically turns a blind eye to the disastrous racial/ethnic disparities that continue to deflate any dreams of a burgeoning democracy.

While disparities between people of color and their white counterparts exist in all domains of our society, arguably the most important is the economy. In developing a comprehensive, holistic public policy prescription to address these issues of systemic racism, the economy must be brought to the forefront.

Currently, our country is facing the largest disparities on every economic level between the wealthy and their counterparts since the Great Depression. The United States continues to rank in the worst for economic inequality compared to other major industrialized countries. Interestingly enough, in studies asking if the income inequality is “too high,” responses from this country overwhelming say it is not.¹ In other words, our country has one of the highest levels of income inequality, with the lowest number of the population believing that is the case, or that it is a problem.

In 2005, the top 1% collected 21.8% of all income in the country.² This is exacerbated by race, with people of color having 57 cents for every dollar of white income. With unemployment rising, particularly in communities of color, places such as East St. Louis, Illinois, which has an unemployment rate of 17% and El Centro, Arizona, which has an unemployment rate of 24.7% compared to their white counterparts nationally of 6% continue to demonstrate the significance of race in our economy.³

¹<http://www.oecd.org/dataoecd/48/9/34483698.pdf>

²Thomas Piketty and Emmanuel Saez, “Income Inequality in the United States, 1913-1998,” *Quarterly Journal of Economics*, 118(1), 2003. Updated to 2005 at <http://emlab.berkeley.edu/users/saez>.

³<http://www.bls.gov/web/laummtrk.htm>

Incomes for most people in this country continue to stagnate while simultaneously the prices of goods are increasing. People of color are disproportionately affected in a multitude of ways. Aside from job discrimination, job access and job stability, all of which disproportionately affect people of color, income mobility continues to decline.

One recent study found that sons of low-income fathers only have a 22.5% chance of reaching the median income level.⁴ In addition, another showed that 43% of those born to the bottom fifth will remain there as adults, while 39% born to the top fifth will remain there.⁵ These numbers are illustrations of a meritocracy that has failed or that never existed, further demonstrating what academics have called “stickiness,” which is also known as structural oppression. For people of color, this systemic inequality, namely structural racism, is more disastrous. The same study found that at every income level Blacks experience more downward mobility and less upward mobility than their white counterparts.⁶ Sadly, this carries over into future generations, with children of color expecting, for one of the first times in history, to make less than their parents.

If the economy had two parents, one would be income, and the other would be wealth (assets that you own minus what you owe). Income without wealth leaves individuals and the overall economy less stable. Even more so than income, wealth is concentrated in the hands of a few. The top 10% of income earners hold nearly 73% of all wealth.⁷ Specifically, the top 10% holds 79% of all stocks and bonds.⁸

As we are learning in this economic crisis, the additional component of losing vast amounts of wealth further deepens financial insecurities. In other words, the great loss of wealth and assets due to foreclosures has created a vacuum that is sucking in the rest of the economy. This is centrally due to the role assets or wealth plays in protecting families in economic downturns. People typically use their assets, such as home equity, to cover extreme healthcare costs, college tuition and rising food and fuel prices.

Sadly, both in the accumulation and maintenance of assets, people of color fare much worse than their white counterparts. People of color on the median have about 15 cents for every dollar of white wealth, and to make matters worse, this gap continues to widen.⁹

Due to historic discrimination such as redlining and contemporary forms of it such as predatory sub-prime lending (often called “reverse redlining”), we are seeing the greatest loss of wealth in modern history for people of color.¹⁰ With the combination of stagnant wages, high unemployment rates, rising cost of food—particularly in communities of color (urban centers pay more for goods than their suburban counterparts)—high transportation cost and lack of federal protections, we are seeing the perfect storm to create a white recession and a people of color depression.

In this economy, people of color benefit the least compared to their white counterparts during economic booms and suffer disproportionately more during economic downturns. As W.E.B. DuBois once said, “To be a poor man is hard, but to be a poor race in a land of dollars is the very bottom of hardships.”

As this current financial crisis brings to the forefront the economic realities of misplaced, absent and unenforced public policy, we are also seeing a new understanding of the impacts of inequality on the economy. As many scholars, practitioners and everyday people have understood, growing and vast inequality is a predictor of economic downturns, recessions and, most problematically, depressions.¹¹ We are learning that economic benefits do not trickle down and economic inequality trickles up.

