# Milliken v. Bradley

## Notes

Resolved:   The United States federal government should substantially increase its funding and/or regulation of elementary and/or secondary education in the United States.

Supreme court ruling: Holding that school districts were not obligated to desegregate unless it had been proven that the lines were drawn with racist intent on the part of the districts. Thus, superficially arbitrary lines drawn by State agencies which produced segregated districts were not illegal.

This ruling is important because it did not hold districts accountable for segregated schools if it could not be proven that district lines were drawn with racist intent. The affirmative says that it is on the districts (and federal government) to make sure schools are not segregated. Attendance zones increase federal regulation as the government would have districts redrawn so that economic and racial diversity is used to measure desegregation. District-wide choice increases funding to primary education to reform public schools.

**Attendance zones**: redraws district lines. Historically, housing segregation means when district lines are drawn blacks and whites are never within the same districts because they are segregated. As a result, black student and white students would not go to the same schools because they live in different districts.

If you redraw district lines it means minority students that live in a neighborhood with a school that is failing to attend a school in another neighborhood with the better school. This produces both social and racial integration being that minorities are more likely to be in poverty or attend schools with high poverty rates

**District-Wide choice:** mandates that schools shift away from student assignment based on geographic zones to a system that allows families to rank their choices of schools from across the district.

Schools create themes, reasons students and parents would want to attend their school. Some may choose to go to their neighborhood school while other may choose to go farther from where they live. This version mandates public schools reform to magnet schools so you should not read the magnet CP against this version

The advantage of the aff is Achievement gaps—This advantage deals with the four achievement gaps that exist in the US: international, racial, socioeconomical, and failing school systems vs. non-failing school systems. Both mechanisms increase integration which gives American students critical skills needed to engage in the workplace, global markets, and democracy. This integration lowers the achievement gap at all four stages.

# \*\*AFF\*\*

# Critical

## 1ac

### 1ac attendance zones

#### No federal school desegregation regulation exists—even when districts have desegregation orders lack of federal enforcement means orders are ignored

**Hannah-Jones 14** ( Nikole is a reporter for The New York Times Magazine, “School Districts Still Face Fights—and Confusion—on integration” <https://www.theatlantic.com/education/archive/2014/05/lack-of-order-the-erosion-of-a-once-great-force-for-integration/361563/>)

Today, this once-powerful force is in considerable disarray. A ProPublica examination shows that officials in scores of school districts do not know the status of their desegregation orders, have never read them, or erroneously believe that orders have been ended.In many cases, orders have gone unmonitored, sometimes for decades, by the federal agencies charged with enforcing them**.** At the height of the country's integration efforts, there were some 750 school districts across the country known to be under desegregation orders. Today, court orders remain active in more than 300 districts. In some cases, that's because judges have determined that schools have not met their mandate to eliminate segregation. But some federal courts don't even know how many desegregation orders still exist on their dockets. With increasing frequency, federal judges are releasing districts from court oversight even where segregation prevails, at times taking the lack of action in cases as evidence that the problems have been resolved. Desegregation orders were meant to guarantee black and Latino children the right to an equal education. They addressed a range of issues, including the diversity of teaching staff, racial balance in schools, curriculum, discipline and facilities**.** The orders uniquely empower parents to fight actions by school districts that might lead to greater segregation or inequality. **In** districts under court order **—** having been found in violation of the constitutional rights of black children — parents do not have to prove intent, only that black students could be harmed.Since the 1990s, the Supreme Court has sharply curtailed the power of parents to challenge racial inequities in schools**. Districts not under court orders are largely prohibited from considering race to balance schools.** And parents in these districts must show that school officials are intentionally discriminating when they make decisions that adversely affect black and Latino students.And so, as desegregation orders are ignored, forgotten, or lifted, black parents are losing the ability to effectively challenge school inequality.

#### Advantage: Achievement gaps

#### The Supreme court decision in Millikan vs. Bradley closed the door on school desegregation—Calcifying the lines of racial and social class between urban school districts of color and wealthy, white suburban districts

**Green and Gooden 2016** Assistant Professor of Educational Administration at UT-Austin, PhD in Educational Leadership and Policy Analysis from UW-Madison AND Professor of Educational Administration at UT-Austin, PhD in Educational Administration from Ohio State. Green, Terrance L. and Mark A. Gooden. “The Shaping of Policy: Exploring the Context, Contradictions, and Contours of Privilege in Milliken v. Bradley, Over 40 Years Later.” *Teachers College Record* 118 (2016).

The landmark Brown v. Board of Education of Topeka, Kansas (1954) (Brown I) decision has been positioned as a critical legal juncture in the fight for educational equity, especially for African American1 children in the 11 southern U.S. states and the District of Columbia (N. R. Jones, 1992). The Supreme Court in Brown I determined that the “separate but equal” doctrine found in Plessy v. Ferguson (1896) was a violation of the 14th Amendment’s Equal Protection Clause, and thus held that racially segregated schools were inherently unequal and unconstitutional. For many, Brown I was expected to achieve educational and even social transformation across the United States (N. R. Jones, 2004; Radelet, 1991). However, **over 60 years after** the **Brown** I decision, **American public schools are still racially segregated and unequal** (Cashin, 2015; Orfield, 2014). Brown v. Board of Education (1955) (often referred to as Brown II) declared that school desegregation2 be implemented “with all deliberate speed,” but it was **Milliken v. Bradley** I3 (1974) that **signified the** Supreme **Court’s retrenchment from Brown’s legacy** (Baugh, 2011a; Gooden, 2004; Orfield & Eaton, 1997). In a 5-4 decision, the Supreme Court found it illegal to impose a metropolitan4 (i.e., cross-district) desegregation remedy between the predominately black Detroit Public School system and 53 surrounding white, suburban districts. The Supreme Court did so **despite evidence of de jure segregation** by the Detroit School Board and the state of Michigan (Baugh, 2011a; N. R. Jones, 2004). Yet, without involving white, suburban districts in school desegregation efforts**, it was** nearly **impossible to achieve meaningful desegregation in** Detroit and other **northern cities.** Milliken was thus one of the first opportunities to take Brown’s fight to racially segregated schools in the North, and therefore became an inflection point in the struggle for school desegregation in the United States. The **Milliken** decision essentially **closed the door on mandatory** metropolitan **school desegregation** remedies thus leaving in place de facto segregation (Bischoff, 2008; Clotfelter, 1999; Frankenberg, Lee, & Orfield, 2003; Gooden, 2004; Holme & Finnigan, 2013; Orfield, 2009; Ryan, 2011). **This ruling** also **calcified the lines of racial and social class inequities between urban school districts of color and wealthy, white suburban districts** (N. R. Jones, 1992; Siegel-Hawley, 2013). Moreover, the decision failed to directly challenge residential segregation, which in turn protected white, suburban districts from participating in metropolitan school desegregation remedies, and ultimately changed the course of school desegregation in the United States (Gooden, 2004; Orfield, 2014; Radelet, 1991; Riddle, 2000; Ryan, 2011). As a result, Milliken has been described as the most important school desegregation case since Brown (Hochschild & Scovronick, 2004), yet Milliken is rarely discussed beyond university classrooms or as a footnote to cases that succeeded Brown.

#### The lack of desegregation regulations has led us back to a dual system of separate and unequal—furthering the achievement gap in the United States

**Folley & Latimer 16** (Aris and Brian-NBC News “Public Schools Becoming More Racially Segregated: Report” <http://www.nbcnews.com/news/latino/public-schools-becoming-more-racially-segregated-report-n576121>)

Racial segregation has been deepening in public education, offering a sobering reminder of the nation's history when it comes to racial and economic isolation in classrooms, according to a recent report published by the Government Accountability Office Tuesday. Published on the anniversary of the landmark ruling of *Brown v. Board of Education*, the GAO found evidence of growing racial divides persisting in public education. The number of Black and Latino students enrolled in impoverished K-12 public schools increased 11 percent between 2001 and 2014. These schools were found to be the most poverty-stricken, minority-segregated schools in the country, with more than 75 to 100 percent of Black and Latino students eligible for price-reduced lunch. This parameter is commonly used as an indicator of poverty. These schools were also found to have offered fewer STEM courses and advanced placement, college-prep courses. About 48 percent of high-poverty schools offer AP courses, while 72 percent of low-poverty schools — with 0 to 25 percent of students on free, reduced lunches — offered these college-level courses. These schools have higher rates of students unable to advance from the ninth grade, as well as more students who had been suspended or expelled. Five percent of students at low-poverty schools will received an out-of-school suspension, while 22 percent in high-poverty schools will be suspended more than once. The report claims magnet schools with open enrollment did not accept minority students in order to maintain an even ratio of white and minority students. The report finds school districts did not use race as a classification for increasing integration, citing the 2007 case *Parents Involved in Community Schools v. Seattle School District No. 1* as an example.

