Racial Reification and Global Warming: A Truly Inconvenient Truth

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RACIAL REIFICATION AND GLOBAL WARMING: A TRULY INCONVENIENT TRUTH

Bekah Mandell*

Abstract: Scientists have warned of the dangers of climate change for decades, yet no meaningful steps have been taken to address its underlying causes; instead, ineffective strategies to reduce CO₂ emissions incrementally have become popular because they do not disturb the racial hierarchy that sustains the social, economic, and legal structure of the United States. The segregated land use patterns and transportation systems that dominate the U.S. landscape have reified race through the perpetuation of a distinct white over black racial hierarchy; those same land use patterns and transportation systems have contributed significantly to global warming by causing a dangerous spike in CO₂ emissions. To address the root causes of climate change thus requires a dismantling of the land use and transportation patterns that protect racial hierarchy and preserve white privilege in the United States. As a result, a consensus of inaction has developed to prevent meaningful reductions in emissions.

Introduction: The Global Climate Crisis

We are facing a global climate crisis. The release of the 2007 U.N. Intergovernmental Panel on Climate Change Report eliminates any legitimate doubt that human activities have caused carbon dioxide (CO₂) to accumulate in the earth’s atmosphere, dangerously increasing the earth’s average temperature.¹ Already, increasing atmospheric temperatures are having disastrous effects on the earth’s climate.² Traditional ways of life for indigenous peoples of Alaska face extinction as

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² See id. at 5–9.
polar ice caps and permafrost continue to melt, unfreezing seas and unleashing storm surges that engulf villages and endanger lives.\(^3\)

The rapid changes in northern coastal regions foreshadow the danger more southern latitudes are just beginning to encounter.\(^4\) The climate crisis also promises to bring more severe weather events to more heavily populated regions of the world, causing famine and disease in warmer areas.\(^5\) The concentration of CO\(_2\) in the atmosphere derived from anthropogenic sources has already brought more severe weather to much of the earth’s most populated areas, illustrated most famously by the Hurricane Katrina disaster.\(^6\)

However, despite decades of irrefutable evidence about the credibility of the global climate crisis and its anthropogenic causes, climate change is not a priority for most Americans\(^7\). The American public successfully has ignored the increasing visibility of the effects of climate change for years, developing an attitude of willful ignorance despite the immediacy of the problem.\(^8\) A Gallup poll conducted in 2004 found that the percentage of Americans who worried a “great deal” or a “fair amount” about the “greenhouse effect” or “global warming” had decreased from the previous year, with only fifty-one percent of respondents noting that they were concerned about the climate crisis.\(^9\) The other half of those surveyed reported that they worried “only a little” or “not at all” about global warming or the greenhouse effect.\(^10\) This public attitude towards global warming legitimates inaction from the gov-

\(^3\) See id.; Elizabeth Kolbert, Field Notes from a Catastrophe: Man, Nature, and Climate Change 7–8 (2006); Andrew Shepherd et al., Larsen Ice Shelf Has Progressively Thinned, 302 Sci. 856, 856 (2003).

\(^4\) IPCC Summary, supra note 1, at 9–12.

\(^5\) Id. at 7; see Kolbert, supra note 3, at 123; James Howard Kunstler, The Long Emergency 9 (2005).

\(^6\) See Kolbert, supra note 3, at 185. Global warming promises to increase the severity of hurricanes and other weather events according to scientists, including James Elsner of Florida State University whose study of air and sea temperatures supported a link between global climate change and increased hurricane severity. See Establishing a Connection Between Global Warming and Hurricane Intensity, Sci. Daily, Aug. 15, 2006, http://www.sciencedaily.com/releases/2006/08/060815160934.htm.

\(^7\) See Bill McKibben, The End of Nature 5 (1989) (calling attention to the threat of global warming in the late 1980s); Fred Pearce, Climate Evidence Finds Us Guilty As Charged, New Scientist, June 11, 2005, at 17; see also Stephanie B. Ohshita, The Scientific and International Context for Climate Change Initiatives, 42 U.S.F. L. Rev. 1, 3 (2007) (noting that as far back as the 1890s, scientists warned of the global warming consequences of burning fossils fuels).


\(^9\) Id.

\(^10\) Id.
ernment and the private sector, as businesses and even national environmental non-profits have generally failed to make it an issue.\textsuperscript{11}

Facing an apathetic American public, the federal government of the United States has steadfastly rejected the science, declining to ratify the Kyoto Protocol\textsuperscript{12} or take any other meaningful action on the subject of climate change, despite U.S. production of more greenhouse gases than any other nation.\textsuperscript{13} The current administration has gone to great lengths to deny the tremendous scope of the problem.\textsuperscript{14} Echoing the rhetoric of previous administrations, the official response from the Bush administration to calls for action on climate change is that decisive action to curb global warming would harm the very foundation of the U.S. economy.\textsuperscript{15}

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\textsuperscript{11} Id. at 20 (“[N]on-governmental organizations (NGOs) and the media . . . have not afforded the climate issue the urgent priority that it deserves.”). Even when corporations do make global warming an issue, their attention is focused on their bottom line, rather than the percentage of greenhouse gases in the atmosphere. See, e.g., Darcy Frey, \textit{How Green is BP?}, N.Y. Times, Dec. 8, 2002, § 6 (Magazine), at E98. BP’s campaign to promote ethanol is a particularly good example. \textit{See id.}

\textsuperscript{12} Speth, \textit{supra} note 8, at 19–20. Ratification by the United States of the Kyoto Protocol “would have created substantial disincentives for urban sprawl in the US.” George A. Gonzalez, \textit{Urban Sprawl, Global Warming and the Limits of Ecological Modernisation}, 14 \textit{Envtl. Pol.} 344, 352 (2005). A statement by President George W. Bush in June of 2001 represents the administration’s long-standing position on climate change. \textit{See Press Release, Office of the Press Sec’y of the White House, President Bush Discusses Global Climate Change (June 11, 2001), available at http://www.whitehouse.gov/news/releases/2001/06/20010611-2.html.} Explaining his refusal to sign the Kyoto Protocol, the President said, “for America, complying with those mandates would have a negative economic impact, with layoffs of workers and price increases for consumers. And when you evaluate all these flaws, most reasonable people will understand that it’s not sound public policy.” \textit{Id.} In a later statement, President Bush was more specific about the negative economic consequences of following the Kyoto Protocol, warning that it “would ultimately result in the loss of $400 billion to the U.S. economy and a loss of 4.9 million jobs.” \textit{See Kelly Wallace, Bush to Unveil Alternative Global Warming Plan, CNN, Feb. 14, 2002, http://archives.cnn.com/2002/ALLPOLITICS/02/13/bush.global.warming/index.html.} The Bush administration was not the only U.S. presidential administration to refuse to support the Kyoto Protocol. \textit{See Kolbert, \textit{supra} note 3, at 156–57.} The Clinton administration “supported the Kyoto Protocol in theory, but not really in practice,” and declined to push for its ratification in the Senate after it was signed by the U.N. ambassador. \textit{Id.} Indeed, President Clinton’s rhetoric on the Kyoto Protocol sounds remarkably similar to President Bush’s. \textit{See George Monbiot, HEAT: HOW TO STOP THE PLANET FROM BURNING, at v (2007).}


\textsuperscript{14} \textit{See Robert S. Devine, BUSH VERSUS THE ENVIRONMENT 175–79 (2004).} The Bush administration has edited out references to global warming and the climate crisis from its Reports on the Environment over the protests of its own Environmental Protection Agency staffers. \textit{See id.}

\textsuperscript{15} \textit{See Wallace, \textit{supra} note 12.} Ari Fleischer, former White House Press Secretary for the Bush administration, has been quoted as saying, “The president is very concerned about
The response to global warming in other branches of government has been similar.\textsuperscript{16} Although the majority of Congress and many state and local politicians acknowledge both the human causes of global warming and its threat, they too have failed to take meaningful action to reduce the United States’s greenhouse gas emissions.\textsuperscript{17} For decades, this lack of leadership, “has been blatantly obvious with the debate over global warming . . . . American political leaders have continuously deflected public opinion from the urgent need to curb fossil fuel consumption while the problems with greenhouse gases radically worsen.”\textsuperscript{18}

Although the government justifies its inaction on the climate crisis and its refusal to ratify the Kyoto Protocol as a result of its concern for the very survival of the U.S. economy, this article will demonstrate that the government’s response actually reflects a deeper, though related, concern—one with even higher stakes for political power brokers and other influential members of society.

\textsuperscript{16} See, e.g., S. Res. 98, 105th Cong. (1997) (enacted). Though the executive branch, particularly under the leadership of President George W. Bush, is often blamed for stalling action on global climate change; Congress has likewise squelched meaningful efforts to act—for example, it discouraged President Clinton from signing the Kyoto Protocol. See, e.g., id. Before it was finalized and brought to a vote, the U.S. Senate passed, by a unanimous vote of 95-0, a resolution declaring that the United States should not sign any climate change protocol unless developing nations were required to limit their greenhouse gas emissions. See id.; see also Randall S. Abate, Kyoto or Not, Here We Come: The Promise and Perils of the Piecemeal Approach to Climate Change Regulation in the United States, 15 CORNELL J.L. & PUB. POL’Y 369, 372 (2006) (“Not only has the United States failed to ratify the Kyoto Protocol, but it also has no comparable federal legislation on point. Instead, its Global Climate Change Policy calls for only modest industrial efficiency improvements, which are significantly less ambitious than the emission reduction targets imposed on industrialized nations under the Kyoto Protocol.”).

\textsuperscript{17} The most significant climate change bill to come before Congress is the America’s Climate Security Act of 2007, which calls for a market-based strategy to combat global warming. See generally S. 2191, 110th Cong. (2007). The bill is likely to be considered by the full Senate in the early summer 2008, but the bill and similar market-based strategies, do not have the power to reduce greenhouse gas emissions significantly. See Brian Tokar, Global Warming and the Struggle for Justice: The Disturbing and Sometimes Catastrophic Reality of Worldwide Climate Collapse, Z MAG., Jan. 2008, at 43, 46–47; see also Larry Lohmann, Carry on Polluting, NEW SCIENTIST, Dec. 2, 2006, at 18 (criticizing the use of market-based strategies, like carbon emissions trading and offset credit purchasing programs, to limit global climate change); Bill McKibben, Sanders Takes Brave Stand on Climate Change Bill: Vermont Senators Counters Limp-Wristed Proposal with Principled Initiative, SUNDAY RUTLAND HERALD/SUNDAY TIMES ARGUS (Vt.), Oct. 21, 2007, at C1 (calling the bill a “half-measure”).

\textsuperscript{18} See Betsy Taylor, How Do We Get from Here to There?, in SUSTAINABLE PLANET: SOLUTIONS FOR THE TWENTIETH CENTURY 233, 236 (Juliet B. Shore & Betsy Taylor eds., 2002) (“Political leaders reinforce this resistance to change, proposing remedies that skirt the real problems at hand.”).
Part I of this article discusses the climate inaction consensus and its root causes. Part II provides an overview on the social construction of race in our society. Part III explains the historical background of the spatial and transportation hierarchies that have been used to perpetuate race in the United States; in particular, it focuses on suburbanization and domestic transportation policies and how they contribute to the reification and perpetuation of race in American society. Part IV illustrates how land-use and transportation policies have produced the global climate crisis by creating a social system dependant on unsustainable fossil fuel consumption. Finally, this paper concludes that racist transit and land-use policies have not only reified race, but have been responsible for bringing the global climate to crisis levels.

I. The Inaction Consensus

Lawmakers and politicians have not taken action to combat climate change because effectively arresting climate change will challenge the foundational values of American society. Meaningful action would require changes in the way we live, which would undermine the foundation of our hierarchical political and social structure. The behaviors and lifestyles in the United States that emit the lion’s share of CO₂ into the atmosphere are the very same as those that have actualized the idea of race and maintained the “white-over-black” hierarchy that is the essence of our social, economic, and legal structure. These environmentally destructive behaviors and lifestyles have created and protected white privilege in American society. Thus, meaningful action to com-

19 See Andrew L. Barlow, Between Fear and Hope: Globalization and Race in the United States 25 (2003) (explaining that the white middle class suburban lifestyle is the basis of the American imagination of self); see also Frey, supra note 11. Effectively addressing climate change “will require nothing less than a new industrial revolution, an overwhelming retreat from society’s mass reliance on the carbon fuels—oil, gas and coal—that have powered the global economy for more than a hundred years.” Frey, supra note 11.

20 See Anthony Paul Farley, Perfecting Slavery, 36 Loy. U. Chi. L.J. 225, 227 (2005). Farley explains that our society, from the moment of slavery until the present, has been built on the foundation of a white-over-black hierarchy. See id. This hierarchy is such a part of our society that “white-over-black has become the form of our institutions and the orientation required to move through them.” Id. at 230.


22 See id. White privilege “refers to the hegemonic structures, practices, and ideologies that reproduce whites’ privileged status,” maintaining and reifying the very idea of whiteness itself. See Laura Pulido, Environmental Racism and Urban Development, in Up Against the Sprawl: Public Policy and the Making of Southern California 71, 73 (Jennifer Wolch et al. eds., 2004).
bat climate change will require a dismantling of the systemic policies and norms that have both caused global warming and protected the racial hierarchy that underlies contemporary America. This reality explains why meaningful action on the issue of climate change has eluded policy-makers for decades.

The structures, practices, and ideologies of the suburban American dream—with its detached single-family homes in spread-out neighborhoods, far from commercial and urban areas—have been some of the strongest forces in creating and perpetuating white privilege in American society. Henry Holmes explains the role of the suburbs in that process:

Suburbia, as we know it today, became the preferred middle-class lifestyle. With it came patterns of economic development, land use, real estate investment, transportation and infrastructure development that reflected race, class and cultural wounds deeply embedded in the psyche and history of the United States. Jim Crow—institutionalized segregation and apartheid against African Americans and other nonwhites—was reflected in urban and suburban zoning codes, restrictive racial covenants in real estate investment and lending practices, redlining by financial institutions, discriminatory private business practices, and the distribution of public investments. All these served the interests of the policy-makers, usually the corporate elite who were typically European-American and middle class or wealthy.

In addition to concretizing the abstract concept of race in American society, the growth of the suburbs has become a major factor in

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23 Cf. Anthony Paul Farley, *The Apogee of the Commodity*, 53 DePaul L. Rev. 1229, 1241 (2004). Farley notes that true reparation for slavery would require the state to dismantle its system of race, property and law—in effect it would require the state to destroy itself. See id. Reparation for slavery, like meaningful action on climate change, is a conflicted dream because it too would require the system of race, property and the laws that support it to dismantle itself in favor of an environmentally sustainable and less hierarchical system. See id.

