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The Legacy of the 1968 Fair Housing Act

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Abstract

Civil rights activists in 1968 hoped that the passage of the Fair Housing Act would lead to the residential desegregation of American society. In this article I assess the degree to which this hope has been fulfilled. I begin by reviewing how the black ghetto came to be a universal feature of American cities during the 20th Century and the means by which high levels of black segregation were achieved. I then describe the legislative maneuvers required to pass the Fair Housing Act and review its enforcement provisions to assess its potential for achieving desegregation. After examining trends in residential segregation since 1970, I conclude with an appraisal of the prospects for integration as we move toward the 50th anniversary of the Act's passage.²

Keywords

civil rights; race; segregation; policy; inequality; neighborhood

INTRODUCTION

The Fair Housing Act passed in the wake of Martin Luther King's assassination in an effort to address, at least symbolically, the anger of African Americans who were rioting in the nation's ghettos. For the first time in American history legislation banned racial discrimination in the sale or rental of housing. At the time, levels of black residential segregation were extreme, higher than any group had ever experienced before or since. The two most common measures of segregation are the index of dissimilarity and the isolation index (Massey and Denton 1988). The former index measures the degree to which blacks and whites are unevenly distributed across neighborhoods and equals 0 when each neighborhood replicates the racial composition of the city as a whole and 100 when blacks and whites share no neighborhood in common. The isolation index gives the percentage of African Americans in the neighborhood of the average black city dweller and reaches a minimum equal to the city's overall black percentage when African Americans are evenly spread across neighborhoods and a maximum of 100 when every black city dweller inhabits an all-black neighborhood (Massey and Denton 1988). At the time of the Act's passage, the average black-white dissimilarity index stood at around 78 and the black isolation index was 66 (Rugh and Massey 2014).

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Civil rights activists in 1968 hoped that outlawing racial discrimination in U.S. housing markets would lead to the desegregation of American society. In this article I assess the degree to which this hope has been fulfilled. I begin by reviewing how the black ghetto came to be a universal feature of American cities during the 20th Century and the means by which high levels of black segregation were achieved. I then describe the legislative maneuvers required to pass the Fair Housing Act and review its enforcement provisions to assess its potential for achieving desegregation. After examining trends in residential segregation since 1970, I conclude with an appraisal of the prospects for integration as we move toward the 50th anniversary of the Act's passage.

CREATING THE BLACK GHETTO

The black urban ghetto was created in the late 19th and early 20th centuries through deliberate actions taken by white Americans to isolate African Americans spatially, and thus marginalize them socially, economically, and politically. The impetus for their segregation was the Great Black Migration out of the rural south and into cities throughout the country, which produced rapidly growing black populations that triggered a rising tide of prejudice and discrimination and a hardening residential color line (Lieberson 1980). In 1860, long before the ghetto was consolidated, the average black-white dissimilarity index in 19 northern and southern cities was just 36 and in 1890 the average black isolation index in 17 northern cities was only seven (Massey and Denton 1993). By 1900, however, the average black-white dissimilarity index in 64 cities had risen to 69 and the average isolation index had climbed to 21 (Massey, Rothwell, and Domina 2009).

Thus the foundations of the ghetto had been laid at the turn of the 20th Century. As the Great Black Migration accelerated over the ensuing decades, levels of racial segregation steadily rose, with the average black-white dissimilarity reaching 71 by 1940 and average black isolation attaining a value of 52 (Massey, Rothwell, and Domina 2009). Initially the residential the residential color line was enforced by white-on-black violence. African Americans attempting to enter white neighborhoods were met by angry white mobs, burning crosses, bombings, shootings, and arson (Massey and Denton 1993).

In an effort to keep the peace, the Baltimore City Council in 1910 passed a law setting aside certain neighborhoods for African Americans and others for whites (Rice 1968). Legislation mandating separate black and white neighborhoods quickly spread to other jurisdictions throughout the nation and might have provided the basis for a legalized system of Apartheid were it not for the U.S. Supreme Court, which in its 1917 *Buchanan v. Warley* ruling declared laws mandating residential segregation to be unconstitutional, not so much because they discriminated against blacks but because they deprived white property owners of the right to dispose of assets as they wished (Rice 1968).

The outbreak of the First World War in 1914 brought about a surge in industrial production while simultaneously curtailing mass immigration from Europe to create labor shortages throughout urban America, shortages that only grew more acute when the United States entered the war in 1917. In response, black out-migration from the south surged from 197,000 during 1900–1910 to 525,000 during 1910–1920 (Farley and Allen 1987). The

migrants piled up in neighborhoods and inevitably spilled over to the white side of the residential color line, triggering a wave of anti-black race riots that swept through urban America during the teens, culminating in the great Chicago Riot of 1919 (Massey and Denton 1993).

In response to the wanton destruction of property as a result of the riots, the real estate industry stepped in to institutionalize discrimination in housing markets. In 1924 the National Association of Real Estate Brokers adopted an article in its code of ethics stating that “a Realtor should never be instrumental in introducing into a neighborhood... members of any race or nationality... whose presence will clearly be detrimental to property values in that neighborhood,” a clause that remained in effect until 1950 (Helper 1969:201). In 1927 the Chicago Real Estate Board followed up by developing a restrictive covenant to serve as a model for neighborhood organizations and real estate boards throughout the nation (Philpott 1978). A covenant was a private contract between property owners within a specific geographic area who agreed not to rent or sell homes to African Americans. Once a majority of property owners in a covered area had signed the covenant, it became binding and violators could be sued in court for breach of contract. Restrictive covenants remained the favored legal tool institutionalizing segregation until they were declared unenforceable and contrary to public policy by the U.S. Supreme Court in its 1948 *Shelley v. Kramer* decision (Jackson 1985).

