

The Evolving Challenges of Fair Housing Since 1968: Open Housing, Integration, and the Reduction of Ghettoization

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As the legislative history surrounding the passage of the Fair Housing Act of 1968 (Polikoff, 1986), subsequent court rulings (for example, *Zuch v. Hussey*, 1975), and Federal policy pronouncements (Smith, 1993), make clear there are multiple fair housing goals. Three are relevant for this article:

- The elimination of differential treatment, which discriminates on the basis of race.¹
- The creation of stable, racially diverse neighborhoods.
- The reduction of ghettos occupied by poor minority households.

I believe that we have made, at best, only halting—far from satisfactory—progress since 1968 in achieving the first two goals. Moreover, we have clearly regressed with regard to the last goal.

Due to our retrogression on the last goal, we have achieved little on the first two goals despite considerable increases in institutional fair housing capacity. Because we have moved further from attaining this last goal of eliminating minority poverty ghettos, race relations in this Nation continue to be poisoned by stereotypes generalized from ghetto behaviors. Rationalization of these stereotypes provides a basis for justifying continued discrimination and self-segregation by Whites, with the concomitant difficulties in progressing toward the first two goals. This process of circular causation I call *spatial racism*. As a consequence, the emerging challenge for fair housing is to reverse “ghettoization,” which implies fighting both differential treatment directed at lower income minorities and the adverse impacts of a host of institutional practices related to metropolitan spatial arrangements.

The first section of this article assesses progress since 1968 in ending differential treatment discrimination in private housing, public housing, and mortgage markets. I cite evidence on the changing incidence of such discrimination and review important enforcement and other public policy initiatives. The second section evaluates progress with regard to efforts to foster stable, racially diverse neighborhoods. The third section examines the discouraging rise in ghettos—concentrated minority poverty at our urban cores. The next section bears evidence that the constrained opportunity structures in such ghettos induce a variety of rational if socially destructive attitudinal and behavioral responses. Put differently, we have structured metropolitan geography in a way that creates adverse impact discrimination. These adaptive responses to ghettoization, which are constantly sensationalized by media reports, reinforce Whites' stereotypes about minorities and thus legitimize their acts of differential treatment based on statistical discrimination and encourage the development of policies having adverse racial impacts. Then I propose an expanded definition of *fair housing* to include the opportunity to live in an environment where one's life chances are not unduly constrained. Finally I suggest intensifying efforts directed at expanding spatial opportunities for lower-income minorities, which—in conjunction with parallel public policy efforts—are designed to reduce ghettoization and geographic inequality of opportunity.

Two terms are central to my argument and are not often distinguished in an analysis of fair housing: *differential treatment* and *adverse impact*. The form of housing discrimination known as *differential treatment* refers to acts that disfavor a minority homeseeker solely on the basis of minority status. If housing agents apply a different set of rules or practices when dealing with a minority, they are engaging in differential treatment discrimination. *Adverse impact* refers to the implementation of a policy or practice that—though evenhandedly applied to all races—nevertheless results in disproportionately negative consequences for the minority and cannot be justified on the grounds of business necessity (Schwemm, 1992; Yinger, 1995, 1998). Though the fair housing laws have typically been enforced with an eye toward eradicating differential treatment discrimination, the housing market is increasingly operating in ways that produce adverse impacts, especially for lower income minorities.

Progress in Fighting Differential Treatment

Private Housing

Over the last 30 years of combating racial discrimination in the sale or rental of privately owned housing we have built considerable institutional capacity and intensified our enforcement efforts. Yet we apparently have made little headway against the problem.

There is no doubt that the Nation's capacity to enforce fair housing laws has risen dramatically since 1968. Private, nonprofit fair housing organizations have been one central component of this capacity. They have been encouraged since 1980 by financial support from the U.S. Department of Housing and Urban Development's (HUD's) Fair Housing Assistance Program. Now nearly 100 such organizations investigate and gather evidence related to fair housing complaints and conduct enforcement testing initiatives and educational and training seminars for the public and real estate professionals. These organizations are also parties to litigation. As a result of the 818 suits brought by these private fair housing organizations from 1990 to 1997, courts have granted \$95 million in disclosed financial awards (Fair Housing Center for Metropolitan Detroit, 1998).

