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THE LAST CALL FOR CIVIL RIGHTS: TOWARD ECONOMIC EQUALITY

Yong-Shik Lee*

ABSTRACT

Over six decades have passed since the civil rights movement began in the mid-1950s, but American society has not yet fully realized the promise of the civil rights movement, which at its core embodies the protection and promotion of equity and dignity of all people. Despite the historic improvements that accord the legal protection of equal rights among different races, genders, and ethnic groups, significant economic disparity among racial and regional lines persists. The Reverend Martin Luther King, Jr. declared, “Now our struggle is for genuine equality, which means economic equality.” However, the pursuit of economic equality has not been successful. Growing racial and regional economic disparities create serious social, economic, and political problems in American society and pull America away from the ideals of the civil rights movement. Structural economic problems in the United States, such as persistent income and wealth disparities along racial lines and chronic poverty prevailing in many regions, have exacerbated the inequality that divides the country. This challenge requires a fundamental paradigm change. Racial and regional economic disparities can no longer be overcome solely by individual efforts and self-reliance. The federal government must address racial and regional economic disparities by facilitating economic development for minorities and economically depressed areas in close cooperation and coordination with state and local governments, as well as the private sector. Before America can fully

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meet the objectives of the civil rights movement, this country must achieve successful economic development that bridges racial and regional economic disparities.

INTRODUCTION

This Article discusses the importance of economic equality in the context of civil rights.¹ There are growing economic disparities in the United States along racial and regional lines across the country.

A disproportionately higher rate of poverty has existed among racial minorities and economically depressed regions for decades and creates serious social problems for regional communities, states, and the nation.² This economic inequality pulls America away from achieving the ideals of the civil rights movement, which at its core embodies the protection and promotion of equity and dignity for all people. The civil rights movement, owing to the heroic sacrifices of numerous individuals under the leadership of Reverend Martin Luther King, Jr., has substantially improved the status of the United States to a nation in which there is a legal protection of equal rights among all races, genders, and ethnic groups.³ Despite this achievement, however, persistent economic inequality, resulting in significant poverty among racial minorities and economically depressed regions, detracts from the ideals of the civil rights movement in the United States. Dr. King, acknowledging this problem, declared, “Now our struggle is for genuine equality, which means economic equality,” in one of his last speeches before his assassination.⁴

In the United States, the pursuit of economic well-being has been left more or less to each individual based on this nation’s respect for individual autonomy and self-reliance, without extensive social support as found in Europe and elsewhere. The traditional American

1. This Article is developed from the author’s previous work, Yong-Shik Lee, *Law and Development in the United States: A Nexus with Civil Rights*, 44 S. ILL. U. L.J. 433 (2020) [hereinafter Lee, *Law and Development: Nexus*]. See generally Yong-Shik Lee, *Law and Economic Development in the United States: Toward a New Paradigm*, 68 CATH. U. L. REV. 229 (2019) [hereinafter Lee, *Law and Economic Development: Paradigm*].

2. The terms “economically depressed regions,” “economically depressed areas,” and “regionally depressed communities” refer generally to geographical areas in which economic deprivation remains prevalent and are used interchangeably throughout this Article without distinction.

3. See *Civil Rights Movement*, HISTORY, <https://www.history.com/topics/black-history/civil-rights-movement> [https://perma.cc/3MLE-3K4B] (Jan. 29, 2021).

4. John Nichols, *MLK: ‘Our Struggle Is for Genuine Equality, Which Means Economic Equality,’* THE NATION (Jan. 14, 2014), <https://www.thenation.com/article/archive/mlk-our-struggle-genuine-equality-which-means-economic-equality/> [https://perma.cc/Q54B-CGS9].

creed, which favors individual autonomy and self-reliance, is admirable in its spirit and has set the mental foundation for this great nation but is no longer sufficient to lift those in need from poverty and reduce the existing economic gaps. Current structural problems, such as systemic racism embedded in society (which causes economic inequality among minorities), and the industrial weakness prevailing in economically depressed regions cannot be overcome by individual effort alone and thus require a fundamental paradigm change.⁵ In other words, there is a need for the federal government, with the greatest resources among all governments in the world, to play a more active role in the economy, facilitating economic development for racial minorities and economically depressed regions in close cooperation with state and local governments and with the private sector.

The current structural problems require active participation from the federal government, just like the problems with protection of political rights of minorities through legislation and enforcement.⁶ With pro-development legislation and institutional frameworks, as well as systematic engagement, the government can promote economic development for minorities and economically depressed regions. The

5. There were substantial federal initiatives, such as President Lyndon Johnson's agenda for the Great Society, the "New Deal" under President Franklin D. Roosevelt, and the Hamiltonian economic program of the eighteenth century, to improve the economy and foster industries, but the neoliberal policy stance since the 1980s, represented by the Washington Consensus, has mainstreamed the pro-market policy that emphasizes individual autonomy and minimizes government interventions in the economy. *See generally* Randall B. Woods, *How the Great Society Reforms of the 1960s Were Different from the New Deal*, TIME (Apr. 5, 2016, 10:30 AM), <https://time.com/4280457/new-deal-great-society-excerpt/> [<https://perma.cc/3PXV-PLDU>]; *Hamilton's Financial Plan*, HISTORY, <https://www.ushistory.org/us/18b.asp> [<https://perma.cc/4KKE-ZCXM>]; George Monbiot, *Neoliberalism – the Ideology at the Root of All Our Problems*, THE GUARDIAN (Apr. 15, 2016, 7:00 AM), <https://www.theguardian.com/books/2016/apr/15/neoliberalism-ideology-problem-george-monbiot> [<https://perma.cc/EHQ6-SVAA>]. The 2007–08 financial crisis and the economic downturn due to COVID-19 have invoked government support measures, such as corporate bailouts and stimulus funds, but they are short-term, emergency measures to respond to the crisis rather than a long-term economic policy. *See generally* Renae Merle, *A Guide to the Financial Crisis – 10 Years Later*, WASH. POST (Sept. 10, 2018, 1:47 PM), https://www.washingtonpost.com/business/economy/a-guide-to-the-financial-crisis-10-years-later/2018/09/10/114b76ba-af10-11e8-a20b-5f4f84429666_story.html [<https://perma.cc/2KFC-B5XL>]; *Here's Everything the Federal Government Has Done to Respond to the Coronavirus So Far*, PETER G. PETERSON FOUND. (Mar. 15, 2021), <https://www.pgpf.org/blog/2021/03/heres-everything-congress-has-done-to-respond-to-the-coronavirus-so-far> [<https://perma.cc/P68Y-D94P>].

6. *See, e.g.*, Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241 (codified as amended at 42 U.S.C. §§ 1971–2000).

governmental promotion of economic development is justified because economic development for minorities and economically depressed regions will be essential to realize the goals of the civil rights movement, including the protection and promotion of equality and dignity for all people. Governmental promotion of economic development for minorities and economically depressed regions does not mean that the government should overtake the role of the market and the private sector; rather, it encourages the federal government to identify the causes of economic disparity along racial and regional lines, develop policies, and implement measures that will reduce the existing gaps in close cooperation and coordination with state and local governments and with the private sector.

The Article is organized as follows. Part I discusses the growing economic inequality in the United States along racial and regional lines. Part II studies the Asian American experience in the United States and draws lessons from their economic success. Part III turns to the issues of regional economic disparity and examines the case of Carbondale, Illinois, a local economy suffering from stagnant economic development, to illustrate the regional economic problem.⁷ Finally, Part IV proposes a new legal and institutional approach (law and development approach) in which the federal government plays an active role for economic development by enacting pro-development legislation and setting up pro-development institutional frameworks.

7. Carbondale is chosen as a typical community in rural America that suffers from lack of economic opportunities and deprivations.

I. GROWING ECONOMIC INEQUALITY⁸

A. *Racial Divide*

There is significant economic disparity along racial lines in the United States. Legal discrimination against racial minorities in the United States may have been removed since the civil rights movement, but the elimination of legal discrimination has not bridged economic gaps among races. The following graph illustrates significant income disparities along racial lines.

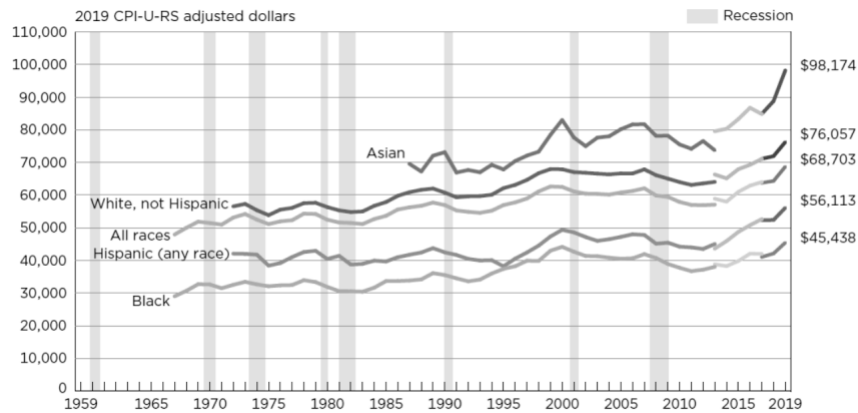


Figure 1: Real Median Household Income by Race and Hispanic Origin⁹

8. In this discussion and the discussion *infra* Part III, the author draws material from his previous work, Lee, *Law and Development: Nexus*, *supra* note 1, after revision.

9. JESSICA SEMEGA ET AL., U.S. DEP'T OF COM., NO. P60-270, INCOME AND POVERTY IN THE UNITED STATES: 2019, at 5 fig.2 (2020), <https://www.census.gov/content/dam/Census/library/publications/2020/demo/p60-270.pdf> [<https://perma.cc/F2X7-GAPQ>].