Black out-migration from the rural south continued through the Great Depression and accelerated during the Second World War, reaching peak levels during the suburban boom of the 1950s and 1960s. Mass suburbanization in the postwar period was substantially tied to federal policies. In 1937, the Federal Housing Administration (FHA) was authorized to create a mortgage insurance program that would revolutionize housing and lending markets throughout the nation. Provided that the mortgage conformed to criteria established by the FHA, the agency would insure up to 90% of the loan’s value against default, essentially giving banks a risk-free way of making money. The conforming criteria included a long amortization period of up to 30 years at a fixed interest rate. If a buyer could come up with a 10% down payment, banks were happy to issue a mortgage since the balance of the loan would be federally insured. Small down payments and low monthly installments made mass home ownership possible and it became a cornerstone of wealth creation for the white middle class (Jackson 1985).

Although little changed in urban America during the depression and war years, after the war the Veterans Administration (VA) established its own mortgage insurance program modeled on that of the FHA and bankers eagerly issued FHA- and VA-approved mortgages to create a surge in housing demand that developers were happy to satisfy by purchasing cheap land on the urban fringes and mass producing standardized homes. The combination of FHA financing and new construction techniques made it cheaper to buy new suburban homes than to rent comparable older dwellings in the central city. The bias in favor of suburbs was exacerbated by FHA regulations that favored new construction, single family homes, and large lot sizes (Jackson 1985).

The resulting wave of suburbanization was for whites only, however (Bonastia 2015). Building on a set of maps originally developed by the Home Owners Loan Corporation, the FHA and VA color-coded neighborhoods according to their creditworthiness, using red to indicate risky neighborhoods that were ineligible for federally-insured loans (Katznelson 2005). Neighborhoods that were black or perceived to be in danger of becoming black were automatically colored red, thus cutting them off from credit and institutionalizing the practice of “redlining” (Jackson 1985). The FHA and VA also took a dim view of lending to individual African Americans, with the 1939 *FHA Underwriting Manual* stating that “if a neighborhood is to retain stability, it is necessary that properties shall continue to be occupied by the same social and racial classes,” and it recommended the use of racially restrictive covenants to ensure neighborhood stability (Jackson 1985:208).

The massive outflow of whites to suburbs naturally opened up housing opportunities for blacks in central cities. As urban black populations continued to grow through mass migration, ghetto neighborhoods expanded rapidly in space and by 1970 for the first time entire cities—Atlanta, Baltimore, Detroit, Gary, Newark, Washington—became majority-black. Many more cities—Chicago, Philadelphia, St. Louis, New York, Milwaukee—came to house large black pluralities, thus creating a new geography of segregation across municipal as well as neighborhood boundaries (Massey, Rothwell, and Domina 2009). The rapid expansion of black neighborhoods inevitably threatened districts where white elites held place-bound investments, and for protection they turned to urban renewal and public housing programs to block the expansion of black settlement toward imperiled zones (White 1980; Hirsch 1983; Bauman 1987).

Whenever black residential expansion threatened a favored district, a local urban renewal authority was established to gain control of the land using the power of eminent domain. Black neighborhoods were then razed for “redevelopment” as a middle class commercial or residential zone. Public housing was constructed in other black neighborhoods to house the displaced black residents, dramatically increasing the geographic concentration of black poverty (Massey and Kanaiaupuni 1993). By 1970, black-white dissimilarity in public housing projects stood at 72 and the black isolation index was 80 (Bickford and Massey 1991).

THE FAIR HOUSING ACT

The passage of legislation to address housing segregation proved to be among the most difficult tasks undertaken by the civil rights movement. Congress had specifically excluded the FHA and VA insurance programs from coverage under the 1964 Civil Rights Act (Lief and Goering 1987), and although a fair housing provisions had passed the House in 1966 it died under the weight of a Senate filibuster and an attempt to revive it in 1967 bottled up the legislation in committee (Dubofsky 1969). Although President Lyndon Johnson continued to call for the passage of fair housing legislation, the prospects for passage seemed bleak as 1968 dawned.

In February, however, Senators Walter Mondale of Minnesota and Edward Brooke of Massachusetts offered legislation to prohibit discrimination in housing. Their bill sought to

ban discrimination in the sale or rental of all housing and authorized the Secretary of Housing and Urban Development (HUD) to investigate allegations of discrimination, issue complaints against those suspected of discrimination, hold hearings to assess the severity of discrimination, and publish cease and desist orders in cases where discrimination was confirmed. In addition, the Attorney General was empowered to prosecute agents who engaged in a pattern and practice of discrimination, and individual victims of discrimination were authorized to file civil suits in federal court for significant damages, punitive awards, court costs, and attorney's fees (Metcalf 1988).

Southern senators naturally opposed the bill and drug out debate by opposing repeated cloture motions, attempting to prolong the debate until the bill's backers would be forced to give up in order to adopt other business (Dubofsky 1969). In order to draw liberal Republicans into supporting the bill, Senator Everett Dirksen of Illinois offered an amendment that reduced the bill's coverage to 80% of the nation's housing stock, mainly by excluding owner-occupied residences with four or fewer rental units. The compromise also weakened the bill's enforcement provisions by eliminating HUD's authority to hold hearings, issue complaints, and publish cease and desist orders, while also lowering the penalties for fair housing violations.

A day after the Dirksen compromise was adopted in the Senate the Kerner Commission issued its report on urban riots, warning that the nation was "moving toward two societies, one black, one white--separate and unequal" and identified segregation as a leading cause of racial tensions and black poverty (U.S. National Advisory Commission on Civil Disorders 1988). The report caused a sensation and greatly strengthened the political consensus that something had to be to address the issue of fair housing (Massey and Denton 1993). After a series of last-minute amendments to adjust the extent of the Act's coverage, cloture was finally voted on March 4 and the amended bill was sent to the House, where it had would have to be adopted without changes or face dubious chances in a House-Senate Conference Committee (Dubofsky 1969).