24 See Kenneth T. Jackson, *Crabgrass Frontier: The Suburbanization of the United States* 8 (1985) (“In the United States, status and income correlate with suburbs, the area that provides the bedrooms for an overwhelming proportion of those with college educations, of those engaged in professional pursuits, and of those in the upper-income brackets.”).

changing the earth’s climate.\textsuperscript{26} Transportation, electricity generation, and deforestation represent the most harmful human activities because they release large amounts of carbon dioxide, the main greenhouse gas, into the atmosphere.\textsuperscript{27} Suburbanization and private car-centered transportation policies require that more energy be spent on transportation, demand far more electricity, and cause more deforestation than any other lifestyle.\textsuperscript{28}

Global warming is an unforeseen side effect of the policies and behaviors that have been used to “race” our society.\textsuperscript{29} Therefore, a meaningful response to the global climate crisis requires a dismantling, or at the very least a reordering, of the spatial systems we have created to construct and perpetuate the concept of race in the United States.\textsuperscript{30} The unsustainable land-use and consumption that define the American dream—an inherently white ideal—create cultural and racial hierarchies by setting up two classes of citizens in American society: those who can consume space and those who cannot.\textsuperscript{31} Representative Nydia M. Velázquez, who represents in Congress a predominantly poor urban district of New York, points out,

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\textsuperscript{26} See Gonzalez, \textit{supra} note 12, at 357–58. \\
\textsuperscript{28} See Gonzalez, \textit{supra} note 12, at 345 (noting that more dense, urban settlement patterns with more compact homes, in contrast to suburban land use patterns featuring larger detached homes, require less land, fewer cars, less electricity, less gas use, fewer appliances and result in lower consumption generally). \\
\textsuperscript{29} See John A. Powell, \textit{A Minority-Majority Nation: Racing the Population in the Twenty-First Century}, 29 Fordham Urb. L.J. 1395, 1402 (2002) (explaining that race can function as a verb—racing thus means the act of separating people from the dominant group in order to affirm the dominant group’s superior place in the resulting racial hierarchy). \\
\textsuperscript{30} See McKibben, \textit{supra} note 7, at 14. Bill McKibben warns of the extent to which the American way of life will need to be dismantled in order to combat global warming effectively: \\

\textit{[B]ecause so much of our energy use is for things like automobile fuel, even if we mustered the political will and economic resources to quickly replace every single electric generating station with a nuclear plant, our total carbon dioxide output would fall little more than a quarter . . . . So the sacrifices demanded may be on a scale we can’t imagine and won’t like.} \\

\textit{Id.} As Farley points out those with power to lose in such a re-ordering are unlikely to consent to such dismantling. \textit{See} Anthony Paul Farley, \textit{Accumulation}, 11 Mich. J. Race & L. 51, 55 n.11, 59 n.21 (2005). \\
\textsuperscript{31} See Barlow, \textit{supra} note 19, at 12, 48–49.
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the simple fact is that our current unsustainable “more-is-better” culture undermines any hope of achieving justice—at home or abroad. We often hear about how the United States consumes a vastly disproportionate amount of resources relative to the rest of the world. Americans are building bigger houses, driving bigger cars, consuming more and more of everything than just about anyone else anywhere.

This is certainly true, and the long-term environmental effects of this overconsumption may well prove disastrous . . . . . . [A]nd one thing is for sure—Americans are not doing all this overconsuming in congressional districts like the one I represent . . . .

. . . .

In my district, crime is high, test scores are low, schools are crumbling, and the “American Dream”—however you choose to define it—is very, very difficult to attain.32

Those who currently enjoy the privileges of consumption fear losing the bigger houses, bigger cars, and the economic power to consume, not only because they provide material comforts, but because they have become the signifiers of wealth, power, and whiteness in American society.33 As Professor Farley stated, “The system of property [and all of its trappings] is white-over-black.”34 Those material comforts that identify whiteness do so in dialectic opposition to the high crime, low test scores, and crumbling schools that mark blackness in American society.35


33 See Barlow, supra note 19, at 75–77.

34 Farley, supra note 23, at 1235.

Fear of eroding the hierarchies that define race explains why politicians and other elites have consistently championed ineffectual “market-based approaches” to global warming.\textsuperscript{36} By focusing public and private energy on relatively insignificant individual behavior changes, the Bush administration and other privileged elites are able to maintain the racial hierarchy that consolidates their economic and social power.\textsuperscript{37} Politicians know that “[w]ithout white-over-black the state withers away.”\textsuperscript{38} Therefore, they have a profound incentive to maintain the racial hierarchy. Unsurprisingly, “because th[ese elites] accrue social and economic benefits by maintaining the status quo, they inevitably do.”\textsuperscript{39} This white consensus to maintain the spatial and mobility hierarchies that reify race is possible because, “[w]hite privilege thrives in highly racialized societies that espouse racial equality, but in which whites will not tolerate being either inconvenienced in order to achieve racial equality . . . or being denied the full benefits of their whiteness . . . .”\textsuperscript{40} With so much white privilege to lose, it becomes clear why even most passionate environmental advocates are far more willing to call for, and make, small non-structural changes in their behavior to ameliorate

\textsuperscript{36} See, e.g., Climate Stewardship & Innovation Act of 2007, S. 280, 110th Cong. (2007). One of the most championed pieces of legislation introduced to combat global climate change in the United States is the McCain-Lieberman Climate Stewardship and Innovation Act, which has been introduced several times by the two senators. See S. 280; S. 1151, 109th Cong. (2005). According to the two senators, whose bill relies on a market-based approach to addressing climate change, “harness[ing] the power of the free market and the engine of American innovation to reduce the nation’s greenhouse gas emissions” is the only way to forestall “catastrophic global warming.” John McCain & Joe Lieberman, Op-Ed, \textit{The Turning Point on Global Warming}, \textit{Boston Globe}, Feb. 13, 2007, at A15. Senators McCain and Lieberman have argued that Congress “must be open to a good faith business perspective that can help solve this urgent global problem.” \textit{Id.} These market based approaches are generally viewed by climate change scientists as unlikely to achieve the changes necessary to curb climate change. See Tokar, \textit{supra} note 17, at 46–47.

\textsuperscript{37} See Monbiot, \textit{supra} note 12, at viii, 20–22.

\textsuperscript{38} See Farley, \textit{supra} note 23, at 1241.

\textsuperscript{39} Pulido, \textit{supra} note 22, at 73; accord Monbiot, \textit{supra} note 12, at 20–22. These elites have the most freedom to lose and the least to gain from an attempt to restrain [global warming].

\textbf{\ldots \ldots} [A]sking wealthy people \ldots to prevent climate change means asking them to give up many of the things they value—their high performance cars, their flights to Tuscany and Thailand and Florida—for the benefit of other people . . . .

\textbf{Monbiot, \textit{supra} note 12, at 20–22.}

\textsuperscript{40} Monbiot, \textit{supra} note 12, at 20–22.
global warming, but are unwilling to embrace significant or meaningful actions to address the crisis.41

Even as global warming is starting to become the subject of increasing media coverage and as more environmental groups call for action to halt the crisis, most activism is limited to changes that maintain the existing spatial, social, economic and legal framework that defines American society.42 Despite knowing for decades that we have been living unsustainable lifestyles, and “hav[ing] had some intuition that it was a binge and the earth couldn’t support it, . . . aside from the easy things (biodegradable detergent, slightly smaller cars) we didn’t do much. We didn’t turn our lives around to prevent it.”43

Greenhouse emissions reduction challenges have cropped up on websites across the country, encouraging Americans to change their light bulbs, inflate their tires to the proper tire pressure to ensure optimal gas mileage, switch to hybrid cars, run dishwashers only when full, telecommute, or buy more efficient washers and dryers.44 However, popular emissions challenge web sites are not suggesting that Americans give up their cars, move into smaller homes in more densely populated urban neighborhoods near public transportation, or take other substantive actions to mitigate the global climate crisis.45 Even Al Gore,

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41 See Ian F. Haney López, White By Law: The Legal Construction of Race 23 (2006). Whites may be “willing to protect that value [conferred on them by their white privilege], even at the cost of basic justice” for those without whiteness. Id.; see also Monbiot, supra note 12, at viii (“[S]tate and federal legislators . . . seek to avoid environmental measures which might interfere with the relative luxury of heating or cooling . . . [their] homes or driving or flying whenever and however [they like] . . . and [instead] substitute measures, like biofuels, which transfer the costs onto less powerful people.”).

42 See James Howard Kunstler, The Geography of Nowhere: The Rise and Decline of America’s Man-Made Landscape 10 (1993) (“The newspaper headlines may shout about global warming . . . but Americans evince a striking complacency when it comes to their everyday environment and the growing calamity that it represents.”).

43 See McKibben, supra note 7, at 86.

44 See, e.g., Alliance for Climate Action, Residential Resources, http://www.10percentchallenge.org/ (follow “Resources” hyperlink; then follow “Residential Resources” hyperlink) (last visited Apr. 18, 2008) (linking to web sites which provide, among other things, information on how to limit home energy use and fuel efficient and alternative energy vehicles).

45 See, e.g., id. The popular and widely respected 10% Challenge, run by a public-private partnership in Burlington, Vermont, has encouraged local residents and businesses owners to reduce their energy consumption with an innovative web-based program which allows residents to track the energy savings made by installing energy efficient light bulbs, switching to reusable bags, insulating their homes, and similar changes. See Alliance for Climate Action, About Us, http://10percentchallenge.org/ (follow “About Us” hyperlink) (last visited Apr. 18, 2008); see also Alliance for Climate Action, How It Works, http://10percentchallenge.org/ (follow “How It Works” hyperlink) (last visited Apr. 18, 2008). Despite its initial success in reducing energy consumption in the city, it has not been able to
the most famous voice in the climate change movement, reminds his fellow Americans that “[l]ittle things matter . . . buy a hybrid if you can, buy a flex-fuel car if you can. Get a higher mileage car that’s comfortable for your needs.”46 “[M]any yuppie progressive ‘greens’ are the

mark a sustained reduction in CO₂ production, underscoring the ineffectiveness of small, incremental changes in combating climate change. See Kolbert, supra note 3, at 176.

[The 10% Challenge] makes the limits of local action obvious . . . . Since the 10 percent challenge was initiated, in 2002, electricity demand in the city has actually started to creep back up again and is now slightly higher than it was at the campaign’s launch. Meanwhile, whatever savings have been made in electricity usage have been offset by increased CO₂ emissions from other sources, mostly cars and trucks.

Id.; see also Victoria Scanlan Stefanakos, earth Day, Every Day: Feel Good About Doing Your Part for the Environment (with Hardly Any Effort), REAL SIMPLE, Apr. 2007, at 197. Victoria Scanlan Stefanakos writes that following her article’s twenty-six tips can “have a big cumulative impact on the environment and a not-so-big impact on your daily life.” Stefanakos, supra, at 197. The tips include eating less red meat, installing a low-flow showerhead, recycling, using biodegradable cat litter, idling less in your car, and buying organic cotton. Id. at 198–205. Nowhere does the article suggest that readers live in smaller homes, drive less or make drastic changes to their lifestyles. See id.

The substantive changes that emissions web sites avoid advocating would have significant impacts on the average individual’s CO₂ emissions. For example, if all of the drivers in the United Kingdom were suddenly to abandon their cars and exclusively ride public transportation, the country’s transportation emissions would immediately be reduced by ninety percent. See Monbiot, supra note 12, at 147. Because personal transportation accounts for about twenty-two percent of all greenhouse gas emissions in that country, the savings would have a profound impact on atmospheric CO₂ emissions. See id. at 146–47; see also Gonzalez, supra note 12, at 357–58 (noting that changes to land use and land management planning will “directly and assuredly reduce climate change emissions,” in contrast to technological innovation or market-based approaches).

46 Moira Macdonald, Al Gore: “Action” Movie Star, SEATTLE TIMES, May 28, 2006, at J1 (interviewing Al Gore). As it becomes fashionable for educated consumers to be concerned about emissions, other organizations have emerged to encourage Americans to make nearly effortless changes in the way they use energy. For example, carbon offset programs allow Gore to achieve “carbon neutrality” for both his twenty-room home in Tennes-see and his other home in Washington, by purchasing “carbon credits” to offset his homes’ emissions, enabling him to sacrifice little as he buys his way to environmental salvation. See Gore Defends His Carbon Credentials: Group Skeptical of Global Warming Notes His Home Is Big Energy User, MSNBC.COM, Feb. 28, 2007, http://www.msnbc.msn.com/id/17382210/. Promoted by both non-profits and for-profit companies, “carbon credits” allow consumers to pay about five dollars per ton to offset the carbon emitted by their cars and homes for a day, a week, or a year. See Drake Bennett, Have Yourself a Carbon-Neutral Christmas . . . ., BOS-TON GLOBE, Dec. 17, 2006, at K1. Because an average car emits five to six tons of CO₂ in a year, consumers can offset their vehicular emissions for as little as twenty-five dollars a year with a few clicks of the mouse. Id. However, scientists and climate activists question the utility of carbon credits and carbon trading programs as tools to combat global warming because organizations that plant trees on behalf of consumers to reduce their carbon footprint may do so in areas that provide little or no CO₂ sequestration potential; not all trees offer the same benefits. See Michael Snyder, Forests, Carbon & Climate Change, N.
ones who drove their SUVs to environmental rallies and, even worse, made their homes at the far exurban fringe, requiring massive car dependence in their daily lives,” taking residential segregation and racial and spacial hierarchies to previously unimagined dimensions.\textsuperscript{47} This focus on maintaining one’s privileged lifestyle while making minimal changes reflects the power of the underlying structural impediments blocking a comprehensive response to global climate change in the United States.\textsuperscript{48}

It is not just political inaction that prevents a meaningful response. Millions of Americans do not demand a change in environmental policy because, just as with political elites, it is against the interests of those enjoying white privilege to take genuine steps to combat climate change.\textsuperscript{49} Real climate action would ultimately require relinquishing the spatial, social, and economic markers that have created and protected whiteness and the privilege it confers.\textsuperscript{50} Although “we too often fail to appreciate how important race remains as a system for amassing and defending wealth and privilege,” the painfully slow reaction of the American public to the growing dangers of global warming highlights just how important racial privilege remains and how reluctant its beneficiaries are to give it up.\textsuperscript{51} Elite reformists make meaningful change even more remote as they push for behaviors to tweak, but not to change the existing social, economic, and legal hierarchy in the face of

Woodlands Mag., Autumn 2000, at 43, 46. Moreover, the purchase of carbon credits can lull consumers into complacency, giving them an excuse to not limit their CO\textsubscript{2} emissions. Bennett, supra, at K1.

\textsuperscript{47} Kunstler, supra note 5, at 30.

\textsuperscript{48} See Farley, supra note 20, at 229; see also Gonzalez, supra note 12, at 345.

\textsuperscript{49} See Monbiot, supra note 12, at 40; Lydia Saad, Americans Still Not Highly Concerned About Global Warming, Gallup News Serv., Apr. 7, 2006, http://www.gallup.com/poll/22291/Americans-Still-Highly-Concerned-About-Global-Warming.aspx (noting that Americans are not “especially concerned” about global warming). Monbiot explains that “one of the reasons why the professional climate-change deniers have been so successful in penetrating the media is that the story they have to tell is one that people want to hear.” Monbiot, supra note 12, at 40.

\textsuperscript{50} See, e.g., Alex Beam, A Silent Springtime for Hitler?, Boston Globe, Apr. 11, 2007, at C1 (pointing out the hypocrisy in Robert F. Kennedy Jr.’s “rant[ing] and rav[ing] about the un-green-ness of George Bush’s EPA, while he and his family work overtime to scuttle a renewable energy wind farm project located a bit too close to the family manse in Hyannis”).

\textsuperscript{51} See Derrick Bell, Silent Covenants 81 (2004) (“[Racial privilege is so] tied to an individual’s sense of self that it may not be apparent, the set of assumptions, privileges, and benefits that accompany the status of being white can become a valuable asset that whites seek to protect.”); Haney López, supra note 41, at xvi; see also Farley, supra note 30, at 54; Ford, supra note 21, at 1850.
“problems, [like global warming] that arise to threaten the predominance of the traditionalist, capitalist ruling class.”

II. The Social Construction of Race

Race is a social and legal construct. It is not the result of any sort of natural order, nor does it exist genetically. Indeed, “[i]n nature, no races exist. Nature only provides a vast array of physical variations that have been used to construct categories that are ultimately ascribed meaning far beyond the hazy physical differences that serve as their basis.” Despite an entrenched cultural conviction that attaches racial meaning to phenotypical markers of “hazy physical difference” like skin tone and hair texture, “[a]pects of human variation like dark skin or African ancestry are . . . not denotations of distinct branches of humankind.” Race is a system of marks imposed on the subordinate groups of society by the dominant group and the “system of marks depends on an imagined connection between the essence of a person and the marks on the person’s body, a physical feature or set of features, such as the marks of race and sex.”

52 Farley, supra note 30, at 55 n.11. Derrick Bell elaborates on the protection of white privilege by whites through concessions and reforms that actually perpetuate and maintain the legal status quo. In Silent Covenants, Bell explores the interests that converge at a particular historical moment to offer blacks some sort of concession or long-sought right in exchange for “a clear benefit for the nation or portions of the populace” that matter in the racial hierarchy. See Bell, supra note 51, at 49. He calls this phenomenon “interest convergence,” and explains that any gains made by blacks as a result of a momentary convergence of their interests with those of whites, “will be abrogated at the point that policymakers fear the remedial policy is threatening the superior social status of whites, particularly those in the middle and upper classes.” See id. at 69. He explains that the historic Brown v. Board of Education Supreme Court decision was a prime example of this interest convergence that served to quash black outrage over Jim Crow racism with a largely symbolic reform that did nothing to undermine the dominant white power structure, but made further advocacy for real change politically and practically impossible. See id. at 59–60. See generally Brown v. Bd. of Educ., 347 U.S. 483 (1954).