Both HUD and the U.S. Department of Justice (DOJ) expanded their fair housing enforcement activities significantly during the 1990s (Galster, 1995), the centerpiece of which is stepped-up efforts involving testing. HUD's Fair Housing Initiatives Program (FHIP),

initiated in 1987, has been expanded several-fold under the Clinton administration, providing dozens of grants to private fair housing groups to support their efforts to test real estate practices and litigate suspicious findings. FHIP also succeeded in creating 24 new private fair housing groups in areas where none existed previously. HUD itself has won several fair housing cases in which it was plaintiff.

DOJ also has expanded its fair housing enforcement testing investigations, begun under the Bush administration. Several groups of DOJ testing teams are conducting unannounced pattern-and-practice investigations across the Nation. They have thereby already won dozens of court cases against discriminating landlords, reaping settlements as high as \$175,000 (Galster, 1995).

Perhaps less visible, but no less important, have been administrative changes at HUD that will enhance enforcement capabilities, including:

- Instead of reporting to a HUD field official who is also responsible for other HUD programs, investigators will report directly to HUD's chief enforcement official in Washington, D.C.
- The Office of the Assistant Secretary for Fair Housing and Equal Opportunity will determine whether private-party housing complaints should be brought to trial rather than the field offices.
- The investigation process has been revamped so that the number of cases closed administratively (that is, with no finding and no formal record of settlement) has been greatly reduced.

Despite these enhancements in enforcement capacity and activity since 1968, studies show virtually no change in the incidence of differential treatment housing discrimination in the private market. In his recent review of the housing testing literature, John Yinger (1998) compares results from the national Housing Market Practices Survey of 1977 and local fair housing groups' tests in the 1980s with the national Housing Discrimination Study of 1989 and subsequent tests by local fair housing groups. He could identify no trend.

Public Housing

We have finally begun to undo a disgraceful legacy of blatant discrimination in the operation of our public housing program. Legal remedies have only recently been put into place in most locales, however, and initial progress seems to be halting at best.

From the earliest days of public housing construction, race has been a central issue. Prior to the Fair Housing Act of 1968, approximately 700,000 units of public housing were constructed (Goering, Kamely, and Richardson, 1997), often with explicit racial tenanting policies. These discriminatory tenanting practices were coupled with segregative site selection where developments intended for Blacks were constructed near traditional Black neighborhoods (Hirsch, 1983; Bauman, 1987). The unsurprising result: segregated living in public housing and its environs and inferior conditions for minorities compared with White ones (Rossi and Dentler, 1961; Rainwater, 1970; Goldstein and Yancey, 1986; Kotlowitz, 1991). John Goering, Ali Kamely, and Todd Richardson's study (1997) using a nationally representative sample of public housing units for 1993 concluded that while public housing as a whole was becoming less segregated, this did not extend to Black public housing residents. Blacks continued to live in low-income, segregated neighborhoods in disproportionate numbers.

Beginning in the late 1960s and intensifying during the 1980s, a spate of lawsuits (for example, *Gautreaux* in Chicago) were filed by minority public housing tenants that alleged a variety of discriminatory actions by the local housing authorities and HUD. The Clinton administration departed from the long-standing HUD strategy of contesting these lawsuits. Instead, it acknowledged the role HUD has played historically in neglecting segregation and discrimination in public housing programs and initiated a new strategy of settling the cases by supporting consent decrees intended to ensure fair treatment of all people in its programs. Solutions differ by site but have often included: Section 8 vouchers and certificates coupled with mobility counseling and physical improvements in traditionally minority-occupied developments; new scattered-site public housing; and unified, race-conscious waiting lists wherein only desegregative moves are permitted. In some cases, like in Vidor, Texas, HUD has seized direct control of a recalcitrant local housing authority to ensure speedy compliance with desegregation mandates.