Although the Chairman of the House Judiciary Committee requested unanimous consent to the Senate bill, southern Senators objected and it was remanded to the Rules Committee, where hearings dragged on seemingly without end. Prospects for the legislation seemed bleak when the House adjourned on the afternoon of Thursday April 4, but a few hours later Martin Luther King was assassinated, and the nation's mood changed dramatically as riots broke out in ghettos throughout the nation. Some 21 House Republicans immediately broke party ranks and urged passage of the Senate bill. However, southerners on the Rules Committee remained steadfast in their opposition to the bill, and it appeared to be headed for an uncertain fate in conference committee when suddenly John Anderson of Illinois switched sides. With his own constituents' mail running two to one against the bill he made a principled voted to send it to the House floor. On April 10, with National Guard troops quartered in the basement of the Capitol to guard against violence from riots in adjacent black neighborhoods, the bill passed and President Johnson signed it into law the next day (Dubofsky 1969; Metcalf 1988). In the end, it took a martyr's blood finally to outlaw discrimination in housing.

The Fair Housing Act expressly banned many of the public actions and private practices that had evolved over the years to deny blacks access to housing. It outlawed the refusal to rent or sell to someone because of race; it prohibited racial discrimination in the terms and conditions of rental or sale; it barred discrimination in real estate advertising; it banned agents from making untrue statements about a dwelling's availability in order to deny access to blacks; and it enjoined real estate agents from making comments about the race of neighbors or in-movers in order to promote panic selling (Metcalf 1988). Although the new law applied only to around 80% of the nation's housing stock, a Supreme Court decision adjudicated just two months later extended its reach to all housing in the United States (Sander 1988).

Although the 1968 Act committed the federal government to fair housing in principle, systematic removal of its enforcement mechanisms under the Dirksen compromise meant that its lofty goals would be hard to achieve in practice. According to the Fair Housing Act, HUD was authorized only to investigate complaints of housing discrimination and had just 30 days to decide whether to pursue or dismiss the allegations. If HUD chose to pursue a claim of discrimination, it was empowered only to engage in "conference, conciliation, and persuasion" to resolve the problem. Moreover, if the alleged discrimination occurred in a state where a "substantially equivalent" fair housing statute existed, HUD was instructed to hand off the complaint to state authorities.

Even if HUD's investigations revealed that a victim had suffered blatant discrimination, the agency had no way to force compliance, grant a remedy, assess damages, prohibit discriminatory practices from continuing, or penalize the lawbreaker in any way. HUD could only refer the case to the Justice Department for possible prosecution; but according to the wording of the Act, the Attorney General could only act if there was evidence of "a pattern or practice" of discrimination, or if the alleged act of discrimination raised an issue "of general public importance" (Metcalf 1988). According to former HUD Secretary Patricia R. Harris, the 1968 Fair Housing Act reduced HUD to "asking the discovered lawbreaker whether he wants to discuss the matter" (U.S. Congress 1978).

In the end, the Act placed the weight of enforcement largely on the backs of "aggrieved persons" who were granted the right to file a civil suit to recover damages in federal court. However, victims of discrimination were only entitled to sue for actual damages and a mere \$1,000 in penalties. Moreover, lawsuits had to be filed within 180 days of the alleged violation, or 30 days from the end of HUD mediation.; and if the court failed to find for the plaintiffs, they were specifically liable for all court costs and attorney's fees. Even if a discriminator were so unlucky as to be prosecuted and convicted, he or she faced few serious consequences, since the damages granted to victims under the Fair Housing Act were typically small. As of 1980 only five plaintiffs had received awards in excess of \$3,500 (Metcalf 1988).

In addition to prohibiting racial discrimination in housing, the Fair Housing Act also called upon the HUD Secretary to "administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this section [of the Act]" (Rubinowitz and Trosman 1979). In other words, HUD could not simply stand on the

sidelines when administering federal housing policy; it had to act "affirmatively" to promote integration whenever and wherever it could.

After he became HUD Secretary in January of 1969, George Romney took this affirmative mandate to heart and had his General Counsel prepare an opinion stating that HUD had a clear obligation to consider how every action it took would "in fact open up new, nonsegregated housing opportunities that will contribute to decreasing the effects of past housing discrimination." Romney himself wrote that "the impact of the concentration of the poor and minorities in the central city extends beyond the city boundaries to include the surrounding community. ... To solve problems of the 'real city,' only metropolitan-wide solutions will do" (Roisman 2007:387).

To enact this vision he proposed an "Open Communities" program that tied HUD financial assistance to a community to its acceptance of affordable housing, thereby promoting desegregation by race and class (Roisman 2007). Romney created a task force to implement the program on a trial basis in selected suburban communities in several states, choosing suburbs with high employment rates but little or no affordable housing. Not surprisingly, the task force encountered fierce opposition from suburban politicians and public officials, who complained bitterly to the White House. Nixon's political strategy, of course, was to appease blue collar voters, middle class suburbanites, and southerners upset with the pace of racial change and told his advisor John Ehrlichman that "this country is not ready at this time for either forcibly integrated housing or forcibly integrated education" (Mason 2014:149). Romney was ordered to release HUD funds to a Detroit suburb without restrictions (Lamb 2005). When a St. Louis suburb resisted HUD plans for the construction of affordable housing, Romney's plea for legal support from Attorney General John Mitchell was refused, and he was forced to abandon his Open Communities initiative in September of 1970 (Mason 2014).

Nixon progressively came to disdain his HUD Secretary and eventually told his Chief of Staff, "just keep [Romney] away from me" (Reeves 2001). Pressure from the White House for his departure rose, and shortly after Nixon won reelection in 1972 Romney resigned, disappointed with Nixon's cynicism, telling a friend "I don't know what the president believes in. Maybe he doesn't believe in anything" (Reeves 2001: 277). In subsequent years, HUD's exercise of its affirmative mandate under the Fair Housing Act's affirmative mandate continued to be weak as subsequent HUD Secretaries carried out Nixon's bidding to move slowly on issues of race and civil rights, triggering a series of lawsuits by fair housing activists (Bonastia 2015).