53 See Haney López, supra note 41, at 13–14, 78.

54 Guillaumin, supra note 35, at 133; see Ian F. Haney López, The Social Construction of Race, in Critical Race Theory: The Cutting Edge 163, 166 (Richard Delgado & Jean Stefancic, eds., 2d ed. 2000) (“[C]ontrary to popular opinion . . . intra-group differences exceed inter-group differences. That is, greater genetic variation exists within the populations typically labeled Black and White than between these populations.”). Though race is not actually the result of any natural order, it is perceived popularly to be a “self-evident . . . ‘fact of nature.’” Guillaumin, supra note 35, at 133.


56 See Haney López, supra note 54, at 172; see also Obach, supra note 55, at 253.

Race is a relatively recent, “plastic and inconsistent” construction of the legal and social system, not a fixed or natural classification. The fluid and relational nature of race is demonstrated throughout history. For example, though now considered white, until early in the middle of the last century, Irish and Italian immigrants were not socially or legally “white.” Both groups only became white when they were granted the right to become U.S. citizens. With whiteness came economic and social domination over blacks, along with middle class comforts. Despite the artificially constructed foundation of racial categories, the process of racial reification—the transformation of abstract racial categories “into concrete things,” which “take on material forms which in turn reinforce the ideas that shape the world”—has had, and continues to have, a tangible and profound impact on our society.

Racial classifications have evolved over time both to shape and to reflect predominant belief systems in the United States. Race has been developed and preserved to serve a peculiar purpose in society: to justify disparate treatment of particular individuals, elevating one group of individuals to superior status, while marking another group as inferior. John a. powell calls this stratification process “racing”:

“Racing” is a practice of separating people out from the general population with the specific purpose of fortifying the dominance of the remaining majority. Thus, race is not a passive recognition of natural qualities, but rather the sum of intentional actions taken to stratify the population in order to maintain white privilege and non-white subordination. Race becomes a signifier of a person’s attachment to a segregated group only after this racialization process has occurred. Fur-
ther, the dominant group then relies on essentialist justifications for its newly formed racial category. Essentialism becomes the veil for the systematic racial ordering of society.65

Similarly, Michael Omi and Howard Winant describe “racial formation” as the separation of individuals into racial groups through social, economic, and political hierarchies.66 Racing or racial formation has been used to maintain white, European privilege and economic dominance in the United States and the world.67

The use of race as a tool for social and economic dominance is most clearly illustrated by the way in which the concept of race in the United States came to justify the enslavement of Africans by Europeans.68 The “modern notion of race and the ideology of white superiority were seventeenth and eighteenth century cultural constructs designed to answer these otherwise unacceptable contradictions between principle and practice in a way that would permit continued super-exploitation of blacks under the emerging capitalist system.”69 Once enslaved Africans were categorized as fundamentally different from their owners by virtue of their newly prescribed “race,” inhuman exploitation ceased to be legally or morally problematic.70 If slaves were not like whites (humans), then there was no reason to treat them as human (white).71 Slavery’s racially justified economic exploitation of Africans laid the groundwork for continued legal and economic exploitation of the subordinated group to this day.72

As capitalism began to replace the mercantile economy in the United States and as the industrial revolution exploded on American

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65 powell, supra note 29, at 1402.
68 See Peggy C. Davis, Law as Microaggression, in Critical Race Theory: The Cutting Edge, supra note 54, at 141, 143.
70 See id. at 495–96; see also Davis, supra note 68, at 143 (“Slavery required a system of beliefs that would rationalize white domination and laws and customs that would assure control of the slave population.”).
72 See Farley, supra note 30, at 70–72.
soil, an even greater need for a subordinate race emerged. Capitalism, with its necessary inequalities, needed an underclass to survive and prosper as an economic system. Blacks, by virtue of the racially inferior status imposed upon them by the legal system, were perfectly situated to play the necessary role. Thus, after constructing race as a way to ameliorate the moral discomfort of slavery, the political system passed and enforced laws to ensure that blacks remained a distinct subordinate race in the interest of capitalism. By legislating into existence a permanent race-based proletariat class, white elites ensured that the capitalist system could continue to deliver enormously disproportionate benefits to those lucky enough to have received whiteness.

III. RACIAL HIERARCHIES AND THE REIFICATION OF RACE

A. “Chocolate cities, vanilla suburbs”: Federal and Private Suburbanization Policies

A cursory glance at metropolitan demographics in the United States demonstrates that decades of federal, state, and local government policies, reinforced by government-sanctioned private behavior, have created impoverished black inner cities surrounded by affluent, impoverished African American communities.

73 See Sherry Cable & Tamara L. Mix, Economic Imperatives and Race Relations: The Rise and Fall of the Apartheid System, 34 J. Black Stud. 183, 186–87 (2003) (describing how post-Civil War industrialization created demand for cheap labor and how state actions accommodated this need by “weakening the foundation of Black rights”).

74 See Adam Smith, An Inquiry into the Nature and Causes of the Wealth of Nations 66–67 (Random House 1985) (1776) (explaining that the division of labor on which capitalism is founded requires laborers and owners who retain part of the value of what their laborers produce); see also Cable & Mix, supra note 73, at 201 (“Economic imperatives drive the structure of the labor market in capitalist societies . . . . A competitive labor market is necessary to keep wages down and profits up. Someone must be at the bottom of the labor heap and dark skin is an easily identifiable mark: Skin color matters.”).

75 See id. at 196–201.

76 See id. at 187–88.

77 See Cable & Mix, supra note 73, at 186–87.

78 This now ubiquitous phrase, introduced in the “Chocolate City” Parliament album in 1975 and appropriated by Reynolds Farley et al. in a 1978 article on the causes of segregation in Detroit, continues to reflect the contemporary demographics of major metropolitan areas of the United States. See Rima Wilkes & John Iceland, Hypersegregation in the Twenty-First Century, 41 Demography 23, 34 (2004). Farley’s article appeared in the wake of the Kerner Commission Report, published in 1968, which showed that the United States was on its way to becoming two separate societies, one black and one white. See generally Reynolds Farley et al., “Chocolate City, Vanilla Suburbs”: Will the Trend Toward Racially Separate Communities Continue?, 7 Soc. Sci. Res. 319 (1978).
mostly white suburbs. Modern residential segregation in the United States is the result of a long series of racist federal and local policies. Although legally enforced segregation ended with *Loving v. Virginia* in 1967, the forces maintaining segregation did not disappear with that decision. De facto segregation continues today without legal sanction because, although officially ended and now constitutionally disfavored, its structure was never dismantled.

Though there is a powerful tendency in our post-*Loving* world to describe racial segregation “as a natural expression of racial and cultural solidarity, a chosen and desirable condition for which government is not responsible,” it is in fact a result of centuries of racist government action. Beginning with the separate living and working spaces of southern slave states, segregation continued to thrive in the Jim Crow south and the segregated schools and neighborhoods of the north.

Just as race is not the result of static or inevitable differences between distinct groups of people, contemporary residential demographics are not the result of any innate or natural racial or spatial hierarchies. Rather, the heavy hand of the legal and political systems, aided and abetted by private actors, created the “natural” racial segregation that continues to define contemporary U.S. society. The parallel hierarchies of suburban-urban and white-black are no organic

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80 See Barlow, *supra* note 19, at 37–41; Ford, *supra* note 21, at 1845.


82 See Ford, *supra* note 21, at 1844–45. In his article *The Boundaries of Race: Political Geography in Legal Analysis*, Richard Thompson Ford writes:

[R]acial segregation persists in the absence of explicit, legally enforceable racial restrictions. Race-neutral policies, set against an historical backdrop of state action in the service of racial segregation and thus against a contemporary backdrop of racially identified space—physical space primarily associated with and occupied by a particular racial group—predictably reproduce and entrench racial segregation and the racial-caste system that accompanies it. Thus, the persistence of racial segregation, even in the face of civil rights reform, is not mysterious.

*Id.*

83 Barlow, *supra* note 19, at 37–41; Ford, *supra* note 21, at 1844, 1848.

84 See Jackson, *supra* note 24, at 241–42.

85 See Ford, *supra* note 21, at 1848 (“Explicit governmental policy at the local, state, and federal levels has encouraged and facilitated racial segregation.”).
accident, but rather are the result of an interconnected web of policies and laws designed to maintain race through strict segregation.\(^8^6\)

The evolution of segregated, all-black neighborhoods . . . was not the result of impersonal market forces. It did not reflect the desires of African Americans themselves. On the contrary, the black ghetto was constructed through a series of well-defined institutional practices, private behaviors, and public policies by which whites sought to contain growing urban black populations.\(^8^7\)

The black ghetto protects white privilege by maintaining separately racialized spaces.\(^8^8\)

Beginning with the great migration in the early twentieth century, which saw rural blacks moving in significant numbers to northern urban areas in search of work, the real estate industry—acting on concerns from their elite white clients—built residentially segregated cities.\(^8^9\) However, this mostly private segregation of the early twentieth century was augmented by the federal government’s segregation project, which intensified as the century progressed.\(^9^0\) Segregation in the post World War II era “was carried out with government sanction and support. After World War II . . . government urban redevelopment, and renewal policies, as well as a massive public housing program had a direct and enormous impact on the evolution of the ghetto.”\(^9^1\) Not only did these various government policies create the black ghetto, they simultaneously created its positive, the white suburb.\(^9^2\) Keeping space racially defined and isolating blacks in urban ghettos away from

\(^8^6\) See id. at 1861.

\(^8^7\) Massey & Denton, supra note 35, at 10.

\(^8^8\) See Pulido, supra note 22, at 72.

\(^8^9\) See Hirsch, supra note 79, at 9 (“[A]s black migration northward increased in the first quarter of the twentieth century and racial lines began to harden, it was apparent that white hostility was of paramount importance in shaping the pattern of black settlement. Sometimes violent, sometimes through the peaceful cooperation of local real estate boards, white animosity succeeded, informally and privately, in restricting black areas of residence.”).

\(^9^0\) See id. at 9–10. Some suburbs continued to enforce private racial covenants well into the last quarter of the twentieth century. See William Julius Wilson, When Work Disappears: The World of the New Urban Poor 47 (1996). Levittown on Long Island, New York, the icon of middle-class suburbanization, included covenants prohibiting blacks from purchasing or renting property until the late 1960s. See Margaret Lundrigan Ferrer & Tova Navarra, Levittown: The First Fifty Years 16 (1997); Jackson, supra note 24, at 241.

\(^9^1\) Hirsch, supra note 79, at 10.

\(^9^2\) See Peter Dreier et al., Place Matters: Metropolitics for the Twenty-First Century 109 (2d ed. 2004).
affluent whites in the suburbs were major outcomes of federal housing policy during the last century.\textsuperscript{93}

In particular, two different federal housing policies worked in concert to subsidize the expansion of the white suburbs, while concentrating blacks in the urban ghetto.\textsuperscript{94} Federal homeownership promotion programs made suburban growth possible, while public housing projects were concentrated in inner city ghettos.\textsuperscript{95} Together, the two initiatives created an entire nation of racially segregated spaces.\textsuperscript{96}

Governmental suburban subsidy began in earnest with the creation of the Homeownership Loan Corporation (HOLC) in 1933.\textsuperscript{97} The HOLC was a depression-era program designed to preserve and encourage homeownership by making long-term mortgages feasible for most middle-class Americans.\textsuperscript{98} As part of its program, HOLC appraisers developed an elaborate set of standards for determining which homes were worthy of HOLC credit, and these standards laid the groundwork for redlining—the refusal of banks and the federal government to issue or guarantee loans in non-white or racially mixed urban neighborhoods.\textsuperscript{99} The standards developed by the HOLC “gave the highest ratings to the newer, affluent suburbs that were strung out along curvilinear streets well away from the problems of the city,” and the lowest ratings to older, more urban black neighborhoods or neighborhoods with any black presence at all.\textsuperscript{100}

\textsuperscript{93} See id. at 119; see also Pulido, supra note 22, at 90 (“The history of suburbanization reveals that although many forces contributed to decentralization, it was largely an exclusionary undertaking.”).

\textsuperscript{94} See Hirsch, supra note 79, at 10.

\textsuperscript{95} See Carolyn B. Aldana & Gary A. Dymski, Urban Sprawl, Racial Separation, and Federal Housing Policy, in Up Against the Sprawl, supra note 25, 99, 102–03 (2004). Such federal homeownership programs include the Federal Housing Administration (FHA), Veterans Housing Administration (VHA), and the Homeownership Loan Corporation (HOLC). Jackson, supra note 24, at 195–218. The HOLC, VHA, and FHA programs laid the groundwork for discriminatory lending practices in the private sector that continued to isolate blacks in deteriorating housing stock in the inner cities long into the 1970s. See Massey & Denton, supra note 35, at 105. Until a year after they were outlawed by the Supreme Court in 1948, the FHA was a strong proponent of racial covenants on the properties it guaranteed. See Jackson, supra note 24, at 208; see also Ford, supra note 21, at 1848 (“[T]he federal government continued to promote the use of such covenants until they were declared unconstitutional . . . [and] federally subsidized mortgages often required that property owners incorporate restrictive covenants into their deeds.”).

\textsuperscript{96} See Barlow, supra note 19, at 38.

\textsuperscript{97} See Jackson, supra note 24, at 196.

\textsuperscript{98} See id.

\textsuperscript{99} See id. at 197, 362 n.26.

\textsuperscript{100} See id. at 198–200, 201 (“Even those neighborhoods with small proportions of black inhabitants were usually rated fourth grade or ‘hazardous’ by HOLC’s parent agency.”).
Rating neighborhoods with any black population at all as uncreditworthy caused racial segregation because it encouraged whites who were otherwise eligible for HOLC financing to cluster in neighborhoods with higher HOLC grades, where they would be granted mortgages and would be able to achieve the white American dream of homeownership. With its focus on financing newly-built homes in newly-built neighborhoods with fresh infrastructure and housing stock available to whites only, the HOLC appraisal program marked the first of many federal programs that used government power to simultaneously subsidize suburban sprawl and racial segregation.

The Federal Housing Administration (FHA) and the Veterans Housing Administration (VHA) furthered the racist precedent set by the HOLC appraisal standards by focusing white investment on the suburbs. The FHA and VHA programs increased government subsidy of suburban homeownership for white Americans in the post-war period so that hundreds of thousands of World War II veterans could finance their slice of the American dream. Through its rating system, the FHA’s programs were responsible for “subsidizing suburban housing construction, contributing to and exacerbating neighborhood deterioration in inner cities, and institutionalizing a racially segregated housing market on a national scale.” Because “FHA/VHA loans were made with greater frequency in suburban than in inner city areas . . . these federal policies promoted racial separation. And because population pressures pushed the suburbs ever outward, while expanding the space ceded to minorities, these policies also underwrote urban sprawl.”

The FHA’s suburban bias was so pronounced that its mortgage guarantee programs made it cheaper for white Americans to buy a home in the suburbs than to rent an apartment or townhouse in the city. Because they made suburban homeownership affordable exclusively for whites, “the FHA’s housing subsidies . . . had a major impact on post-World War II migrations of middle-income whites to suburban

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101 See id. at 198–99, 201; see also Barlow, supra note 19, at 40.
102 See Barlow, supra note 19, at 38–41; Jackson, supra note 24, at 190–218; Deborah Kenn, Paradise Unfound: The American Dream of Housing Justice for All, 5 B.U. PUB. INT. L.J. 69, 84–86 (1995); see also Pulido, supra note 22, at 103.
103 See Jackson, supra note 24, at 204, 206–09; see also Kevin Fox Gotham & James D. Wright, Housing Policy, in The Handbook of Social Policy 241–42 (James Midgley et al. eds., 2000).
104 See Barlow, supra note 19, at 38; Gotham & Wright, supra note 103, at 239.
105 See Gotham & Wright, supra note 103, at 237, 242.
106 Aldana & Dymski, supra note 95, at 103.
107 See Jackson, supra note 24, at 205–06.
areas and the concentration of low-income, mostly African American families, in the deteriorating inner cities.”