	All Races	White	White, Not Hispanic	Black	Hispanic (All races)	Asian
2019	\$68,703	\$72,204	\$76,057	\$45,438	\$56,113	\$98,174
2009	\$59,458	\$61,947	\$65,053	\$38,921	\$45,437	\$78,201
1999	\$62,641	\$65,149	\$67,969	\$42,960	\$47,326	\$78,440
1989	\$57,705	\$60,699	\$62,005	\$36,099	\$43,761	\$72,070
1979	\$54,222	\$56,851	\$57,651	\$33,378	\$42,960	N/A
1969	\$51,863	\$54,126	N/A	\$32,717	N/A	N/A
1959	\$41,708 ¹⁰	\$43,448	N/A	N/A	N/A	N/A

Table 1: Real Median Household Income by Race and Hispanic Origin (2019 CPI-U-RS adjusted dollars)¹¹

The median household incomes of Black minorities and of Hispanics and Latinos (Hispanics) are 40% and 26% lower than the white majority, respectively. The gap is indeed serious: the 2019 real median household incomes of Blacks (\$45,438) and Hispanics (\$56,113) were close to the income level of whites six decades ago (1959: \$43,448) and four decades ago (1979: \$56,851), respectively.¹² According to a study, the income gap between Black and white households remains roughly the same as it was in the 1960s.¹³ Unemployment rates are also higher for minorities: as of October 2019, the unemployment rates for Blacks and Hispanics were 5.4% and 4.1%, respectively, whereas the unemployment rate for whites was 3.2%.¹⁴ Asians reported a 2.9% unemployment rate.¹⁵ COVID-19 exacerbated unemployment rates for minorities: in the third quarter of 2020: unemployment rates were as high as 13.2% for Blacks, 11.2% for Hispanics, and 10.6% for Asians, compared to 7.9% for whites.¹⁶

10. Estimates for median income in 1959 are taken from a 1990 U.S. Department of Commerce report. See generally BUREAU OF THE CENSUS, U.S. DEP'T OF COM., SER. P-60, NO. 174, MONEY INCOME OF HOUSEHOLDS, FAMILIES, AND PERSONS IN THE UNITED STATES: 1990 (1991).

11. SEMEGA ET AL., *supra* note 9, at 27–35 tbl.A-2.

12. *Id.*

13. Robert Manduca, *Income Inequality and the Persistence of Racial Economic Disparities*, 5 SOCIO. SCI. 182, 190 (2018).

14. *TED: The Economics Daily*, U.S. BUREAU OF LAB. STAT. (Nov. 6, 2019), <https://www.bls.gov/opub/ted/2019/unemployment-rate-was-3-point-6-percent-in-october-2019.htm> [<https://perma.cc/F6GN-4BEW>].

15. *Id.*

16. *Labor Force Statistics from the Current Population Survey*, U.S. BUREAU OF LAB. STAT., https://www.bls.gov/web/empsit/cpsee_e16.htm [<https://perma.cc/ZFE8-RAU3>] (Oct. 5, 2020).

These significant discrepancies in income and employment status have also resulted in large gaps in household wealth among races, which have not narrowed since the passage of the Civil Rights Act.¹⁷ According to a 2019 survey, whites had a median household wealth of \$188,200, compared to \$24,100 for Black households and \$36,100 for Hispanic households.¹⁸ The median wealth of Black households was still less than 15% of the median wealth of white households.¹⁹ Asians had a median household wealth of \$157,400 (as of 2017).²⁰ The median ratio of household debt against household wealth also shows the economic vulnerability of minorities. In 2017, the value of the median household debt for whites was 44% of the median household worth, whereas the value of debt for Blacks was as much as 272% of the median household worth in 2017.²¹ The value of the debt was 138% for Hispanics and 64% for Asians.²² There are also substantial gaps in homeownership among races: in the third quarter of 2020, the homeownership rate for whites was at 75.8%; Asians at 61.0%; Hispanics at 50.9%; and Blacks at 46.4%.²³

The racial economic disparity results in not only substantial gaps in income and wealth but also significant poverty among minorities: the poverty rates of racial minorities are substantially higher than whites;²⁴

17. NEIL BHUTTA ET AL., BD. OF GOVERNORS OF THE FED. RSRV. SYS., DISPARITIES IN WEALTH BY RACE AND ETHNICITY IN THE 2019 SURVEY OF CONSUMER FINANCES, <https://www.federalreserve.gov/econres/notes/feds-notes/disparities-in-wealth-by-race-and-ethnicity-in-the-2019-survey-of-consumer-finances-20200928.htm> (Sept. 28, 2020).

18. *Id.*

19. *Id.*

20. BUREAU OF THE CENSUS, U.S. DEP'T OF COM., WEALTH, ASSET OWNERSHIP, & DEBT OF HOUSEHOLDS DETAILED TABLES: 2017, at tbl.1 (2020), <https://www.census.gov/data/tables/2017/demo/wealth/wealth-asset-ownership.html>.

21. *Id.*

22. *Id.*

23. Press Release, Bureau of the Census, U.S. Dep't of Com., Quarterly Residential Vacancies and Homeownership, Third Quarter 2020 (Oct. 27, 2020, 10:00 AM), <https://www.census.gov/housing/hvs/files/qtr320/Q320press.pdf> [<https://perma.cc/3RNY-SYQD>]. Adverse financial factors, such as lower credit scores and lower incomes of minorities, reduce chances for obtaining mortgage loans, and even if minorities are successful in obtaining such loans, they often receive tougher, financially burdensome mortgage terms. See generally José Loya & Chenoa Flippen, *The Great Recession and Ethno-Racial Disparities in Access to Mortgage Credit*, OXFORD ACAD.: SOC. PROBS. (Nov. 3, 2020), <https://academic.oup.com/socpro/advance-article/doi/10.1093/socpro/spaa040/5953174?login=true> [<https://perma.cc/UBX8-UP2C>].

24. The poverty threshold for 2019 is \$20,335 for a family of three and \$26,172 for a family of four. SEMEGA ET AL., *supra* note 9, at 56.

as of 2019, the poverty rates were 18.8% for Blacks and 15.7% for Hispanics, while the poverty rates of whites and Asians were both 7.3%.²⁵ These racial gaps are significant: the poverty rates of Blacks and Hispanics were 2.6 times and 2.1 times higher than those of whites, respectively. The substantial poverty existing among minorities breeds serious social and political problems; for example, poverty is an important cause of the disproportionate effect that COVID-19 has had on minorities.²⁶ According to a recent survey, minorities, despite being at a higher risk of having more serious complications related to COVID-19, are more likely to avoid health care due to fears of medical expenses²⁷: 58% of non-white respondents have concerns or “extreme” concerns about the out-of-pocket costs for COVID-19 treatment, compared to 32% of white respondents, reflecting the economic vulnerability of minorities.²⁸

The causes of the racial economic disparity vary and include gaps in intergenerational transfers,²⁹ differences in educational attainment,³⁰ occupational segregation,³¹ structural changes in public employment adverse to minorities,³² and the degree of social prejudice

25. John Creamer, *Inequalities Persist Despite Decline in Poverty for All Major Race and Hispanic Origin Groups*, U.S. CENSUS BUREAU (Sept. 15, 2020), <https://www.census.gov/library/stories/2020/09/poverty-rates-for-blacks-and-hispanics-reached-historic-lows-in-2019.html> [<https://perma.cc/J57M-P2MG>].

26. Julius M. Wilder, *The Disproportionate Impact of COVID-19 on Racial and Ethnic Minorities in the United States*, 72 CLINICAL INFECTIOUS DISEASES 707, 709 (2021), <https://academic.oup.com/cid/advance-article/doi/10.1093/cid/ciaa959/5869621> [<https://perma.cc/K7DT-TD52>].

27. Sara Heath, *More Non-White Patients Dread Out-of-Pocket Costs for COVID-19*, PATIENT ENGAGEMENT HIT (Aug. 4, 2020), <https://patientengagementhit.com/news/more-non-white-patients-dread-out-of-pocket-costs-for-covid-19> [<https://perma.cc/9XBP-M3R4>].

28. *Id.*

29. White households are nearly three times more likely to receive inheritances than black households and more than four times more likely to receive inheritances than their Hispanic counterparts. BHUTTA ET AL., *supra* note 17.

30. See U.S. BUREAU OF LAB. STAT., LABOR FORCE CHARACTERISTICS BY RACE AND ETHNICITY, 2018 (2019), <https://www.bls.gov/opub/reports/race-and-ethnicity/2018/home.htm> [<https://perma.cc/L7T9-T2C6>].

31. Hadas Mandel & Moshe Semyonov, *Going Back in Time? Gender Differences in Trends and Sources of the Racial Pay Gap, 1970 to 2010*, 81 AM. SOCIO. REV. 1039, 1047–56 (2016).

32. George Wilson et al., *Racial Income Inequality and Public Sector Privatization*, 62 SOC. PROBS. 163, 180–81 (2015). “New governance” approaches implemented around the turn of the millennium have brought public employment more in line with the structure of private employment, with accompanying increases in employer discretion and decreases in employee rights. *Id.*

and discrimination encountered in the workplace.³³ Regardless of the reasons, the present racial economic disparity justifies the call for economic equality, as made by the late Dr. King, to achieve the ideals of the civil rights movement. Without overcoming economic disparity and securing sufficient economic foundations, minorities will not enjoy the full equity and dignity that the civil rights movement sought to protect and promote.

This racial economic disparity contributes to the creation of a racially divided society. The 2020 presidential election demonstrates the extent of the racial division; the Republican candidate, Donald Trump, received 58% of the white votes but only 12% of the Black votes and 32% of the Latino votes.³⁴ By contrast, the Democratic candidate, Joe Biden, received 87% of the Black votes, 65% of Latino votes, and 41% of the white majority votes.³⁵ The current divide is not consistent with the objective of the civil rights movement toward an integrated society. An effort to cure this division must begin with a serious endeavor to bridge the racial economic disparity. The causes of this disparity and proposed remedies are further discussed in Parts II and IV *infra*.

B. Regional Economic Disparity

In addition to the racial divide, economic disparity in the United States manifests through large differences in income levels along regional lines. Regional variance in economic performance and income level is not unusual and is observed in other countries, but regional variance becomes regional economic disparity that divides a country when economic gaps are deep and persistent, as in the United States. In 2019, the median household income ranged from \$24,725 to \$151,806 among 3,142 counties, with a national median of \$65,712;³⁶

33. See U.S. BUREAU OF LAB. STAT., *supra* note 30.

34. *Exit Polls*, CNN: POLITICS, <https://www.cnn.com/election/2020/exit-polls/president/national-results> [<https://perma.cc/HKU6-FDXX>].