When a lower court in 1968 found the Chicago Housing Authority (CHA) guilty of promoting racial segregation in public housing, HUD Secretary Carla Hills chose to fight the decision and appealed all the way to the U.S. Supreme Court, which in *Hills v. Gautreaux* (1976) unanimously affirmed HUD's complicity in promoting segregation and ordered a metropolitan-wide desegregation plan (Vernarelli 1986). In the case of *Shannon v. HUD*, residents of an urban renewal area in Philadelphia argued that HUD had failed to fulfill its affirmative mandate by not developing procedures to assess the effect of project construction on the racial composition of the neighborhood. Once again HUD strenuously

fought the lawsuit, but in 1970 a federal judge ordered HUD and the PHA to develop procedures that took racial composition into account in selecting sites for public housing projects (Rubinowitz and Trosman 1979). HUD was similarly obstructionist when a non-profit developer sought to build subsidized apartments in a suburb of St. Louis. Carla Hills this time intervened to quash the developer's application for funding, which was ultimately restored on appeal (Metcalf 1988). Noting a decade of foot-dragging in complying with its affirmative mandate, a report by the U.S. Commission on Civil Rights in 1979 complained that "HUD has not been forceful in ensuring compliance with these requirements" (U.S. Commission on Civil Rights 1979:6)

SEGREGATION SINCE 1968

Although the Fair Housing Act is often heralded as a key piece of civil rights legislation, in reality it was only the first of several steps Congress undertook to promote residential segregation. Although the Act banned racial discrimination in the sale and rental of housing, it took no action to stop discrimination in mortgage lending. It was not until Congress passed the Equal Credit Opportunity act in 1974 that discrimination against black individuals was prohibited and it was not until 1977 that it passed the Community Reinvestment Act to outlaw discrimination against black neighborhoods, thus eliminating the legal basis for the practice of redlining (Lief and Goering 1987).

Given the weak enforcement authority granted to HUD under the Fair Housing Act, the agency's well-documented record of foot-dragging with respect to its affirmative mandate, and the delay in outlawing discrimination in lending, it is perhaps not surprising that in their analysis of segregation trends through 1980, Massey and Denton (1993) detected little movement toward integration between 1970 and 1980. Owing to the technical limitations of the time, however, they only studied segregation trends in the 50 largest metropolitan areas. In subsequent decades, moreover, metropolitan America was radically transformed by mass immigration and rising inequality to produce a dramatically different urban context. By 2000 Hispanics had become the nation's largest minority group and segregation by socioeconomic status was on the rise (Massey, Rothwell, and Domina 2009; Reardon and Bishoff 2011).

Figure 1 draws on Rugh and Massey's (2014) analysis of 287 consistently-defined metropolitan areas to show trends in average dissimilarity from non-Hispanic whites for blacks, Hispanics, and Asians from 1970 through 2010. Dissimilarity is measured at the census tract level and average values are weighted by the size of the minority population in each metropolitan area. As can be seen, the slight downward trend in black-white segregation that Massey and Denton (1993) observed between 1970 and 1980, though modest, continued steadily across the ensuing decades, dropping by around 4.5 points per decade and moving from a value of 78 in 1970 to 60 in 2010, a shift that prompted Glaeser and Vigdor (2012) to declare "the end of the segregated century." Logan and Stults (2011), however, found that declining black-white segregation was far from universal and that many metropolitan areas displayed a pattern of "stalled integration."

In their analysis, Rugh and Massey (2014) found that as of 2010 high levels of black segregation were actively promoted by restrictive density zoning in suburbs and high levels

of anti-black prejudice across metropolitan areas. High segregation persisted especially in large areas with older housing stocks and large African American populations characterized by low levels of income and education relative to whites. Declines in segregation over the period were significantly slower in metropolitan areas displaying high levels of anti-black sentiment, restrictive density zoning regimes, and low black socioeconomic status. The five most segregated metropolitan areas in 2010 were Milwaukee, Gary, Detroit, Newark, and New York and in these areas no decline in black segregation was observed.

A follow-up analysis by Massey and Tannen (2014) showed that in 21 metropolitan areas African Americans remained hypersegregated in 2010 and that these areas accounted for a third of all metropolitan blacks. In their factor analysis of segregation indices, Massey and Denton (1988) identified five geographic dimensions of segregation and in subsequent work they showed that, uniquely among racial-ethnic groups, African Americans in a subset of metropolitan areas were highly segregated on at least four of the five spatial dimensions, a pattern they labeled hypersegregation (Massey and Denton 1989). Although the number of areas in which blacks were hypersegregated declined from 40 to 21 between 1970 and 2010 and the share of African Americans experiencing hypersegregation declined by half, among those areas that remained hypersegregated in 2010 there was no apparent movement toward integration, and in several areas average levels of segregation across the five dimensions had increased.

Although black segregation may have declined substantially in some metropolitan areas, therefore, it certainly has not disappeared and indeed has displayed a remarkable persistence in many places. Turning to Hispanics, we see that on average their segregation from non-Hispanic whites displayed no trend toward integration from 1970 to 2010 and, in fact, increased slightly, going from a dissimilarity score of 46 in 1970 to one around 50 in 2000 and 2010. Moreover, whereas Hispanics were not hypersegregated anywhere in 1980, by 2000 they had become hypersegregated in New York and Los Angeles, the nation's two largest Latino communities (Wilkes and Iceland 2004). As with African Americans, Hispanic residential segregation was strongly predicted by low socioeconomic status relative to whites, restrictive zoning in suburbs, and anti-Latino sentiment, in their case taking the form of animus against "illegal aliens." Asian segregation, meanwhile, remained flat with a moderate dissimilarity index of around 40 throughout the period and Asians did not experience hypersegregation in any metropolitan area at any time (Massey and Tannen 2014).