⁴http://www.stateofworkingamerica.org/news/SWA06Facts-Income_Mobility-final.pdf

⁵http://www.economicmobility.org/assets/pdfs/EMP_FamiliesAcrossGenerations_Chapter1.pdf

⁶http://www.economicmobility.org/assets/pdfs/EMP_BlackandWhite_ChapterVI.pdf

⁷Economic Policy Institute, State of Working America 2006-07, Table 5.1, citing Wolff (2006)

⁸Economic Policy Institute, State of Working America 2006-07, Table 5.F, citing Wolff (2006)

⁹http://www.levy.org/pubs/wp_502.pdf

¹⁰Amaad Rivera. United For a Fair Economy. State of the Dream 2008:Forclosed

¹¹<http://www.worldbank.org/fandd/english/0397/articles/0140397.htm>

Furthermore, understanding the basic components of our economy and the nature of structural racism allows for us to create comprehensive, holistic solutions that will benefit everyone in this country. The movement away from our core values of equity, justice and fairness for all continues to cause detrimental economic effects. In the words of Chinua Achebe and his world-famous book, “things fall apart; the center cannot hold.”

RECOMMENDATIONS

The three central components of the economy—incomes, expenses and assets—must be addressed to curtail the growing disparities. Yet, the most important tool we have in combating racism is acknowledging its existence. Racial equity must be the central component cornerstone in the foundation to the development of a comprehensive public policy agenda. This refutes the “colorblind” notions of mainstream politicians, academics and practitioners who find it inconvenient to address racial inequality. The following policy recommendations reflect a holistic, community-centered approach to the ending of structural racism in the economy.

A Presidential Forum and Commission on Structural Racism

During the second term of President Clinton, a commission on race relations was created. It held town meetings throughout the country and created a report with its findings. This was not the original precedent, for in 1968 a group commissioned by President Lyndon Johnson published the Kerner Report documenting the role of structural racism as the cause of massive rioting that had been occurring in many cities. While in both cases implementation was lackluster at best, it provided a community-centered approach to engage the people in this country with the reality of the economic challenges facing people of color. It is important, as a first step in addressing structural racism, to acknowledge the growing economic disparities and seek solutions from the full spectrum of people, ideas and political backgrounds. In addition, this permanent body will effectively deal with barriers dealing with race and economy.

Demand-Side Economic Policy

As evidenced by our recent financial crisis, a shift in economic policy over the last 20 years has resulted from the emphasis on supply-side economics, which has encouraged our government to focus on easing regulations, supporting privatization, increasing tax cuts for the wealthy and support maintaining the often elusive hope of balancing the economy by the “invisible hand” of a free market. Furthermore, these policies favor industry over individuals, corporations over communities and moderation over practicality. The following policies support demand-side economic policies that will increase stability for all people in this country while dealing with issues of income. As expenses rise, income stability and expansion are of critical importance for dealing with fundamental economic issues.

- Living Wage and/or Minimum Wage indexed to inflation
- Enforcement of gender and race pay equity
- Employer-Sponsored Benefit Plans versus Solely Employee-paid Benefit Plans (e.g., health insurance and 401k's)
- Expand access and decrease debt associated with college degree attainment
- Decrease bank fees for accounts in poor communities and communities of color
- Enforcement of civil rights regulations around faulty financial products
- Expansion of Unemployment Insurance during economic downturns
- Create affordable disaster-based insurance
- Pass the Employee Free Choice Act, which supports unionization

Develop Assets Agenda

The following are key policy recommendations that are demand-side economic policies that address the growing racial wealth divide.

Community-Based Assets Reinvestment

- Schools investment equity across state and region
- Localized small business development
- Infrastructure investment (roads, bridges and buildings)
- Local, regional and national public transportation investment
- Expansion of local banks and credit unions
- Expansion of Housing Trusts and Limited Equity housing units
- Limit on the Mortgage Interest Housing Deduction
- Maintain the Estate Tax.
- Secure employment among people who have been incarcerated.
- Housing trust funds for reestablishing homeownership among foreclosed community members

Individual-Based Asset Investment

- Increase and further develop rent-to-own housing programs.
- Create and incentivize creative financial products that are culturally appropriate (e.g., no fee checking accounts, shared homeownership loans, fixed credit rates).
- Children's savings accounts
- Elimination of assets limits in federal benefits programs
- Federal and state matching of savings accounts

The understanding of the importance of demand-side economic policy and assets development and stability is central to unlocking the prison of structural racism. It is vital to develop an assets agenda that is not only viable but also builds on community rather than eliminates it.