FHA and VHA loans were offered only to white suburban residents as a result of three of the FHA’s rating system policies: (1) favoring the construction of new single family homes over multi-family projects; (2) offering unfavorable terms on loans for the repair of existing structures, making it more economical to purchase a new home than to repair an existing one; and (3) using a racially biased appraisal procedure to refuse to guarantee mortgages in black or racially mixed urban neighborhoods. These three institutional mechanisms ensured that “FHA insurance went to new residential developments on the edges of metropolitan areas, to the neglect of core cities,” which became enclaves of deteriorating housing stock that could not be improved or repaired because loans were made unavailable. These increasingly dilapidated dwellings became the exclusive province of black renters, as whites made their American dream of homeownership in the suburbs possible through the support of the FHA and VHA. Later, the decaying urban housing stock, entirely a result of government policy, would become a cultural mark of race, as blacks were associated with squalid, ghettod housing conditions. Beyond merely favoring suburban over urban homeownership, the FHA justified its overtly segregationist policies with warnings of the dire economic and social consequences of allowing “adverse influences,” like blacks, to “infiltrate” stable all-white neighborhoods. The FHA did not just condone existing segregationist trends, it “exhorted segregation and enshrined it as public policy,” by legitimizing the fear that “an entire area could lose its investment value if rigid black-white separation was not maintained.”

108 Gotham & Wright, supra note 103, at 241.
109 See Jackson, supra note 24, at 206–07.
110 Id. at 206; see Massey & Denton, supra note 35, at 54–55; Gotham & Wright, supra note 103, at 241 (“African Americans . . . were officially excluded from FHA subsidies and segregated by the agency’s refusal to underwrite mortgages in predominately minority areas.”).
111 See Massey & Denton, supra note 35, at 55; Kenn, supra note 102, at 85–86.
113 Gotham & Wright, supra note 103, at 241–42.
114 Jackson, supra note 24, at 208, 213. The FHA was probably right about the economic consequences of “mixed” neighborhoods; private land developers also shared this sentiment. For example, William Levitt, the mastermind behind post-war suburbs famously said, “I have come to know that if we sell one house to a Negro family, then 90 or 95 per-
Any mixing of the races, the theory went, risked two disastrous consequences: the decline of property values for whites, and the decline of the human race itself.\textsuperscript{115} If blacks were allowed to own homes alongside whites, it would lead to their “intermarry[ing] with whites and thus send[ing] the ‘whole white race . . . downhill’ . . . . [T]he one naturally flowed from the other.”\textsuperscript{116} To prevent this existentially and economically damaging mixing of the races, the FHA continued the HOLC policy of giving black and mixed neighborhoods the lowest ratings possible in its appraisals.\textsuperscript{117}

To further ensure that the properties it guaranteed remained available to whites only, and that their investments were protected from default due to black ownership, the FHA strongly advocated racial covenants, until a year after they were outlawed by the Supreme Court in 1948.\textsuperscript{118} These racial covenants, combined with exclusionary zoning schemes that restricted development in suburban areas to large lots, ensured that only wealthy and middle class whites could enjoy the benefits of suburban living.\textsuperscript{119}

Although officially excluded from HOLC and FHA programs, urban blacks were the targets of other governmental housing programs during the twentieth century: federal and state subsidized public housing.\textsuperscript{120} Federal, state, and local public housing policies were designed to concentrate poor blacks in ghetto high-rises in urban neighborhoods left blighted by disinvestment from FHA lending polices.\textsuperscript{121} These racist public housing policies resulted in projects like the infamous Robert Taylor Homes projects in Chicago.\textsuperscript{122}

\textsuperscript{115} See Jackson, supra note 24, at 217; see also Ford, supra note 112, at 138, 145 (noting the primacy of spatial organization and demarcation in maintaining the sanctity of racial difference and the potential that undermining segregation could have in unraveling race as a meaningful construct).

\textsuperscript{116} Hirsch, supra note 79, at 196.

\textsuperscript{117} See Ford, supra note 21, at 1848.

\textsuperscript{118} See Shelley v. Kraemer, 334 U.S. 1, 21 (1948); Jackson, supra note 24, at 208; Ford, supra note 21, at 1848.

\textsuperscript{119} See Jackson, supra note 24, at 241–42.


\textsuperscript{121} See Massey & Denton, supra note 35, at 55–57.

\textsuperscript{122} See Hirsch, supra note 79, at 262–63. Robert Taylor Homes exemplify the concentration of black poverty that defined public housing policy in the decades following the World War II. See id. The housing project was a two mile by one-quarter mile parcel of
Public housing was concentrated in urban neighborhoods as a result of two simultaneous policies. First, racist homeownership lending policies meant that rental housing for blacks was unwelcome in white suburban neighborhoods. Rental housing for blacks had a perceived detrimental effect on housing prices and social stability, resulting in a public-private consensus to locate large public housing projects away from middle-class and affluent white suburban neighborhoods. Second, for much of the twentieth century, the federal government engaged in a systemic campaign to eradicate “urban blight.” From the beginning, urban blight was a label applied to urban neighborhoods regardless of their economic, social, or cultural vitality. Federal, state, and local governments systematically classified thriving black urban neighborhoods as blighted in order to justify their razing. Once razed, these desolate swaths of rubble and concrete became the site of most of the nation’s public housing projects. Particularly in the decades following World War II, public housing policy in the United States was used as “an institutional means of reinforcing racial segregation” by concentrating public affordable housing in decaying inner city neighborhoods, far from more affluent white settlements in the suburbs. The data on housing in the United States demonstrates that today, “whites are the overwhelming beneficiaries of single-family suburban housing whereas African Americans and other racial minorities are likely to be restricted to multifamily projects, conventional public housing units, and deteriorating and substandard housing in inner cities.”

The “result, if not the intent, of the public housing program of the United States was to segregate the races, to concentrate the disadvantaged in inner cities, and to reinforce the image of suburbia as a place

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124 See Barlow, supra note 19, at 38; Gotham & Wright, supra note 103, at 241–42.
125 See Massey & Denton, supra note 35, at 56–57; Gotham & Wright, supra note 103, at 242.
126 See Jeff Chang, Can’t Stop Won’t Stop: A History of the Hip-Hop Generation 11 (2005). Indeed, urban blight was little more than a synonym for black neighborhoods during most of the twentieth century. See Massey & Denton, supra note 35, at 56.
127 Barlow, supra note 19, at 41.
128 Aldana & Dymski, supra note 95, at 103 (“Public housing units in these years were almost entirely located in lower-income, heavily minority areas.”).
129 Massey & Denton, supra note 35, at 227; see Dréier et al., supra note 92, at 129.
130 Gotham & Wright, supra note 103, at 246.
of refuge from the problems of race, crime, and poverty.”\textsuperscript{131} As a result, “[p]ublic housing projects in large measure accounted for the high levels of poverty concentration in urban neighborhoods. Prolonged marginalization from the mainstream economy, economic restructuring, and housing segregation via the efforts [of] government, bankers, realtors, and private citizens, resulted in neighborhoods with high levels of joblessness.”\textsuperscript{132} Blackness became synonymous with inner city public housing residents suffering economic isolation and unemployment.\textsuperscript{133} The concentration of public housing projects in low-income black neighborhoods was the result of a “white consensus” that complemented FHA housing loan programs and its subsidy of suburbanization to protect and perpetuate racial segregation.\textsuperscript{134}

B. Segregation and the Reification of Race

Racist residential segregation in the United States has created two racialized spaces: desirable white suburbs and decaying black urban ghettos.\textsuperscript{135} These racialized spaces have naturalized the idea of race in American law and society.\textsuperscript{136} Racial segregation has become a powerful self-perpetuating system in American society, enforcing a physical separation between races while simultaneously upholding the structure that makes distinct racial categories possible—as much creating racial identities as regulating them.\textsuperscript{137} This section explains how these policies and covenants did not merely regulate race; they perpetuated its very existence. The maintenance of the idea of race in U.S. society would not have been possible without strictly enforced residential segregation.

\textsuperscript{131} Jackson, supra note 24, at 219.
\textsuperscript{132} Karen J. Gibson, Race, Class, and Space: An Examination of Underclass Notions in the Steel and Motor Cities, in The African American Urban Experience: Perspectives from the Colonial Period to the Present 187, 204–05 (Joe W. Trotter et al. eds., 2004). For example, in Los Angeles there is a concentration of subsidized housing units in lower-income and heavily minority areas. The fact that these units are disproportionately occupied by lower-income and minority residents reinforces income polarization and racial separation in the region . . . . [C]oncentrating low income households in areas with high unemployment and low educational attainment reinforces these households’ separation from access to social and personal resources.

Aldana & Dymski, supra note 95, at 105.
\textsuperscript{133} See Massey & Denton, supra note 35, at 118.
\textsuperscript{134} See Hirsch, supra note 79, at 254–55.
\textsuperscript{135} See Haney López, supra note 41, at 93.
\textsuperscript{136} See id.; Ford, supra note 112, at 130.
\textsuperscript{137} See Guillaumin, supra note 35, at 135–38; Haney López, supra note 41, at 83.
1. Segregation and Racial Classification

Segregation reifies race by the very fact that it uses race as a means of classifying people. Urban/suburban segregation accomplishes this by separating people into distinct physical spaces according to their “race” and preventing association between the two groups as a way to maintain their distinct, relational identities. Racial segregation is so integral to the reification of race that “[w]ithout the clear spatial line between the races, nothing would be left with which to deploy race with accuracy and secure it with permanency.” The act of classifying people by race carries and confers racial meaning. Racial segregation ostensibly separates people by race, but in doing so, it actually “facilitate[s] the assignment of racial identities according to separation.” Space becomes a key tool for maintaining racial classification because of the constant mutability of race.

Without the system of marks that segregation provides, racial identities become dangerously fluid. Keeping track of who is black and who is white, to maintain the social order and to allocate commodities and services, becomes vastly more complicated in a non-segregated world. Because of the practical difficulty inherent in maintaining a

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138 See Guillaumin, supra note 35, at 150 (explaining the necessity of imbalanced relationships for maintaining and marking race); Massey & Denton, supra note 35, at 160 (“The high degree of residential segregation imposed on blacks ensures their social and economic isolation from the rest of American society.”).

139 Ford, supra note 112, at 138.

140 Haney López, supra note 41, at 84.

141 Ford, supra note 112, at 120–126, 130–31. As explained earlier, race is a socially constructed category which constantly changes to reflect evolving cultural ideas about race, but the phenotypical markers that are often used to classify individuals by race are remarkably fluid as well. See Haney López, supra note 41, at 45; Obach, supra note 57, at 253.

142 See Ford, supra note 112, at 130.

143 See Farley, supra note 23, at 1235. Maintaining racial categories and keeping track of how to distribute white privilege becomes increasingly difficult in more integrated settings, especially those where everyone has attained a high level of education or wealth, two other common markers of racial difference. See Barlow, supra note 19, at 41–47. As Haney López notes from his personal experiences as someone whose race changed depending on his context, race in contemporary American society “is highly contingent, specific to times, places and situations. Whiteness, or the state of being White, thus turns on where one is” in time, but most particularly, in place. Haney López, supra note 41, at xxi. Cheryl Harris offers an illuminating illustration of this reality when she describes her grandmother’s physical journey between the races. Cheryl Harris, Whiteness As Property, 106 Harv. L. Rev. 1707, 1710–11 (1992). Each morning, the woman left her home in a predominantly black neighborhood on the south side of Chicago as a black woman and arrived at her job in an upper-middle class department store in the central business district as a white woman. See id.
strict (and artificial) white-over-black hierarchy in the face of the overwhelming plasticity of phenotypical traits, spatial markers like segregation are essential to maintain a racialized society.\textsuperscript{144} As Professor Ford writes:

\begin{quote}
[T]he line of demarcation, the boundary line, the undrawn but universally felt line between neighborhoods, the line between city and suburb . . . .

. . . [T]his line that regulates and performs the spatial movement and organization of bodies . . . is a (perhaps \textit{the}) prerequisite for racial differentiation and the deployment of race as a (perhaps \textit{the}) regulatory fiction in late capitalist America.\textsuperscript{145}
\end{quote}

Segregation eliminates the ambiguity that would otherwise surround fluid, socially constructed racial categories by constructing distinct, physical boundaries.\textsuperscript{146} Strictly enforcing residential segregation, whether through private covenants, government policy, or “facially race-neutral” public policy\textsuperscript{147} “is essential to the (re)production of a particular racial formation.”\textsuperscript{148}

It is not surprising, then, that one of the reasons for the virulent white anti-integration backlash was that “[m]any white southerners feared . . . that racial equality [as promised by the civil rights laws of the 1960s] would not only end segregation but also dissolve racial distinc-

\textsuperscript{144} See Haney López, supra note 41, at 84, 140–41; Farley, supra note 23, at 1235; Ford, supra note 112, at 130. An anti-miscegenation case from the middle of the twentieth century illustrates the long history of place-based classification by race in American society. See Knight v. State, 42 So. 2d 747 (Miss. 1949). Davis Knight, a “white negro” was accused of violating anti-miscegenation laws by marrying a white woman. Victoria E. Bynum, “White Negroes” in Segregated Mississippi: Miscegenation, Racial Identity, and the Law, 64 J. of S. Hist. 247, 247 (1998). At his trial, evidence offered by the prosecution to prove the defendant’s blackness, in spite of his phenotypical whiteness, included testimony that the defendant’s relatives lived in the black neighborhood. See id. at 268. Then, as now, separate racial space served not only as a proxy for race, but as an essential framework for maintaining it. See Barlow, supra note 19, at 40–41; Ford, supra note 112, at 117, 130. In Knight’s day, as now, “race often follows from neighborhoods.” Haney López, supra note 41, at 84.

\textsuperscript{145} Ford, supra note 112, at 117.

\textsuperscript{146} See id. at 136, 138; see also Haney López, supra note 41, at 84 (“Segregation has increased the stability of racial categories by fixing mutable racial lines in terms of relatively immutable geographic boundaries.”).

\textsuperscript{147} See Ford, supra note 21, at 1845, 1848–53 (arguing that, in addition to public and private action, facially race-neutral public policy can also reinforce segregation “in a society with a history of racism”).

\textsuperscript{148} Pulido, supra note 22, at 74.
Because “space is a resource in the production of white privilege,” the fear of losing racially identified space terrified white southerners. Such was the case for northern whites as well, whose opposition to school integration busing illustrated that northerners understood the dangers of integration as clearly as their southern neighbors. This fear resulted in the comprehensive package of racist public policies and private actions that ensured that space and race would be perpetually linked in American society as a way to police racial difference.