35. *Id.*

36. BUREAU OF THE CENSUS, U.S. DEP'T OF COM., 2019 POVERTY AND MEDIAN HOUSEHOLD INCOME ESTIMATES – COUNTIES, STATES, AND NATIONAL (2020), <https://www2.census.gov/programs-surveys/saige/datasets/2019/2019-state-and-county/est19all.xls> [<https://perma.cc/2Z8B-5ULR>].

and unemployment rates ranged from 0.7% to 19.3%.³⁷ The map below illustrates the large income gaps existing among various counties, with more affluent counties being located in the major population centers of the East and West Coasts, pockets in the West, and in the State of Texas; the poorer counties are in the rural South, Southeast, Southwest, and in the Midwest.

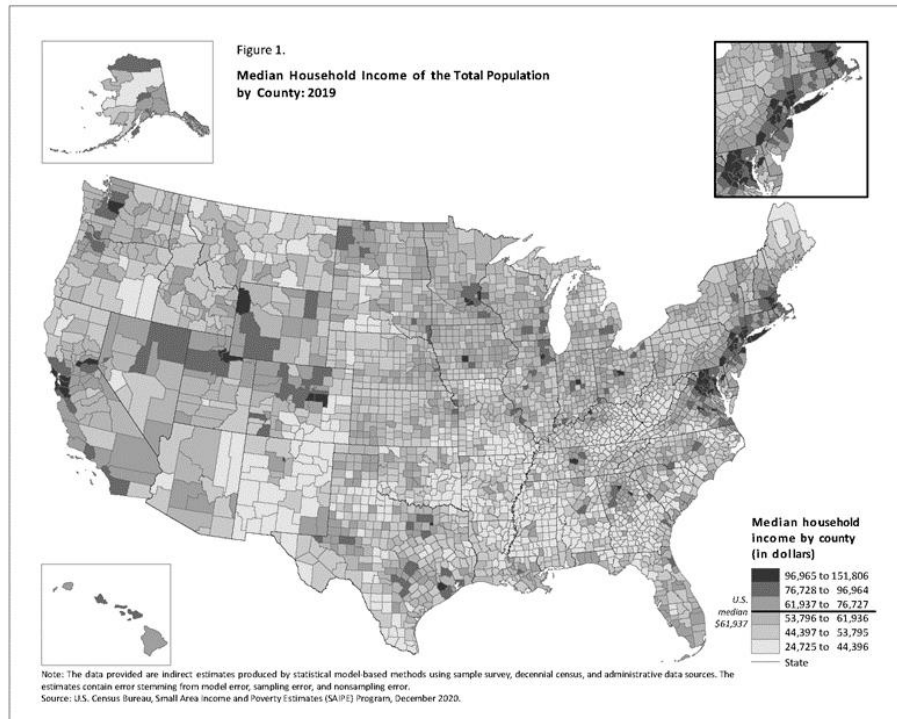


Figure 2: Median Household Income of the Total Population by County (2019)³⁸

The regional economic disparity measured by the median household income is significant; in the highest bracket, the median household income is over 220% of the national median, and in the lowest, they

37. U.S. BUREAU OF LAB. STAT., LABOR FORCE DATA BY COUNTY, 2019 ANNUAL AVERAGES (2021), <https://www.bls.gov/lau/laucnty19.xlsx> [<https://perma.cc/VPH5-G6DL>].

38. BUREAU OF THE CENSUS, U.S. DEP'T OF COM., MEDIAN HOUSEHOLD INCOME OF THE TOTAL POPULATION BY COUNTY: 2019 (2020), <https://www.census.gov/content/dam/Census/library/visualizations/2020/demo/p30-08/f1-mp-19.pdf> [<https://perma.cc/Z3QJ-C8BK>].

are below the poverty line.³⁹ According to a study by the U.S. Department of Agriculture (USDA), 11.2% of all counties (353 counties) in the United States are persistently poor.⁴⁰ These counties have had 20% or more of their populations living in poverty over the last thirty years.⁴¹ Poverty is regionally concentrated in the United States. The USDA study notes that “people living in poverty tend to be clustered in certain regions, counties, and neighborhoods rather than being spread evenly across the [n]ation.”⁴²

The causes of the persistent regional economic disparity include geographic factors, such as location (e.g., access to ports and transportation links), infrastructure, the availability of educated and trained human capital, and natural amenities. These factors have influenced the sites of new industries, such as information technology, biotechnology, and financial industries that generate employment and income. There has been uneven industrial development and adaptation across the country, and it has contributed to the regional economic disparity. The United States had powerful traditional manufacturing industries, such as the iron and steel industries, but many of these industries failed to adapt to the changing global economic environment, and the regions where these industries once thrived have declined, as reflected by the term “Rust Belt.”⁴³ Such regional economic disparity creates serious socioeconomic issues, including gaps in education,

39. BUREAU OF THE CENSUS, U.S. DEP’T OF COM., 2018 POVERTY AND MEDIAN HOUSEHOLD INCOME ESTIMATES – COUNTIES, STATES, AND NATIONAL (2019), <https://www2.census.gov/programs-surveys/saipe/datasets/2018/2018-state-and-county/est18all.xls> [<https://perma.cc/2M6H-VXB5>]. The “poverty thresholds” identified by the U.S. Census Bureau for a family of four were \$25,465–\$26,324 (depending on the number of children under the age of eighteen) in 2018. BUREAU OF THE CENSUS, U.S. DEP’T OF COM., POVERTY THRESHOLDS FOR 2018 BY SIZE OF FAMILY AND NUMBER OF RELATED CHILDREN UNDER 18 YEARS (2019), <https://www2.census.gov/programs-surveys/cps/tables/time-series/historical-poverty-thresholds/thresh18.xls> [<https://perma.cc/NMM7-AC47>].

40. *Rural Poverty & Well-Being: Geography of Poverty*, U.S. DEP’T OF AGRIC.: ECON. RSCH. SERV., <https://www.ers.usda.gov/topics/rural-economy-population/rural-poverty-well-being/#geography> [<https://perma.cc/3YC2-JPRY>] (June 17, 2021).

41. *Id.*

42. *Id.*

43. See Lee E. Ohanian, *Competition and the Decline of the Rust Belt*, FED. RSRV. BANK OF MINNEAPOLIS (Dec. 20, 2014), <https://www.minneapolisfed.org/article/2014/competition-and-the-decline-of-the-rust-belt> [<https://perma.cc/B283-GV2L>].

healthcare, and public safety; migration of populations from poorer regions; and social discontent leading to political unrest.⁴⁴

Perhaps the most dramatic demonstration of such social discontent was the unexpected outcome of the 2016 U.S. presidential election. Donald Trump, who had largely been considered a political outsider, won the election against the former Secretary of State and U.S. Senator for the State of New York, Hillary Clinton, despite the overwhelming forecasts predicting a Clinton Presidency.⁴⁵ The Trump victory was owed substantially to the sentiments of economic discontent and the growing public mistrust in the political establishment,⁴⁶ which were concentrated in the regions of economic deprivation. Trump lost the 2020 presidential election to Joe Biden, but he still received the second largest popular vote in presidential election history—second only to Biden.⁴⁷ There is a significant correlation between the counties where Donald Trump won and the household median income pattern observed *supra*, as depicted by the following map (counties marked in a darker color tone—which tend to be wealthier countries—represent stronger support for Democratic Presidential Candidate Biden).

44. See *Rural Poverty & Well-Being: Geography of Poverty*, *supra* note 40 (“[T]he poor living in areas where poverty is prevalent face impediments beyond those of their individual circumstances. Concentrated poverty contributes to poor housing and health conditions, higher crime and school dropout rates, and employment dislocations. As a result, economic conditions in very poor areas can create limited opportunities for poor residents that become self-perpetuating.”).

45. See John Sides, *A Comprehensive Average of Election Forecasts Points to a Decisive Clinton Victory*, WASH. POST: MONKEY CAGE (Nov. 8, 2016, 9:00 AM), <https://www.washingtonpost.com/news/monkey-cage/wp/2016/11/08/a-comprehensive-average-of-election-forecasts-points-to-a-decisive-clinton-victory/> [https://perma.cc/2XX5-ALBF].

46. See Trip Gabriel, *How Erie Went Red: The Economy Sank, and Trump Rose*, N.Y. TIMES (Nov. 12, 2016), <https://www.nytimes.com/2016/11/13/us/politics/pennsylvania-trump-votes.html> [https://perma.cc/ZC8Q-YEC7].

47. Kate Sullivan & Jennifer Agiesta, *Biden’s Popular Vote Margin over Trump Tops 7 Million*, CNN: POLITICS, <https://www.cnn.com/2020/12/04/politics/biden-popular-vote-margin-7-million/index.html> [https://perma.cc/FEE6-B2LZ] (Dec. 4, 2020, 10:27 AM).



Figure 3: 2020 U.S. Presidential Election Result by County⁴⁸

II. LESSONS FROM THE ASIAN AMERICAN EXPERIENCE

The preceding Part examined the economic disparities existing along racial and regional lines. This economic disparity hampers the realization of the promises of the civil rights movement—the protection and promotion of equity and social justice for all and the creation of an integrated society. Thus, it is necessary to bridge the racial and regional economic gaps if the ideals of the civil rights movement are to be realized. This Part and the next introduce the experience of Asian Americans, often referred to as “the model minority,” and the story of Carbondale, Illinois, a Midwestern city in a rural county, to expose the issues associated with the racial and regional divides and draw lessons from these two stories.⁴⁹

Asian Americans refer to a diverse group of minority American citizens originated in the world’s largest continent, Asia, including Northeast Asia (Korea, China, and Japan), Southeast Asia (India, Pakistan, Bangladesh, Vietnam, Thailand, Myanmar, Malaysia, and

48. MITCHELL THORSON ET AL., USA TODAY, FOUR MAPS THAT SHOW HOW AMERICA VOTED IN THE 2020 ELECTION WITH RESULTS BY COUNTY, NUMBER OF VOTERS (2020), <https://www.usatoday.com/in-depth/graphics/2020/11/10/election-maps-2020-america-county-results-more-voters/6226197002/> [<https://perma.cc/93NV-M2XY>].