**While this gap hurts minority students the worse, it is responsible for the achievement gap of all U.S. students compared to their counterparts in other countries. Segregated classrooms deprive American students of valuable skills needed in the workplace and global markets**

**Rizga 16** (Kristina is senior reporter at Mother Jones, author. “3 Ways White Kids benefit Most From Racially Diverse Schools: Here are some lessons from decades of research on integrated classrooms” <http://www.motherjones.com/politics/2016/01/white-kids-benefits-diverse-schools>)

2. Diverse classrooms teach some of the most important 21st-century skills, which matter more than test scores. Psychologists, economists, and neuroscientists have done some really exciting research in education in the past 10 years, synthesized in the best-selling book by Paul Tough, [How Children Succeed](http://www.paultough.com/the-books/how-children-succeed/). This research tells us that some of the most important academic, social, and emotional skills—curiosity, complex and flexible thinking, resilience, empathy, gratitude—are keys to a successful are not captured by standardized test scores but and productive life. Other researchers, including Stanford's [Prudence L. Carter](http://web.stanford.edu/group/prudencecarter/cgi-bin/wp/), the University of Massachusetts-Amherst's [Linda R.](http://www.psych.umass.edu/people/lindatropp/) Tropp, and Loyola University of New Orleans' [Robert A. Garda Jr.,](http://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=353067) have found that skills like cross-cultural collaboration, critical thinking, problem-solving, effective communication, reduced racial prejudice, and empathy are best fostered in diverse classrooms. Many of these researchers argue that we need to expand our definition of academic advantages to include these important skills, which are captured mostly through qualitative assessments like presentations, group projects, and student surveys. 3. Graduates of socioeconomically diverse schools are more effective in the workplace and global markets. Researchers who have been trying to figure out which office settings allow for the most powerful breakthroughs in innovation have consistently come up with the same answer: daily practice and comfort with diverse perspectives, according to Scott E. Page, the author of The Difference: How the Power of Diversity Creates Better Groups, Firms, Schools and Societies.Virginia Commonwealth University's Genevieve Siegel-Hawley [argues](http://www.school-diversity.org/pdf/DiversityResearchBriefNo8.pdf) that daily classroom interactions with students from different racial and economic backgrounds help students develop the ability to view and understand complex problems and events through multiple lenses. Research also [shows](https://hbr.org/2013/12/how-diversity-can-drive-innovation) that an integrated workforce helps companies design and sell products more effectively to a wide range of customers. Notably, the average white student today [goes](https://www.americanprogress.org/wp-content/uploads/2012/08/UnequalEduation.pdf) to a school where 77 percent of her or his peers are white. Schools [are as segregated](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1463598) and unequal today as they were shortly after Brown v. Board of Education was decided. This means that too many students, especially in suburban schools, are being socialized in environments that deprive them of one of the most important skills in the global economy: the ability to communicate and collaborate with people from different socioeconomic backgrounds. Research is clear that such skills are difficult to teach without daily exposure to integrated communities—a trip abroad, a diversity workshop, or an ethnic studies class taught in a predominantly white classroom isn't enough. And because students of color are much more likely to interact with diverse people in their neighborhoods and schools, in this sense integrated schools give greater advantages to white students. Garda [writes](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1463598) that getting involved in the issues of income and racial inequalities at the policy level is often too daunting for many parents. But choosing a school or a neighborhood is actually one of the most meaningful ways in which parents can act out their values and help reduce income and racial disparities. As journalist Nikole Hannah-Jones reported in her important [This American Life](http://www.thisamericanlife.org/radio-archives/episode/562/the-problem-we-all-live-with)segment last year on integration, our country made the largest gains in reducing achievement gaps at the peak of integration in the mid-1970s. And then the country gave up, mostly because white parents were afraid to put their kids in the same classrooms with students from "underperforming" schools. "We somehow want this to have been easy," Hannah-Jones, who as a child lived in a working-class African American neighborhood in Waterloo, Iowa, and was bused to a majority-white school across town. "And we gave up really fast."

#### These gaps impose higher recurring annual economic cost on the U.S. economy compared to any recession since 1970

**Auguste, Hancock, & Laboissière 09** (Byron Auguste is a director in McKinsey’s Washington, DC, office, Bryan Hancock s a principal in the Atlanta office, and Martha Laboissiere is a consultant in the San Francisco office. “The Economic cost of the US education gap” http://www.mckinsey.com/industries/social-sector/our-insights/the-economic-cost-of-the-us-education-gap)

A persistent gap in academic achievement between children in the United States and their counterparts in other countries deprived the US economy of as much as $2.3 trillion in economic output in 2008, McKinsey research finds.[1](http://www.mckinsey.com/industries/social-sector/our-insights/the-economic-cost-of-the-us-education-gap)Moreover, each of the long-standing achievement gaps among US students of differing ethnic origins, income levels, and school systems represents hundreds of billions of dollars in unrealized economic gains. Together, these disturbing gaps underscore the staggering economic and social cost of underutilized human potential. **Yet they also create room for hope** by suggesting that the widespread application of best practices could secure a better, more equitable education for the country’s children—**along with substantial economic gains.** How has educational achievement changed in the United States since 1983, when the publication of the seminal US government report *A Nation at Risk*[2](http://www.mckinsey.com/industries/social-sector/our-insights/the-economic-cost-of-the-us-education-gap)sounded the alarm about the “rising tide of mediocrity” in American schools? To learn the answer, we interviewed leading educational researchers around the world, assessed the landscape of academic research and educational-achievement data, and built an economic model that allowed us to examine the relationships among educational achievement (represented by standardized test scores), the earnings potential of workers, and GDP. We made three noteworthy assumptions: test scores are the best available measure of educational achievement; educational achievement and attainment (including milestones such as graduation rates) are key drivers in hiring and are positively correlated with earnings; and labor markets will hire available workers with higher skills and education. While these assumptions admittedly simplify the socioeconomic complexities and uncertainties, they allowed us to draw meaningful conclusions about the economic impact of educational gaps in the United States. Four substantial achievement gaps emerged from our work (Exhibit 1). The first is the international one. As recently as the 1960s, the United States led the world in a variety of educational outcomes. Yet the Organisation for Economic Co-operation and Development (OECD) found that in 2006, America ranked 25th out of 30 industrialized countries in math and 24th in science. Moreover, cross-country comparisons of US students at two different ages—9–10 and 15—suggest that the closer they get to joining the labor force, the further they lag behind their international counterparts in reading, math, and science. **The gap’s impact is startling:** if the United States had closed it by 1998 and reached the level of the top performers, such as Finland and South Korea, **the US GDP could have been $1.3 trillion to $2.3 trillion higher in 2008**. **To put the facts another way, the gap imposes a higher recurring annual economic cost on the US economy than the current recession does**. Next we looked at other gaps in US educational achievement. A second one emerges among US students of different ethnic origins. As researchers have long known, black and Hispanic students score, on average, two to three years behind white students of the same age on standardized tests—a gap that persists regardless of how it is measured. These differences too represent sizable missed opportunities. If the gap had been bridged by 1998, the 2008 US GDP could have been up to $525 billion higher than it was. When we looked at the implications of the achievement gap on US earnings, we found that in aggregate they could have been up to $160 billion higher in 2008 had it been eliminated. **Left unchecked, the magnitude of such disparities will rise in coming years as blacks and Hispanics account for a larger share of the US population.** The two remaining achievement gaps we studied—one between students at different income levels, the other between higher- and lower-performing school systems—also appear to exact a heavy price. We define lower-income students as those eligible for free lunch through a government program. Had the achievement gap between them and other students been bridged by 1998, a decade later US GDP might have been as much as $670 billion higher than it was. If the gap between low-performing states and the US average had been closed, the 2008 US GDP could have been up to $700 billion higher. **Collectively, the economic impact of the four achievement gaps we studied is significant—comparable, in their effect on the US economy, to recessions since the 1970s** (Exhibit 2)

**Trumps simplicity means he’ll react to economic downturn with an increase in the use of force**

**Foster,** Virginia Military Institute international studies and political science professor, **12-19-16**

(Dennis, “Would President Trump go to war to divert attention from problems at home?”, http://inhomelandsecurity.com/would-president-trump-go-to-war-to-divert-attention-from-problems-at-home/)

If the U.S. economy tanks, should we expect Donald Trump to engage in a diversionary war? Since the age of Machiavelli, analysts have expected world leaders to launch international conflicts to deflect popular attention away from problems at home. By stirring up feelings of patriotism, leaders might escape the political costs of scandal, unpopularity — or a poorly performing economy. One often-cited example of diversionary war in modern times is Argentina’s 1982 invasion of the Falklands, which several (though not all) political scientists attribute to the junta’s desire to divert the people’s attention from a disastrous economy. In a 2014 article, Jonathan Keller and I argued that whether U.S. presidents engage in diversionary conflicts depends in part on their **psychological traits** — how they frame the world, process information and develop plans of action. Certain traits predispose leaders to more belligerent behavior. Do words translate into foreign policy action? One way to identify these traits is content analyses of leaders’ rhetoric. The more leaders use certain types of verbal constructs, the more likely they are to possess traits that lead them to use military force. For one, conceptually simplistic leaders view the world in “black and white” terms; they develop unsophisticated solutions to problems and are largely insensitive to risks. Similarly, distrustful leaders tend to exaggerate threats and rely on aggression to deal with threats. Distrustful leaders typically favor military action and are confident in their ability to wield it effectively. **Thus, when faced with politically damaging problems that are hard to solve — such as a faltering economy — leaders who are both distrustful and simplistic are less likely to put together complex, direct responses. Instead, they develop simplistic but risky “solutions” that divert popular attention from the problem, utilizing the tools with which they are most comfortable and confident (military force).** Based on our analysis of the rhetoric of previous U.S. presidents, we found that presidents whose language appeared more simplistic and distrustful, such as Harry Truman, Dwight Eisenhower and George W. Bush, were more likely to use force abroad in times of rising inflation and unemployment. By contrast, John F. Kennedy and Bill Clinton, whose rhetoric pegged them as more complex and trusting, were less likely to do so. What about Donald Trump? Since Donald Trump’s election, many commentators have expressed concern about how he will react to new challenges and whether he might make quick recourse to military action. For example, the Guardian’s George Monbiot has argued that political realities will stymie Trump’s agenda, especially his promises regarding the economy. Then, rather than risk disappointing his base, Trump might try to rally public opinion to his side via military action. I sampled Trump’s campaign rhetoric, analyzing 71,446 words across 24 events from January 2015 to December 2016. Using a program for measuring leadership traits in rhetoric, I estimated what Trump’s words may tell us about his level of distrust and conceptual complexity. The graph below shows Trump’s level of distrust compared to previous presidents. **As a candidate, Trump also scored second-lowest among presidents in conceptual complexity.** Compared to earlier presidents, he used more words and phrases that indicate less willingness to see multiple dimensions or ambiguities in the decision-making environment. These include words and phrases like “absolutely,” “greatest” and “without a doubt.” A possible implication for military action I took these data on Trump and plugged them into the statistical model that we developed to predict major uses of force by the United States from 1953 to 2000. For a president of average distrust and conceptual complexity, an economic downturn only weakly predicts an increase in the use of force. **But the model would predict that a president with Trump’s numbers would respond to even a minor economic downturn with an increase in the use of force**. For example, were the misery index (aggregate inflation and unemployment) equal to 12 — about where it stood in October 2011 — the model predicts a president with Trump’s psychological traits would initiate more than one major conflict per quarter.