The Urban Institute is currently conducting an early implementation assessment of nine such public housing discrimination suit remedies. Although it is patently clear that the amount of progress in carrying out the consent decrees varies greatly across sites, the fact that a bevy of court-ordered remedies are in place—aimed at reversing generations of discrimination—gives cause for more optimism (albeit it cautious) now than in 1968.

Mortgage Markets

Although the Fair Housing Act of 1968 prohibited discrimination in the financing of housing, subsequent legislation that bolstered and broadened this prohibition includes the Equal Credit Opportunity Act of 1972, the Community Reinvestment Act of 1975, and the Home Mortgage Disclosure Act (HMDA) of 1977. It was not until the Bush and, especially, the Clinton administrations, however, that we have seen tangible intensification of efforts to enforce these fair lending laws (Goering and Wienk, 1996). These efforts included:

- HUD's Mortgage Review Board's oversight of HMDA performance of independent mortgage companies resulted in numerous actions.
- HUD established special fair lending divisions in all 10 regional enforcement centers and trained investigators.
- Through FHIP, HUD sponsored pre-application testing of lenders by the National Fair Housing Alliance, which has resulted in litigation.
- DOJ and HUD entered into an agreement to enhance the use of enforcement resources and to coordinate strategies and investigations.
- The Office of Comptroller of the Currency undertook a pilot program to ascertain whether testing can be used effectively as part of the periodic lender examination process.
- HUD is currently investigating whether FHA lending regulations and the underwriting practices of Freddie Mac and Fannie Mae create illegal adverse impacts on minority borrowers.

Several important legal cases highlight DOJ's increasingly aggressive fair lending posture (for fuller reviews, see Cloud and Galster, 1993; Galster, 1996; Goering and Wienk, 1996). In a suit settled in 1993, DOJ concluded that at least four dozen African-Americans were discriminated against when they were denied mortgages between 1988 and 1992 by the Decatur (GA) Federal Savings and Loan Association. The lender had redefined its market service area to exclude large proportions of the African-American population, rarely advertised its products in media oriented toward this community, and

employed a virtually all-White staff of commissioned account executives who solicited business from real estate agents operating in White neighborhoods but rarely those operating in African-American ones. As a result, 95 percent of its loans were originated in White neighborhoods. DOJ sued the Shawmut Mortgage Company (Boston) in 1993, alleging discriminatory treatment in loan approvals. The settlement required the company to revise its underwriting procedures and compensate victims to a total of almost \$1 million. In perhaps its most controversial initiative, in 1994 DOJ accused Chevy Chase Federal Savings Bank (Washington, D.C.) of violating fair lending laws by failing to extend services to predominantly Black neighborhoods in the area. The settlement reached called for Chevy Chase to provide special mortgage packages to applicants in the neighborhoods adversely affected, open more loan offices in those areas, and hire more Black loan officers. Cost to Chevy Chase has been estimated at \$11 million.²

More than a decade ago, a handful of statistical studies reported the analyses of data showing mortgage loan application dispositions by characteristics of the borrower (Schafer and Ladd, 1981). These studies showed that race helped explain high minority denial rates in most of the metropolitan areas investigated, even when other legitimate financial characteristics were controlled. After a long hiatus, the Federal Reserve Bank of Boston replicated the method in its analysis of more than 3,000 mortgage loan underwriting decisions taken by 131 Boston-area banks, savings and loans, mortgage companies, and credit unions during 1991. The statistical analysis revealed that African-Americans and Hispanics were 60 percent more likely to be denied, even controlling for all differences in downpayments, and credit histories (Munnell et al., 1996).

Additional evidence is provided by paired testing investigations that probed behavior of lenders before formal applications were made. Three testing experiments, conducted in Louisville, Chicago, and New York City between 1988 and 1991, revealed incidents in which loan officers provided more information, assistance, and encouragement to the White tester and tended to direct the minority tester to government-insured loans (Galster, 1993b). More recently, paired tests of lenders were conducted by several fair housing organizations sponsored by FHIP, and found similar, if not greater, incidents of differential treatment (Smith and Cloud, 1996).