49. See discussions *infra* Parts II, III.

the other adjacent countries), and Central Asia.⁵⁰ This group of Americans is culturally heterogenous, religiously variant, and racially diverse, but the diversity of Asian Americans is often overlooked in American society.⁵¹ The term “model minority,” a popularly used label attached to Asian Americans, is misleading because it overlooks dissimilar socioeconomic statuses among diverse ethnic and racial groups identified as Asian Americans. For example, the poverty rate of Asian Americans is considered lower than the other races (7.3% as of 2019),⁵² but this is not the case for all ethnic groups within the Asian American “umbrella”; for example, Cambodians and Hmong reportedly have very high poverty rates, 38% and 29%, respectively.⁵³

The “model minority” label also tends to generate a myth that Asian Americans are a privileged group, overshadowing the continued suffering of a large number of Asian Americans: Asian Americans are equally subject to prejudice and discrimination in American society,⁵⁴ as demonstrated by numerous incidents involving verbal and physical attacks against Asian Americans because of their (perceived but not actual) associations with a region in which COVID-19 originated.⁵⁵ Asian Americans, since their first immigration to the United States in the mid-nineteenth century, have faced persecution for well over a century: Japanese Americans were sent to internment camps during World War II; Chinese Americans were massacred in Los Angeles in 1871, and the immigration of Chinese nationals was banned for six

50. For a further discussion of the geographical parameters of Asia, see *Asia*, BRITANNICA, <https://www.britannica.com/place/Asia> [https://perma.cc/9SUX-A8B5].

51. See, e.g., Nathan Joo et al., *Asian-American Success and the Pitfalls of Generalization*, BROOKINGS (Apr. 20, 2016), <https://www.brookings.edu/research/asian-american-success-and-the-pitfalls-of-generalization/> [https://perma.cc/ZAC6-BJ3L].

52. See discussion *supra* Section I.A.

53. See Joo et al., *supra* note 51.

54. See, e.g., Caitlin L. McMurtry et al., *Discrimination in the United States: Experiences of Asian Americans*, 54 HEALTH SERVS. RSCH. 1419, 1422 (2019). See generally Monica M. Trieu & Hana C. Lee, *Asian Americans and Internalized Racial Oppression: Identified, Reproduced, and Dismantled*, 4 SOC. RACE & ETHNICITY 67 (2018).

55. See Hannah Tessler et al., *The Anxiety of Being Asian American: Hate Crimes and Negative Biases During the COVID-19 Pandemic*, 45 AM. J. CRIM. JUST. 636, 638 (2020). This article reports that for a period of a little over one month from March 19 to April 23, 2021, there were nearly 1,500 alleged instances of anti-Asian bias reported from forty-five states, with 42% of the reports hailing from California and 17% of the reports from New York. *Id.*; see also Helier Cheung et al., *Coronavirus: What Attacks on Asians Reveal About American Identity*, BBC NEWS (May 27, 2020), <https://www.bbc.com/news/world-us-canada-52714804> [https://perma.cc/HF62-RU6Y].

decades (pursuant to the Chinese Exclusion Act of 1882); and Korean Americans fell victim to the 1992 Los Angeles riots.⁵⁶ Some Asians also believe that affirmative action, a system of preference designed to assist minorities in school admissions and job placements,⁵⁷ puts Asian Americans at a disadvantage rather than benefitting them as members of a minority group.⁵⁸ Asians also face discrimination in job placement and wages, even at the professional level.⁵⁹

Despite these predicaments, many of those identified as Asian American have achieved considerable economic, social, and political success. Since the 1980s, the median household income for Asian Americans has always been the highest among all races, reaching \$98,174 as of 2019, 36% higher than whites.⁶⁰ The median household net wealth is also close to that of whites,⁶¹ and the ratio of the median value of household debt against household net wealth is lower than any other race except the white majority.⁶² Asian Americans have shown

56. Gillian Brockell, *The Long, Ugly History of Anti-Asian Racism and Violence in the U.S.*, WASH. POST (Mar. 18, 2021, 7:00 AM), <https://www.washingtonpost.com/history/2021/03/18/history-anti-asian-violence-racism/> [https://perma.cc/6VKA-JXPG].

57. Affirmative action originated in the promotion of the employment of minorities with government contractors in 1961 and in government employment in 1965. Exec. Order No. 10925, 26 Fed. Reg. 1977 (1961); Exec. Order No. 11246, 30 Fed. Reg. 12319 (1965). The Civil Rights Act of 1964 also permits courts, upon a finding of discrimination in violation of Title VII, to “order such affirmative action as may be appropriate.” Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241 (codified as amended at 42 U.S.C. §§ 1971–2000). Affirmative action also includes voluntary preferential measures for minorities by universities and colleges. Scholars credit affirmative action programs in admissions for a significant increase in Black professionals from the 1960s to the 1990s: from 1950 to 1990, the proportion of Black managers to the overall Black workforce quadrupled, from 5% to 20%. WILLIAM G. BOWEN & DEREK BOK, *THE SHAPE OF THE RIVER: LONG-TERM CONSEQUENCES OF CONSIDERING RACE IN COLLEGE AND UNIVERSITY ADMISSIONS* 10 (1998).

58. Sixteen percent of Asian Americans reportedly oppose affirmative action. Kimmy Yam, *70% of Asian Americans Support Affirmative Action. Here’s Why Misconceptions Persist.*, NBC NEWS (Nov. 14, 2020, 5:10 PM), <https://www.nbcnews.com/news/asian-america/70-asian-americans-support-affirmative-action-here-s-why-misconceptions-n1247806> [https://perma.cc/2QQC-Q7UK]. In a publicized ongoing racial discrimination case, *Students for Fair Admissions, Inc. v. President of Harvard College*, the complainants argued that Harvard University unfairly discriminated against Asian American applicants by using racial balancing and race as a factor in admissions. *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.* (*SFFA I*), 397 F. Supp. 3d 126, 132 (D. Mass. 2019), *aff’d*, 980 F.3d 157 (1st Cir. 2020), *petition for cert. filed*, No. 20-1199 (U.S. Mar. 1, 2021).

59. Jeff Guo, *The Real Secret to Asian American Success Was Not Education*, WASH. POST (Nov. 19, 2016, 8:11 AM) <https://www.washingtonpost.com/news/wonk/wp/2016/11/19/the-real-secret-to-asian-american-success-was-not-education/> [https://perma.cc/FXN6-JZVN].

60. SEMEGA ET AL., *supra* note 9.

61. BUREAU OF THE CENSUS, *supra* note 20.

62. See discussion *supra* Section I.A.

exemplary compliance with social norms and laws, demonstrated by the lowest rate of incarceration among all races: as of 2018, there were only twenty-six Asian Americans incarcerated in jail per 100,000 residents, whereas there were 187 whites, 592 Blacks, and 182 Hispanics.⁶³ Asian Americans represented 5.9% of the total U.S. population as of 2019,⁶⁴ but the Asian American population is growing—with rapidly increasing numbers of immigrants from Asia, accounting for 36% of all immigrants in 2010, which surpassed the number of immigrants of Hispanic origin.⁶⁵ Asian Americans are also expanding political influence, producing eight U.S. Senators since 1953, including two current members of the Senate.⁶⁶ An increasing number of Asian Americans are members of Congress, state legislators, judges, and public administrators at federal, state, and local levels.⁶⁷

What are the causes of Asian American success? Factors such as educational attainment, dedicated family support, and a culture that fosters work ethic and encourages competition have been cited as contributing to their success.⁶⁸ As noted, however, these factors are not the characteristics of all members of Asian American communities, and there have been criticisms vis-à-vis stereotyping Asian Americans and arguments against the emphasis on educational attainment as the key success factor for Asian Americans.⁶⁹ Notwithstanding the

63. ZHEN ZENG, U.S. DEP'T OF JUST., JAIL INMATES IN 2018 (2020), <https://www.bjs.gov/content/pub/pdf/ji18.pdf> [<https://perma.cc/8SWV-BBWP>].

64. *Quick Facts: People*, U.S. CENSUS BUREAU (July 1, 2019), <https://www.census.gov/quickfacts/fact/table/US/PST045219> [<https://perma.cc/9VMS-YUAA>].

65. *The Rise of Asian Americans*, PEW RSCH. CTR., <https://www.pewsocialtrends.org/2012/06/19/the-rise-of-asian-americans/> [<https://perma.cc/8HLY-UCXW>] (Apr. 4, 2013).

66. *Asian American Senators*, U.S. SENATE, <https://www.senate.gov/senators/asian-american-senators.htm> [<https://perma.cc/BK8L-LW4U>].

67. See generally Pan Suk Kim & Gregory B. Lewis, *Asian Americans in the Public Service: Success, Diversity, and Discrimination*, in *DIVERSITY AND AFFIRMATIVE ACTION IN PUBLIC SERVICE* 179 (Walter D. Broadnax ed., 2018).

68. See, e.g., Joo et al., *supra* note 51; see also Min Zhou & Jennifer Lee, *Hyper-Selectivity and the Remaking of Culture: Understanding the Asian American Achievement Paradox*, 8 *ASIAN AM. J. PSYCH.* 7, 10 (2017) (theorizing that one contribution to the success of Asian Americans is the immigration trends of highly educated and high achieving individuals entering the United States to further their education).