#### Improvement of education should be prioritized---segregated schools undercuts social mobility and democracy

**Childress 14** (Sarah is a senior reporter for FRONTLINE. “Does Integration Still Matter in Public Schools?” http://www.pbs.org/wgbh/frontline/article/does-integration-still-matter-in-public-schools/)

[question]New studies have found that in some places, public schools are as segregated as they were in 1968. Does that matter?[/question] To my mind, it’s hugely significant. If you think about the two fundamental purposes of public education, it’s to promote social mobility so that a child, no matter her circumstances, can, through a good education, go where her God-given talents would take her. The second purpose is to strengthen our democracy by creating intelligent and open-minded citizens, and related to that, to build social cohesion. Because we’re a nation where people come from all corners of the world, it’s important that the public schools be a place where children learn what it means to be an American, and learn the values of a democracy, one of which is that we’re all social equals. Segregation by race and by socioeconomic status significantly undercuts both of those goals. So on the academic achievement, social mobility side, there is research going back a half century to suggest that separate schools, particularly for rich and poor, are very rarely equal. It’s a disadvantage to be born into a poor family on average. It’s a second disadvantage to attend a school where there are high concentrations of poverty. And this intersects very closely with race, because African-American and Latino kids are much more likely to be in high-poverty schools than white students. And indeed there is some evidence that middle class African-American families live in neighborhoods with higher poverty than low-income whites. So it’s highly racialized. To my mind this issue of segregation, which gets talked about very little, is central to undermining the twin rationales for public schooling in the first place.

#### Plan: The United States Federal Government should mandate districts redraw public school attendance zones using race and class as metrics for desegregation

#### Solvency:

#### The plan mandates the Overturning of Milliken—this undoes precedents cited in later cases

**Powell 2016 Professor of Law at the University of Louisville, JD from NYU. Powell, Cedric Merlin. “Milliken, ‘Neutral Principles,’ and Post-Racial Determinism.” *Legal Studies Research Paper Series* 2016.2.** <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2657194>**.**

Milliken v. Bradley is a seminal decision in the Court’s race and school desegregation jurisprudence because **it marks**, for the first time, **an intent requirement that will** serve to **significantly narrow** any **substantive race-conscious remedies for decades to come.** In the absence of clearly identifiable district-wide discrimination, remedies stop at the district line. “Since the ‘scope of the remedy is determined by the nature and extent of the constitutional violation,’ there can be no interdistrict remedy in the absence of an interdistrict violation and interdistrict effect.”9 Just two years later, in Washington v. Davis, 10 this intepnt requirement was expanded to include any race-conscious remedy initiated by the state. Thus, racially disproportionate impact is constitutionally irrelevant in the absence of discriminatory intent. Indeed, **Milliken is the doctrinal antecedent of the Roberts Court’s post-racial determinism**.11 **These decisions lead directly to** the most recent school case, **Parents Involved,** 12 **and all of the race decisions of the Roberts Court.** The Milliken decision sets the stage for the Roberts Court’s post-racial constitutionalism in Parents Involved by advancing the de jure-de facto distinction as a normative principle under the Fourteenth Amendment. In Parents Involved, Milliken is cited for the proposition that “the Constitution is not violated by racial imbalance in the schools without more.”13 In the absence of a clearly identifiable interdistrict violation, integration stops at the district line. Specifically, **race-based remedial approaches are presumptively unconstitutional without a finding of intentional segregation by the state itself.** Without something more than mere disproportionality, the result in any race case before the Court will be resolved against the interests of African-Americans and other people of color. Post-racial determinism references the Court’s outcome driven doctrinal posture: “Structural and systemic inequality is inevitable: in the absence of identifiable discrimination (de jure), there is nothing to remedy so any use of race taints the political process.”14 Thus, on some level, the Court actually rationalizes the extant systemic inequality inherent in dual school systems.

#### Attendance zones tackle both class and race--- best for integration efforts

**Potter & Quick 16** (Halley is a senior fellow at The Century Foundation, where she researches public policy solutions for addressing educational inequality. Kimberly is a policy associate at The Century Foundation. “A New Wave of School integration” https://tcf.org/content/report/a-new-wave-of-school-integration/)

The most common strategy for promoting socioeconomic integration used by districts and charters on our list was redrawing school attendance boundaries. We identified thirty-eight school districts that have redrawn attendance boundaries with socioeconomic balance among schools as a factor. The oldest example that we found of a school district seeking socioeconomic integration is [La Crosse School District](https://www.lacrosseschools.org/) in Wisconsin, which in 1979 moved the boundary line for its two high schools to [increase socioeconomic balance](http://www.tcf.org/assets/downloads/tcf-districtprofiles.pdf).40 The reason that redrawing attendance zones is the most common method of socioeconomic integration on our list is likely because it most easily fits with existing enrollment protocols. School enrollment based on assigned zones is the reality in most school districts across the country. Nationwide**, 82 percent of all children in public schools attend their assigned school** (compared to just 18 percent attending a district, magnet, or charter schools as a result of [choice](https://nces.ed.gov/fastfacts/display.asp?id=6)).41In addition, one of the benefits of this approach to integration is that it has the potential to affect all schools in the district—particularly if a school board adopts a resolution to make socioeconomic balance a consideration in all redistricting decisions moving forward.

## extensions

### achievement gaps

#### Integration KT lower achievement gap

**Theocharis 15** (George is a professor in the school of education at Syracuse University; Washington post. “Forced busing’ didn’t fail. Desegregation is the best way to improve our schools: Racial achievement gaps were narrowest at the height of school integration” https://www.washingtonpost.com/posteverything/wp/2015/10/23/forced-busing-didnt-fail-desegregation-is-the-best-way-to-improve-our-schools/?utm\_term=.854d50dcb76e)

Public radio’s “[This American Life](http://www.thisamericanlife.org/radio-archives/episode/562/transcript)” reminded us of this reality in a two-part report this summer, called “The Problem We All Live With.” The program noted that, despite declarations that [busing to desegregate schools failed](http://www.slate.com/articles/life/history/features/2014/the_liberal_failure_on_race/how_the_left_s_embrace_of_busing_hurt_the_cause_of_integration.html) in the 1970s and 1980s, that era actually saw significant improvement in educational equity. When the National Assessment of Educational Progress began in the early 1970s, there was [a 53-point gap](http://nces.ed.gov/nationsreportcard/subject/publications/main2012/pdf/2013456.pdf) in reading scores between black and white 17-year-olds. That chasm narrowed to 20 points by 1988. During that time, every region of the country except the Northeast saw steady gains in school integration. In the South in 1968, [78 percent](http://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/brown-at-60-great-progress-a-long-retreat-and-an-uncertain-future/Brown-at-60-051814.pdf) of black children attended schools with almost exclusively minority students; by 1988, only 24 percent did. In the West during that period, the figure declined from 51 percent to 29 percent. But since 1988, when education policy shifted away from desegregation efforts, the reading test score gap has grown — to 26 points in 2012 — with segregated schooling increasing in every region of the country. [**Research**](http://school-diversity.org/research-briefs/) **has shown that integration is a critical factor in narrowing the achievement gap**. In [a 2010 research review](http://school-diversity.org/pdf/DiversityResearchBriefNo1.pdf), Harvard University’s Susan Eaton noted that racial segregation in schools has such a severe impact on the test score-gap that it outweighs the positive effects of a higher family income for minority students. Further, [a 2010 study](http://occrl.illinois.edu/files/Projects/ccr/Library/Newton.pdf) of students’ improvements in math found that the level of integration was the only school characteristic (vs. safety and community commitment to math) that significantly affected students’ learning growth. In an analysis of the landmark 1966 “Coleman Report,” researchers Geoffrey Borman and Maritza Dowling determined that both the racial and socioeconomic makeups of a school are [1¾-times more important](http://www.tcrecord.org/content.asp?Contentid=15664) in determining a student’s educational outcomes than the student’s own race, ethnicity or social class.

#### Integration lowers achievement gap

**Potter & Quick 16** (Halley is a senior fellow at The Century Foundation, where she researches public policy solutions for addressing educational inequality. Kimberly is a policy associate at The Century Foundation. “A New Wave of School integration” https://tcf.org/content/report/a-new-wave-of-school-integration/)

Sharkey concludes that “the parent’s environment during [her own] childhood may be more important than the child’s own environment.” He calculates that “living in poor neighborhoods over two consecutive generations reduces children’s cognitive skills by roughly eight or nine points … roughly equivalent to missing two to four years of schooling” (Sharkey 2013, pp. 129-131).

**Integrating disadvantaged black students into schools where more privileged students predominate can narrow the black-white achievement gap.** Evidence is especially impressive for long term outcomes for adolescents and young adults who have attended integrated schools (e.g., Guryan, 2001; Johnson, 2011). But the conventional wisdom of contemporary education policy notwithstanding, there is no evidence that segregated schools with poorly performing students can be “turned around” while remaining racially isolated. Claims that some schools, charter schools in particular, “beat the odds” founder upon close examination. Such schools are structurally selective on non-observables, at least, and frequently have high attrition rates (Rothstein, 2004, pp. 61-84). In some small districts, or in areas of larger districts where ghetto and middle class neighborhoods adjoin, school integration can be accomplished by devices such as magnet schools, controlled choice, and attendance zone manipulations. But for African American students living in the ghettos of large cities, far distant from middle class suburbs, the racial isolation of their schools cannot be remedied without undoing the racial isolation of the neighborhoods in which they are located.