Thus it is not clear from limited statistical evidence that significant progress has been made in fighting differential treatment discrimination in mortgage lending (for fuller reviews, see Yinger, 1996; Ladd, 1998). Although the sets of studies cited above were not strictly comparable due to differences in research methods, statistical models, and metro areas investigated, clear trends cannot be discerned—and even less can be discerned related to adverse impact discrimination by lenders (Yinger, 1996; Van Order, 1996).

Progress in Encouraging Stable, Racially Diverse Neighborhoods Since 1968

A cautiously more optimistic portrait can be painted when we consider progress since 1968 toward promoting racially diverse communities that persist longer than a fleeting transitional period during the process of resegregation. Part of the picture is demonstrated by trends in residential segregation indices (Massey and Denton, 1993; Farley and Frey, 1994). For example, in 18 northern and western metropolitan areas with the largest Black populations, the mean dissimilarity index fell from 84.5 in 1970 to 77.8 in 1990. Similarly, in 12 southern metropolitan areas with the largest Black populations, the mean dissimilarity index fell from 75.3 in 1970 to 66.5 in 1990.

Ingrid Ellen (1998) provides a more detailed view, based on data from 34 large metropolitan areas with Black populations greater than 5 percent and Hispanic populations less than 30 percent in 1990. She notes several encouraging trends from 1970 to 1990:

- The percentage of Whites living in census tracts having less than 1 percent Black population fell from 62.6 to 35.6.
- The percentage of Whites living in census tracts having a 10 to 50 percent Black population rose from 10.5 to 15.6.
- The percentage of Whites living in census tracts where non-Whites comprised at least 10 percent of the population rose from 25.0 to 35.1.
- The percentage of Blacks living in census tracts having a 10 to 50 percent Black population rose from 25.7 to 32.4.
- The percentage of Blacks living in census tracts having a greater than 50 percent Black population fell from 67.1 to 53.9.

Moreover, Ellen (1998) finds that the stability of racially mixed tracts has risen since 1970. The average loss of Whites from mixed tracts during the 1980–90 decade was 10.5 percentage points compared with 18 percentage points during the previous decade. Between 1980 and 1990, 76.4 percent of the mixed tracts remained so, whereas only 61 percent remained so during the 1970s. Finally, the proportion of mixed tracts that did not lose Whites between 1980 and 1990 was 53.3 percent compared with 44.5 percent a decade earlier.

The causes for this increase in stable, diverse neighborhoods are undoubtedly multifaceted, and research to this point has not attempted to examine them. Part of the change may be attributed to softening of expressed segregationist attitudes on the part of White households (Bobo, Schuman, and Steeh, 1986). But part has also been due to efforts on the part of many localities and a few States to enact policies that attempt to manipulate racial patterns of demand for their communities in such a way that diversity is maintained (Saltman, 1990; Galster, 1992; DeMarco and Galster, 1993; Smith, 1993; Keating, 1994).

Most components of these integration maintenance policies have been legally challenged (for reviews, see Polikoff, 1986; Smith, 1993). Though these cases cannot be comprehensively summarized here, suffice it to note that most pro-integrative practices, such as limits on for-sale signs, affirmative marketing, and financial incentives, have been held not to violate the Fair Housing Act while a few, such as quotas, have. Although the debate on the desirability (Milgram, 1979; Galster, 1992; and Olion Chandler, 1992) and effectiveness (Molotch, 1972; Galster, 1990; Smith, 1993; and DeMarco and Galster, 1993) of integration maintenance policies continues, there is no doubt that the upsurge in such practices has been a major change in the fair housing landscape since 1968.

Progress in Eliminating Minority Poverty Ghettos

If we define the ghetto as an area where a disproportionate number of residents are minorities earning very low incomes, it is clear that the ghettos have expanded since 1970. In their analysis of the 100 largest metropolitan areas, Alan Abramson, Mitchell Tobin, and Matthew VanderGoot (1995) found that the spatial isolation of the poor from nonpoor households has steadily risen in virtually all areas. The mean dissimilarity index—the percentage of poor who would need to move to achieve an even spatial distribution of poverty—rose from 32.9 in 1970 to 36.4 in 1990, an increase of 11 percent. The mean isolation index—the average percentage of poor neighbors in a poor person’s neighborhood—rose from 19.5 to 21.3, an increase of 9 percent.