69. See Guo, *supra* note 59; see also JENNIFER LEE & MIN ZHOU, *THE ASIAN AMERICAN ACHIEVEMENT PARADOX* 13 (2015) (discussing the negative effects of the “model minority” stereotype, particularly for Asian Americans who do not fit the stereotype of high achieving and successful minorities); Hyung Chol Yoo et al., *A Preliminary Report on a New Measure: Internalization of the Model Minority Myth Measure (IM-4) and Its Psychological Correlates Among Asian American College Students*, 57 *J. COUNSELING PSYCH.* 114, 115 (2010).

criticism, statistics demonstrate that educational attainment has a direct correlation with income level and unemployment rate, as illustrated below in Figure 4. Asian Americans show stronger educational attainment than other races, as illustrated in Figure 5: 54% of Asian Americans have a bachelor's degree or a more advanced degree, compared to 36% of whites, 23% of Blacks, and 16% of Hispanics.⁷⁰ Furthermore, 21% of Asian Americans have an advanced degree, compared to 14% of whites.⁷¹

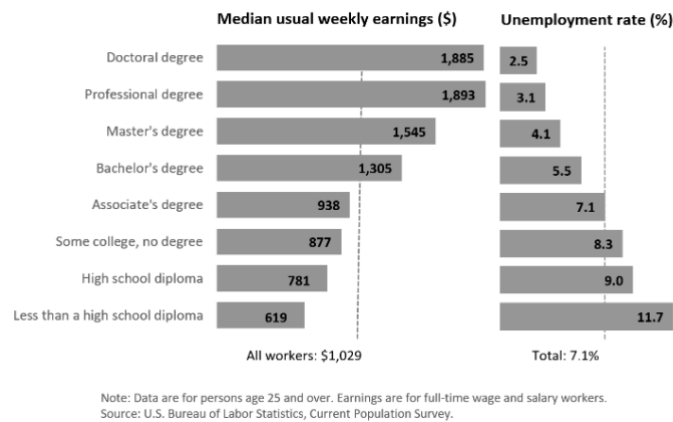


Figure 4: Unemployment Rates and Earnings by Educational Attainment⁷²

70. Joo et al., *supra* note 51.

71. *Id.*

72. *Unemployment Rates and Earnings by Educational Attainment*, U.S. BUREAU OF LAB. STAT., <https://www.bls.gov/emp/chart-unemployment-earnings-education.htm> [<https://perma.cc/MVT2-99RU>] (Apr. 21, 2021).

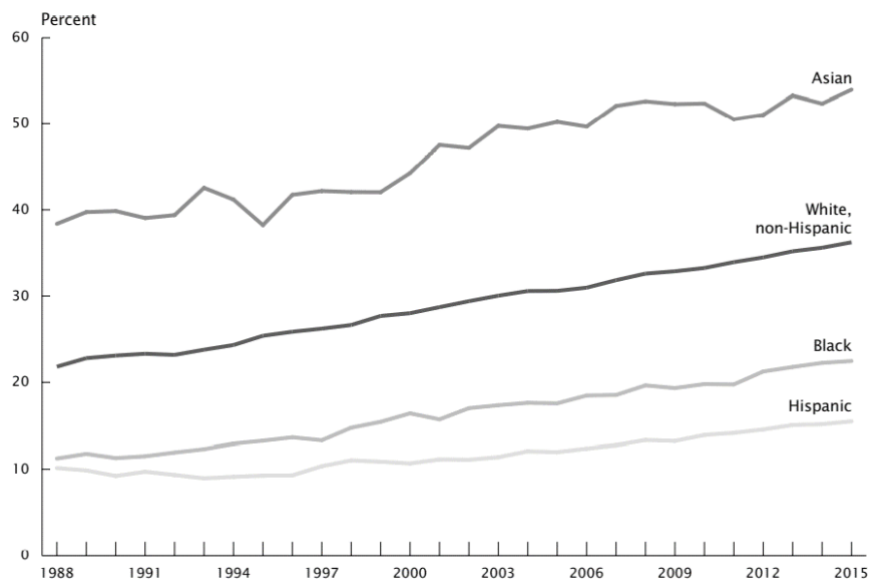


Figure 5: Percentage of the Population (Twenty-Five Years and Older) with a Bachelor's Degree or Higher by Race⁷³

Family support has also been essential to strong educational attainment. Asian Americans have the lowest rate of children whose parents lack secure employment.⁷⁴ In 2018, the rate of such children among Asian Americans was 21%, whereas the rates for Blacks and Hispanics were 41% and 31%, respectively.⁷⁵ The rate for whites was also 21%.⁷⁶ Other indicators, such as the percentage in foster care, also confirm relatively stable family environments for Asian American children: in 2018, only 1% of children in foster case were Asian

73. CAMILLE L. RYAN & KURT BAUMAN, U.S. DEP'T OF COM., EDUCATIONAL ATTAINMENT IN THE UNITED STATES: 2015, at 5 fig.3 (2016), <https://www.census.gov/content/dam/Census/library/publications/2016/demo/p20-578.pdf> [<https://perma.cc/TLQ7-EE2J>].

74. *Id.*

75. *Children Whose Parents Lack Secure Employment by Race and Ethnicity in the United States*, THE ANNIE E. CASEY FOUND.: KIDS COUNT DATA CTR., <https://datacenter.kidscount.org/data/tables/5064-children-whose-parents-lack-secure-employment-by-race-and-ethnicity> [<https://perma.cc/3HDDH-NLCP>] (Jan. 2020).

76. *Id.*

American, compared to rates of 44% for whites, 23% for Blacks, and 21% for Hispanics.⁷⁷

Despite the success of Asian Americans, the perception of Asian Americans as being a homogeneous “model minority” is a myth. Asian Americans are a composite of diverse groups with varied socioeconomic status,⁷⁸ as reported by a study that income inequality is growing among Asians, and the bottom 10% income group have not seen their income grow in the past fifty years.⁷⁹ It is true that a combination of strong family support and a high rate of educational attainment put many Asian Americans ahead of other minority groups in the attainment of higher economic status, but not all ethnic Asian groups have achieved this position; and the groups do not have equal educational access. The following figure indicates that several ethnic Asian groups are in fact behind other races in access to “good schools” (as judged by state-level proficiency percentile)⁸⁰ in California where the largest number of Asian Americans reside.

77. *Black Children Continue to Be Disproportionately Represented in Foster Care*, THE ANNIE E. CASEY FOUND.: KIDS COUNT DATA CTR. (Apr. 13, 2020), <https://datacenter.kidscount.org/updates/show/264-us-foster-care-population-by-race-and-ethnicity> [<https://perma.cc/G7UV-VXHW>].

78. See Joo et al., *supra* note 51; see also ChangHwan Kim & Arthur Sakamoto, *The Earnings of Less Educated Asian American Men: Educational Selectivity and the Model Minority Image*, 61 SOC. PROBS. 283, 283 (2014).

79. RAKESH KOCHHAR & ANTHONY CILLUFFO, PEW RSCH. CTR., *INCOME INEQUALITY IN THE U.S. IS RISING MOST RAPIDLY AMONG ASIANS* 4–5 (2018).

80. See Joo et al., *supra* note 51.

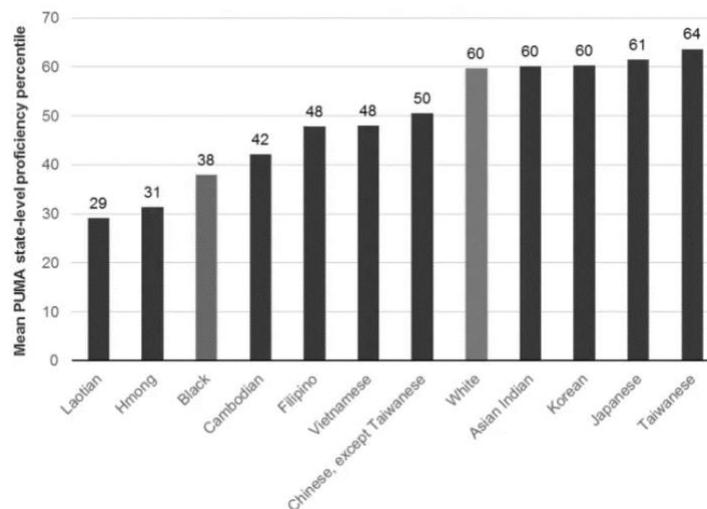


Figure 6: Access to Good Schools by Asian Sub-Groups⁸¹

Subject to this diversity, lessons can be drawn from the Asian American experience. First, educational attainment may not in itself be a guarantee of success, but it has a strong correlation with employment and higher income that would be essential to uplift an individual's socioeconomic position.⁸² Second, dedicated family support—including providing children with access to good schools and a stable family environment that does not disrupt children in their formative years—is instrumental to facilitating educational attainment. Third, to maintain family support and a stable environment for children, it is also essential for parents to comply with social norms and laws so

81. *Id.* This discrepancy in access to “good schools” seems to have affected higher school dropout rates and gang involvement among Southeast Asian Americans. See Laura Bui, *Examining the Academic Achievement–Delinquency Relationship Among Southeast Asian Americans*, 62 INT’L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 1556, 1558 (2017); see also Bic Ngo & Stacey J. Lee, *Complicating the Image of Model Minority Success: A Review of Southeast Asian American Education*, 77 REV. EDUC. RSCH. 415, 425 (2007).

82. A question has been raised as to whether educational attainment is a cause of the Asian American success or its result. Asian Americans’ strong family commitment to education has a cultural root, which is not correlated to their wealth: the Confucian tradition in East Asian culture emphasizes the value of education, as demonstrated by the national educational drive in East Asian countries, such as South Korea, Taiwan, and Singapore, during initial stages of their economic development (when a majority of their populations were still in poverty). See Leah Shafer, *The Other Achievement Gap: The Lessons We Can Learn from Asian American Success*, HARV. GRADUATE SCH. OF EDUC.: USABLE KNOWLEDGE (Apr. 17, 2017), <https://www.gse.harvard.edu/news/uk/17/04/other-achievement-gap> [https://perma.cc/SC3B-EG68].

that they are not separated from children on account of incarceration or other judicial interventions. Fourth, there are elements in every major culture, not just Asian, that respect labor and value honest work; these elements should be fostered in communities.

These “good policies,” although crucial to bridge the economic gaps, may not be easily implementable under the dissimilar circumstances of other minorities. The Asian American drive for education is embedded in the culture that has had a long history under Confucian influence and other Asian traditions valuing education.⁸³ In addition, family support for a child’s education may not be possible, and maintaining a stable family environment for children will be difficult to expect where families are already dissolved, dysfunctional, or suffering from poverty and other forms of deprivation. Exposure to crime might also be difficult to reduce where poverty is prevalent and where jobs are difficult to find. Asian American communities have also benefitted from dynamic Asian immigration since the 1980s and from the influx of energetic and motivated immigrants from Asia, who often emigrate already equipped with skills and capital.⁸⁴ In addition, rapid economic development of East Asian countries, such as South Korea, Taiwan, and later China, has created economic synergies with Asian American communities in the United States—generating economic opportunities for them both directly and indirectly. These developments have favored Asian Americans with their socioeconomic improvement.