2. Spatial and Racial Hierarchy

By separating living spaces according to race, federal, state, and local governments created and perpetuated a white-over-black spatial and racial hierarchy. Once in place, this hierarchy became self-fulfilling, naturalizing the idea of race in American society by creating a closed feedback system. Racist, legally enforced segregation provided the physical separation necessary for the concept of racial power hierarchies to crystallize in American society. However, racist power hierarchies in the United States no longer require the support of the legal system to maintain the same power imbalance. De facto residential segregation continues unabated today, further legitimizing the hierarchies created in the centuries prior to Loving. This entrenched seg-
regation is no less racist and no less damaging than the overtly legalized segregation that dominated the American landscape until the late 1960s.\footnote{157 See Ford, \textit{supra} note 21, at 1844–45.}

Racial segregation created and reinforced the white-over-black hierarchy by institutionalizing a power imbalance based on spatially defined racial differences.\footnote{158 See Ford, \textit{supra} note 112, at 135–39; Kenn, \textit{supra} note 102, at 89–90.} By consolidating power and wealth in the suburbs and restricting access to suburban life to whites for decades through a series of racist housing and credit policies, segregation centralized economic, social, and political disenfranchisement in inner city black neighborhoods.\footnote{159 See \textit{Massey & Denton}, \textit{supra} note 35, at 118; Gotham & Wright, \textit{supra} note 103, at 240–41.} The ultimate result is that wealthy whites settle in the suburbs, while poor blacks remain confined to poor ghetto neighborhoods.\footnote{160 See \textit{Jackson}, \textit{supra} note 24, at 242.} This economic and spatial segregation translates into political disenfranchisement with resultant power imbalances between those who are welcome in the suburbs and those who are not.\footnote{161 See Ford, \textit{supra} note 21, at 1851, 1874. Racist zoning policies, supported by racist housing and transportation policies, build an exclusionary conception of space as local and racialized. See id. This local, racialized space works to “exclude ‘outsiders’ [blacks] from the political processes of the locality,” unless they are able to conform to the norms of the homogenous political jurisdiction. See id. at 1874. Only if they can conform to the homogenous character (generally white and wealthy enough to purchase the type of housing stock the jurisdiction has decided to allow) will they be able to join the political entity that is the local jurisdiction. See id. In essence, consolidation of white privilege in wealthy and middle class suburbs localizes political control. See id. (The political disenfranchisement and “impoverished condition of segregated minorities is, at least in part, a function of their very exclusion from the communities that control wealth and employment opportunities.”). This local disenfranchisement has broader political and social consequences, explains Ford: “[I]t is a matter of political fragmentation and economic stratification along racial lines . . . [because] [s]egregated minority communities have been historically impoverished and politically powerless. Today’s laws and institutions need not be explicitly racist to ensure that this state of affairs continues—they need only to perpetuate historical conditions.” Id. at 1844; see also Kenn, \textit{supra} note 102, at 97 (noting that the black/white, urban/suburban dichotomy created as a result “of historical patterns of deliberate segregation [ensures that blacks] remain the disenfranchised members of society”).}

By excluding blacks from the locus of power in contemporary American society (the suburbs), racist land-use patterns have preserved the racist power imbalances that slavery began.\footnote{162 See Ford, \textit{supra} note 21, at 1844, 1852.} Spatial configurations predicated on race are not incidental, but integral, to racial power relations because they create the framework for exclusion from powerful
spaces, and power itself. Indeed, in contemporary American society, “[r]esidential segregation is the institutional apparatus that supports other racially discriminatory processes and binds them together into a coherent and uniquely effective system of racial subordination.” Without segregation, racial hierarchy and race itself would be impossible to maintain.

3. Segregation and Racial Stereotyping

Blacks in the United States continue to live in neighborhoods that are predominantly black and poor, and are culturally defined as ghettos; meanwhile, whites live in neighborhoods that are predominantly white, are less poor, and are perceived as desirable places to make one’s home. More than forty years after legally enforceable segregation ended, U.S. metropolitan areas with substantial black populations continue to be “hypersegregated.”

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163 See David Delaney, Race, Place, and the Law 1836–1948, at 6–7 (1998) (“[T]he spatiality of racism was a central component of the social structure of racial hierarchy . . . .”).

164 Massey & Denton, supra note 35, at 8.

165 See Dreier et al., supra note 92, at 129. In 2000, blacks were three times more likely to live in concentrated poverty than whites. Id.

166 See Massey & Denton, supra note 35, at 74–78. See generally Loving, 388 U.S. 1 (declaring laws prohibiting interracial marriage unconstitutional). Loving followed the major desegregation cases like Brown v. Board of Education, 347 U.S. 483 (1954), but until Loving, segregation was still legally enforceable in the personal lives of Americans. See Loving, 388 U.S. at 2. Hypersegregation refers to neighborhoods with high levels of segregation across five factors that describe population distribution. See Wilkes & Iceland, supra note 78, at 23. The five factors are: evenness, or “the differential distribution of groups across neighborhoods”; exposure, which “measures the probability of interaction between groups”; concentration, which “refers to the amount of physical space occupied by the minority group”; centralization, which “indicates the distance to the center of the urban area”; and clustering, which “indicates the degree to which minorities live in areas that adjoin one another.” Id. When taken together, these five factors offer a picture of how black settlement is concentrated away from white and non-poor settlements. See id. at 29 (noting that a review of data from the 2000 Census shows that across the five segregation factors, “[t]wenty-nine metropolitan areas could be classified as having black-white hypersegregation in 2000,” including six major cities that were hypersegregated along all five dimensions—Chicago, Cleveland, Detroit, Milwaukee, Newark, and Philadelphia). The list of cities that were hypersegregated along four dimensions reads like a list of the most important cities in the United States and includes Atlanta, Baltimore, Buffalo-Niagara Falls, Houston, Los Angeles, Miami, New Orleans, New York, St. Louis, Washington, D.C., and fourteen other major U.S. metropolitan areas. Id. The U.S. Census, however, does report a decline in black-white residential segregation in the 2000 Census from data collected in the 1990 and 1980 Censuses, but the declines were registered predominantly in the south and west, leaving rates of segregation in older rust-belt and northeastern cities mostly unchanged. See John Iceland et al., U.S. Dep’t of Commerce, Racial and Ethnic Residential Segregation in the United States: 1980–2000, at 15, 17 (2002).
This hypersegregation perpetuates race in the American consciousness by creating the foundational white-over-black hierarchy that makes race possible.¹⁶⁷ In addition, segregation continues to maintain the social construction of race, by creating a space in which certain behaviors and consequences become racialized in the consciousness of society.¹⁶⁸ The consequences of the spatial hierarchy and unequal distribution of privilege that accompany segregation are transformed into proxies for race—and become an evolving system of marks.¹⁶⁹ In turn, those marks are used to support the proposition of natural racial categories.¹⁷⁰

By isolating blacks socially, economically, and legally, residential segregation has allowed race to adapt to changing social, economic, and political realities, ensuring that the system of marks with distinct racial categories remains culturally relevant and identifiable, even as traditional racial characteristics disappear.¹⁷¹ Segregated social and political barriers generate a continuous feedback loop within racialized communities, creating a hypersegregated black urban underclass with particular visible marks, in stark definitional opposition to a white suburban middle and upper class.¹⁷²

¹⁶⁷ See Farley, supra note 23, at 1235.
¹⁶⁸ See Barlow, supra note 19, at 10; Haney López, supra note 41, at 92, 93.
¹⁶⁹ See Farley, supra note 30, at 68; Farley, supra note 20, at 227; Grahn-Farley, supra note 57, at 31–32. Anthony Farley builds upon Colette Guillaumin’s writings and explains that it is through this system of marks, which “must be written on the body,” that “[t]he will of the powerful ones, the would-be owners, becomes, through force and habit and force of habit, the system of marks. The powerful group marks itself and marks its others and then forces its less powerful others to respect the system of marks, to accept its will.” Farley, supra note 23, at 1231–32. See generally Guillaumin, supra note 35.
¹⁷⁰ Grahn-Farley, supra note 57, at 31 (“The system of marks [the mark of race—blackness] is born when people start believing that the way they see people being treated is the reflection of an internal essential quality rather than the imposition of an external social order.”). Maria Grahn-Farley explains how this process of essentialism works to construct a social order that seems natural. See id. Through our system of racial marks, we “guarantee[] that the material treatment of a person is also what the person is seen to be.” Id. Thus, as the mark of blackness correlates with economic, social, and political isolation in urban ghettos, the mind begins to believe that blackness is the mark of an internal and innate shortcoming within the marked group, conflating the results of the hierarchical system with a set of physical features, or marks, of race. See id.
¹⁷¹ See Farley, supra note 23, at 1235 (explaining that once the white-over-black hierarchy is created, all institutions and cultural, economic, and social training in society is oriented to that hierarchy which allows society to forget that it created the system of marks and the white-over-black hierarchy, even as it “bows down” before it).
¹⁷² See Wilson, supra note 90, at 16; see also Guillaumin, supra note 35, at 133 (“[N]atural’ groups only exist by virtue of the fact that they are so interrelated that effectively each of the groups is a function of the other. In short, it is a matter of social relations within the same social formation.”); Haney López, supra note 41, at 92 (“[T]he signifi-
These new racial identifiers, the products of spatial, economic, social, and political isolation, are perceived as natural results of racial difference by white elites.\textsuperscript{173} Segregation contributes to the economic isolation and “problems of social organization in inner city ghetto neighborhoods”\textsuperscript{174} by concentrating poverty and thus, “male joblessness, teenage motherhood, single parenthood, alcoholism, and drug abuse.”\textsuperscript{175} These social problems are then perceived, by many whites, as both naturally linked to blackness and signs of racial inferiority; mere “problems of social organization” become a proxy for blackness—a euphemism for black dysfunction.\textsuperscript{176}

The spatial, social, political, and economic isolation of the urban black ghetto has given rise to behaviors and consequences that are “rational accommodations to social and economic conditions within the ghetto.”\textsuperscript{177} Despite the conditionality of these behaviors, they are considered natural for blacks; “they are not widely accepted or understood outside of [the ghetto], and in fact are negatively evaluated by most of American society.”\textsuperscript{178}

In contrast to black underclass urban neighborhoods, and the dysfunction that marks them, suburbs are defined as the home of the American dream—middle class, safe, and white.\textsuperscript{179} The system of marks created by segregation’s spatial, economic, social, and political hierarchy

cance of legally mandated segregation . . . lies . . . in the power of segregation to create and maintain the poverty and prosperity that society views as the results of innate racial character, rather than as predictable consequences of social and specifically legal discrimination.”).

\textsuperscript{173} See Wilson, \textit{supra} note 90, at 24 (pointing out that blacks experience an acute “degree of segregation, isolation and poverty” which separates them from “resources and privileges”).

\textsuperscript{174} \textit{Id.} Although William Julius Wilsons’ work has been criticized by critical race theorists for failing to take sufficiently into account the structural inequalities of centuries of racism and racist laws and practices in the United States, his work has played an important role in illuminating the economic, social, and cultural isolation of the black urban ghetto. See generally Jack Nieminen, \textit{Race, Class, and the State in Contemporary Sociology: The William Julius Wilson Debates} (2002); Stephen Steinberg, \textit{Turning Back: The Retreat from Racial Justice in American Thought and Policy} (2001).

\textsuperscript{175} Massey & Denton, \textit{supra} note 35, at 170.


\textsuperscript{177} Massey & Denton, \textit{supra} note 35, at 165–66.

\textsuperscript{178} See \textit{id.} at 166.

\textsuperscript{179} See Kunstler, \textit{supra} note 42, at 101, 105 (“The Dream, more specifically, was a detached home on a sacred plot of earth in a rural setting, unbesmirched by the industry that made the home possible . . . [and] a place that was, most of all, not the city.”).
seduces us with pernicious messages in the forms of ghettos and suburbs, littered streets and manicured lawns, corner liquor stores and sprawling malls, welfare recipients and white-collar professionals, school violence and college graduates . . . . These contrasting realities follow neighborhood lines—in fact, racial boundaries—and thus testify to the ultimate difference race makes . . . . On these streets, racial differences seem fundamental, immutable, real, and self-evident, confirming not only the existence of races, but also every negative suspicion about racial characteristics.  

Because “housing is not just a dwelling and a place to live[,] it is a symbol of personal worth, social status, and security,” a house in the suburbs determines whiteness by serving as a both a mark and a key to power and privilege. This concentrates white privilege in the suburbs even further by “perpetuat[ing] educational segregation and imped[ing] access to employment opportunities and upward mobility for disadvantaged groups. In this way, housing expresses and perpetuates the stratification of classes and races that exists within society as a whole.”

The consequences of segregation have been and continue to be so powerful that they persist as the unexamined bedrock of our system of racial marks, despite the fact that assignment of race based on segregation’s consequences ignores the social relationships that bring those consequences into existence:

The . . . idea of nature introduces an erroneous relationship between the facts . . . . Nature proclaims the permanence of the effects of certain social relations on dominated groups. . . . A social relationship, here a relationship of domination, of power, of exploitation, which secretes the idea of nature, is regarded as the product of traits internal to the object which endures the relationship, traits which are expressed and revealed in specific practices. To speak of a specificity of races or of sexes, to speak of a natural specificity of social groups is to say in a sophisticated way that a particular ‘nature’

180 Haney López, supra note 41, at 93.
181 Gotham & Wright, supra note 103, at 237 (“[I]n addition to lifestyle and social status, housing and neighborhood heavily influence the types and kinds of jobs and cultural amenities to which one has access.”).
182 Id. at 238.
is directly productive of a social practice and to bypass the social relationship that this practice brings into being.\textsuperscript{183}

Thus, segregation gives legitimacy to the concept and marks of race in American society by concentrating black poverty in urban ghettos, while concentrating white prosperity in suburban neighborhoods.\textsuperscript{184}

4. Segregation and the Physical Mark

Finally, segregation maintains distinct racial categories by preserving the phenotypical characteristics (marks) assigned racial meaning by preventing members of different racial groups from interacting and, therefore, from procreating across established racial boundaries.\textsuperscript{185} Segregation, even in the absence of anti-miscegenation laws, prevents interracial marriage and interracial childbearing while promoting same-race family units.\textsuperscript{186} If blacks and whites are not permitted to live near each other and are not allowed to go to school together, they are far less likely to date, marry, and produce children whose physical characteristics would challenge the very notion of a natural racial order.\textsuperscript{187} On a very practical level, segregation reifies race because the physical markers, such as skin color and hair color and texture, that are used to mark race are artificially preserved.\textsuperscript{188}

\begin{footnotesize}
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\item[\textsuperscript{183}] Guillaumin, supra note 35, at 143.
\item[\textsuperscript{184}] See Gibson, supra note 132, at 204 (showing that white poverty is decentralized—integrated into white middle-class neighborhoods in a way that allows the perpetuation of the idea that blacks are poor and urban and that whites are middle class or affluent and suburban). Even poor whites live in white neighborhoods and most of the neighborhoods where poor whites live are not “poor” neighborhoods. See id.
\item[\textsuperscript{185}] See Haney López, supra note 41, at 82. Like segregation laws, anti-miscegenation laws were passed to maintain these visible markers. See id.
\item[\textsuperscript{186}] Antimiscegenation laws “purported merely to separate the races. In reality, they did much more than this: they acted to prevent intermixture between peoples of diverse origins so that morphological differences that code as race might be more neatly maintained . . . . Antimiscegenation laws maintained the races they ostensibly merely separated by insuring the continuation of the ‘pure’ physical types on which notions of race are based in the United States.” Id.
\item[\textsuperscript{188}] See id.; see also Hirsch, supra note 79, at 196 (noting that many Chicago residents’ fears about integration stemmed from “[t]heir fear of losing their identity as ‘whites’ [from] the prospect of interracial marriage or sexual assault in transition areas”).
\item[\textsuperscript{188}] Haney López, supra note 41, at 82 (“Cross-racial procreation erodes racial differences by producing people whose faces, skin, and hair blur presumed racial boundaries. Forestalling such intermixture is an exercise in racial domination and subordination. It is
\end{itemize}
\end{footnotesize}
C. Mobility, Race, and Power: Federal and Private Transportation Policy

Racist federal transportation policy has reified race in American society in a number of ways. First and foremost, federal transportation policy contributed to racial segregation in American society through decades of spending on an interstate highway system, which made private car transportation possible. Beginning with legislation in 1916 that made state and federal cooperation in highway funding possible, a combination of state and federal dollars eventually paid to build the extensive interstate highway system that now crisscrosses the nation. This federal and state financial commitment to passenger car travel contrasts sharply with its laissez-faire attitude towards funding public transport. According to the Federal Highway Administration, the federal subsidy of passenger car travel on the interstate highway system had cost more than $119 billion by 1996.

Though the groundwork was laid in 1916, the government’s commitment to subsidizing the automobile reached its zenith during the Eisenhower administration. The Federal-Aid Highway Act of 1956 ushered in the era of the interstate highway building, calling for 41,000 miles of highway between cities and countryside. The act created the Highway Trust Fund, with specially earmarked tax funds to ensure that there would always be money available for highways. The federal commitment to an interstate highway system was so profound that the

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also, however, an effort to forestall racial blurring.”); Oh, supra note 186, at 1329–30 (“Racially mixed children threatened white supremacy. A large number of such children would destabilize a system of racial apartheid premised on keeping relations between whites and blacks separate and distinct.”).


190 See Wilson, supra note 90, at 46.

191 See Federal Aid Road Act, ch. 241, 39 Stat. 355 (1916); Wilson, supra note 90, at 46.

192 See Lewyn, supra note 189, at 88 (noting that all levels of government, from the federal to the local, were committed throughout the twentieth century to promoting private transportation over public transportation). The federal government subsidized local government’s dedication to private transportation by paying for ninety percent of the bill for the interstate system after the passage of the Federal-Aid Highway Act of 1956. See Ch. 462, 70 Stat. 374 (1956). No such bill was ever passed to create a national network of public transportation.