Paul Jargowsky (1997) employs a different measure of poverty concentration: a census tract occupied by 40 percent or more poor residents. He finds that fully one-half of the residents of such tracts were Black in 1990 and almost one-fourth were Hispanic. Moreover, the number of Blacks residing in such concentrated poverty neighborhoods has risen by 1.4 million since 1970. The comparable figure for Hispanics was 1.3 million.

Based on these facts, one might reasonably argue that de-ghettoization is a clear failure of the Fair Housing Act of 1968. However, this may be an unwarranted criticism, given the massive economic restructuring that many of our inner cities have undergone that has contributed to ghettoization there (Wilson, 1987; Galster, Mincy, and Tobin, 1997; Jargowsky, 1997). Conversely, it has been argued by William Wilson (1987) that the reduction of discriminatory barriers due to fair housing laws has partly been responsible for growing concentrations of poverty by allowing middle class minorities to move away from poor minorities, thereby leaving the latter socially isolated. Regardless of the nature or extent of the role of the Fair Housing Act of 1968, there is no doubt that ghettoization is on the rise. The consequences of this phenomenon for fair housing in general are far reaching.

Ghettoization, Legitimation, and Discrimination Motivation: Spatial Racism

Behavioral Responses to Ghettoization

The human impacts of ghettoization can be viewed through the overarching concept of metropolitan opportunity structure (MOS) (Galster, 1993a; Galster and Killen, 1995). MOS is the array of markets, institutions, social and administrative systems, and networks that potentially offer resources that affect socioeconomic advancement. The quality and quantity of resources that MOS offers varies across a metropolitan area (Galster and Mikelsons, 1995), although the spatial scale at which variances become significant depends on which dimension of MOS is being considered. For instance, skill requirements for a particular industry/occupational category probably do not vary much across an entire metropolitan area, whereas public school quality varies across school districts, and a variety of social norms may vary across neighborhoods (Wilson, 1987, 1996).

Against this tableau of a spatially variant MOS is juxtaposed an individual decisionmaker confronting crucial choices that will influence future socioeconomic status, such as education, labor force participation, or criminal activity. The MOS model posits that choices will reflect the feasibility and relative payoffs of the alternatives, as perceived by decisionmakers from the perspective of their places of residence. These perceptions, of course, will be influenced by the local manifestations of MOS, as filtered through a variety of (potentially biased and value-laden) information-conveying media, including local social networks.

There is ample, sophisticated empirical research that supports the implications of the MOS framework. This research indicates that many features of the neighborhood environment are highly correlated with decisions made about schooling, substance abuse, fertility, crime, and labor force participation. (For recent reviews, see Ellen and Turner, 1997; and Brooks-Gunn, Duncan, and Aber, 1997.)

Members of racial-ethnic minority groups disproportionately face a MOS that substantially limits their socioeconomic mobility because it presents them with a constrained set of prospective payoffs that induce them to make contextually rational choices, albeit

ultimately personally and socially damaging. This situation reaches its extreme in the ghetto. That is, we have structured metropolitan space in a discriminatory fashion that creates adverse racial impacts.

Legitimization for Discrimination

As ghetto residents undertake behaviors reflecting their perceptions of their opportunity structure, they often unwittingly reinforce the racial prejudices of some Whites. Media portrayal of the more lurid and sensational behaviors of the ghetto tends to confirm Whites' beliefs about multiple dimensions of minority inferiority.

Many of these stereotypes are not confined to ghetto residents but are generalized to the entire Black population (and perhaps other minorities as well). Based on opinion surveys of Whites conducted in four major metropolitan areas, Reynolds Farley (1998) analyzes the percentages of respondents who rated Whites more favorably than Blacks on a series of racial stereotypes that I suggest are primarily connected to ghetto behaviors. He found that 65 percent of Whites rated Whites superior on ability to speak English well, 67 percent rated Whites superior on noninvolvement in drugs and gangs, and 70 percent rated Whites superior on preferring to be self-supporting instead of being on welfare.