Given steady or slowly rising levels of residential dissimilarity from whites, the huge increase in the relative numbers of Asians and Hispanics would be expected to drive up levels of neighborhood isolation for both groups, and as shown in Figure 2 this is exactly what happened. Whereas in 1970 the average Hispanic lived in a census tract that was just 27% Hispanic, by 2010 the figure stood at 47%. Over the same period the percentage Asian in the average Asian resident rose from 9% to 20%. In contrast, black isolation dropped by an average of around 5% per decade, going from 66% in 1970 to 45% in 2010, reflecting both the decline in average dissimilarity and the deconcentration of African Americans out of central cities over the period. Holding the level of dissimilarity constant, the neighborhood isolation experienced by Hispanics and blacks was strongly predicted by anti-

black and anti-Latino sentiment. Although Asian spatial isolation increased because of their growing numbers, the degree of isolation remained quite low compared with blacks and Hispanics.

Despite the declines in black-white segregation and the rising presence of Hispanics within U.S. metropolitan areas, in a very real way whites remain the most spatially isolated of all groups in the United States. Figure 3 shows trends in non-Hispanic white isolation within census tracts from 1970 to 2010, along with tract-based interaction indices. The latter give the percentage of blacks, Hispanics, and Asians in the neighborhood of the average white metropolitan resident. Although the trend in white isolation is clearly downward, it still remains quite extreme. From 1970 to 2001 the white isolation index dropped from 92 to 72, but the latter figure is still quite compared the values of 47, 45, and 21 for Hispanics, blacks, and Asians, respectively; and the likelihood that a white person shared residential space with a minority person was still quite small in 2010. The likelihood of spatial interaction with was only 8%, compared with 6% for Asians, and 11% for Hispanics.

THE PAST AND FUTURE OF SEGREGATION

Despite some signs of progress toward a more integrated society, the pace of desegregation has been quite uneven and 46 years after the passage of the Fair Housing Act many metropolitan areas remain just as segregated as they were in 1968. Indeed, as of 2010 African Americans remained hypersegregated in 21 metropolitan areas, including Milwaukee, Detroit, St. Louis, Cleveland, Chicago, New York, Philadelphia, Baltimore, and Boston, just to name a few of the nation's more prominent black communities. The least segregated metropolitan areas were Provo, Boulder, Fort Collins, Grand Junction, and Missoula—small metropolitan areas containing colleges or universities and relatively small black populations—hardly typical of urban America (Rugh and Massey 2014). As of 2010 a third of all metropolitan African Americans continued to live under conditions of hypersegregation and another 21% lived under conditions of high segregation (with a black-white dissimilarity index of 60 or greater---see Massey and Tannen 2014).

Since 1970 the number of Hispanics in metropolitan American has increased by 463% and levels of Hispanic segregation and spatial isolation rose in many metropolitan areas, especially in the two largest Latino communities of Los Angeles and New York. In addition to being predicted by restrictive density zoning in suburbs and low socioeconomic status relative to whites, anti-immigrant sentiment (Rugh and Massey 2014), higher levels of Hispanic segregation are strongly linked to the estimated percentage of undocumented migrants across metropolitan areas (Hall and Stringfield 2014). As of 2010, around a fifth of Hispanic metropolitan residents lived under conditions of high segregation and 40% lived in an area with an isolation index of 50 or greater, meaning that the average metropolitan Hispanic resident lived in a majority-Latino neighborhood.

In many ways, it is not surprising that the progress toward residential integration in the United States has lagged. The structures and processes that created the black ghetto were well institutionalized in private practice and public policy by the time the civil rights movement began. Abundant evidence suggests that racial discrimination did not end with

civil rights legislation so much as go underground to become clandestine and less visible. To measure such discrimination, investigators employ audit studies in which white and black teams are assigned similar characteristics and sent out to inquire about the availability of housing advertised for sale or rent in a specific market, after which systematic differences in treatment by race are documented (Blank, Dabady, and Citro 2004). Audit studies show that whites continue to be favored over blacks in real estate transactions and that they are disproportionately “steered” toward segregated or racially mixed neighborhoods and away from white residential areas (Turner et al. 2002; Charles 2003; Ross and Turner 2004).

Audit studies likewise indicate the persistence of discrimination against African Americans in mortgage lending as well as the continued redlining of black neighborhoods (Ross and Yinger 2002; Hartman and Squires 2013), though in recent years redlining has given way to “reverse redlining,” or predatory lending in which black borrowers are channeled into high interest, high risk loans (Squires 2004; Hyra et al. 2013; Rugh, Albright, and Massey 2014). Research also reveals substantial “linguistic profiling” during phone calls to inquire about the availability of housing, such that callers speaking Black English Vernacular or having a “black” accent are not informed of opportunities that are made readily apparent to those speaking Standard American English (Purnell, Idsardi, and Baugh 1999; Massey and Lundy 2001; Fischer and Massey 2004; Squires and Chadwick 2006).

Over the years audit studies have been commissioned by HUD to measure discrimination in selected housing markets, but the agency has generally lacked funding to conduct these studies widely across housing markets or regularly over time. Moreover, as already noted the agency lacks the authority to use audit methods for purposes of enforcement. Given the current deadlock in Congress, neither the funding nor the authority for a wider federal implementation of audit studies is likely to be forthcoming anytime soon. Audit methods have been used by fair housing groups around the country, however, both to measure and prosecute illegal discrimination; but once again funding has been scarce and enforcement efforts, while often successful in court, are laborious, time consuming, sporadic, and generally ineffective in deterring discrimination more generally (Massey 2012).