All in all, Asian Americans have achieved excellent success in American society. A continuing, publicized litigation, *Students for Fair Admissions, Inc. v. President of Harvard College*, is an ironic testimony to the success of Asian Americans.⁸⁵ Harvard’s admission record indicates that 24.4% of the 2020 incoming undergraduate

83. Nicholas Kristof, *Opinion: The Asian Advantage*, N.Y. TIMES (Oct. 10, 2015), <https://www.nytimes.com/2015/10/11/opinion/sunday/the-asian-advantage.html> [<https://perma.cc/VR5T-CVAK>].

84. See Guo, *supra* note 59.

85. *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll. (SFFA II)*, 980 F.3d 157 (1st Cir. 2020), *petition for cert. filed*, No. 20-1199 (U.S. Mar. 1, 2021); see also Anemona Hartocollis, *The Affirmative Action Battle at Harvard Is Not Over*, N.Y. TIMES (Feb. 18, 2020), <https://www.nytimes.com/2020/02/18/us/affirmative-action-harvard.html> [<https://perma.cc/SP75-CNZK>].

students were Asian Americans.⁸⁶ Regardless of the outcome of the case, Asian Americans attend Harvard, widely perceived to be the most prestigious university in the United States, at a rate four times more than the portion of their population in the United States. It is a testament to Asian Americans' dedicated efforts to educational attainment and to their ultimate success. Both the U.S. District Court for the District of Massachusetts and the U.S. Court of Appeals for the First Circuit have ruled against the complainants, finding that Harvard's admission process considering racial elements is lawful.⁸⁷ The complainants are known to be against affirmative action and motivated to initiate this lawsuit to remove the racial elements from the admission process altogether.⁸⁸ Affirmative action, which is reportedly supported by the majority of Asian Americans,⁸⁹ is a measure necessary to ensure diversity in colleges and workplaces. Securing a fair admission process for Asian Americans and preserving affirmative action are not mutually exclusive; although preserving spaces for other minorities through affirmative action, admissions committees can simultaneously ensure that the places that should be given to Asian American candidates are not unfairly transferred to white candidates for the purpose of "keeping the numbers" for the latter. This assurance will be consistent with the notion of the civil rights movement and social justice.

86. *Admissions Statistics*, HARV. COLL.: ADMISSIONS & FIN. AID, <https://college.harvard.edu/admissions/admissions-statistics> [<https://perma.cc/YY34-N47F>].

87. *SFFA II*, 980 F.3d at 204; *SFFA I*, 397 F. Supp. 3d 126, 204 (D. Mass. 2019), *aff'd*, 980 F.3d 157 (1st Cir. 2020), *petition for cert. filed*, No. 20-1199 (U.S. Mar. 1, 2021).

88. Seth Johnson, *Students for Fair Admissions v. Harvard: Admissions Administrators Threaten the Future of Affirmative Action in the United States*, 24 PUB. INT. L. REP. 151, 158 (2019).

89. Yam, *supra* note 58.

III. REGIONAL ECONOMIC PROBLEMS: A “CARBONDALE STORY”

The objective of the civil rights movement was the protection and promotion of the equity and dignity of *all* people, not only racial minorities. As discussed earlier, regional economic disparity is an important issue that undermines this noble objective. A number of declining cities and communities in the less-affluent areas of the United States are an embodiment of the problem. Located away from major commercial centers, these communities lack economic opportunities. State and local governments attempt to facilitate economic development in these communities, but their budgetary constraints and limited resources do not enable them to provide effective assistance.⁹⁰ This Part introduces the story of Carbondale, a small city in rural Southern Illinois (see the map below). The story illustrates the extent of the economic disparity that plagues regional communities in the United States and underlines the necessity for a new approach to economic development to revive these communities.

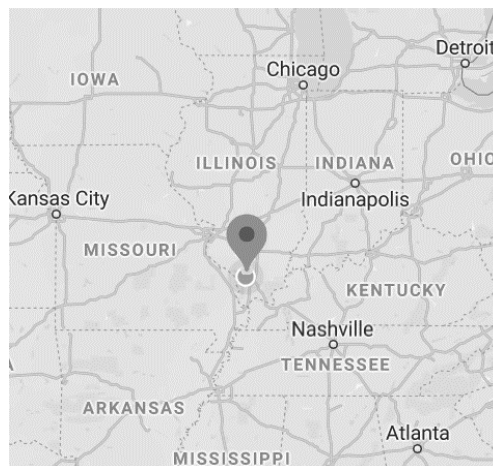


Figure 7: Location of Carbondale (Google map)

90. For a discussion on the insufficiency of state budgets, see LUCY DADAYAN & DONALD J. BOYD, ROCKEFELLER INST. OF GOV'T, *BY THE NUMBERS: 2016: ANOTHER LACKLUSTER YEAR FOR STATE TAX REVENUE 2* (2017), <https://rockinst.org/wp-content/uploads/2018/02/2017-05-08-By-numbers-brief-no9-1.pdf> [<https://perma.cc/Q9J4-BD2B>].

Carbondale was once a thriving college town and the trade, tourism, and educational center of Southern Illinois.⁹¹ It is a modest-sized city with a population of 25,083 (U.S. Census 2019 estimate) and also a college town with over 11,000 students enrolled at Southern Illinois University located in the city.⁹² The community is adjacent to a national forest, a national wildlife refuge, and a state park, and serves as the host and focal point for business and recreation activities in Southern Illinois.⁹³

Despite the regional importance of the city, Carbondale has a weak economy plagued with poverty. Its per capita income of \$19,224 and median household income of \$22,025 are about a third of the national average, placing them within poverty lines.⁹⁴ However, the poverty in Carbondale does not appear to be an outcome of the nationwide racial economic disparity illustrated in the preceding Parts; in accordance with the latest U.S. Census report, the city has a majority white population (61.8%) and minority Black (26.6%), Hispanic (5.7%), and Asian population (5.7%).⁹⁵ There is a significant income gap among races in Carbondale, but its poverty appears to be a problem beyond the racial divide. According to 2010–14 statistics, median household incomes for Black and Hispanic minorities in Carbondale were equivalent to 55.7% and 71.9% of the median household income for

91. CITY OF CARBONDALE, CARBONDALE COMMUNITY PROFILE (2018), <http://www.explorecarbondale.com/DocumentCenter/View/2749/Community-Profile-PDF> [<https://perma.cc/Z83G-Z54J>].

92. *Quickfacts: Carbondale City, Illinois*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/carbondalecityillinois/PST045219> [<https://perma.cc/2RLF-NFU7>]; Brandi Courtois & Emily Cooper, *SIUC Enrollment Decline Continues: Total Enrollment Down 8.75%*, DAILY EGYPTIAN (Sept. 4, 2019), <https://dailyegyptian.com/95407/showcase/siuc-enrollment-decline-continues-total-enrollment-down-8-75> [<https://perma.cc/RCM6-NJY2>].

93. CITY OF CARBONDALE, *supra* note 91.

94. *Quickfacts: Carbondale City, Illinois*, *supra* note 92. The sizable university student population in Carbondale may have affected the income statistics. However, according to a 2014 article published when the SIU's student enrollment was nearly two-thirds higher, the poverty rate among people with families was already as high as 32.7%, indicating that the data are not significantly skewed, and that poverty is prevalent in the city. Robert Loerzel, *Impoverished in Illinois*, NPR (Dec. 1, 2014), <https://www.nprillinois.org/post/impoverished-illinois#stream/0> [<http://perma.cc/KK99-T2FS>].

95. *Quickfacts: Carbondale City, Illinois*, *supra* note 92.

the white majority, respectively;⁹⁶ but poverty was prevalent among all races.⁹⁷

What are the causes of poverty in Carbondale? First, the city's employment base is weak, as demonstrated by a small number of employers offering sizable employment. Only twenty employers were reported to employ fifteen employees or more,⁹⁸ with a combined total employment of 11,023. Among those twenty employers, two major ones, Southern Illinois University (SIU) and SIH Carbondale Memorial Hospital, employ nearly three-quarters, with 5,518 employees and 2,412 employees, respectively.⁹⁹ SIU employs over half of the city's employees; thus, the city's employment and economy are largely dependent on this single institution. This dependency creates economic vulnerability for Carbondale because the city's economic vitality is closely linked to the prosperity of its state university—which can be affected by several elements outside the control of the city, such as political factors affecting the school's budget at the state level. In fact, the university recently had to cut \$31 million from its budget, which was equivalent to 15% of its annual budget, due to an impasse of state funding.¹⁰⁰ The student enrollment has decreased by 43% since 2009. The decline of the university has not only adversely affected the city's employment but also its overall economic vitality.

Efforts should be made to expand Carbondale's weak economic base, as demonstrated in the small number of employers, by promoting diversified industries. The private sector creates employment and is an

96. Rabita Reshmeen Bane, *Carbondale Median Household Income by Races (2010 to 2014)*, S. ILLINOISAN, https://thesouthern.com/news/local/communities/carbondale/carbondale-median-household-income-by-races-to/table_7b82dfcc-db55-54f3-9a7f-0c151d69eba5.html [https://perma.cc/VE8M-S7Z5] (Apr. 8, 2016).

97. The poverty rates were 35% for the white population residing in Carbondale, 52% for the Black population, 100% percent for the Native American population, and 34% for the Hispanic population. *Carbondale, Illinois (IL) Poverty Rate Data*, CITY-DATA.COM, <http://www.city-data.com/poverty/poverty-Carbondale-Illinois.html> [perma.cc/D8MK-VXDL].

98. CITY OF CARBONDALE, *supra* note 91.

99. *Id.*

100. Gabriel Neely-Streit, *SIUC's Budget Crisis Recovery Challenged by Enrollment Struggles*, S. ILLINOISAN (Sept. 11, 2019), https://thesouthern.com/news/local/siu/siuc-s-budget-crisis-recovery-challenged-by-enrollment-struggles/article_8d4d9aa4-f26d-59a6-bae7-7c5335c1f991.html [perma.cc/63WY-AAWU].

engine for economic development, but the government also plays an essential role for economic development by providing information, key infrastructure, education and training, and regulatory and financial incentives for business and entrepreneurs. The City of Carbondale, through its small Economic Development Office, promotes economic development through projects such as the “Downtown Master Plan,” but it has not been successful in promoting businesses and industries on a scale that will generate sufficient incomes to solve the current poverty problem in Carbondale.¹⁰¹ The local government does not have the personnel and financial resources necessary to implement large-scale economic development initiatives, but the resources of the state and the federal governments have not been effectively channeled into economic development in Carbondale. There is no master plan or effective mechanism in place to coordinate the local, state, and federal governments’ efforts to promote economic development in the community.