### educational opportunity

#### Racial and socioeconomic integration = educational opportunity deprived from minority children

**Brisport 13** (Neda N. is an attorney/Baha’I Faith activist, National Lawyers Guild Review. “Racism & Power: The inaccessibility of opportunity In The Educational System in The United States” pg. 18

Opportunity leads to success and success often leads to power. However, gaining power requires that you be a part of a certain select alliance, one whose doors are only open to the current power holders-the majority race. This is not to say that being born white automatically affords a person power, but that there are certain privileges, advantages and opportunities which open the doors to attaining power. In an effort to prevent those who are unwelcome-the minority races-from attaining a seat at the power table, the majority purposefully denies them the initial opportunity through the educational system. The imposition of various obstacles-insufficient funding for education, scarcity of human and material resources, and the absence of programs geared towards success in certain poverty-ridden minority areas-are ways of reducing competition for scarce resources and preventing minority populations from sharing power. The fact that African-American children in impoverished neighborhoods are not receiving the same education as white children in more affluent neighborhoods is not an accident-it *is purposeful and deliberate.* This article will take us through the history of the education system in the United States as well as the litigation and legislation surrounding education to provide a clear understanding of how far we have come in the advancement of equal educational opportunity. We will find that in order to get to where we need to be, we must completely restructure our current system on all levels and redistribute our attention in order to ensure that *all* children in the United States have open doors to proper education, opportunity, success and ultimately to power.

## add-ons

### democracy

#### Public education strengthens democracy

**Brisport 13** (Neda N. is an attorney/Baha’I Faith activist, National Lawyers Guild Review. “Racism & Power: The inaccessibility of opportunity In The Educational System in The United States” pg. 17-8

Robert Maynard Hutchins, a prominent lawyer, teacher and educational philosopher has been quoted as saying that "a liberal education... frees a person from the prison-house of his class, race, time, place, background, family, and even his nation." 2 Education surely gives a person freedom if from an early age it imbues a child with the ambition to set goals and affords the confidence that success is deserved and goals attainable. School is often the only place where children are able to explore what it is they want to do in their lives and that provides them with the resources and support system to follow through with those goals. For most children, school is the first formal introduction to their own potential and the potential of their future. Regardless of where children are coming from, an education is supposed to give them the tools *to choose* where they are going. Unfortunately, not all children are given the same tools-and this may ultimately determine their fates. Much lip service is given to education without a lot of concrete support. As children, we always heard things like "education is power" and "your future is bright" on television and for some of us, in our schools. As adults, we hear politicians make promises about education reform and allotting more funding for public education. **Our founding fathers understood the value of public education in creating a functioning democracy.** Thomas Jefferson said, "I have indeed two great measures at heart, without which no republic can maintain itself in strength. **(1)** That of general education, to enable every man to judge for himself what will secure or endanger his freedom. (2) To divide every county into hundreds, of such size that all the children of each will be within reach of a central school in it."3 Nevertheless, the Constitution does not mention education anywhere.4 The Supreme Court has supported the notion that education is not a fundamentally protected right.5 It is clear that public schooling falls under the umbrella of the Tenth Amendment, leaving it to the states to decide how to set up their school systems, what curriculum to teach in each district, how to divide resources and so on.6 Recent legislation is headed in the right direction.7 However, it is evident that there are still some people who are given opportunities while others are denied them. For those denied, their growth and ability to share in the power that is held **by** those who *have* been handed such opportunity is naturally hindered.

### economy

#### The impact of educational achievement gaps in the U.S. is the economic equivalent of a permeant recession

**Edelman 10** (Marian is President of the Children’s Defense Fund and its Action Council. “The Huge Economic Impact of the Achievement Gap” <http://www.huffingtonpost.com/marian-wright-edelman/the-huge-economic-impact_b_317280.html>)

What is the price we pay for schools that aren’t doing their job for children in America? Who pays it? McKinsey reported two kinds of costs―one price paid for by the individual students we leave behind and another price paid by our country. For individual children faced with unequal educational opportunities, McKinsey found that “avoidable shortfalls in academic achievement impose heavy and often tragic consequences, via lower earnings, poorer health and higher rates of incarceration.” They also discovered that, sadly, it is possible to predict which children are being singled out to bear this burden before they have even finished elementary school. For many students, poor achievement as early as fourth grade appears to predict future chances of graduating from high school or college and of low lifetime earnings. But some children are at greater risk than others before they even enter their first classroom—especially children who are Black, Latino or poor.

McKinsey’s research showed “on average, Black and Latino students are roughly two to three years of learning behind White students of the same age.” The income achievement gap was just as glaring with poor children: “roughly two years of learning behind the average better-off student of the same age.” They were also able to make comparisons between groups by both race and income. **Not surprisingly, they found the intersection of race and poverty was the most dangerous of all**: “Poor White students tend toward lower achievement than rich White students. Whites, meanwhile, significantly outperform Blacks and Latinos at each income level . . . [and] low-income Black students suffer from the largest achievement gap of any cohort.” Measured in years again, “the average non-poor White student is about three and a half years ahead in learning compared to the average poor Black student.”

It’s almost possible to imagine those gaps as wasted time—time so many children can never get back. And productivity the whole country cannot get back. McKinsey estimated what our nation’s GDP might look like if we had closed these achievement gaps between 1983 and 1998, the fifteen years after the government report, “A Nation at Risk,” first alerted us to the serious problems facing children in our schools. They found that the 2008 GDP would have been $310 billion to $525 billion higher if we had closed the racial achievement gap, and $400 billion to $670 billion higher if we had closed the income achievement gap. McKinsey also found that there continues to be a gap between students in America and their peers in other countries and notes the 2008 U.S. GDP could have been $1.3-$2.3 trillion higher if had we had closed the international educational achievement gap between students in America and those in top-performing countries like Finland and Korea. **McKinsey concluded that the combined impact of the educational achievement gaps in the United States is the “economic equivalent of a permanent, deep recession.”**

### self-worth

#### Integration increase students’ awareness of racial and economic inequality and increases self-worth

**Williams 15** (Former White House correspondent for Politico, Freelance writer and essayist in Washington, D.C. “Harsh Lesson of Diverse Schools: Minority Kids Learn They’re Being Shortchanged. http://www.takepart.com/article/2015/10/21/harsh-lesson-diverse-schools-minority-kids-learn-were-short-changed)

Now, a Columbia University sociologist has found that integrating urban public schools can not only help minority kids succeed in the classroom but can also be a powerful factor in raising those students’ awareness of racial and economic inequality. Studies have shown that low-income students who are educated in better-funded schools or more financially integrated communities [tend to perform better](http://www.tcf.org/assets/downloads/tcf-Schwartz.pdf) than their peers stuck in high-poverty, under-resourced schools, said Carla Shedd, [author of the new book](https://www.russellsage.org/publications/unequal-city) Unequal City: Race, Schools and Perceptions of Injustice**.** According to her research, a change of environment for poor kids, or more economic and racial diversity within their peer groups, can have a profound effect on their sense of self-worth and help them better see institutionalized racism in their home communities.

“The [poor minority] kids who move across these [racial and economic] boundaries have a greater insight” into how segregation in a poor minority neighborhood is harmful. Those students, she said, “are more prepared to deal with society.”

# Policy

## 1ac

### plan

#### The United States federal government should substantially increase its regulation of elementary and secondary education in the United States by deciding that federal courts may impose inter-district remedies to single-district de jure segregation problems absent discriminatory intent on the grounds that the Court’s previous decision in *Milliken v. Bradley* violates the Due Process Clause of the Fourteenth Amendment.

### urbanization advantage

#### The court’s ruling in Milliken v. Bradley guaranteed white flight to the suburbs and made it impossible to resolve de facto segregation

Green and Gooden 2016 Assistant Professor of Educational Administration at UT-Austin, PhD in Educational Leadership and Policy Analysis from UW-Madison AND Professor of Educational Administration at UT-Austin, PhD in Educational Administration from Ohio State. Green, Terrance L. and Mark A. Gooden. “The Shaping of Policy: Exploring the Context, Contradictions, and Contours of Privilege in Milliken v. Bradley, Over 40 Years Later.” *Teachers College Record* 118 (2016).

The landmark Brown v. Board of Education of Topeka, Kansas (1954) (Brown I) decision has been positioned as a critical legal juncture in the fight for educational equity, especially for African American1 children in the 11 southern U.S. states and the District of Columbia (N. R. Jones, 1992). The Supreme Court in Brown I determined that the “separate but equal” doctrine found in Plessy v. Ferguson (1896) was a violation of the 14th Amendment’s Equal Protection Clause, and thus held that racially segregated schools were inherently unequal and unconstitutional. For many, Brown I was expected to achieve educational and even social transformation across the United States (N. R. Jones, 2004; Radelet, 1991). However, over 60 years after the Brown I decision, American public schools are still racially segregated and unequal (Cashin, 2015; Orfield, 2014). Brown v. Board of Education (1955) (often referred to as Brown II) declared that school desegregation2 be implemented “with all deliberate speed,” but it was Milliken v. Bradley I3 (1974) that signified the Supreme Court’s retrenchment from Brown’s legacy (Baugh, 2011a; Gooden, 2004; Orfield & Eaton, 1997). In a 5-4 decision, the Supreme Court found it illegal to impose a metropolitan4 (i.e., cross-district) desegregation remedy between the predominately black Detroit Public School system and 53 surrounding white, suburban districts. The Supreme Court did so despite evidence of de jure segregation by the Detroit School Board and the state of Michigan (Baugh, 2011a; N. R. Jones, 2004). Yet, without involving white, suburban districts in school desegregation efforts, it was nearly impossible to achieve meaningful desegregation in Detroit and other northern cities. Milliken was thus one of the first opportunities to take Brown’s fight to racially segregated schools in the North, and therefore became an inflection point in the struggle for school desegregation in the United States. The Milliken decision essentially closed the door on mandatory metropolitan school desegregation remedies thus leaving in place de facto segregation (Bischoff, 2008; Clotfelter, 1999; Frankenberg, Lee, & Orfield, 2003; Gooden, 2004; Holme & Finnigan, 2013; Orfield, 2009; Ryan, 2011). This ruling also calcified the lines of racial and social class inequities between urban school districts of color and wealthy, white suburban districts (N. R. Jones, 1992; Siegel-Hawley, 2013). Moreover, the decision failed to directly challenge residential segregation, which in turn protected white, suburban districts from participating in metropolitan school desegregation remedies, and ultimately changed the course of school desegregation in the United States (Gooden, 2004; Orfield, 2014; Radelet, 1991; Riddle, 2000; Ryan, 2011). As a result, Milliken has been described as the most important school desegregation case since Brown (Hochschild & Scovronick, 2004), yet Milliken is rarely discussed beyond university classrooms or as a footnote to cases that succeeded Brown.