Under these circumstances, the most reasonable prediction for the future is more of what we have seen in the past. Black segregation will probably continue to fall, on average, but will be characterized by a growing divergence between smaller metropolitan areas with less restrictive zoning regimes and smaller, more affluent black populations, on the one hand, and large metropolitan areas with restrictively zoned suburbs and large, poor black communities, on the other hand. Whereas the former will continue to desegregate at a steady pace, the latter will increasingly come to be comprised of a distinct set of hypersegregated areas in which little movement toward integration occurs. Hispanic segregation, meanwhile, can be expected to creep upward and neighborhood isolation to increase as Hispanic population growth continues. Given that Hispanic segregation is promoted by sentiment against undocumented migrants and that large shares of Hispanics in many metropolitan areas are presently undocumented (see Massey and Gentsch 2014), much will depend what happens with respect to immigration reform efforts in Congress, which currently have dubious prospects given the ongoing partisan deadlock in the House of Representatives.

Hopes for faster desegregation thus rest with the executive branch for the time being, and at this writing the Obama administration is dropping hints about the possibility of unilateral actions on immigration reform after the November 2014 elections. Likewise, the Obama administration recently proposed a new rule finally to enact HUD's fair housing mandate along the lines of Romney's Open Communities initiative 45 years earlier. The rule, labeled "Affirmatively Furthering Fair Housing," would require states and local governments receiving HUD funding to complete an assessment of their progress toward four basic fair housing goals: overcoming historic segregation moving toward integration; lowering the concentration of poverty in minority neighborhoods; reducing racial-ethnic disparities in neighborhood quality; and progress toward responding to special needs housing (U.S. Department of Housing and Urban Development 2014). Local authorities would be required to submit the assessment to HUD, which would determine whether it was complete and whether it was making sufficient progress in meeting HUD's goals. Once accepted, HUD would work with local authorities to develop an Annual Action Plan, detailing how they would affirmatively act to further fair housing in their community, setting forth specific strategies and actions to be taken to address issues identified in the assessment.

At this point we do not know whether or how the proposed rule on Affirmatively Furthering Fair Housing will be implemented, and if it implemented the degree to which it might be effective in bringing about racial-ethnic integration and the deconcentration of poverty. The purpose of Romney's original Open Communities Program was to open up suburbs to affordable housing to enable poor families to leave distressed neighborhoods for more advantaged circumstances. The dispersal of affordable housing into advantaged residential areas can be achieved in one of three ways: by giving vouchers to low income families to move into low-poverty areas; by requiring affordable set-asides within new market rate projects; and by constructing fully affordable housing developments in advantaged communities. According to estimates by Rusk (2011), such projects have considerable potential to achieve residential desegregation by race and class.

In the Moving to Opportunity experiment, vouchers were given to residents of public housing with the understanding that they use them to move into low poverty neighborhoods. Although the results were somewhat disappointing owing to problems with the study's design and implementation (see Clampet-Lundquist and Massey 2008), participants nonetheless reduced their exposure to neighborhood disadvantage, crime, and violence to improve both physical and mental health, and generally enhance their subjective well-being (de Souza Briggs, Popkin, and Goering 2010; Ludwig et al. 2013). Absent interventions to counsel participants about expectations in rental markets and provide information about housing in advantaged areas, voucher holders tend simply to replicate the status quo of racial and class segregation (Sampson and Sharkey 2008; Sampson 2012). When vouchers have been paired with support and counseling in the housing search process, however, voucher-based mobility programs have shown considerable success in promoting desegregation (DeLuca and Rosenblatt 2011; Darrah and DeLuca 2014).

Requiring affordable set-asides in market rate developments has also shown considerable promise in studies done in New Jersey (Bush-Baskette, Robinson, and Simmons 2011), Massachusetts (DeGenova 2009), and Maryland (Schwartz 2011), revealing not only that

they promote integration but constitute an effective means of enhancing the social welfare of families and the academic achievement of children (Schwartz et al. 2012). The construction of affordable housing within affluent neighborhoods has likewise been shown to reduce racial segregation across metropolitan areas (Horn and O'Regan 2011). In one well-known case, a residential complex of 140 affordable housing units finally opened an affluent New Jersey suburb, despite vociferous protests from many community residents who argued that it would lower property values, raise crime rates, and increase taxes. However, a systematic analysis of the project's effect on the host community and adjacent neighborhoods found no detrimental effects while documenting great benefits for low-income residents (Massey et al. 2013).

Compared to a comparable comparison group, residents experienced an 81% reduction in exposure to neighborhood disorder and violence, a 25% reduction in negative life events, and a 23% reduction in symptoms of mental distress (Massey 2015). At the same time they experienced a 22% increase in employment, a 25% increase in family income, and increased their economic independence three-and-a-half times. Residents' children likewise experienced a 25% reduction in exposure to disorder and violence at school and school quality improved by a factor of 2.8; and although the children moved from a very uncompetitive to a very competitive school district, their grades did not decline.

Thus affordable housing programs carry considerable potential to overcome the disadvantages imposed on poor minority families by residential segregation. Recent research indicates that the concentration of neighborhood disadvantage imposed by residential segregation is the leading reason for the perpetuation of black poverty and the main explanation for the stalling of progress toward racial equality (Sampson 2012; Sharkey 2013). Combining greater enforcement of fair housing and fair lending laws with a wider implementation of affordable housing programs would go a long way toward desegregating American society by race and class and move the nation closer to the ideals of the Fair Housing Act (Massey 2015). As Schwemm (1989:47) once noted "Congress made a promise in 1968 that the Fair Housing Act cannot keep." Nearly 50 years after the passage Fair Housing Act, making good on that promise is long overdue.