IMMIGRATION

By Rinku Sen
and Seth Wessler

IMMIGRATION POLICY IN THE AGE OF GLOBALIZATION

The United States has a remarkable history of immigration. The movement and integration of people from virtually every other part of the world, in spite of many oppressive periods, have led us to a deeply multicultural—as well as highly prosperous—society. Today, as the world becomes ever smaller economically and technologically, we have a chance to take a new kind of leadership by making a new kind of immigration policy. Such a policy would recognize the realities of globalization, embrace cultural change and improve conditions for both native-born and immigrant U.S. residents. With 200 million people moving around the world seeking to improve their lives, someone needs to take the first step toward the new world. The United States is well-positioned to be that nation. If we call up the most inclusive element of our history, our ability to craft ingenious solutions to racial divides while expanding opportunity for all, we can become our dreams.

Right now, the nation is caught in a cycle that comes from having a shortsighted immigration policy. We make legal immigration extremely difficult, particularly for certain groups such as Mexicans or Muslims, which forces people to migrate without authorization, largely to find a way out of poverty. We then create increasingly harsh punishments for undocumented immigrants that do not actually reduce their numbers but instead expand discrimination and cause misery for others as well. Every 25 years or so, we are confronted with an enormous number of undocumented people living and working in the shadows of our cities and suburbs, unable to pay all their taxes, report crimes, use public benefits or protect their own labor, housing and other rights. At that point, employers, mayors, teachers and police chiefs begin calling for some kind of legalization. We played out this cycle in the 1920s, the 1960s and the 1980s, and we are currently in its midst again.

In shaping our policy this way, we do great damage, not just to undocumented immigrants and their families, but also to legal immigrants and native-born Americans. We divide families, create a highly exploitable surplus labor pool that employers can use to undermine labor rights and feed xenophobic searches for those who don't belong.

We need a new framework for addressing immigration, a global framework that both takes a clear-eyed look at Americans' struggles and enables the birth and fruition of forward-looking, humane and effective policy. Dealing honestly with the realities of globalization and cultural change first means separating immigration policy from national security policy and legalizing migration. Over time, immigration has been handled by various federal departments—Treasury, Labor, Justice and now, Homeland Security, where even federal officials agree it does not belong. Once we have separated immigration from homeland security, we need policies that ease rather than restrict people's movement. We can go a long way with a system that respects immigrants as more than cheap labor. Such a policy would decriminalize immigrants by increasing legal immigration (rather than temporary worker programs), while protecting their labor and civil rights.

Targeting immigrants as criminals is the way we keep them in line, but it is not the way we can control the conditions that compel them to come. The realities of dramatically uneven economic globalization construct the circumstances that drive people to leave their homes and their families, and come to the United States. Today's globalization favors corporate profits at the expense of labor rights and includes huge and growing economic divides between the world's wealthy and poor countries. As long as globalization continues to be built on corporate flexibility and economic disparity, human beings will continue to migrate at any cost in search of better lives and more autonomy. Though it's often said that our "immigration system is broken," it's also our economic system that is broken.

The form of economic globalization we have now is based on a neoliberal model that was spearheaded by our very own economic “experts” and exported all over the world. This model has given corporations great flexibility by shrinking the role of government—particularly in enforcing labor law—by deregulating corporate behavior and by lowering taxes and tariffs. Immigration policy has enhanced corporations’ advantage over labor by immobilizing workers. Legal immigration is reserved for only two-thirds of the people who want to move, and so hundreds of thousands of people every year are forced to become illegal if they want something better than a life of poverty in their original homes.