#### That prevents urban growth—opportunities in metro areas are confined to white neighborhoods and suburbs

Khalifa et al. 2016 Associate Professor in the Department of Organizational Leadership, Policy, and Development at the University of Minnesota, PhD in Educational Administration from MSU AND Assistant Professor in the College of Education at Mizzou, PhD in Curriculum and Teaching from UNC-Greensboro AND Associate Professor of Educational Administration at MSU, PhD in Educational Policy Studies from UIUC. Khalifa, Muhammad, Ty-Ron M.O. Douglas, and Terah Venzant Chambers. “White Gazes of Black Detroit: Milliken v. Bradley I, Postcolonial Theory, and Persistent Inequalities.” *Teachers College Record* 118 (2016).

When viewed in the long continuum of Detroit’s racial histories, Milliken appears as an extension of a centuries-old policy of Black marginalization. Like the deeply restrictive racial housing covenants, Milliken allowed for a legalized way for Whites to both keep separate from Blacks and maintain control of resources. Despite a federal law that forced the nation’s segregated districts into integration, Milliken gave White residents a way to maintain financial and political hegemony and control of the region. Indeed, Milliken was also a continuation of policy that was most deeply connected to White imaginative stereotypes of Black residents. Since Milliken, Black Detroiters have still been living with the unmeasured yet lucid impacts of the landmark case. For one, Black residential areas and financial districts have never rebounded from the residual and generational implications of the educational and occupational disproportionalities that Milliken I reinscribed. In fact, Detroit’s Black working poor has exponentially expanded since Milliken I, and middle-income jobs have not returned to the city. Secondly, current school funding rates in and around Detroit are a stark reminder of the impact of Milliken. Compared to most inner-ring suburbs, Detroit students receive less per pupil annual spending, along with a much more costly administrative structure in DPS; this historically based additional administration cost has been trimmed down, but is still nonetheless a cost that smaller districts do not have. And the multiple state takeover measures of Detroit have neither enhanced education nor the fiscal health of DPS. Third, the major occupational opportunities are much more likely to fall outside of Black Detroit, which relates to dynamics of access and mobility—two core issues at the heart of the Milliken I case. In other words, the location of work outside of Detroit contributes to the very issue that Milliken I sought to address—equal access to the basic necessities of work (or education). And even when major investment visits the city, it is likely to be in an area palatable to largely suburban White interests such as Midtown and Downtown.

#### Overturning Milliken is key to revitalize urban growth

Orfield 2015 Professor at the University of Minnesota Law School, JD from UChicago. Orfield, Myron. “Milliken, Meredith, and Metropolitan Segregation.” *UCLA Law Review* 62.2 (2015): 364-462.

Had Milliken been decided more consistently with historical local government law and the Court’s four most recent desegregation decisions, and had it not ignored the clear factual findings of housing discrimination and that single district remedies would increase white flight, U.S. schools would be more integrated and our racial achievement gaps would almost certainly be narrower. In addition, metropolitan neighborhoods would be both more integrated and more racially stable. Race relations and the housing markets of many central cities and fully developed suburbs of America would be stronger. This stability would have encouraged urban and older suburban redevelopment rather than the decline and blight that almost always occur when neighborhoods re-segregate and become majority nonwhite. American prosperity might have been greater and more fully shared. And American democracy might have been more vibrant and hopeful. Richard Nixon resigned a disgraced president because of the cover-up of political burglaries. His ethical lapses disillusioned a generation of Americans. Yet, an arguably even greater disservice was his appointment of justices who, in the service of a divisive political vision, distorted the law and ignored clear factual findings in order to stop the rapid progress toward equality that had begun under Brown584 and Title VI of the Civil Rights Act of 1964.585 Should Justice Kennedy be replaced with someone more like Chief Justice Roberts, the Supreme Court would likely sustain a pattern of racial apartheid more severe and unyielding than it allowed under Plessy v. Ferguson. 586 For all its perfidy, Plessy did not forbid integration; it simply did not require it. Moreover, Plessy was decided in an America where the suburbs were nascent and whites and nonwhites by and large still shared the same local governments and local tax base. Today in most parts of metropolitan America, affluent whites and poor blacks live in different jurisdictions, with predominantly white school districts endowed with far more local tax resources. Because the Court in San Antonio v. Rodriquez587 declared the federal courts were powerless to equalize state school finance,588 nonwhites will not only be stranded in segregated cities and school districts but in jurisdictions, unless the state has chosen to intervene, without the local tax resources to either exercise meaningful “local control” or to be “separate but equal.”589 The next Supreme Court decision on school desegregation will be another version of Meredith. Will the Supreme Court look at the evidence and allow locally elected officials the discretion to create stable integration plans that improve student achievement and help integrate neighborhoods? Or will it continue to limit the authority of elected officials to integrate schools, forcing local, state, and federal governments to helplessly watch now-integrated neighborhoods resegregate? There is a clear scholarly consensus that integration is beneficial to individuals and communities, and that segregation destroys the lives of individuals and prospects of neighborhoods. Segregation hurts regions, the American economy, and the cohesiveness and fairness of American democracy. It is hard to accept that a court-imposed return to the school segregation levels of the past can be consistent with equal protection under the law in the twenty-first century. The urban and metropolitan history of Detroit and Louisville demonstrate the clear benefits of regional cooperation on issues of educational segregation and the terrible harms that arise in its absence. There is no region in the United States that would have chosen Detroit’s fate over Louisville’s if it had the chance. While this Article has been about the lost opportunity represented by Milliken, it is important to remember that nothing until Meredith could have stopped the elected officials in the State of Michigan from solving the problems of segregation themselves had they wanted to. Going forward, given the position of our federal courts on race, this is realization is central. Until different judges occupy our courts, electoral politics are the principle route for reform. Today, America’s regions have the chance to decide to be more like Louisville than Detroit. But in order to do so, political understandings, and then the law, must evolve. In 2010, 80 percent of our nation lived in the 235 metropolitan areas with more than 50,000 people. Last year, for the first time, a majority of the children born in the United States were not white.590 By 2043, there will be no racial majority in the population at large.591 There is profound inequality between the races, in education attainment, income, and health: a gap that, after improving, is now growing wider. Much of this inequality is rooted in racial and social segregation that is caused by continuing public and private discrimination. Divergent perceptions of the causes and consequences of our racial inequality have always polarized our politics and sense of common citizenship. While they do not yet perceive it, stably integrated metropolitan schools and neighborhoods, which will prevent expanding ghettos from sweeping into America’s suburbs, are in the clear and immediate self-interest of the majority of metropolitan voters. The lessons of Detroit and Louisville should be used to persuade elected officials and their voters of this fact. Elected officials must use their power to enforce and improve the law to end racial segregation, a goal that can now be seen more clearly to be in the long-term self-interest of all Americans. Perhaps someday the Supreme Court will again require racial fairness from elected governments, rather than forbid it. Milliken is an unprincipled decision and should someday be corrected. In the meanwhile, it can be rendered less oppressive by building metropolitan political coalitions between cities and older di-verse suburbs to legislatively reform local government law in a manner that can reduce the nation’s profound residential and educational segregation.

#### Urban density is key to sustain economic growth writ large

Smith 2016 Bloomberg View columnist, former Assistant Professor of Finance at Stony Brook University, PhD in Economics from UMich. Smith, Noah. “Want Economic Growth? Try Urban Density.” *Bloomberg View* 3 May 2016. <https://origin-www.bloombergview.com/view/articles/2016-05-03/want-to-boost-economic-growth-empty-the-suburbs>.

Here's a big economic and political thesis: The U.S. has run out of frontiers, both literal and figurative. At first, growth was fueled by expansion into the West, use of natural resources and the build-out of national infrastructure. In the early- and mid-20th century, an unprecedented explosion of new technologies -- electricity, automobiles, airplanes and others -- opened up the suburbs, which acted like a new frontier. More recently, the Internet and globalization, especially China, were frontiers that gave the economy yet more room to expand. But these growth opportunities may now be running out. Information technology is improving our lives by giving us more fun things to do with our leisure time, but it isn't providing the kind of productivity boost gained from previous technological revolutions. And the heyday of expansion into China may be over, given that country’s economic slowdown, its decreasing openness to Western companies and the broader slump in world trade. So where is the next frontier? It’s possible that -- at least until the next technological revolution or wave of globalization -- there just isn’t one on the immediate horizon. If that’s the case, maybe the U.S. should shift from extensive growth to intensive growth. Extensive growth is based on greater inputs. More energy, more cheap labor, more land. When you use existing technologies to build more roads and more buildings, that’s extensive growth. Intensive growth, on the other hand, is about getting more output for a given about of input -- doing a lot with a little. One famous example of intensive growth was early modern Dutch agriculture, in which the Netherlands created flooded basins called polders to reclaim land from the sea. Improved production technology, of course, is one of the biggest generators of intensive growth. The U.S. isn’t as good at intensive growth as it should be. For example, the country uses too much energy to produce each dollar of economic output -- though it is improving. The U.S. has very low urban population density relative to other advanced countries. Though the country is considered highly urbanized, many so-called urban residents actually live in far-flung suburbs. Where Europe and Asia cluster, America sprawls. Sprawl probably reduces productivity. When people cluster more tightly together, they become more productive -- this is known in economics as an agglomeration externality. This explains why the same person will produce more economic output in New York City than in a small town. Here is a picture of the correlation between city size and productivity: Size gives an approximation of density, though some cities sprawl more than others. In fact, density itself is correlated with productivity, even holding size constant. So there is a big opportunity for the U.S. to take better advantage of agglomeration: increase urban density by making it easier for people to move into big cities. In other words, the U.S.’s next frontier may be its own cities.