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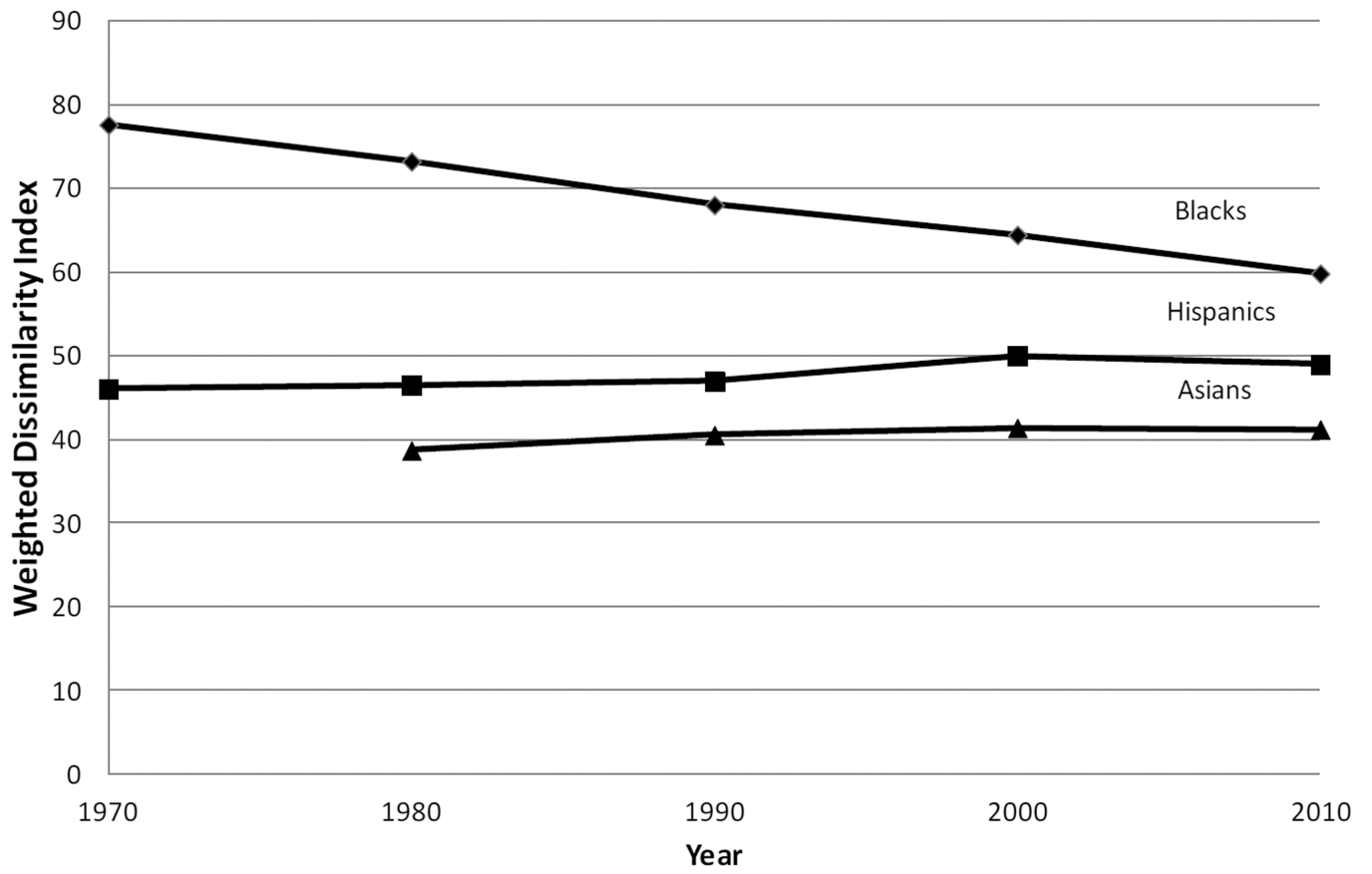