193 Robert L. Reid, Paving America from Coast to Coast, Civ. Eng’g, June 2006, at 37, 40.

194 See Jackson, supra note 24, at 249–50.

195 See 70 Stat. 374.

Federal-Aid Highway Act pledged to reimburse states for ninety percent of their final construction costs, regardless of the total price.\textsuperscript{197} Government subsidy of the highways was so important that the new car-dependent suburbs would not have been possible “without sustained public investment in highways” from the Federal-Aid Highway Act and the Trust Fund.\textsuperscript{198} This government spending to facilitate passenger car travel between city and suburb helped to make the suburbs economically feasible housing arrangements for millions of white Americans.\textsuperscript{199} The federal interstate highway program became a literal path to suburbia for middle-class whites during the post war period; building superhighways from suburbs directly into urban downtowns facilitated such travel with insulated ease.\textsuperscript{200} In New York, middle class whites followed [Robert] Moses’ Cross-Bronx and Bruckner Expressways to the promise of [the American Dream of home] ownership in one of the 15,000 new apartments in Moses’ Co-op City. They moved out to the cookie cutter suburbs that sprouted along the highways in New Jersey and Queens and Long Island.\textsuperscript{201}

Without wide, smooth roads to transport suburbanites easily between the center cities where they worked, the malls where they shopped, and the cul-de-sacs where they lived, the growth of the suburbs in America simply would not have happened.\textsuperscript{202} Federal and state transportation policy has engaged simultaneously in a process of neighborhood destruction in the nation’s mostly black urban areas.\textsuperscript{203} Highway policy matched housing policies throughout the twentieth century to create profound black urban isolation.\textsuperscript{204} In addition to funneling middle class whites out to the growing suburbs, federal transportation policy asphyxiated black urban neighborhoods by

\textsuperscript{197} See Reid, supra note 193, at 40.
\textsuperscript{198} PIETRO S. NIVOLA, LAWS OF THE LANDSCAPE: HOW POLICIES SHAPE CITIES IN EUROPE AND AMERICA 13 (1999); see Reid, supra note 193, at 42.
\textsuperscript{199} See Wilson, supra note 90, at 46; see also Hank Dietmar, Sprawl: The Automobile and Affording the American Dream, in SUSTAINABLE PLANET: SOLUTIONS FOR THE TWENTY-FIRST CENTURY, 109, 112 (noting that by subsidizing private passenger car travel, the “interstate highway system made possible the suburbanization of America” for middle-class whites).
\textsuperscript{200} See Lewyn, supra note 189, at 88; Reid, supra note 193, at 42.
\textsuperscript{201} CHANG, supra note 126, at 12. Robert Moses was a powerbroker and highway baron who became one of the most influential figures in twentieth century American history. See Jackson, supra note 24, at 294.
\textsuperscript{202} See Lewyn, supra note 189, at 88.
\textsuperscript{203} See id.
\textsuperscript{204} See Wilson, supra note 90, at 48.
routing vast super-highways through once vibrant black areas to facilitate movement along the suburban-urban pipeline.\textsuperscript{205} Urban planning matriarch Jane Jacobs called these expressway scars “border vacuums.”\textsuperscript{206}

For decades, government policy was to route highways through less valuable neighborhoods in already developed areas, concentrating these border vacuums in black neighborhoods and ensuring that they bore the brunt of urban highway construction.\textsuperscript{207} The urban arm of the national interstate highway project was focused on demolishing “entire swaths of apartment complexes or thousands of individual homes [in] densely populated neighborhoods—usually poor neighborhoods inhabited mainly by members of minorities.”\textsuperscript{208} Chosen because public opposition would be easiest to quell among the already disenfranchised black and Latino community members that inhabited them, hundreds of minority neighborhoods were cleared or bifurcated to make way for arteries and overpasses.\textsuperscript{209}

As direct result, “[p]reviously stable and sustainable communities [have been] ruptured and destroyed by massive highway projects designed to transport more people in automobiles to and from suburbs and out of the urban core.”\textsuperscript{210} The damage done to once vibrant black residential and commercial areas has been profound:

The superhighways not only drained [cities] of their few remaining taxpaying residents [by facilitating their migration to the newly accessible suburbs], but in many cases the new beltways became physical barriers, “Chinese walls” sealing off the disintegrating cities from their dynamic outlands. Those left behind inside the wall would develop, in their physical isolation from the suburban economy, a pathological ghetto culture.\textsuperscript{211}

\textsuperscript{205} See Reid, supra note 193, at 42.
\textsuperscript{206} Jane Jacobs, The Death and Life of Great American Cities 257 (1961). Border vacuums are the areas adjacent to railroad yards, expressways, walled compounds, and other urban barriers that bifurcate neighborhoods. Id. at 258–59. As Jane Jacobs points out, these border vacuum areas tend to be lifeless, devoid of the social, economic, and cultural activity that may occur a few blocks away from the border. Id. at 259–60.
\textsuperscript{207} See Reid, supra note 193, at 42.
\textsuperscript{208} See id.
\textsuperscript{209} See Lewyn, supra note 189, at 88–89.
\textsuperscript{210} Holmes, supra note 25, at 25.
\textsuperscript{211} Kunstler, supra note 42, at 107.
Referring to a newspaper story about Manhattan, Jacobs explained how destructive these border vacuums were to the social, cultural, and economic fabric of a once-vibrant neighborhood:

The slaying in Cohen’s butcher shop . . . was no isolated incident, but the culmination of a series of burglaries and hold-ups along the street . . . . Ever since work started on the Cross-Bronx Expressway across the street some two years ago, a grocer said, trouble has plagued the area . . . . Stores which once stayed open to 9 or 10 o’clock are shutting down at 7 p.m. Few shoppers dare venture out after dark, so storekeepers feel the little business they loose hardly justifies the risk in remaining open late . . . .

The affect of these policies on black neighborhoods has been acute, creating a black urban underclass, cut off economically, socially, and culturally from the safety and stability found in white society.

The 1950s construction of the Cross-Bronx Expressway exemplifies the damage these policies caused, isolating blackness away from white society and facilitating the continued reification of race in American society. Under the banner of urban renewal rights, highway baron Robert Moses condemned entire neighborhoods in the Bronx, demolishing thriving businesses and driving families of color from their

212 Jacobs, supra note 206, at 260.
213 See Pulido, supra note 22, at 85.
214 Dreier et al., supra note 92, at 131. Other examples abound, including the construction of I-10 through the Treme section of New Orleans, a once vital black residential and commercial area. See Beverly H. Wright, New Orleans Neighborhoods Under Siege, in JUST TRANSPORTATION: DISMANTLING RACE AND CLASS BARRIERS TO MOBILITY, supra note 25, at 121, 132–33. Although the highway was originally proposed for the historic French Quarter, white preservationists and residents protested, successfully blocking its construction. Id. at 124, 128. No protests from preservationists followed the decision to relocate the highway to the historic and historically black Treme district. Id. at 137. After its construction, which required the removal of businesses and homes, the highway became a physical barrier that was unsightly and literally divided in half a beautiful neighborhood with strong social networks. In stark contrast to the clusters of tall oak trees that lined Claiborne Avenue and provided countless hours of pleasure for residents in the cool shade of the trees, there now appear tall, sterile concrete pillars . . . .

This once beautiful neighborhood has become host to an array of illicit and illegal activities. Drugs and prostitution run rampant in the community. Once the home of many businesses and great musicians such as Louis Armstrong and Mahalia Jackson, Treme was a very viable financial community. With the onslaught of urbanization, Treme lost its economic viability.

Id. at 134.
homes.\textsuperscript{215} Once built, his highway in the sky cut off the borough from the rest of the city, leaving it a gutted shell of the vibrant neighborhood it once was.\textsuperscript{216}

In addition, the federal government waged a campaign to eradicate non-automobile travel across the United States.\textsuperscript{217} The private car, as a mode of transportation and a piece of the American dream, became possible through the work of a powerful highway lobby and a campaign by car companies to replace existing public transportation systems with private automobiles and buses.\textsuperscript{218} In early twentieth century America, horses and trolleys were the dominant transportation modes, but the increasingly powerful American automobile industry saw an opportunity to change transportation modes to its benefit.\textsuperscript{219} Beginning in the early 1900s, General Motors, Standard Oil, and Firestone Tire embarked on a campaign to end public trolley and rail transportation in the United States.\textsuperscript{220} The campaign was an economic one, designed to create a captive market for the companies’ products by ensuring American dependence on cars, gasoline, and tires; it was a success.\textsuperscript{221}

The three manufacturing giants oversaw the coordinated dismantling of more than 100 street car operations in cities across America, signaling the end of public rail and trolley transportation as a viable alternative to the passenger car in the United States.\textsuperscript{222} Though the participating companies were convicted of engaging in a criminal conspiracy to end street car transportation in the United States, the mini-

\textsuperscript{215} \textit{See} \textit{Kunstler, supra} note 42, at 100. Moses began his long career as Parks Commissioner, and eventually became the head of the Triborough Bridge and Tunnel Authority in New York City. \textit{Id.} at 97–98. Because he headed an Authority, Moses had unfettered discretion to build what he wanted, where he wanted. \textit{See id.} at 98. He was not accountable to an electorate and he had a steady stream of guaranteed funding over which he had sole control. \textit{Id.}

\textsuperscript{216} \textit{See id.} at 98.

\textsuperscript{217} David G. Oedel, \textit{The Legacy of Jim Crow in Macon, Georgia, in JUST TRANSPORTATION: Dismantling Race and Class Barriers to Mobility, supra} note 25, at 97, 97.


\textsuperscript{219} \textit{Kunstler, supra} note 42, at 87. The highway lobby was responding to a public fear about the democratizing effects of public streetcar travel. \textit{See Sikivu Hutchinson, Waiting for the Bus,} 63 \textit{Soc. Text} 107, 117–18 (2000). Travel by streetcar forced riders to come in close contact with members of different classes and races. \textit{Id.} at 118 (“During the streetcar era, this familiarity implied an onerous breach of class, race and ethnic boundaries. In the highway era, the auto has strenuously protected against this threat.”).

\textsuperscript{220} \textit{See Kunstler, supra} note 42, at 91–92, 211–12.

\textsuperscript{221} \textit{See id.}

\textsuperscript{222} \textit{Id.} at 91–92; Jackson, \textit{supra} note 24, at 170.
mal fine levied against them did nothing to stop the campaign.\textsuperscript{223} In fact, the conspiracy was strengthened by local, state, and federal government action.\textsuperscript{224} General Motors became the largest contributor to the American Road Builders Association, a lobbying organization comprised of businesses and trade groups poised to benefit from an increase in passenger car use in the United States.\textsuperscript{225} The organization’s political clout led the federal government to create the interstate highway system, causing the passenger car to become the preeminent mode of transportation in the United States.\textsuperscript{226}

Meanwhile, federal highway policy ensured that suburbs were preserved as enclaves of whiteness far removed from the squalor of the black urban core by limiting access to personal vehicles.\textsuperscript{227} The white consensus to limit access to the suburbs is best exemplified in the work of Robert Moses, whose work at the Tunnel Authority in New York City made him one of the most influential figures in twentieth-century American history.\textsuperscript{228} Though based in New York, his massive highway projects were replicated throughout the country, profoundly impacting the creation and segregation of the suburbs.\textsuperscript{229} In refusing to allow infrastructure for public transportation along his gateway to the Long Island suburbs, the Long Island Expressway, Moses both embodied and enabled the post-war suburban vision of segregated metropolitan areas.\textsuperscript{230} His vision was made possible in New York and across the country by unlimited federal funding for highway construction.\textsuperscript{231}

As federal transportation policy poured money into highway and personal car travel, it limited funding for public transport, ensuring that public transport would not be available to facilitate access from urban areas to the newly built suburbs.\textsuperscript{232} Federal, state, and local transportation engineers and policy makers have long “been in an open

\begin{footnotesize}
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\item \textsuperscript{223} See \textsc{Jackson}, \emph{supra} note 24, at 170. General Motors was fined a total of $5000, a nominal amount compared to its profits from converting streetcar operations to buses and private autos. \textit{Id.}
\item \textsuperscript{224} See \textsc{Jackson}, \emph{supra} note 24, at 170–71.
\item \textsuperscript{225} See \textit{id.} at 248.
\item \textsuperscript{226} See \textsc{Mumford}, \emph{supra} note 218, at 508.
\item \textsuperscript{227} See \textsc{Oedel}, \emph{supra} note 217, at 100; \textit{see also} \textsc{Jackson}, \emph{supra} note 24, at 241 (noting that the car “accentuated” discriminatory housing patterns).
\item \textsuperscript{228} See \textsc{Kunstler}, \emph{supra} note 42, at 97–98.
\item \textsuperscript{229} See \textit{id.} at 97.
\item \textsuperscript{230} See \textsc{John-Michael Rivera}, \textsc{The Emergence of Mexican America} 104 (2006).
\item \textsuperscript{231} See \textsc{Weiner}, \emph{supra} note 196, at 15 (contrasting the federal government’s decision to fund ninety percent of new highway construction with its refusal to fund mass transportation projects).
\item \textsuperscript{232} See \textsc{Dreier et al.}, \emph{supra} note 92, at 115.
\end{itemize}
\end{footnotesize}
conspiracy to dismantle all the varied forms of transportation necessary to a good system, and have reduced our facilities to the private motor car.”

This overt dismantling of the public transportation system, in concert with the massive funding of the private transportation systems, has meant that those who can afford to maintain private cars can make the move to the suburbs, while those who cannot are locked in the cities. U.S. transportation policy’s role in entrenching segregation in American society emerged

through a steady stream of seemingly innocuous funding and operational decisions . . . [which] effectively restricted the mobility of poor African-Americans and other disfavored minorities who do not own cars. Meanwhile, those same officials and citizens have simultaneously lavished public funds on transportation accommodations favored by the car-owning majority, who have used the new and improved roads, streets and highways in effect to live free from close contact with poor African-Americans and others similarly situated.

By limiting access to the suburbs to personal vehicular travel, Moses and other federal transportation power brokers guaranteed that the suburbs would remain bastions of white privilege, insulated from the black urban core by their private cars.