#### Growth solves war

Porter, 15- columnist at the NYT covering economics with an MS in quantum fields and fundamental forces from the Imperial College of Science and Technology in London (Eduardo Porter, 12/1/15, “Imagining a World Without Growth,” <http://www.nytimes.com/2015/12/02/business/economy/imagining-a-world-without-growth.html?_r=1>)

Could the world order survive without growing? It’s hard to imagine now, but humanity made do with little or no economic growth for thousands of years. In Byzantium and Egypt, income per capita at the end of the first millennium was lower than at the dawn of the Christian Era. Much of Europe experienced no growth at all in the 500 years that preceded the Industrial Revolution. In India, real incomes per person shrank continuously from the early 17th through the late 19th century. As world leaders gather in Paris to hash out an agreement to hold down and ultimately stop the emissions of heat-trapping greenhouse gases that threaten to make Earth increasingly inhospitable for humanity, there is a question that is unlikely to be openly discussed at the two-week conclave convened by the United Nations. But it is nonetheless hanging in the air: Could civilization, as we know it, survive such an experience again? The answer, simply, is no. Economic growth took off consistently around the world only some 200 years ago. Two things powered it: innovation and lots and lots of carbon-based energy, most of it derived from fossil fuels like coal and petroleum. Staring at climactic upheaval approaching down the decades, environmental advocates, scientists and even some political leaders have put the proposal on the table: World consumption must stop growing. “This is a subtle and largely unacknowledged part of some folks’ environmental/climate plan,” said Michael Greenstone, who directs the Energy Policy Institute at the University of Chicago. Sometimes it is not so subtle. The Stanford ecologist Paul Ehrlich has been arguing for decades that we must slow both population and consumption growth. When I talked to him on the phone a few months ago, he quoted the economist Kenneth Boulding: “Anyone who believes exponential growth can go on forever in a finite world is either a madman or an economist.” The proposal that growth must stop appears frequently along the leftward edge of the environmental movement, in publications like Dissent and the writing of the environmental advocate Bill McKibben. It also shows up in academic literature. For instance, Peter Victor of York University in Canada published a study titled “Growth, degrowth and climate change: A scenario analysis,” in which he compared Canadian carbon emissions under three economic paths to the year 2035. Limiting growth to zero, he found, had a modest impact on carbon spewed into the air. Only the “de-growth” situation — in which Canadians’ income per person shrank to its level in 1976 and the average working hours of employed Canadians declined by 75 percent — managed to slash emissions in a big way. And it is creeping into international diplomacy, showing up forcefully in India’s demand for “carbon space” from the rich world, which at its logical limit would demand that advanced nations deliver negative emissions — suck more carbon out of the atmosphere than they put in — so the world’s poor countries could burn their way to development as the rich countries have done for the last two centuries. Working for the Sustainable Development Commission, set up in 2001 to advise the Labour government in Britain, Tim Jackson of the University of Surrey produced a nifty calculation. Accept that citizens of developing nations are entitled to catch up with the living standards of Europeans by midcentury, and assume that Europe will grow, on average, by 2 percent a year between now and then. To stay within the 2 degree Centigrade (3.6 degrees Fahrenheit) average temperature increase that scientists generally consider the upper bound to avoid catastrophic climate change would require the world economy in 2050 to emit no more than six grams of carbon dioxide for every dollar of economic output. To put that in perspective, today the United States economy emits 60 times that much. The French economy, one of the most carbon-efficient because it is powered extensively by nuclear energy, emits 150 grams per dollar of output. Drawing what he saw as the inevitable conclusion, Professor Jackson published a book in 2009 called “Prosperity Without Growth” (Earthscan/Routledge). Whatever the ethical merits of the case, the proposition of no growth has absolutely no chance to succeed. For all the many hundreds of years humanity survived without growth, modern civilization could not. The trade-offs that are the daily stuff of market-based economies simply could not work in a zero-sum world. “It would be a nonstarter to have zero growth within a given country in terms of creating conflict between groups,” Professor Greenstone told me. “If one were to take this further and make it international, it feels like an even bigger stretch.” Let’s examine what our fossil-fueled growth has provided us. It has delivered gains in living standards in even the poorest regions of the world. But that’s only the beginning. Economic development was indispensable to end slavery. It was a critical precondition for the empowerment of women. Indeed, democracy would not have survived without it. As Martin Wolf, the Financial Times commentator has noted, the option for everybody to become better off — where one person’s gain needn’t require another’s loss — was critical for the development and spread of the consensual politics that underpin democratic rule. Zero growth gave us Genghis Khan and the Middle Ages, conquest and subjugation. It fostered an order in which the only mechanism to get ahead was to plunder one’s neighbor. Economic growth opened up a much better alternative: trade. The Oxford economist Max Roser has some revealing charts that show the deadliness of war across the ages. It was a real killer in the era of no growth. Up to half of all deaths among hunter-gatherers, horticulturalists and other ancient cultures were caused by conflict. The bloody 20th century — stage for two world wars, the Holocaust and other war-based genocides — still doesn’t even come close. Naomi Klein, a champion of the leftward fringe newly converted to the environmental cause, gleefully proposes climate change as an opportunity to put an end to capitalism. Were she right, I doubt it would bring about the workers’ utopia she appears to yearn for. In a world economy that does not grow, the powerless and vulnerable are the most likely to lose. Imagine “Blade Runner,” “Mad Max” and “The Hunger Games” brought to real life. The good news is that taking action against climate change need do no such thing. It will not be easy, but we can glimpse technological paths that will allow civilization to keep growing and afford the world economy a positive-sum future. More than how to stop growth, the main question brought out by climate change is how to fully develop and deploy sustainable energy technologies — in a nutshell, to help the world’s poor, and everybody else, onto a path to progress that doesn’t rely on burning buried carbon.

#### That’s especially true under Trump—he’ll respond to a downturn with force

**Foster,** Virginia Military Institute international studies and political science professor, **12-19-16**

(Dennis, “Would President Trump go to war to divert attention from problems at home?”, http://inhomelandsecurity.com/would-president-trump-go-to-war-to-divert-attention-from-problems-at-home/)

If the U.S. economy tanks, should we expect Donald Trump to engage in a diversionary war? Since the age of Machiavelli, analysts have expected world leaders to launch international conflicts to deflect popular attention away from problems at home. By stirring up feelings of patriotism, leaders might escape the political costs of scandal, unpopularity — or a poorly performing economy. One often-cited example of diversionary war in modern times is Argentina’s 1982 invasion of the Falklands, which several (though not all) political scientists attribute to the junta’s desire to divert the people’s attention from a disastrous economy. In a 2014 article, Jonathan Keller and I argued that whether U.S. presidents engage in diversionary conflicts depends in part on their **psychological traits** — how they frame the world, process information and develop plans of action. Certain traits predispose leaders to more belligerent behavior. Do words translate into foreign policy action? One way to identify these traits is content analyses of leaders’ rhetoric. The more leaders use certain types of verbal constructs, the more likely they are to possess traits that lead them to use military force. For one, conceptually simplistic leaders view the world in “black and white” terms; they develop unsophisticated solutions to problems and are largely insensitive to risks. Similarly, distrustful leaders tend to exaggerate threats and rely on aggression to deal with threats. Distrustful leaders typically favor military action and are confident in their ability to wield it effectively. **Thus, when faced with politically damaging problems that are hard to solve — such as a faltering economy — leaders who are both distrustful and simplistic are less likely to put together complex, direct responses. Instead, they develop simplistic but risky “solutions” that divert popular attention from the problem, utilizing the tools with which they are most comfortable and confident (military force).** Based on our analysis of the rhetoric of previous U.S. presidents, we found that presidents whose language appeared more simplistic and distrustful, such as Harry Truman, Dwight Eisenhower and George W. Bush, were more likely to use force abroad in times of rising inflation and unemployment. By contrast, John F. Kennedy and Bill Clinton, whose rhetoric pegged them as more complex and trusting, were less likely to do so. What about Donald Trump? Since Donald Trump’s election, many commentators have expressed concern about how he will react to new challenges and whether he might make quick recourse to military action. For example, the Guardian’s George Monbiot has argued that political realities will stymie Trump’s agenda, especially his promises regarding the economy. Then, rather than risk disappointing his base, Trump might try to rally public opinion to his side via military action. I sampled Trump’s campaign rhetoric, analyzing 71,446 words across 24 events from January 2015 to December 2016. Using a program for measuring leadership traits in rhetoric, I estimated what Trump’s words may tell us about his level of distrust and conceptual complexity. The graph below shows Trump’s level of distrust compared to previous presidents. **As a candidate, Trump also scored second-lowest among presidents in conceptual complexity.** Compared to earlier presidents, he used more words and phrases that indicate less willingness to see multiple dimensions or ambiguities in the decision-making environment. These include words and phrases like “absolutely,” “greatest” and “without a doubt.” A possible implication for military action I took these data on Trump and plugged them into the statistical model that we developed to predict major uses of force by the United States from 1953 to 2000. For a president of average distrust and conceptual complexity, an economic downturn only weakly predicts an increase in the use of force. **But the model would predict that a president with Trump’s numbers would respond to even a minor economic downturn with an increase in the use of force**. For example, were the misery index (aggregate inflation and unemployment) equal to 12 — about where it stood in October 2011 — the model predicts a president with Trump’s psychological traits would initiate more than one major conflict per quarter.