But it isn’t only immigrants whose lives are struck by an unequal globalization. Much of the economic insecurity Americans legitimately feel stems from this economic model. Public schools are underfunded, and health insurance is too expensive because our own government has continually cut taxes for the wealthy and refused to regulate healthcare corporations. The wealth accumulation of these elites is simply considered more important than the public good. We are all harmed by the disproportionate value afforded to profit over people. We have developed an economy that is highly dependent on a massive low-wage labor force. The cheapest labor to be had, other than prison labor, is immigrant labor. Until we stop incentivizing the “race to the bottom”—allowing corporations to use the cheapest labor they can get—we’ll always have a large shadow workforce of undocumented immigrants. The unregulated nature of this work also impacts non-immigrant workers, whose collective bargaining power is diminished by the ability of employers to pay and treat immigrants however they please. When everybody is treated with dignity and has the right to make a living wage, everybody prospers. Rather than looking to change neoliberal policies, however, the United States has focused on rooting out undocumented immigrants.

THE RACIST IMPACT OF IMMIGRATION POLICY

While some anti-immigrant policies, often justified in the name of law and order, may not be based upon *racist intentions*, they have significant *racist impacts* because they disproportionately harm people of color and contribute to a climate of racism. But our punitive approach to immigration policy, which cannot be implemented without racial profiling, has taken on a lawless character, affecting all immigrants—documented and undocumented—as well as people of color and other citizens. Immigrants and people perceived to be immigrants are denied due process; face long, sometimes indefinite detention; are separated from their families; and are subjected to racial profiling. As more and more localities collaborate with federal immigration policy, people of color are increasingly targeted and fearful.

The criminalization and mistreatment of immigrants relies on a racialized fear-mongering. Much of the rhetoric around immigration perpetuates the notion that they threaten American identity. Yet, the idea of an unchanging, pure American culture is a complete fiction. That identity has been in flux for as long as there have been people who called themselves Americans, changing with the new arrivals on the ebb and flow of history. To keep up this fiction, we are tolerating enforcement practices that contradict our most deeply held values of family and fairness.

Ultimately, reinforcing the idea that only a white American is a real American generates waste, fear and isolation, which harms our national identity more than we can yet imagine. The southern border has become less a marker of the national boundary than a site of violence. Far from keeping people out, the trillions of dollars that we will spend on the construction of high-tech border security and a very long fence will do little other than drive people to cross in ever more dangerous places. It is unclear how many have died trying to cross the border, but the numbers are in the thousands and, according to a Government Accountability Office report, have doubled between 1995—when the wall construction began—and 2005.¹ As border enforcement reaches the interior immigrant families hide out in fear, with enormous psychological damage to their children. Immigration and Customs Enforcement (ICE) has ramped up its enforcement practices, with the number of workplace raids increasing tenfold between 2002 and 2007 (U.S. General Accounting Office). A 2007 Urban Institute study finds that for every

¹United States Government Accountability Office (August 2006). “GAO-06-770 Illegal Immigration: Border-Crossing Deaths Have Doubled Since 1995” (PDF), United States Government Accountability Office

two adults detained in raids, one minor child is affected. In three brutal raids, the Urban Institute found that 900 deportees left behind some 500 children, most of them under the age of five.

Rates of detention have also skyrocketed to an estimated 280,000 annually. The construction of detention centers has become a highly lucrative enterprise, and immigrants are now detained in around 400 facilities nationwide at a cost of over \$1.2 billion.² Reports of abuse, neglect and widespread mistreatment of detainees have hit the pages of national newspapers. At least 83 people have died while in detention over the five years since the creation of ICE, many because of administrative neglect (Washington Post). Those who are deported are separated from their families and forced to return to a place where many have not been in years. Some do not even speak the language or maintain any connections in the country to which they are deported, having spent their entire adult life in the United States.

Laws like the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 that allow for any non-citizen convicted of a broad set of crimes to be deported without regard for their family or other ties to the United States disproportionately impact immigrants of color. This is especially true of Black immigrants, who are pulled into an already racially discriminatory criminal justice system and then deported. Localities that decide to cooperate with Immigration and Customs Enforcement (ICE) in implementing immigration laws open the door to racial profiling, as they are likely to target people of color who they assume to be immigrants.

This approach makes it impossible to engage the full range of contributions that immigrants can make to the United States. Immigrants are far more than a pair of arms available for hauling and picking and scrubbing. Economically, they generate more jobs and taxes than they use in public services. Hundreds of case studies from cities and towns all over the country indicate that immigration, even the undocumented kind, helps to fuel economic growth. A report by the Immigration Policy Center found that immigrants pay between \$20,000 and \$80,000 more in taxes than they use in public benefits. Civically, naturalized immigrants vote with great enthusiasm and contribute to organizing efforts to improve labor, housing, healthcare, education and other institutions.