If my claim were correct that ghetto-based behaviors are used to legitimize racial stereotypes of Blacks in general, the ghetto represents a central producer of motivations for at least two types of discrimination. The first is a form of differential treatment known as *statistical discrimination*. Essentially, it is differential treatment based on the discriminator's belief that race is highly correlated with one or more valued attributes. So, a landlord may refuse to rent to any Blacks because he thinks that there is a higher probability that a Black tenant may use the apartment to sell drugs. Or, a real estate agent may steer a White homeseeker away from a mixed neighborhood because of a belief that, on average, Whites are unwilling to take a chance of living amid many Blacks. The statistical discriminator does not disfavor minorities because of animus, but rather because experience, media reports, or other evidence "proves" that, on average, minorities are less likely to possess certain desirable traits. Of course, the ghetto goes a long way toward providing the requisite proof to make such statistical discrimination seem perfectly rational and even justifiable in a business or even moral sense.

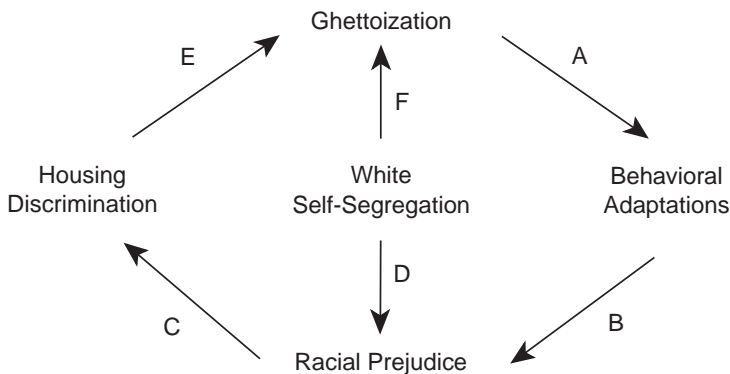
The second type of discrimination involves policies and practices that cause or perpetuate various forms of adverse racial impacts. Here I am thinking primarily of the creation of suburban municipalities that subsequently adopt exclusionary land use policies and housing codes designed to limit the housing opportunities of all who are of lower socioeconomic standing than those already in the municipality. The concomitant creation of a distinct taxing district and public school district means that the intrametropolitan inequality in public sector opportunity structures will be intensified (The Institute on Race and Poverty, 1998). Restrictions on the in-migration of lower-income households to the suburbs become even more problematic given the continuing patterns of employment decentralization. These issues are well known. My point in reviewing them is to note that the behaviors produced by the ghetto spawn a prime impetus and justification for these suburban jurisdictional fragmentation and exclusionary practices.

Spatial Racism

If the forgoing arguments are seen in their totality, a pattern of circular causation becomes apparent. This self-reinforcing dynamic, *spatial racism*, is diagrammed in the exhibit.³

Exhibit 1

Spatial Racism



Ghettoization, the spatial confinement of a poor, minority population in an area of attenuated opportunity, induces a variety of behavioral adaptations by ghetto residents (path A in the exhibit). These behaviors, spawned in a particular place, legitimize Whites' racial prejudices about minorities wherever they live (path B). These prejudices reinforce a variety of differential treatment and adverse impact types of housing discrimination (path C). They also motivate Whites to leave racially diversifying areas or refrain from moving into them (path D). In concert, discrimination and self-segregation by Whites further the spatial-social isolation and constrain opportunities of minorities, especially in the ghetto (paths E and F). As a consequence, the mutually supportive cycle of spatial racism continues to worsen.

The failure of U.S. social policy to eliminate the ghetto over the last three decades thus takes on added importance. By falling far short of achieving the goal of deghettoization, the goals of ending racial differential treatment in housing and creating stable, racially diverse neighborhoods have been rendered that much more difficult. It is no wonder that only halting progress has been made on these two fronts.