#### Urbanization fuels clean energy use—that’s key to solve warming

Fankhauser and Jotzo 2017 Co-Director of the Grantham Research Institute on Climate Change and the Environment, PhD in Economics from University College London AND Director at the Centre for Climate Economics and Policy and Professor of Economics at the Australian National University, PhD in Economics from the Australian National University. Fankhauser, Sam and Frank Jotzo. “Economic growth and development with low-carbon energy.” *Center for Climate Change Economics and Policy* *Working Paper* 21 Mar. 2017. <http://www.indiaenvironmentportal.org.in/files/file/Economic%20growth%20and%20development%20with%20low-carbon%20energy.pdf>.

Virtually all pathways to a low-carbon economy start with the rapid decarbonization of the electricity sector. The carbon intensity of energy decreases much faster than emissions in any other sector (Bataille et al 2016; Fankhauser 2013; Williams et al 2012). This is for three main reasons. First, energy is the dominant source of greenhouse gas emissions, accounting for about two thirds of global emissions. Second, low-carbon power generation is well-understood technologically. A number of low-carbon options are available, including renewable energy (wind, solar, biomass, hydro), nuclear energy and (as yet less well developed) carbon capture and storage (CCS). They create options for lowcarbon power generation. Third, decarbonized electricity has an important role to play in reducing emissions in other sectors, chief among them transport, residential energy demand and perhaps some parts of industry. That is, low-carbon energy pathways go hand in hand with an increased electrification rate. “Electrification” of the economy will drive up power generation, but will reduce overall emissions if the carbon intensity of electricity is low. The carbon intensity of energy depends on the choice of fuels, specifically the balance between the different fossil fuels, as well as the balance between fossil fuels and renewables and nuclear power. Fossil fuel currently accounts for around 80 percent of global energy supply. Coal and oil account for around 30 percent each, and gas just over 20 percent (IEA 2015). Of the remainder, the majority is from biomass, followed by nuclear power. Modern renewables such as solar thermal, solar PV and wind are growing fast but from a low base. Differences between countries are a function of resource endowments, income, the economic structure (e.g. the importance of heavy industry) but also wider socio-economic factors. Calvin et al. (2012) found that the use of solid fuels in residential energy use decreases sharply with the level of urbanization.

#### Warming causes extinction

Pamlin and Armstrong, 15- \* executive project manager at the Global Challenges Foundation, \*\* research fellow at the Future of Humanity Institute at Oxford with a PhD from Oxford in parabolic geometry (\* Dennis Pamlin, \*\* Stuart Armstrong, February 2015, “Global Challenges: 12 Risks that Threaten Human Civilization,” <http://globalchallenges.org/wp-content/uploads/12-Risks-with-infinite-impact.pdf>)

As for all risks there are uncertainties in the estimates, and warming could be much more extreme than the middle estimates suggest. Feedback loops could mean global average temperatures increase by 4°C or even 6°C over pre-industrial levels. Feedbacks could be the release of methane from permafrost or the dieback of the Amazon rainforest. The impact of global warming would be strongest in poorer countries, which could become completely uninhabitable for the highest range of warming. Mass deaths and famines, social collapse and mass migration are certainly possible in this scenario. Combined with shocks to the agriculture and biosphere-dependent industries of the more developed countries, this could lead to global conflict and possibly civilisation collapse. Further evidence of the risk comes from signs that past civilisation collapses have been driven by climate change.

### legal precedent advantage

#### The AFF’s ruling recognizes a due process right to education

Greenspahn 2008 former research officer for the Institute of International Education, JD from George Washington. Greenspahn, Daniel S. “A CONSTITUTIONAL RIGHT TO LEARN: THE UNCERTAIN ALLURE OF MAKING A FEDERAL CASE OUT OF EDUCATION.” *South Carolina Law Review* 59.4 (2008): 755-792.

The Due Process Clause prohibits all states from "depriv[ing] any person of life, liberty, or property, without due process of law."' 76 At its core, the provision imposes procedural duties on state actors, such as the duty to provide students with a hearing prior to expulsion.' However, some Justices on the Court have argued that the Clause also protects substantive rights, including "freedom from all substantial arbitrary impositions and purposeless restraints."' 78 For education advocates, "[i]nvoluntary placement of students by the state in a program not designed to provide the skills that the state has articulated as the purpose of compulsory education could be viewed as a deprivation of liberty without due process of law."'7 9 Aside from jury duty, education is the only institution in which government requires attendance of all its citizens. 80 However, unlike jury duty, education is required by every state for anywhere between eleven and fourteen years.' 8 ' For those who cannot afford private school, there is no viable alternative to public education, and in many districts, there is little or no opportunity to choose a specific school.'82 In fact, almost 74% of students in the United States have no choice as to the school they attend.'83 The mandatory school attendance policy imposed by the state requires "a concomitant responsibility on the state's part to provide a meaningful return for the time and effort exacted."' 8 4 Based on due process arguments in criminal law, the Court has found that "the nature and duration of commitment" of an incarcerated individual must "bear some reasonable relation to the purpose for which the individual is committed.' ' 1 5 By analogy, the Court could recognize a due process right to education to ensure that every student receives a meaningful education, provided that every student attended school for a certain number of years.'86

#### Past court decisions prove that a due process right to education would be rooted in protection from segregation

Weishart 2016 Associate Professor of law at West Virginia University, JD from UC Berkeley. Weishart, Joshua E. “Reconstituting the Right to Education.” *Alabama Law Review* 67.4 (2016): 917-978.

Although emanating from state education rights and compulsory attendance laws, the Court has also recognized that children possess property and liberty interests in public education that must be protected by the Due Process Clause.258 Again, the Court’s concern was with the harms associated with being deprived of an education, remarking that “total exclusion from the educational process for more than a trivial period, [e.g., a suspension] for 10 days, is a serious event in the life of the suspended child.”259 Taken together, the Court’s decisions suggest that the federal constitutional right to education, should it exist, at least takes the form of an immunity against state-imposed racial segregation as well as a claim-right to a “basic” public education that cannot be denied without due process. This immunity-claim-right’s function is to afford protection against the harms of racial discrimination and educational deprivation.

#### Recognizing education as a right is key to democracy promotion

Lerum et al. 2005 Legislative Counsel for the Committee on Education, Libraries, and Recreation for the Council of the District of Columbia, JD from American University AND attorney with the Moreira Law Firm, P.C, JD from American University AND Associate at Fulbright & Jaworski L.L.P, JD from American University. Lerum, Eric, Sheila Moreira, and Rena Scheinkman. “Strengthening America's Foundation: Why Securing the Right to an Education at Home is Fundamental to the United States' Efforts to Spread Democracy Abroad.” *Human Rights Brief* 12.3 (2005): 13-16.

An amendment to the U.S. Constitution guaranteeing a right to education would place the United States in the company of nearly every industrialized nation. Without such a guarantee, the United States stands behind Iran, Iraq, Jordan, Libya, Pakistan, Sierra Leone, Sudan, Syria, and Yemen, each of which has some, although limited, constitutional guarantee to educational opportunity. The United States cannot legitimately lead the world as an example of freedom and democracy when it trails so far behind much of the world with respect to its commitment to a right that is so fundamental to effective participation in any democracy. A constitutional amendment will also provide the catalyst to reverse our country’s history of directly and indirectly linking educational opportunities to race and wealth. In Rodriguez, the Supreme Court not only rejected the argument that education is a fundamental right, it set the stage for re-segregation of public schools and triggered the rapid decline of educational opportunities. On the heels of Rodriguez, the Court, in Milliken v. Bradley, declared that inter-district remedies for segregation were unconstitutional, leaving no legal basis to force desegregation across school-district lines. As constitutional law scholar Erwin Chermerinsky has argued, Rodriguez and Milliken reversed much of the progress achieved under Brown and essentially constitutionalized a system that is both separate and unequal. An amendment to the Constitution will begin to undo the damage from the widespread denial of equal educational opportunity that has resulted from those decisions. Of course, amending the Constitution will not immediately change the state of education in the United States: schools will not simply become better and students will not suddenly succeed overnight. But an amendment will have significant, broad-reaching policy implications. The act of passing an amendment itself will prove to be a unifying rally around the right to education and will turn national attention to the failing state of our public education system. Further, guaranteeing the right to an education will send the message to policymakers, parents, and students that education is as important as the right to speak, the right to worship, and the right to a fair trial. An amendment will be the “sea change” in our society and culture that is necessary for true education reform. Frederick Douglass, speaking about ending the “hypocrisy of American slavery,” stated that “it is not light that is needed, but fire; it is not the gentle shower, but thunder. We need the storm, the whirlwind, and the earthquake.” Amending the Constitution is the spark for the fire, the thunder for the storm, and the tremor that begins the quake. An amendment guaranteeing a right to education will end the hypocrisy of the American public education system. CONCLUSION: FULFILLING THE PROMISE OF DEMOCRACY THE PROMISE OF DEMOCRACY is one of personal and political autonomy. A healthy constitutional democracy exists when the people know and live out their rights, and genuinely govern themselves through their representatives. Education transforms this promise from rhetoric into reality. The right to education should therefore be the centerpiece of American efforts to build democracies around the world. As the United States claims to lead the world in the promotion and protection of freedom and democratic ideals, the right to an education is ripe for recognition at home. What is at stake is the future of this country and the very spirit and authenticity of its democracy. What is required is a commitment and a guarantee that every person has access to the educational opportunity needed to realize her own self-fulfillment and to become an active participant in our democracy.

#### Democracy promotion solves war, economic growth, and raises standards of living globally

Diamond 2015 Senior Fellow at the Hoover Institution and the Freeman Spogli Institute for International Studies at Stanford, PhD in Sociology from Stanford. Diamond, Larry. “Democracy in Decline: How Washington Can Reverse the Tide.” *Foreign Affairs* 95.4 (2015): 151-160.