The coordination is necessary to promote economic development. For example, the local tax rates in Carbondale, including property tax rates, are higher than most other cities and counties in the nation.¹⁰² These high rates may be necessary to finance the resource-stricken local government but are not conducive to economic development, as the higher tax rates would discourage potential employers from moving into the area and opening up businesses. The local government needs to reassess the necessity of imposing such high tax rates against their negative effects on economic development. If high tax rates are financially inevitable, there should be a system in place to enable the local government to open discussion with the state on the possibility of subsidizing the local government so that it can lower the tax rates and encourage investments necessary for economic development. If

101. CITY OF CARBONDALE, DOWNTOWN CARBONDALE MASTER PLAN (2016) <https://www.explorecarbondale.com/DocumentCenter/View/313/Downtown-Master-Plan-PDF> [<https://perma.cc/H2ER-MQXN>].

102. Illinois has the sixth highest property tax rates in the country at 1.76%, and the tax rate for Jackson County, where the City of Carbondale is located, is 1.73%. *See Property Taxes by State*, TAX-RATES.ORG, <http://www.tax-rates.org/taxtables/property-tax-by-state> [<https://perma.cc/F2UJ-3TJL>]; *see also Jackson County Property Tax Rate 2020*, TAX-RATES.ORG, http://www.tax-rates.org/illinois/jackson_county_property_tax [perma.cc/MPW7-CCHH].

the state government does not have the financial capability to offer this assistance, then the proposed coordination system will enable the state and the local governments to call on the federal government for possible support to promote economic development. Such an institutional setup is not currently in place.

The stagnant economy, as illustrated by the prevalent poverty in Carbondale and many other communities in the United States, and the current institutional inability to promote economic development require a change in paradigm and the adoption of a new approach—for example, a new legal and institutional approach (law and development approach)¹⁰³ that will enable the communities to overcome the impasse and promote economic development. Traditionally, local economic issues have been considered a business for the local communities, but this traditional stance has not improved the deteriorating economic conditions in communities like Carbondale. The impasse calls for a more active government role for economic development as has been successful elsewhere.¹⁰⁴ As discussed in the next Part, this new law and development approach includes legal and institutional reforms that promote coordination among local, state, and federal governments and between the public and private sectors to promote economic development for racial minorities and economically depressed communities such as Carbondale.

IV. CALL FOR A NEW PARADIGM

The law and development approach uses laws and institutions as vehicles to promote economic and social development.¹⁰⁵ This approach originated in law and development studies. Law and

103. See discussion *infra* Section IV.

104. For example, the active state role led to strong economic development in East Asian countries. Between 1961 and 1996, South Korea increased its gross domestic product (GDP) by an average of 8.75% per annum, Hong Kong increased its GDP by 7.61%, Taiwan increased its GDP by 8.64%, and Singapore increased its GDP by 8.61%, while the world's average annual GDP increase for the corresponding period was 3.85% (the GDP growth figures are calculated with real GDP figures at constant 2005 national prices). Yong-Shik Lee, *General Theory of Law and Development*, 50 CORNELL INT'L L.J. 415, 425 n.75 (2017).

105. The recently developed General Theory of Law and Development explains the mechanisms by which law impacts development. See YONG-SHIK LEE, *LAW AND DEVELOPMENT: THEORY AND PRACTICE* 3, 38–61 (2019). See generally Lee, *supra* note 104.

development is “an area of inquiry on the interrelationship between law and development,”¹⁰⁶ where “development” is understood as “a progressive transformation of the economy and society.”¹⁰⁷ Law and development has been concerned primarily with exploring the role of law in economic and social development in developing countries; however, the changing economic and social realities of developed countries—regional economic disparity, increasing income gaps, and deepening racial divides—render a law and development approach relevant to addressing economic and social problems in developed countries too. Resolving these problems may require a “progressive transformation” of the underlying economic and social structure through legal and institutional reform.¹⁰⁸ This Part adopts a law and development approach to address issues resulting from racial and regional economic disparities in the United States and proposes legal and institutional reform to bridge the gaps.

A. *Racial Disparity*

The proposed legal and institutional approach addresses the causes of persistent racial and regional economic disparities. As for the racial economic disparity, legal reforms such as the Civil Rights Act of 1964 (CRA)¹⁰⁹ and the Equal Employment Opportunity Act of 1972 (EEOA)¹¹⁰ prohibit racial discrimination in employment and attempt to promote minority job placement, but these legal measures have largely failed to bridge the economic gaps existing among races, as discussed *supra* in Part I. This failure calls for a new approach—one that draws lessons from the Asian American experience and adopts a comprehensive, long-term legal and institutional reform that encourages minorities to reach high levels of educational attainment and provides minority families with the necessary support to provide

106. LEE, *supra* note 105.

107. *Id.* at 11.

108. *See id.*; *see also* Lee, *Law and Development: Nexus*, *supra* note 1; Lee, *Law and Economic Development: Paradigm*, *supra* note 1.

109. Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241 (codified as amended at 42 U.S.C. §§ 1971–2000).

110. Equal Employment Opportunity Act of 1972, Pub. L. 92-261, 86 Stat. 103 (codified as amended at 42 U.S.C. §§ 2000e–2000e-8).

their children with stable environments conducive to educational success. The federal government, equipped with the budget and personnel on a scale not available at the state level, should be the driver of this reform but should remain in close cooperation and coordination with state and local governments. To this end, the federal government should adopt laws, such as an amended EEOA, that provide incentives in the form of grants and other subsidies for schools and universities that actively recruit, retain, and graduate minority students.¹¹¹

The amended EEOA (the amendment) may also require the government to assist distressed minority families, such as families that have lost a provider or are at such risk due to accident, disease, death, or incarceration.¹¹² The purpose of this assistance is to prevent minority families from being dissolved under financial stress and thereby protect minority children from educational disruptions. As seen *supra*, minorities, except Asian Americans, are disproportionately incarcerated, and high incarceration rates lead to family separation, which disrupts children's lives.¹¹³ Thus, legislation needs to address this problem and seek ways to minimize incarcerating parents for nonviolent crimes. Legislators should consider automatically expunging criminal records for convicted individuals who do not reoffend for a pre-set period of time so that minority parents with a prior conviction record may seek employment without prejudice and provide for their families. The amendment should also require a periodic review of the progress of educational attainment and economic status, including minority employment rates.¹¹⁴ The

111. Existing government support, such as increased financial support for historically Black colleges and universities (HBCUs), as well as student loan relief and interest reductions, would be helpful, but assistance should be extended across the board—not just to HBCUs—to target recruitment and retention of all minority students.

112. Current social welfare programs, such as the Supplemental Nutrition Assistance Program (SNAP) and Social Security Disability Benefits, provide minimal coverage and thus are insufficient to meet the needs of families in distress. Tax breaks, such as the earned income tax credit (EITC) and the American Opportunity Tax Credit, also offer assistance for working Americans, but these tax benefits are not available to families that cannot pay taxes due to a lack of sustained income.

113. LOIS DAVIS ET AL., UNDERSTANDING THE PUBLIC HEALTH IMPLICATIONS OF PRISONER REENTRY IN CALIFORNIA 117–42 (2011) (examining the impact of incarceration on families).

114. Relevant government agencies, such as the U.S. Department of Labor and the U.S. Department of Education, issue periodic statistical reports, but there is a need for more extensive assessments with concrete recommendations to improve the economic status of minorities.

legislation should be implemented at the federal level, but some of its mandates could be delegated to state and local authorities.

Distressed minority families will include those in which parents lack secure employment. As discussed *supra*, 41% of Black children and 31% of Hispanic children have parents who lack secure employment.¹¹⁵ The amendment should ensure that appropriate relief is made available to such parents—not only short-term financial assistance but more proactive measures such as job training, job placement assistance, and start-up business support. The proposed remedies will require extensive engagement on the part of the government (at the federal, state, and local levels) with the objectives to provide sustainable relief to distressed minority families and to support those families to enable minority children to pursue educational attainment. The proposed government intervention is necessary to break the poverty cycle: it begins with an individual's failure to secure educational attainment, which results in an economically insecure life; then, when that individual has a child, the child's economically insecure life leads to his subsequent failure in educational attainment. The problem repeats from one generation to the next.

To this end, the amendment can mandate federal and state governments to survey the specific circumstances of economic discrepancy with relevant minority groups, identify causes and feasible remedies, and develop policies and measures to improve the economic status of minorities. The mandate should also require and facilitate active government engagement with minority groups in every aspect of this process, including investigation, identification of the problems, development of policies, and implementation of specific measures. The cooperation and collaboration among federal, state, and local governments will also be essential, and the amendment should specify the processes and procedures for this cooperation and collaboration. The amendment should also mandate that the government engage and cooperate with the private sector, including

115. *Children Whose Parents Lack Secure Employment by Race and Ethnicity in the United States*, *supra* note 75.

industries, businesses, and NGOs, and seek solutions as to how minorities can be educated, trained, recruited, and retained in jobs that provide sustainable income or sustainable self-employment opportunities. The amendment may also provide incentives for employers who employ minorities in industries in which they are underrepresented.

The proposed legal remedy will also require institutional support: to implement the proposed legal reform, it would be necessary to develop a bipartisan government institution, such as a federal commission. The current federal agency, the Equal Employment Opportunity Commission (EEOC), established under the CRA,¹¹⁶ has a limited mandate to administer and enforce civil rights laws against workplace discrimination.¹¹⁷ The proposed commission should have a more extensive mandate, including periodic investigations of the status of economic disparity, development of policies and implementation of measures to facilitate educational attainment for minorities and meet the immediate needs of distressed minority families, and collaboration with state and local governments to provide longer-term support for minority families with the aim to provide a nurturing and stable family environment for the children. These remedies will require close cooperation and coordination with state and local governments, minority communities, as well as the private sector; thus, the proposed commission should ensure that these constituents are represented in the development of relevant policies and implementation measures. The proposed legal and institutional reform will represent a major paradigm shift by which active government engagement with minorities will be at the core of national efforts to improve the economic status for minorities and to bring this nation closer to the fulfillment of the promise of the civil rights movement.