The legacy of anti-public transportation policies continues today. Public transportation continues to be under-funded in all areas of the country, meaning that those without cars are relegated to inconvenient, often dirty, and generally unreliable transportation. Though public transportation is insufficiently funded and substandard in general, the U.S. bus systems, which generally serve lower income populations of color, are particularly poorly run and under-funded. In many urban areas, blacks make up the vast majority of the riders on these inadequate

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233 See Mumford, supra note 218, at 508.
234 See Jackson, supra note 24, at 171.
235 Oedel, supra note 217, at 97–98
236 See Kuswa, supra note 189, at 65–66.
237 See Lewyn, supra note 189, at 105 (pointing out that federal spending on highways is five times greater than federal spending on public transit, due in large part to the continued influence of the car, tire, and homebuilding industries).
238 See John Pucher & John L. Renne, Socioeconomics of Urban Travel: Evidence from the 2001 NHTS, Transp. Q., Summer 2003, at 47, 58. In particular, “low-income neighborhoods suffer from inferior service, excessively high fares, overcrowding, and routes that do not match their desired trip patterns.” Id.
239 See, e.g., Hutchinson, supra note 219, at 111 (describing complaints about the Los Angeles Metropolitan Transit Authority).
bus systems, mandating that they disproportionately bear the brunt of these seemingly innocuous transportation funding decisions.\textsuperscript{240}

D. Transportation Policy and the Reification of Race

There are three distinct avenues through which racist transportation policies have preserved and naturalized race in the United States. First, transportation in the United States is divided into a two class system—the car-owners over the non-car-owners, replicating the white-over-black hierarchy and marking the “haves and have nots.”\textsuperscript{241} Second, access to the spaces where power and wealth are accumulated in American society is limited by the precondition of personal car ownership.\textsuperscript{242} This limited access protects white privilege from incursions by car-less blacks, insulating whiteness from the dangers of blackness, and reestablishing privilege as marked by exclusivity—the absence of blacks.\textsuperscript{243} Third, transportation policy has created highway border vacuums, which reinforce the economic, political, and social isolation that underlies the construction of blackness by physically cutting off black neighborhoods from the rest of society through highway siting decisions.\textsuperscript{244} Like the slaves relegated to slave quarters on plantations, the resulting urban underclass is kept separate from and foreign to the white privilege of the suburbs.\textsuperscript{245} The consequence of this economic, social, and political isolation has become the basis of “natural” racial difference in American society.\textsuperscript{246}

1. The Hierarchy of Transportation

In our two-tiered transportation system, the first-class citizens are people who own their own cars or who have access to private automobile transportation; the second-class citizens are people who do not own their own cars.\textsuperscript{247} By and large, people who do not own their

\begin{thebibliography}{99}
\item \textsuperscript{240} See Robert D. Bullard et al., \textit{The Routes of American Apartheid}, F. for Applied Res. & Pub. Pol’y, Fall 2000, at 66 (noting that in Macon, Georgia, a city with a population that is fifty percent black, blacks make up over ninety percent of the city’s bus riders).
\item \textsuperscript{241} See \textit{id.} at 68; Farley, \textit{supra} note 30, at 64.
\item \textsuperscript{242} See Hutchinson, \textit{supra} note 219, at 118.
\item \textsuperscript{243} Harris, \textit{supra} note 143, at 1737 (“Inherent in the concept of ‘being white’ [is] the right to own or hold whiteness to the exclusion and subordination of Blacks.”).
\item \textsuperscript{244} See \textit{Kunstler}, \textit{supra} note 42, at 107; Bullard et al., \textit{supra} note 240, at 67–68.
\item \textsuperscript{245} See Wilson, \textit{supra} note 90, at 48.
\item \textsuperscript{246} See Grahn-Farley, \textit{supra} note 57, at 33.
\item \textsuperscript{247} See, e.g., Eric Mann, \textit{Confronting Transit Racism in Los Angeles, in Just Transportation: Dismantling Race and Class Barriers to Mobility}, \textit{supra} note 25, at 69.
\end{thebibliography}
means of transportation in the United States are poor, black, and female;\textsuperscript{248} in contrast, those who do own a car are more likely to be middle-class or wealthy, white, and male.\textsuperscript{249} Membership in the first class provides a broad range of benefits and is a requisite for full economic, social, and political citizenship in this country.\textsuperscript{250} Membership in the second class dooms members to a life of riding unreliable public transportation, limiting their economic, political, and social mobility.\textsuperscript{251} This dichotomy’s power lies in its equation of car ownership with whiteness, mobility, and success.\textsuperscript{252} Because “[r]ace is the mark of dispossession,” carlessness leads to joblessness and limited mobility—synonymous with blackness.\textsuperscript{253}

In contrast, car ownership in American society is equated with wealth, success, and power—the characteristics that are used to define whiteness.\textsuperscript{254} Car ownership is a fundamental element of the American dream, an indication of status and of one’s place within the racial and economic hierarchy.\textsuperscript{255} It is culturally understood in America that “[t]he wealthier a household is, the more vehicles it owns.”\textsuperscript{256} Automobile ownership is so closely tied to success that to be carless in many parts of the country is to be without an identity, to be invisible.\textsuperscript{257}

Across economic classes, whites are more likely to own cars and therefore gain membership into the powerful and wealthy car owning class than blacks.\textsuperscript{258} In urban areas, thirty percent of black families do

\textsuperscript{248} See Alan E. Pisarski, Cars, Women, and Minorities: The Democratization of Mobility in America 7, 10 (1999) [hereinafter Cars, Women & Minorities].

\textsuperscript{249} See Alan E. Pisarski, Transportation Research Board, Commuting in America III: The Third National Report on Commuting Patterns and Trends, at xxi (2006) [hereinafter Commuting in America].

\textsuperscript{250} See Lewyn, supra note 189, at 84–85, 98–99 (noting that our two-tiered transportation system limits transportation to those who can participate in the suburban car culture).

\textsuperscript{251} See Cars, Women & Minorities, supra note 248, at 10.

\textsuperscript{252} See Robert D. Bullard, Introduction, in Highway Robbery: Transportation Racism and New Routes to Equity 1, 4–5 (Robert D. Bullard et al. eds., 2004).

\textsuperscript{253} See Farley, supra note 30, at 68.

\textsuperscript{254} See Hank Dittmar, Sprawl: The Automobile and Affording the American Dream, in Just Transportation: Dismantling Race and Class Barriers to Mobility, supra note 25, at 109, 109.

\textsuperscript{255} See Barlow, supra note 19, at 34.

\textsuperscript{256} Dittmar, supra note 254, at 109.

\textsuperscript{257} See, e.g., Hutchinson, supra note 219, at 117 (describing carlessness in Los Angeles).

\textsuperscript{258} See Bullard et al., supra note 240, at 69. A greater number of middle to upper income households own cars than poor households, and a greater number of white households own cars than black households. See Commuting in America, supra note 249, at xxi. One can surmise that a greater number of poor whites than poor blacks own cars. See id.
not own cars, while only six percent of white households do not.\textsuperscript{259} This carlessness is dispossession.\textsuperscript{260}

As car ownership has become a requisite for achieving the American dream, our economic and social system has been designed to function most efficiently for the benefit of the car owning (white) majority.\textsuperscript{261} Car owners have access to the best jobs, many of which are located in the car-dependent suburbs.\textsuperscript{262} Car owners are granted unfettered agency and privacy in their transportation choices because they are not dependent on public transportation to carry them to and from their chosen destinations.\textsuperscript{263} This mobility and agency translates into increased earning power and integration into the economy and society.\textsuperscript{264}

As the suburbs became synonymous with personal automobile transportation, inner cities became enclaves of carlessness, where “for millions of inner city residents, public transportation is the only means of getting around.”\textsuperscript{265} Excluded from the whiteness of car-ownership, riders of public transportation are disproportionately persons of color.\textsuperscript{266} Thus, ridership on public transportation has become a racialized and stigmatized exercise, reproducing the white-over-black hierarchy through transportation modes.\textsuperscript{267} Because it has been made black, public transportation—in particular, the bus—has become “a largely

\textsuperscript{259} \textit{Cars, Women & Minorities}, supra note 248, at 10.
\textsuperscript{260} \textit{See id.}
\textsuperscript{261} \textit{See Holmes}, supra note 25, at 22.
\textsuperscript{262} \textit{See Cars, Women & Minorities}, supra note 248, at 11. More commuters now travel to work in the suburbs than into the urban core. \textit{Commuting in America}, supra note 249, at xiv. William Julius Wilson documents the flight of high-wage jobs to the suburbs and the effect that move has had on the black urban population. \textit{See Wilson, supra} note 90, at 28–39 (noting that good jobs, requiring an educated workforce, followed the educated white workforce to the pro-growth suburbs). Job growth in the suburbs is consistent across economic sectors, from high-tech, to manufacturing to retail, service and wholesale. Shin Lee et al., \textit{The Decentralising Metropolis: Economic Diversity and Commuting in the US Suburbs}, 43 J. Urb. Stud. 2525, 2535 (2006). In a 2006 paper, Shin Lee, Jong Gook Seo, and Chris Webster analyzed job growth in twelve major U.S. cities in both the rust belt and the sun belt and found that across the board, job growth was fastest in the suburbs and slowest in central cities. \textit{Id}. In many of the cities studied, suburban areas added jobs, while central cities lost them or added far fewer. \textit{Id}. In a particularly startling example, the suburbs surrounding Seattle saw a job growth across sectors of approximately sixty-six percent, while the urban core saw a growth of only approximately twenty-two percent. \textit{See id.} at 2534 tbl.6.
\textsuperscript{263} \textit{See Lewyn}, supra note 189, at 84–85.
\textsuperscript{264} \textit{See Robert D. Bullard, Epilogue, in Just Transportation: Dismantling Race and Class Barriers to Mobility, supra} note 25, at 173, 173.
\textsuperscript{265} Bullard, supra note 252, at 4.
\textsuperscript{266} Mann, supra note 247, at 68.
\textsuperscript{267} \textit{See Bullard, supra} note 252, at 8; Hutchinson, supra note 219, at 117.
reviled figure within the American cultural imagination.”

In contemporary American society, not only is “auto ownership . . . associated with wealth, [and] style . . . [but] transit use, rail, biking, and walking are seen as . . . dangerous and degrading activities.”

Beyond degrading, ridership on public transit closes the door to full participation by limiting the mobility and agency of carless blacks who depend on unreliable and inconvenient buses. The “bus system effectively enforces the racial . . . hierarchies that underlie suburban ‘manifest destiny.’” Thus, public bus ridership has both created and perpetuated a white-over-black racial hierarchy based on a self-reinforcing cycle: blacks live in the inner city; they can’t afford cars because they don’t have good jobs; they don’t have good jobs because they are economically and physically isolated from good suburban jobs. Because inner city blacks cannot get to good suburban jobs so that they can afford a car and become fully integrated into American social and economic society, they remain stuck in the ghetto, unemployed, under-educated, and increasingly isolated economically and culturally.

“Thus, the bus system—conveyance of the raced body, the transient, the low-income, the immigrant—has metamorphosed . . . into an emblem of the postapocalyptic vision of Third World dystopia.”

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268 See Hutchinson, supra note 219, at 117.
269 Dittmar, supra note 254, at 109 (emphasis added).
270 See Holmes, supra note 25, at 25–26. There are no buses to get out to the good suburban jobs from their neighborhoods, or if there are buses, they are sporadic, unreliable, and incredibly time-consuming to use. See Oedel, supra note 217, at 99–100. For example, in Macon, Georgia,

[i]t is well known . . . that poor people without cars, most of whom are African-American, cannot navigate meaningfully in the modern decentralized environment of Bibb County and Macon . . . . [T]he Transit Authority provides very limited services that make it effectively impossible for thousands of poor people in Macon without cars, most of whom are African-American, to integrate commercially in the community.

Id.

271 Hutchinson, supra note 219, at 117. Suburban manifest destiny is as “destined” as is the United States’s domination of the North American continent; both are the product of the series of policies rather than any sort of natural destiny or order.
272 See Barlow, supra note 19, at 41; Wilson, supra note 90, at 38–42; Kenn, supra note 102, at 86.
273 See Hutchinson, supra note 219, at 113–14 (describing how “black residents [were] tethered to public transportation” in south central Los Angeles during World War II).
274 Id. at 117.
2. The Transportation Hierarchy’s Role in Racing American Society

Racing bus ridership has dire consequences for blacks living in urban neighborhoods; “many young African-Americans faced with substantial transportation obstacles in addition to the normal difficulties associated with beginning work become discouraged about their chances to make it in a traditional occupation. The consequences in some cases—crime, drug abuse, sexually transmitted disease, and teenage pregnancy—are disastrous.” Additionally, the consequences fuel the persistent cultural construction of the naturalness of race by creating new marks of racial inferiority; in the public consciousness, blackness becomes associated with, and then defined by, this economically isolated ghetto culture.

The transportation hierarchy polices access to enclaves of power and privilege by limiting entry to those with private vehicles. Whiteness itself may be considered property, in that one of the essential property rights is the right to exclude—to exclude blacks from the privilege of whiteness. Indeed, the suburbs were popular not just because they offered mobile whites their very own quarter-acre of the American dream, but because their auto-dependency ensured that access would also be limited. Restricted access was key because the creation and maintenance of homogenous white neighborhoods increased

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275 Oedel, supra note 217, at 103.
276 See Grahn-Farley, supra note 57, at 33 (“The system of marks blinds [one] from seeing others as human beings . . . .”).
277 See Kuswa, supra note 189, at 44.
278 See Harris, supra note 143, at 1737.
279 See Hutchinson, supra note 219, at 116–17. Sikivu Hutchinson discusses a 1917 advertisement for maintaining segregation in jitney transportation in Los Angeles. Id. at 116. The advertisement invoked white fear of having pure white women exposed to overly sexualized black men. See id. Hutchinson explains that

the jitney ad underscored how public space was racialized. By using the white female body as its “selling point” the ad traded on the historic connection between white femininity and the maintenance of white racial purity. White femininity—and whiteness by extension—was produced and validated through this hierarchy of special relationships. . . . Exploiting the white passenger’s sense of entitlement, the jitney ad vividly deployed the language of antiurbanism—a language that has been so crucial to the construction of American national identity. It was within this climate that the automobile overtook Southern California.

Id. at 116–17. Indeed, the advertisement underscores the extent to which separately racialized space is essential to maintaining and reifying race in society and explains why limiting access to suburban settlements was so important to their white residents. See id.
and protected white privilege. The privatization of travel allowed residential segregation to become institutionally entrenched in American culture to an unprecedented extent by excluding undesirable elements from desirable spaces.

What is most significant about residential settlement patterns in the United States “is not that some whites refused to live among non-whites, but the extent to which social status and a desired quality of life are predicated on homogenous whiteness.” For example, in the 1960s some suburban communities outside of Atlanta “resisted MARTA [Metropolitan Atlanta Rapid Transit Authority] for fear it would bring blacks and the poor from the city to [the] outlying suburbs,” undermining the whiteness and privilege of their suburban communities. Limiting private transportation by race means that “[i]n transit, behind the wheel, alongside the center divider, the racial boundaries of city-hood could be preserved.” Even more importantly, however, racial boundaries could be preserved by limiting access to white suburban enclaves through private transportation.

Finally, the transportation hierarchy compounds the economic, social, and political isolation of the ghetto. As vibrant black neighborhoods were demolished by whites who considered them less valuable than highway construction, the neighborhoods became socially isolated, plagued by gangs, arson, and crime. Congressman Daniel Patrick Moynihan famously used these consequences of racist

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280 Holmes, supra note 25, at 24. The shift from the dominance of urban residential patterns to suburban ones, “driven by newfound American affluence, federal highway subsidies and corporate interests, and influenced by social attitudes, including racism . . . solidified the personal motor vehicle as the dominant transport mode” for affluent and middle class America, precisely because it facilitated the exclusion of blacks from enclaves of whiteness. Id.

281 See Jackson, supra note 24, at 241–42.

282 Pulido, supra note 22, at 86.

283 See Robert D. Bullard & Glenn S. Johnson, Just Transportation, in JUST TRANSPORTATION: DISMANTLING RACE AND CLASS BARRIERS TO MOBILITY, supra note25, at 7, 15.

284 Hutchinson, supra note 219, at 118.

285 See Kuswa, supra note 189, at 48–49.

286 See id. (“[T]he urban highway materializes the stratification of groups based on race and class. The rhetoric . . . arguing that certain people deserve their immobility—is complemented by a highway machine that allows an extreme differentiation between living conditions within a limited region.”).

287 See Chang, supra note 126, at 13–14; Jacobs, supra note 206, at 260; Reid, supra note 193, at 42. However, much the arson was orchestrated by building owners looking to cash in on insurance. See Chang, supra note 126, at 13–14. This urban mess became a symbol of blackness in American society and evidence of the naturalness of race. See Grahn-Farley, supra note 57, at 33.
transportation policies to justify the abandonment of black inner cities in a note to President Richard Nixon, suggesting that it was time to enact a policy of “benign neglect” toward the nation’s black inner cities. The Congressman’s suggestion underscores the way in which the consequences of racist transportation policies that sited highways in black urban areas were used to prove the naturalness of race and to justify continued racism at all levels of government. The economic and social devastation that inevitably followed in the wake of federal, state, and local highway siting policies thus contributed to the reification of race in American society by coloring and shaping the idea of a particular subordinate black identity in diametric opposition to a superior suburban white identity.

IV. How These Policies and Actions Have Caused and Continue to Cause Global Warming

The racialization of space and mobility has been a significant cause of global climate change because it requires vast amounts of fossil fuels while devouring inordinate amounts of land. This section explains how the systems and hierarchies that polarized land use and transportation along racial lines in the United States have been a significant cause of global climate change.