The Concept of Fair Housing as Equal Spatial Opportunity

It is common to think of fair housing as equal opportunity in housing markets. But consider more deeply what is meant by *opportunity*. I view opportunity as having dimensions of both process and prospects. The process dimension of opportunity refers to the ways in which markets and institutions treat those who come in contact with them. For example, does the treatment by a housing agent provide the minority and White homeseekers the same chances of acquiring a given vacant dwelling?

The prospect dimension of opportunity refers to the prospective socioeconomic outcomes, such as streams of future income or status, that people perceive will transpire if they were to make particular decisions regarding education or labor force participation. These estimated outcomes will be influenced both by an individual's endowments (race and family background, for example) and by acquired attributes (education, for example). But these outcomes are also shaped by the person's subjective perceptions of how the metropolitan opportunity structure will judge and, perhaps, transform these attributes.

When we, as a society, speak about equal opportunity, we typically do not mean equal socioeconomic outcomes (estimated or actual), but rather that:

- Those with equal endowments should be treated equally as they interact with the opportunity structure.
- Some endowments, such as race, which are not the same across individuals, should not be used by the opportunity structure as a basis for unequal treatment.

Put differently, the conventional notion of equal opportunity focuses on the process dimension.

This focus on process is appropriate but is not carried to its logical conclusion. That is, the conventional definition of equal opportunity overlooks the geographic dimension to focus on the concept that the markets and institutions with which people come in contact should treat them equally, without regard to race. But what if some people find it difficult to access particular markets or institutions because they reside far from them? What if the resources available to and policies promulgated by the markets and institutions accessible to some are very different from those that others access?

To put it less abstractly, the effectiveness of markets and institutions in providing the stuff of upward social mobility varies dramatically across metropolitan space to reach its nadir in the ghetto. Low-income minority populations are disproportionately confined in these ghettos through a host of differential treatment and adverse impact forms of discrimination.⁴ Clearly, if we are to take equal opportunity seriously, we must introduce a geographic element.

The conventional concept of equal opportunity should be expanded beyond “equal treatment of equals in a given market or institution.” It should include spatial elements—either markets and institutions having equivalent resources and policies across metropolitan areas or households having equal abilities to reside in locations in a metropolitan area where the markets and institutions provide nontrivial chances for social mobility.

New Directions for Fair Housing in the 21st Century

Consistent with this expanded notion of fair housing as equal spatial opportunity, the emerging challenge for fair housing policy in the next century is to reverse ghettoization. This implies not only fighting differential treatment directed at lower-income minorities but also the adverse impacts of a host of institutional practices related to metropolitan spatial arrangements.

Fighting Differential Treatment

Policies to further deter differential treatment discrimination are required. This does not mean merely enhancing existing penalties for violators, increasing outreach to inform victims of their rights and means of redress, improving the speed of case adjudication, or expanding civil rights training of those involved in the various urban market contexts where discrimination occurs—although all such efforts are to be applauded. Rather, further deterrence requires an enforcement strategy based on matched testing investigations conducted by civil rights agencies that creates a viable obstacle to discrimination.

The fundamental flaw in the Fair Housing Act is that it relies on the victim to recognize and formally complain about suspected acts of discrimination (Galster, 1991b). Given the subtlety of discrimination as typically practiced today (Yinger, 1995), such reliance is misplaced. As a result, there is little chance of violators fearing detection or litigation. Consequently, there is minimal chance of deterrence.

What is needed is a transfer of resources to empower private and governmental fair housing agencies to conduct ongoing enforcement testing programs, employing pairs of matched investigators who pose as housing or mortgage seekers. These programs would not merely respond to complaints of alleged victims but would provide an ongoing presence in areas rendered suspicious by other evidence or, resources permitting, randomly throughout the market. Only through such a comprehensive enforcement testing policy can people prone to discriminate be deterred from using race to constrain the opportunities of others (Galster, 1991b). Fortunately, through the Fair Housing Initiatives Program and DOJ initiatives, such a strategy is currently being pursued. Significant increases in funds will be required, however, if this strategy is to create a credible deterrent to differential treatment discrimination. Moreover, special emphasis should be placed on testing for discrimination against lower-income minorities.