116. 42 U.S.C. §§ 2000e-4-5 (creating the EEOC and providing enforcement provisions for the EEOC).

117. See *Overview*, U.S. EQUAL EMP. OPPORTUNITY COMM'N, <https://www.eeoc.gov/overview> [<https://perma.cc/4SY3-827P>] (providing an overview and explaining the authority of the EEOC).

B. Regional Economic Disparity

As for the regional economic disparity, the government may adopt laws that mandate government support to develop necessary infrastructure, improve public education in economically depressed areas, and promote the establishment and expansion of businesses in such areas. The Public Works and Economic Development Act of 1965 (PWEDA)¹¹⁸ provides for some of these supports through the Economic Development Agency (EDA), established under the PWEDA, but its operational scale is small and has failed to promote meaningful economic development in communities like Carbondale. The proposed legislation enables the government to provide specific support measures, including subsidy grants, tax incentives, loans, and loan guarantees for the benefit of qualified businesses and industries, which is expected to promote economic development and generate employment and income for local populations in economically distressed areas. These support measures require substantial financial resources that may exceed the financial capacities of the state and the local governments with budgetary constraints.¹¹⁹ This means that the proposed pro-economic development legislation must be set up at the federal level so that the federal government, which retains a majority of tax revenues in the United States and largest amount of resources of all governments, may assume the primary financial responsibility.

The process mandated by the proposed legislation will be an inclusive and collaborative one among the different layers of governments (i.e., federal, state, and local) despite the primary responsibility being assigned to the federal government; in other words, the proposed legislation would not preclude state and local governments from setting up their own laws and institutions to meet their economic development objectives within the bounds of their own resources, provided that intergovernmental coordination and cooperation is secured. The essence of the proposal is to enable the federal government to provide support for local economic

118. Public Works and Economic Development Act of 1965, Pub. L. 89-136, 79 Stat. 552 (codified as amended at 42 U.S.C. § 3161).

119. DADAYAN & BOYD, *supra* note 90.

development where the local and state governments lack resources to promote businesses and industries on a scale necessary to generate sufficient income and employment to overcome poverty. If such a mechanism should be adopted, communities like Carbondale would have access to federal and state funding for economic development and would no longer be restrained by the lack of resources when initiating economic development projects. The access to funding does not guarantee success but will be necessary for resource-stricken local communities to undertake economic development.

The proposed legal reform also requires effective institutional setup. There is a significant lack of coordination and cooperation for economic development among the federal, state, and local governments and between the public and private sectors.¹²⁰ The failure of coordination and cooperation indicates a need for a control center in charge of promoting coordination and cooperation among the federal, state, and local government departments and agencies in policy development and implementation concerning economic development. This type of control center could provisionally be entitled the Economic Development Council (EDC) and needs to be established at the federal level to effectively coordinate among the federal departments and agencies, as well as its state and local counterparts.¹²¹ The primary role of the EDC will be the development of economic development policies, such as identifying strategic areas for government investments, facilitating intergovernmental and public-private sector coordination, and identifying the focus areas in which such coordination and cooperation will be essential, including state and local economic development initiatives that require support from the federal government. The EDC may also be open to the participation of the private sector and invite input from relevant private sector players, such as industry representatives, in the development and implementation of economic development policies. The EDC, in

120. See Lee, *Law and Economic Development: Paradigm*, *supra* note 1, at 247 n.93 (introducing examples of this failure).

121. At the federal level, the EDC is to be granted an independent status from the other departments and agencies and the mandate to coordinate and cooperate with them, including the U.S. Department of Commerce, the U.S. Department of Finance, the U.S. Department of Agriculture, and the U.S. Department of State (for development policies with international ramifications).

cooperation with the existing state or local offices, may also provide further assistance by collecting and disseminating business and trade information, which will be particularly useful for businesses in economically distressed regions with limited resources and information.

The proposal for the pro-development legal and institutional framework might appear to be inconsistent with the political tradition of the United States. There is a cultural characteristic embedded in the American ethos that emphasizes and values individual autonomy. The economic well-being of an individual is, therefore, primarily his or her own responsibility and is to be secured from one's own effort and not from government aid (e.g., either in hard cash or regulatory support). According to this tradition, Americans expect the government to protect individual political and economic liberties.¹²² The government is expected to secure fair market rules and punish conduct interfering with the operation of the market, such as the dissemination of fraudulent information on the stock market, but not to intervene in the economy and use its regulatory power to meet economic targets. Thus, the establishment of the legal and institutional frameworks focusing on economic development might be seen as an unconventional attempt to assign the government a role that is not consistent with the American expectations of government, which has been highlighted since the 1980s.¹²³

However, the circumstance has changed since the 2008 financial crisis; public trust and confidence in the ethos and traditional policy recommendations of the establishment have been weakened. Many Americans seem to have realized the structural economic obstacles created by regional economic disparity and economic polarization that prevents most, if not all, individuals from improving their own economic wellbeing solely on their own efforts without systematic assistance from the government. Also, the federal government retains a majority of tax revenues in the United States, which may justify expanding the responsibility of the government beyond its traditional

122. See Lee, *Law and Economic Development: Paradigm*, *supra* note 1, at 258.

123. For a discussion of the federal economic initiatives in the preceding periods, see discussion *supra* note 5.

role under the American political tradition. This change of public perception was demonstrated by the unexpected 2016 presidential election victory of Donald Trump, who had promised this change. The four years of Trump's Administration were rife with controversies and problems,¹²⁴ instead of delivering his promise; as a result, the Democratic Presidential Candidate, Joe Biden, won the 2020 election. However, the election was a close one, and if the U.S. government fails, once again, to assume a more active role in facilitating economic development in economically depressed regions, allowing for the proposed law and development approach to be addressed in this context, the populous elements that supported Trump may revive in the future.

CONCLUSION

The civil rights movement, the objective of which was to protect the equity and dignity of all people, has led the United States to become an improved nation that secures equal political rights without legal discrimination among races. The achievement of this noble objective required the intervention of the federal government in the form of federal legislation and enforcement. The objective was not achieved by the voluntary cooperation of the state and local governments. Indeed, some resisted such interventions by the federal government, viewing them as interfering with the traditional freedom enjoyed by state and local communities. The legislative, judicial, and administrative interventions at the federal level were necessary to achieve this political justice across the nation because some state and local governments did not support the civil rights movement and instead attempted to oppress it by using state and local laws that were inconsistent with political justice for all.

An analogy may also be drawn in the promotion of economic justice, without which American society cannot fully meet the objective of the civil rights movement. The protection of the equity and dignity of all

124. See Lee, *Law and Economic Development: Paradigm*, *supra* note 1, at 230–34 (explaining the untenable nature of the policies).

people is not limited to political terms. America cannot achieve economic equality with the present regional and racial economic disparities that put minorities and many regional communities in the United States under the poverty line. Decades of efforts to prohibit racial discrimination in employment and to promote minority employment have largely failed to bridge racial economic disparity. The traditional approach of leaving local economic matters to the market and to state and local governments has also failed to bridge the regional economic gap and to bring economic justice to all. Just as the achievement of equal political rights required intervention by the federal government, the realization of economic justice also requires support and coordination from the federal government. To that end, this Article proposes legal and institutional reform that will mandate the federal government to facilitate economic development for minorities and economically depressed regions. The proposal is not to undermine traditional state sovereignty and local autonomy. On the contrary, it is to reinforce these principles by providing means to achieve economic development that is otherwise not feasible under the constraints of state and local government budgets. The proposed role for the federal government is not an alien concept in many other successful developed countries in which the national government plays a more active role in economic development. There were also times when the U.S. government took a more active role in the economy.¹²⁵ The proposed role for the federal government will be consistent with the objective of the civil rights movement and will be necessary to bring economic justice for all.

The outcome of the Appalachian Development Initiative, for example, has brewed skepticism about federal involvement in regional development issues, however.¹²⁶ Critics are correct that the

125. For a discussion of the federal economic initiatives in the preceding periods, see discussion *supra* note 5.

126. A lesson should also be drawn from a failed federal attempt at economic development in the Appalachian region (the Appalachian Development Initiative) under the Appalachian Regional Development Act of 1965, Pub. L. No. 89-4, 79 Stat. 5 (codified as amended at 40a U.S.C. §§ 1-405). The Appalachian Regional Commission (ARC), established under this Act, implemented hundreds of projects a year, but despite the five decades of effort and the substantial federal funding (\$165 million in 2019), the outcome is considered mixed at best, failing to lift most of the region out of poverty. The

government involvement does not guarantee the ability to “pick winners.”¹²⁷ But the proposed extensive government engagement with racial economic disparity has never been tried, at least not to the extent that is suggested in this Article. As with everything else in life, there will be successes and failures with government-led development initiatives, whether it is to remedy racial or regional economic disparity, and so a better question is whether government support will create enough winners to achieve economic development, let losers go, and minimize the adverse outcome of bureaucracy. The neoliberal approaches limiting government “intervention” have failed to promote economic development in places like Carbondale, Illinois, and for minorities. Thus, there is a need for a new paradigm, a new legal and institutional approach that promotes coordination among federal, state, and local governments and cooperation between the private and public sectors. Effective political leadership, as well as the will of minorities and residents of economically depressed regions to overcome poverty and dependency, will be the core elements of success. Given the racial and regional economic disparities, there is a call for a new phase of the civil rights movement to achieve economic equality through the promotion of economic development, as advocated by Dr. King in his last days.

support has created dependency among the local residents on transfer payments, rather than spurring growth of the economy in the region as a whole. It is questionable that the ARC has had strong and coordinated political leadership or an effective working relationship with the private sector. The ARC has not successfully worked with the private sector and failed to secure strong support from the local residents to promote industries on a scale that was necessary to lift the region out of poverty. The success of proposed initiatives like the EDC will depend on the institutional ability to work with the private sector and to generate effective leadership, as well as the will of the local residents to overcome poverty and dependency. Lee, *Law and Development: Nexus*, *supra* note 1, at 450–52.

127. Abigail R. Hall, *Mountains of Disappointment: The Failure of State-Led Development Aid in Appalachia*, 29 J. PRIV. ENTER. 83, 90 (2014).