Figure 1.
Trends in neighborhood-level dissimilarity from whites 1970–2010

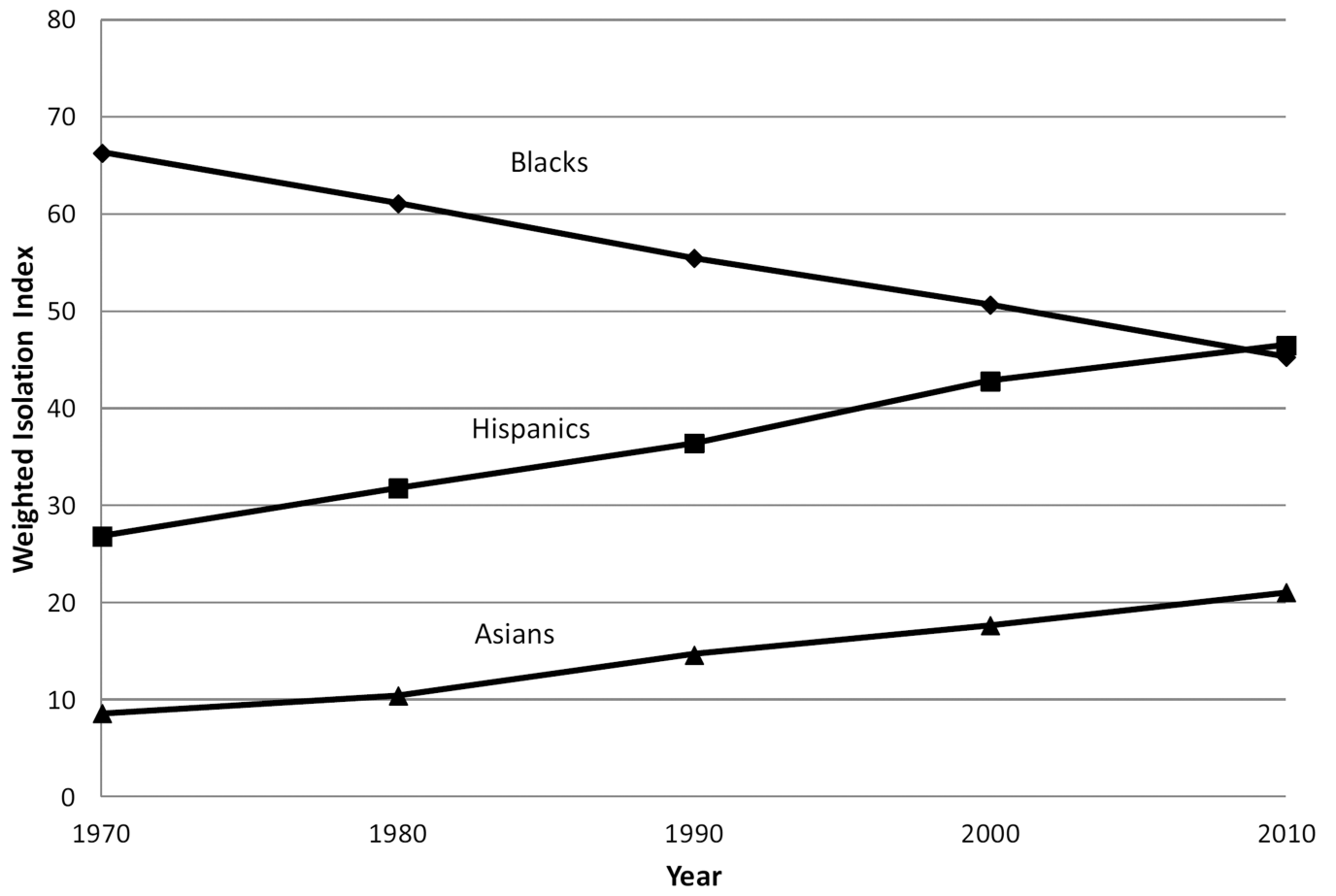


Figure 2.
Trends in neighborhood-level isolation indices 1970–2010

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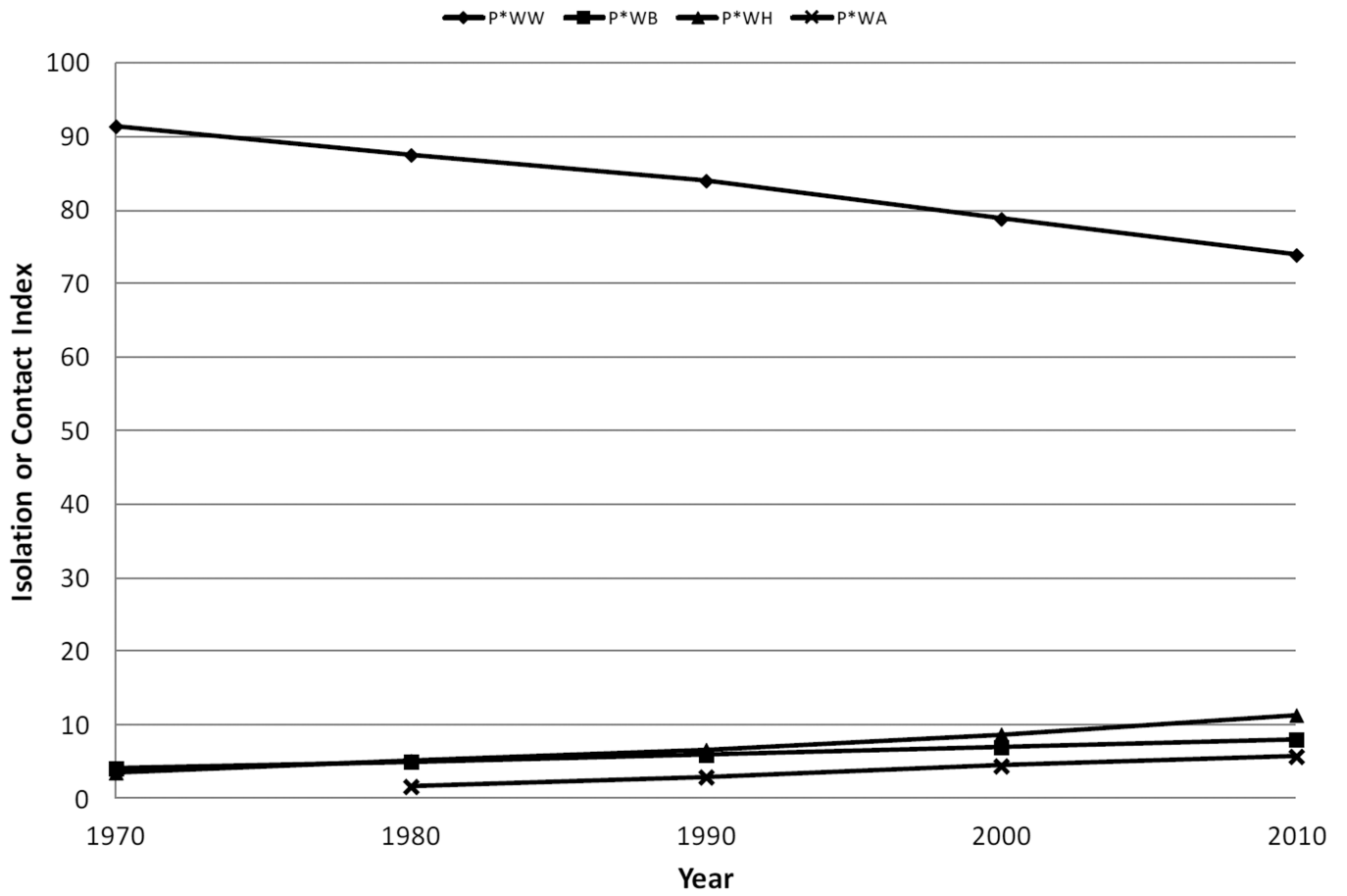


Figure 3.
Trends in white isolation and contact indices

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