The notion that immigration policy should prevent “others” from accessing scarce American resources, thereby preserving those resources for “real Americans,” led to the policy cycle we are in now. This approach may seem intuitively sound, but it is practically flawed and therefore will not get us where we need to go—toward a system that improves the lives of current U.S. residents and future migrants both. Intuitively, it may make sense that human beings, when threatened with insecurity, close ranks and try to prevent other people from getting access to their already few resources. Yet the counterintuitive message is actually truest: when we share economic, civic and cultural opportunity with immigrants, together we generate more for everyone. Thus a racially just and expansive immigration policy is the only one that holds the promise of improving life for all of us.

The criminalization approach positions immigrants and U.S. residents as having opposing interests, when we should be joining forces to create effective new policy that is good for everybody. Punishing immigrants has a negative effect on the country. It breaks down our social fabric and encourages racism. It cuts off the enormous economic contributions immigrants make in the form of work, taxes and consumption. It distracts the nation from combating actual challenges to national security. By contrast, turning our attention to ways in which the interests of immigrants and the interests of current American citizens reinforce each other improves life for everybody.

WHERE WE SHOULD GO FROM HERE

We have a clear and critical choice to steer our future on immigration policy. Will we decide to legitimate and legislate a climate of *institutionalized racism* by adopting more hostile policies and practices such as racial profiling, discrimination, exclusion and English-only that will further demonize, degrade and polarize people? Or can we create the political will to embrace a path of *social inclusion and racial equity* by advancing poli-

²Detention Watch Network

cies based on the principles of dignity, respect, equal opportunity, fair treatment and human rights so that we uplift and unite people?

A racially just immigration policy would have the following features:

- 1. Require racial impact analyses of all new immigration proposals.** Current immigration enforcement has a detrimental and disproportionate impact on immigrants of color. Before any immigration law is passed, an analysis of the racial impact should be required. All existing immigration laws should be similarly evaluated, and adjustments should be made to ensure that laws are racially equitable in their outcomes.
- 2. Take all immigration functions out of the Department of Homeland Security.** The housing of ICE, Border Enforcement and Citizenship and Immigration Services in the Department of Homeland Security after 9-11 made immigration a matter of national security and recast immigrants as suspected terrorists. In fact, immigration has nothing to do with national security, but the conflation of the two allows a whole set of arbitrary, racially discriminatory and dangerous policies that target immigrants, documented and undocumented alike. To the extent that immigration and homeland security overlap, joint task forces and interagency collaboration will suffice.
- 3. Greatly expand the number of green cards available annually, with no written or unwritten preferences for certain nationalities, and end guest worker programs.** This figure is likely to include some 500,000 more green cards than we currently provide. It is also critical to appropriate adequate funds to modernize the Citizenship and Immigration Service. Backlogs in this agency effectively strip millions of eligible people of their voting and other rights.
- 4. Legislate and enforce full labor and civil rights protections for immigrants.** In the workplace, employers who abuse immigrant workers by withholding wages, restricting health and safety measures or refusing to acknowledge their right to organize undermine the rule of law with impunity because they feel confident that they will never be caught or that the punishment will be less expensive than the practice itself. The Department of Labor and the Offices of Civil Rights must be appropriately funded so that they can renew their efforts to enforce labor and anti-discrimination laws. Guest worker programs are fundamentally exploitative, as these workers are entirely dependent on their employers in order to maintain legality. Workers need to own their own visas so that they can move from job to job, demand fair compensation and unionize without fear of employer retribution.
- 5. Demilitarize the southern border.** Cancel that fence, which will only drive people to more extraordinary lengths to get here. This project, which has cost billions and will soon cost trillions, has done nothing to stop unauthorized migration. Reappropriate the money spent there toward modernizing the immigration bureaucracy or toward national security measures that will actually make us safer. In addition, take steps to protect the human rights and safety of all the people who live at the border by prohibiting the use of racial profiling and requiring the human rights certification of local and federal agents.
- 6. Close out employer sanctions.** It is impossible to enforce this policy without the burden falling largely on immigrant workers rather than on employers. Unscrupulous employers have repeatedly used the sanctions laws not to stop hiring undocumented immigrants but rather to hold them in line and to bust up union organizing efforts. In workplaces that include both immigrants and native-born workers, such as poultry processing plants in the South, the deportation of immigrant labor leaders threatens the labor rights of all.
- 7. Remove bans on public services for immigrants, including the five-year ban on children's health insurance, which should be eliminated by Executive Order immediately.** Anti-immigrant restrictionists argue that immigrants are a drain on public services like hospitals and public education. But not only do immigrants pay more in taxes than they use in services, the exclusion of immigrants from public services can mean more public costs as immigrants go to emergency rooms rather than doctors' offices when sick.