A. The Causes of Global Warming

Climate change is a result of a concentration of greenhouse gases in the earth’s atmosphere. The concentration of greenhouse gases in the earth’s atmosphere has risen significantly since industrialization in the 1800s, but has spiked precipitously in the decades after World War II, a rise that tracks the increasing suburbanization of the United States. Despite rhetoric from political leaders about the unchecked CO₂ emissions of developing nations, the United States remains the most significant producer of greenhouse gases in the world, responsible for nearly a quarter of the world’s total emissions. It is significant

288 See Chang, supra note 126, at 14.
289 See Gonzalez, supra note 12, at 357 (describing how urban sprawl affects climate change).
291 See McKibben, supra note 7, at 12; Karl & Trenberth, supra note 290, at 1720.
292 Kolbert, supra note 3, at 148–49; see Monbiot, supra note 12, at xiii; China Resists Mounting Pressure to Cut Emissions (NPR radio broadcast Dec. 8, 2005), available at http://www.npr.org/templates/
then that the increasing concentration of CO₂ in the earth’s atmosphere correlates temporally with the rise of suburbanization and personal transportation in the United States. Suburban land use, and the racist policies that created and support such land use, have led to a spike in the United States’s CO₂ emissions. Large, inefficient, single-family homes on large lots, located far from commercial centers, accessible only by personal vehicles, consume energy and land in correlation with the three most significant sources of greenhouse gases in the atmosphere: electricity production, transportation, and deforestation.

B. Land Use and Climate Change

The suburbanization of whiteness has created endless acres of suburbs in the United States. Between 1982 and 2003, the growth in developed land in the United States far outpaced population growth, increasing by nearly half, as more and more of the population moved out to the suburbs. In 1982, 72.9 million acres of the land in the United States were developed; twenty-one years later, by 2003, 108.1 million acres had been developed. This new development transforms fields, farms, and forest into inefficient housing, featuring large footprints on large lots. As whites have had to move farther and farther

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294 See Gonzalez, supra note 12, at 357–58 (criticizing urban sprawl for “significantly contributing to global climate change”).
295 See Kolbert, supra note 3, at 134; see also Pew, CLIMATE CHANGE 101: THE SCIENCE AND IMPACTS, supra note 27, at 2–3 (“The main culprit [of global warming] is emissions of carbon dioxide and other greenhouse gases from human activities, primarily the burning of fossil fuels such as coal and oil. Other human sources of these gases include deforestation.”).
297 See id.
298 See id.
299 See U.S. CENSUS BUREAU, POPULATION PROFILE OF THE UNITED STATES: 1999, at 28 (2001), available at http://www.census.gov/population/pop-profile/1999/p23-205.pdf (“[H]ousing in suburban and nonmetropolitan areas was more likely than housing in central cities to be newly constructed . . . .”) The term “footprints” here denotes the amount of land that the first floor of the house occupies, like a person’s foot on the ground.

In 2005, the average newly constructed suburban home was 2268 square feet, and the majority of those homes were sited on a lot larger than a quarter acre. U.S. CENSUS BUREAU, AMERICAN HOUSING SURVEY 2005, at 24 tbl.1C:3 (2006), available at http://www.
from cities and inner-ring suburbs to preserve their privilege, the lots on which they have built their new homes have grown in size, eating up more land that was once forest or grassland. This increased distance from basic needs and larger home sizes require increasing amounts of fossil fuels for transportation and for heating, cooling, and power.

Large, detached homes that define suburban living use much more energy than urban dwellings for several reasons. Because newer suburban homes are much larger than the homes in the urban core and older first-ring suburbs, they demand much more energy to heat and cool than more compact homes. Though they may take advantage of more efficient technologies, they are much less energy efficient than the townhouses or apartments that make up the bulk of urban housing stock because they cannot take advantage of the efficiency of shared heating and cooling systems that reduce overall energy consumption. Moreover, the disastrous consequences of these inefficiencies are compounded by heating homes with fossil fuels such as oil or gas, the extraction of which releases CO$_2$ into the atmosphere. Additionally, cooling large homes (many of which are located in the south where cooling systems are run year–round) is equally damaging to the CO$_2$ levels in the earth’s atmosphere because of the vast amounts of

census.gov/prod/2006pubs/h150-05.pdf (charting the unit and lot size of all housing units in the suburbs). The median lot size for such homes was .39 of an acre. Id.

See Pres. Inst., The Limits of Sprawl 1 (2000), available at http://www.preservenet.com/studies/LimitSprawl.pdf (noting that early streetcar suburbs featured average densities of fifteen residents per acre with houses built on one-tenth acre lots, in comparison to today’s suburbs, which may have densities as low as two residents per acre); Pulido, supra note 22, at 86.


See Gonzalez, supra note 12, at 345.

See Sierra Club, Global Warming: Sprawling Across the Nation 1, available at http://www.sierraclub.org/sprawl/globalwarming.pdf (last visited Apr. 18, 2008) (noting that larger homes require much more energy to power their infrastructure and therefore release larger amounts of CO$_2$ than smaller homes).

See id. (“The infrastructure needs arising from sprawling development cost a household $630 more per year and produces 8 more tons of CO$_2$ emissions.”); see also U.S. Census Bureau, supra note 299, at 28 (“[F]orty-three percent of housing units in central cities were multifamily, compared with 20 percent of the housing units in suburban areas and 12 percent in nonmetropolitan areas.”); Douglas Foy & Robert Healy, Cities are the Answer, Boston Globe, Apr. 4, 2007, at A7 (noting that New York City, one of the densest areas in the United States, is also the most energy efficient, using less energy per capita than anywhere else in the country).

electricity these large homes use to run air conditioners and other cooling apparatuses.\textsuperscript{306}

Moreover, large, detached suburban homes consume much more energy in the form of electricity per dwelling than do urban homes.\textsuperscript{307} Each suburban home has more electricity-consuming features than a typical urban home: more lights and more appliances.\textsuperscript{308} Consuming increased amounts of electricity, these extra appliances demand increased electricity production.\textsuperscript{309} Because “[t]he largest single source of carbon emissions in the United States is electricity production,” these large homes have caused the release of hundreds of millions of tons of CO\textsubscript{2} into the earth’s atmosphere.\textsuperscript{310}

The increased energy consumption of each individual suburban house is again compounded by the increased energy that low-density developments demand for public services.\textsuperscript{311} Sprawling neighborhoods require more street lighting than dense, urban neighborhoods because they cover more ground with fewer efficiencies.\textsuperscript{312} These added street lights put more pressure on power grids, increasing demand for electricity and requiring the generation of more power—a significant source of greenhouse gas emissions.\textsuperscript{313} Additionally, suburban neighborhoods require more energy from fossil fuels to pump water and waste over larger

\textsuperscript{306} See Reay & Pidwirny, supra note 305 (noting that up to forty percent of CO\textsubscript{2} emissions arising from fossil fuel combustion come from electricity generation). A typical detached family home with central air conditioning uses 3008 kWh a year for cooling; in contrast, a two to four unit apartment building uses 2161 kWh per household and a building with five or more units reduces its consumption of electricity for cooling by nearly half as compared to the detached single family home, needing only 1870 kWh per household. See U.S. DEP’T OF ENERGY, ENERGY INFO. ADMIN., A LOOK AT RESIDENTIAL ENERGY CONSUMPTION IN 2001, at tbl.CE3-4c, available at http://ftp.eia.doe.gov/pub/consumption/residential/2001ce_tables/ac_consump2001.pdf.

\textsuperscript{307} See Gonzalez, supra note 12, at 345.

\textsuperscript{308} See Monbiot, supra note 12, at 74. A staggering amount of the energy consumption of modern appliances is a result of their sucking power while in “standby” mode—plugged into the wall, but not actively in use. See id. The appliances and technology that draw electricity while in standby mode are features of every room in a modern home—televisions, DVD players, telephones, computers. See id. Since suburban homes are larger and have more appliances, their energy consumption is higher. See id. (noting that suburban homes contain plasma television sets—which use nearly five times as much electricity as older televisions—in more than one room, and even larger appliances like extra-large refrigerators, multiple computers, and washing machines).

\textsuperscript{309} See id.

\textsuperscript{310} Kolbert, supra note 3, at 134.

\textsuperscript{311} See Sierra Club, supra note 303, at 1.


\textsuperscript{313} See Reay & Pidwirny, supra note 305.
distances; they are unable to take advantage of infrastructure efficiencies in the way that more densely developed, urban neighborhoods do.314

The lower-density development of suburban communities requires more miles of asphalt roads to be built and maintained.315 Because a primary element of asphalt is oil, the construction and repaving of extensive suburban roadways contribute to increased levels of atmospheric CO₂.316

The significantly larger carbon footprint of these suburban homes actually begins before residents move in; the suburban construction boom has contributed to and continues to affect global warming as fossil fuels are burned during the construction of acre after acre of new homes.317 The dump trucks, bulldozers, and other heavy machinery that make building a new home possible guzzle vast amounts of gasoline and spew CO₂ into the earth’s atmosphere as they run.318 The damage done by machines on the construction sites of the hundreds of thousands of suburban homes built since World War II is compounded further by the energy consumed to transport the building materials from their place of production to sprawling housing sites.319

Furthermore, the materials commonly used to build larger suburban houses are yet another source of increased greenhouse gas emissions.320 Most suburban homes have been constructed from wood, little of it sustainably harvested, contributing to deforestation, which is a sig-

315 See Sierra Club, supra note 303, at 1.
316 See Geoff Hammond & Craig Jones, Inventory of Carbon and Energy (ICE) 4, 11 (Version 1.5a Beta 2006); Kay Lazar, Cost of Asphalt Rising: Local Road Repairs are Likely to Lag, Boston Globe, June 8, 2006, at 1.
320 See Empty Homes Agency, supra note 317, at 7.
nificant source of global warming. 321 Deforestation and unsustainable harvesting undermine the earth’s ability to sequester CO₂ and keep it from entering the earth’s atmosphere. 322 Though different forests offer varying degrees of carbon sequestration, or “sink” properties, forests are net carbon sinks, meaning they draw CO₂ out of the atmosphere as part of the photosynthesis process and trap it inside living trees where it cannot contribute to climate change. 323 As trees are cut down for lumber, the earth loses a precious source of carbon sequestration. 324 The degradation and loss of forested land effectively eliminates that land’s ability to act as a sink to absorb new carbon emissions, undermining the earth’s ability to regulate CO₂ levels in its atmosphere. 325 The process of clearing land to make way for development causes forests to become sources of CO₂ as the trees are unsustainably cleared or thinned and the carbon they had previously stored is released into the atmosphere. 326 Not only has suburban development caused a spike in the production of greenhouse gases, its land use patterns have reversed the planet’s natural ability to store and regulate the amount of CO₂ in the atmosphere. 327


322 See Union of Concerned Scientists, supra note 321.

323 See Hal Salwasser, Introduction: Forests, Carbon and Climate—Continual Change and Many Possibilities, in FORESTS, CARBON AND CLIMATE CHANGE: A SYNTHESIS OF SCIENCE FINDINGS 2, 3 (2006). Healthy forests, particularly large ones like those located in tropical regions, “are capable of removing enormous quantities of carbon from the atmosphere and storing it in their vast, treed expanses.” Snyder, supra note 46, at 45.

324 See Reay & Pidwirny, supra note 321. The forests and grasslands cut down to prepare land for suburban development are much more effective at storing and sequestering CO₂ than suburban lawns and roadways. See Gregg Marland et al., The Climatic Impacts of Land Surface Change and Carbon Management, and the Implications for Climate-Change Mitigation Policy, 3 CLIMATE POL’Y 149, 152–53 (2003).

325 See Salwasser, supra note 323, at 2.

326 See McKibben, supra note 7, at 33; Salwasser, supra note 341, at 2. The reduced ability to sequester CO₂ that results from the clearing of land for suburban development contributes to global warming by making the earth far less able to regulate greenhouse gases in its atmosphere and causing more CO₂ to be released into the air. See Marland et al., supra note 324, at 150.

As the suburbs have come to symbolize whiteness, the status that they confer on residents has caused them to become home to more of the country’s population than any other type of development. Since sprawl is by definition low-density, increasing suburban populations have converted millions of acres of land from forest and grassland to CO$_2$ producing uses.

C. Transportation and Climate Change

Increased auto dependency further adds to the suburbs’ effect on the climate by necessitating increased vehicular travel and fossil fuel consumption. The federal subsidy of the suburbs and the passenger car has turned the suburbs into vast auto-dependant cul-de-sacs. Because the suburbs are built to be navigated by individual vehicles, rather than public transit, the only reasonable means of getting around for the bulk of the country’s population is private passenger cars. The particular zoning of the suburbs requires that residents drive between home and school, between home and work, and between anywhere and the grocery store. Auto-dependent development and the transportation hierarchy have increased car ownership in the United States, making it essential for every member of suburban households to have access to a car or risk complete isolation, both economic and social.

As the American population has become increasingly suburban, the number of trips taken by the average American in a private automobile has risen. As a result of the increased need to travel by car for simple daily tasks, residents in low-density suburbs drive twenty to thirty percent more than residents living in neighborhoods with double the

328 See U.S. Census Bureau, supra note 299, at 28 (noting that forty-six percent of the nation’s housing units were located in the suburbs in 1999).
329 See Reid Ewing et al., Growing Cooler: The Evidence on Urban Development and Climate Change 3 (2008).
330 See Sierra Club, supra note 303, at 1; see also Ewing et al., supra note 329, at 2.
331 See Kunstler, supra note 42, at 104–05.
332 See Sierra Club, supra note 303, at 1; see also Kunstler, supra note 42, at 107 (“The farther apart things spread, the more cars [are] needed to link up the separate things . . . .”).
333 See Dittmar, supra note 254, at 110.
334 See Mumford, supra note 218, at 506.
335 See Cars, Women & Minorities, supra note 248, at 12; see also Sierra Club, supra note 303, at 1 (noting that sprawl accounts for almost seventy percent of the recent increase in driving).
density.\textsuperscript{336} This increase in driving means that suburban residents’ travel patterns alone cause them to consume twenty to thirty percent more fossil fuels, and emit twenty to thirty percent more greenhouse gases than their non-suburban counterparts.\textsuperscript{337}

To accommodate this increase in per capita automobile trips, car ownership has increased in the past few decades in the United States.\textsuperscript{338} Though “the average household stayed roughly the same size from 1983 to 1990, as measured by the Nationwide Personal Transportation Survey . . . its auto travel grew by about 12,000 miles per year,” due in large part to changes to suburban settlement patterns countrywide.\textsuperscript{339} All of this driving contributes significantly to global climate change because cars burning gasoline emit millions of tons of CO\textsubscript{2} into the atmosphere, causing greenhouse gases to build up in the atmosphere.\textsuperscript{340} Personal automobile trips are one of the most significant causes of CO\textsubscript{2} emission: fossil fuel emissions from car travel represent almost twenty-five percent of annual CO\textsubscript{2} emissions in the United States.\textsuperscript{341} Considering that the average suburban household consumes 415 more gallons of gasoline per year than a household in a denser development and emits five metric tons more carbon per year than its more densely developed counterpart would, there can be no question regarding the environmental impact of the United States’s pro-suburban, white-over-black policies.\textsuperscript{342} The marked increase in personal automobile trips and car ownership in America is a direct result of suburbanization and the creation of the racialized transportation hierarchy.\textsuperscript{343}

\textbf{Conclusion}

People resist change, especially if it undermines their status. It is even more difficult, though, when what must be changed are the sys-

\textsuperscript{336} \textsc{Mary Jean Bürer et al.}, \textit{Location Efficiency as the Missing Piece of the Energy Puzzle: How Smart Growth Can Unlock Trillion Dollar Consumer Cost Savings} 2 (2004).

\textsuperscript{337} \textit{See id.}

\textsuperscript{338} \textit{See Gonzalez, supra note 12, at 350.}

\textsuperscript{339} 

\textsuperscript{340} \textit{Id.} at 111. For every gallon burned, approximately nineteen pounds of CO\textsubscript{2} are emitted into the atmosphere. \textit{Id.}


\textsuperscript{342} \textit{See Bürer et al., supra note 336, at 7.}

\textsuperscript{343} \textit{See Dittmar, supra note 254, at 110 (“[B]oth auto ownership and miles driven per adult increases significantly as population density declines.”).}
tems that have been used to define and preserve cultural power hierarchies. But this change must happen to address the global climate crisis effectively. Though it will not be easy, an effective response to global warming will require a reversal of decades of racist housing, land-use, and transportation policies that have been used to reify race in American society. Combating global warming will not be successful until we take into account the investment that white elites have in the current unsustainable system. We must respond to these deeply entrenched systemic barriers by crafting a solution that overcomes the structural and institutional blocks resisting any meaningful responses to the climate crisis.