Fighting Adverse Impact

Combating adverse impact constraints based on place is even more controversial and complex. Some researchers have suggested that current racial residential locations can be continued if access to good jobs and schools is enhanced through, for example, new transportation schemes, enterprise zones, or charter schools. I argue that such schemes are inferior to those aimed directly at expanding the spatial extent of residential choices and desegregating communities by class and racial composition. Unless the iron grip of ghetto residence is released, all other ameliorative efforts will necessitate inefficient subsidies and distortions of the market and will be blunted by elements of the metropolitan structure that cannot easily be ruptured from the residential nexus: isolated local social systems, concentrated drug markets, and a criminal justice system that increasingly targets the ghetto for enforcement activities (Galster, 1993a).

What primarily is needed, therefore, are policies to deconcentrate low-income minority individuals. This involves two strands of initiatives, both aimed at expanding geographically the housing choices for the less well-off.

The first strand involves legally challenging exclusionary suburban policies and practices or, equivalently, establishing fair share requirements in the State. This is, of course, not a new strategy, given the Mt. Laurel case in New Jersey⁵ and the efforts in several other States such as California and Massachusetts. Current initiatives in this regard were recently summarized at a conference at the John Marshall Law School (1998). But even more far-reaching legal strategies might be envisioned. A hint of both potentials and pitfalls of such an approach was provided when in 1995 HUD investigated community groups in Berkeley and New York who opposed the placement of group homes for the homeless and mentally disabled, respectively, in their neighborhoods. Although these actions arguably had a chilling effect on the expression of First Amendment rights, they did raise intriguing questions at the ambiguous intersection of several valued, but sometimes contradictory, public goals: freedom of speech, local government land use powers, and fair housing. Although the Berkeley and New York cases did not deal explicitly with race, it is clear that the principles contested here have significance to the issues of racial discrimination and deconcentration of low-income households. Would protest be permitted if a minority family were to move into an all-White neighborhood, or would such protest be equivalent to harassment? Would a local government be permitted to enact zoning regulations even if they had clear and significant adverse impacts on minorities? HUD has served a valuable function by raising these complex questions for public debate.

The second strand through which this deconcentration could be accomplished is through voucher-like rental subsidies coupled with affirmative efforts to market residential areas that might be unfamiliar to subsidy recipients and ongoing supportive counseling services to smooth recipients' transition into new environments. It also could involve the acquisition (and, possibly, rehabilitation) by nonprofits or public housing authorities of small-scale rental complexes and their conversion for use by low-income tenants. The latter strategy would be particularly valuable if previous exclusionary policies had greatly reduced the number of rental units in an area. As recent protests in Baltimore County, Philadelphia, and elsewhere suggest, this second strand is hardly without its detractors as well. More care must be given to site, tenant selection, apartment maintenance, and other programmatic issues before significant opportunities for low-income minorities can emerge in the suburbs (Galster, Santiago, and Tatian, 1998).

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Notes

1. In this article I will use the term *race* as a shorthand for race, ethnicity, or color. Unless otherwise noted, I will use the term *minority* to refer to African-American and Hispanic households; these are the groups that are most segregated from Whites, most often live in concentrated poverty neighborhoods, and most often face housing discrimination. By *Whites* I mean non-Hispanic Whites. I do not address dimensions of fair housing that have come to the fore with the Fair Housing Amendments Act of 1988, including familial status, disability, and source of income.
2. For review of other legal suits not involving DOJ, see Schwemm (1992), Cloud and Galster (1993), and Smith and Cloud (1996).
3. For an econometric model of this phenomenon, see Galster (1991a).
4. They are also confined due to a variety of personal attributes, such as weak educational credentials. But recall that I see this fact as a result of ghettoization, not its cause.
5. *Southern Burlington County NAACP v. Township of Mount Laurel*, 67 NJ 151 (1975) and *Southern Burlington County NAACP v. Township of Mount Laurel*, 92 NJ 158 (1983).

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