8. Establish due process in immigration law. Immigration judges should be endowed with discretionary power in immigration proceedings. As things stand, judges are required to follow strict mandatory deportation policies that rarely take into account individual circumstances. Immigrants should be guaranteed legal representation, should not be shipped off to detention centers far away from their homes and their families should be informed about their whereabouts. Passage of the Child Citizen Protection Act (H.R. 1176) would restore some semblance of due process to the immigration system by allowing an immigration judge to consider whether the deportation of a parent is “clearly in the best interest of a U.S. citizen child.”

9. End local and state collaboration with ICE, starting with an end to 287g programs, which deputize local agents as immigration enforcers. ICE has a deep and damaging impact on local communities. Increasing numbers of local and state law enforcement agencies are agreeing to enforce immigration law. This devolution of federal immigration enforcement powers to local agents creates conditions of fear and distrust among immigrants, dissuades immigrants from reporting crimes to police and has been a main driver in the fast-growing rate of immigrant detention and deportation.

In the first 100 days, we need the new President to sign three Executive Orders that suspend current immigration enforcement practices until civil liberties violations can be independently and thoroughly investigated.

1. Suspend raids and call a moratorium on detention.
2. Conduct independent investigation of civil liberties violations and corruption charges. Pay particular attention to the use of deportation to destroy labor organizing.
3. Release local police departments from the requirement to enforce immigration law. The current pressure on them to do so amounts to an unfunded mandate on already strapped local police departments and creates so much fear among immigrant communities that it hampers police efforts to fight crime.

CALL TO ACTION

Americans have got a choice to make. We could be a country that attempts to close its doors fruitlessly, trying to preserve the nation's benefits with increasing xenophobia and hatred. Or we could be a country that embraces immigrants and change. We could recognize that shared opportunity generates more opportunity, in the form of paid taxes and new businesses. We could recognize that cultural expansion is the mark of a compassionate and fair society, and that a system in which law enforcement can knock on anyone's door and take them off to a detention center without an attorney or even the right to communicate with their families is not good for the nation's soul. Instead of this approach, we can advance policies that affirm social inclusion and integration, economic opportunity, racial justice and human rights. These are the things that create social and economic stability, as well as cultural vitality.

To be sure, our nation's widespread xenophobic treatment of immigrants has the most devastating consequences for immigrants of color and their families. We must be willing to explicitly name this dynamic for what it truly is: racism. When left unchecked, anti-immigrant racism results in further marginalization, criminalization and dehumanization of people who are targeted by law enforcement solely because of their race, ethnicity, national origin, religion or language. It is unacceptable, legally and morally, for a society to codify this kind of racism into its laws, structure it into its institutions and practices, and accept it in its culture. Until anti-immigrant racism is explicitly named and confronted, we cannot expect to change the trajectory of ever-increasing institutionally racist and punitive policies.

Because this is a culture war and not just a policy debate, we need to humanize immigrants—by refusing to use the word “illegal,” by not referring to them as aliens and by guaranteeing them full civil, cultural and labor rights—in short, human rights. We need to shift our culture to actively honor our immigrant histories, recognize the hard-

ships immigrants endure, support efforts to secure their civil and human rights, and acknowledge the current contribution that immigrants make to the economic, political, civic and cultural fabric of this country. We can separate in our own minds the terms “national security” and “immigration” and not feed into an immigration policy frame that begins by berating Congress for failing to secure the nation’s borders.

Finally, we need to recognize that the immigration problem cannot be solved by immigration policy alone, nor even in the United States alone. Although the scope of this paper does not allow for a remaking of global economic policy, all of us who care for immigrants need to engage in debates about global economics and governance, ultimately working to bring together the movements for migrant rights and fair globalization.