Although democracy promotion may have fallen out of favor with the U.S. public, such efforts very much remain in the national interest. Democracies are less violent toward their citizens and more protective of human rights. They do not go to war with one another. They are more likely to develop market economies, and those economies are more likely to be stable and prosperous. Their citizens enjoy higher life expectancies and lower levels of infant and maternal mortality than people living under other forms of government. Democracies also make good allies. As Michael McFaul, the former U.S. ambassador to Russia, has written, "Not every democracy in the world was or is a close ally of the United States, but no democracy in the world has been or is an American enemy. And all of America's most enduring allies have been and remain democracies." Authoritarian regimes, by contrast, are inherently unstable, since they face a central dilemma. If an autocracy is successful-if it produces a wealthy and educated population-that population will construct a civil society that will sooner or later demand political change. But if an autocracy is unsuccessful-if it fails to generate economic growth and raise living standards-it is liable to collapse.

#### Recognizing a due process right solves circumvention

Friedman and Solow 2013 Jacob D. Fuchsberg Professor of Law and Affiliated Professor of Politics at NYU, JD from Georgetown AND Clerk to SCOTUS Justice Stephen Breyer, JD from Yale. Friedman, Barry and Sara Solow. “The Federal Right to an Adequate Education.” *George Washington Law Review* 81.1 (2013): 92-156.

As we explain briefly below, however, this notion of instant and absolute judicial power does not reflect the history of education reform in the states. The judicial articulation of education as a constitutional right has had a significant positive impact on education reform, but often in more subtle ways than might be imagined for decisions involving constitutional rights. In many states experiencing judicial action in education, court decisions have served as a goad or a prod to political actors, motivating them to pass laws and enact policy reforms that move the reality in the schoolhouses towards society's fundamental values about what children should be able to achieve. 3 39 But at the same time, the process of compliance has necessarily tempered judicial declarations. State supreme court judges have found that political opposition movements reacting to court decisions, through "backlash," have limited what can be accomplished through education litigation. Judges have their say, but so too do political actors. Still, and finally, constitutionalizing a right provides a constitutional floor, safeguarding education from cuts during times of economic difficulty.

## urbanization adv.

### at: urbanization happening now

#### Nope—cities aren’t growing now

Grabar 2016 staff writer for Slate. Grabar, Henry. “U.S. Cities Have Grown. Their Cores Have Not.” *Slate* 7 Jul. 2016. <http://www.slate.com/blogs/moneybox/2016/07/07/urbanization_has_mostly_meant_growth_in_suburbs_not_center_cities.html>.

But the country’s second wave of urbanization hasn’t looked much like the first, to say the least. A new and illuminating analysis by Yonah Freemark, a project manager at Chicago’s Metropolitan Planning Council and the author of the Transport Politic blog—well worth reading in full—reveals some important trends in the past half-century of city-building. Only a handful of American cities have added people, on balance, to areas already developed in 1960. This can be attributed both [to] the severity of the urban crisis (which is a story often told)—and, just as importantly, to the selective nature of growth since. “Urban” growth has mostly been greenfield sprawl: The conversion of farmland or other lightly used tracts into housing. “The average of the 100 largest cities grew by 48 percent overall,” Freemark notes. “Yet the average city also lost 28 percent of its residents within its neighborhoods that were built up in 1960.” That’s not just true in Youngstown and Detroit, post-industrial Rust Belt cities that have struggled with blight. Houston, Dallas, Charlotte, Las Vegas, and Nashville, to name just a few booming cities, have all lost people in built-up, midcentury neighborhoods. In fact, Freemark shows, inner-core residential decline in Southern cities is virtually identical to that in Midwestern cities, despite divergent population trends in the cities at large. Older, denser, inner neighborhoods are, in almost every city, much less populous now than in 1960.

## legal precedent adv.

### at: other countries solve democracy promotion

#### Other countries don’t solve democracy promotion

Diamond 2015 Senior Fellow at the Hoover Institution and the Freeman Spogli Institute for International Studies at Stanford, PhD in Sociology from Stanford. Diamond, Larry. “Democracy in Decline: How Washington Can Reverse the Tide.” *Foreign Affairs* 95.4 (2015): 151-160.

As the United States has lagged behind, few other countries have stepped in. The most ambitious intergovernmental attempt to promote democracy-the Community of Democracies, a coalition established in 2000-lacks the resources and visibility to have much impact. Regional organizations are not doing much better. The EU, for example, has largely stood by as Hungarian Prime Minister Viktor Orban has flouted democratic norms. And the union was so desperate to secure Turkey's help in stemming the flow of Syrian refugees that it agreed to revive membership talks with Ankara, even as Turkish President Recep Tayyip Erdogan has accelerated his efforts to suppress dissent. Although some European countries, such as Sweden and the United Kingdom, have continued to support significant bilateral programs to promote democracy and improve governance, the budget of the European Endowment for Democracy, established in 2013, reached just over $11 million last year. The United Kingdom's Westminster Foundation for Democracy currently has a public budget of just $5 million. Canada's International Centre for Human Rights and Democratic Development shut down in 2012. And developing democracies such as Brazil, India, and Indonesia have hesitated to contribute much, focusing instead on their own many problems.

# 2ac Blocks

## cp – magnet schools

### 2ac magnet schools cp

#### The court’s ruling in Milliken makes desegregation impossible—only the AFF solves

Chemerinsky 2016 Dean and Distinguished Professor of Law at UC Irvine, JD from Harvard Law. Chemerinsky, Erwin. “Fifty Years of Constitutional Law: What's Changed.” *Utah Law Review* 2016.5 (2016): 689-708.

From 1964 to 1988, by every measure, American public schools were less racially segregated. Since 1988, every year American public schools have become more racially segregated.162 And according to UCLA professor Gary Orfield, they're becoming more racially segregated at an accelerating rate.' 63 And I think Supreme Court decisions are largely responsible for this. I point to Milliken v. Bradley,164 in 1977 that said that there cannot be interdistrict remedies for school segregation.' 65 Students generally cannot be taken from suburbs and moved to city schools, or from cities and moved to suburban schools. The result is, very little in the way of meaningful school desegregation can be achieved. In most major cities, the school systems are 80% or 90% more minority students.166 Unless students can be brought across district lines, desegregation cannot be achieved. In Oklahoma City v. Dowell,167 in 1991, the Supreme Court said once a school system has achieved so-called unitary status, federal court desegregation orders must end even when it's going to mean the resegregation of the schools.'6 8 And most recently in 2007, in Parents Involved in Community Schools v. Seattle School District No. 1,169 the Supreme Court said that school systems cannot on their own use race as a factor of assigning students into their schools to achieve diversity and desegregation.170 These cases-Milliken, Oklahoma City v. Dowell, Parents Involved all are responsible for what has increasingly become separate and unequal schools.,'7 So that's why I say that generally, there has been a greater commitment to equality by the Supreme Court, but it's been much less evident with regard to race.

#### School reforms alone fail—changing housing patterns is key

Mordechay and Orfield 2017 Research Associate at the Civil Rights Project at UCLA, PhD in Educational Economics from UCLA AND Distinguished Research Professor of Education, Law, Political Science and Urban Planning at UCLA, PhD from UChicago. Kfir Mordechay and Gary Orfield. “Demographic Transformation in a Policy Vacuum: The Changing Face of U.S. Metropolitan Society and Challenges for Public Schools.” *The Educational Forum* 81.2 (2017): 193-203.

The dismal reality today is that unless we change the opportunities and outcomes for Latino and African American students in our schools and colleges, our nation’s great metro areas will face a future of a transformed labor force with declining average educational preparation in a society that has seen decreasing economic mobility for those without college education for decades. Given the failure of the dominant reform models of the past third of a century—high-stakes accountability and charter schools—to repair these gulfs, and the accumulating scientific evidence about the inherent inequality of schools and neighborhoods doubly segregated by race and poverty, finding ways to offer minority students more access to schools with a real path to college must be a priority. That cannot happen in a policy vacuum; it can only be realized through effective school and housing integration policies.

#### Magnet schools fail to integrate

**Colby 14** ([Tanner Colby](http://www.tannercolby.com/), a co-author of [Remember the Time](http://www.amazon.com/dp/1602862508/?tag=slatmaga-20), is also the author of [Some of My Best Friends Are Black: The Strange Story of Integration in America](http://www.amazon.com/gp/product/067002371X/ref=as_li_ss_tl?ie=UTF8&tag=slatmaga-20&linkCode=as2&camp=1789&creative=390957&creativeASIN=067002371X).  “The Massive Liberal Failure on Race: Part 1: How the left’s embrace of busing hurt the cause of integration” <http://www.slate.com/articles/life/history/features/2014/the_liberal_failure_on_race/how_the_left_s_embrace_of_busing_hurt_the_cause_of_integration.html>) RD

At that point, you’d think people would have learned. But a decade after Milliken, in Kansas City, Mo., liberals pursued integration in a way that made Detroit’s aborted busing plan look eminently reasonable. As in most urban areas, by the early 1980s there weren’t actually enough white kids left in Kansas City’s public system to create racial balance of any kind, and since whites could not be compelled to return from the suburbs, the courts ordered Kansas City to build magnet schools of such unsurpassed quality that white people would voluntarily bus their kids back downtown.

Under the magnet plan, the Kansas City school district was transformed into an educational Disneyland, with 15 new schools and 54 fully renovated ones. There was a performing-arts magnet, a computer-science magnet. There were television and animation studios, an Olympic-sized swimming center, and a model United Nations complete with full translation capabilities. The program, originally budgeted at $250 million a year, was soon burning through more than $400 million a year. To administer the massive endeavor, Kansas City was spending $11,700 per pupil, nearly twice the Missouri average.

Sadly, the judge in the case had overlooked one minor detail. White people already had good schools—in the suburbs, where they lived. The magnet plan was a colossal failure. Expecting that it would lure upward of 10,000 whites from the suburbs, the city allocated $6.4 million in transportation costs to bus them in. The greatest number of whites bused in from the suburbs in any one year was 1,476; the lowest was 387. Desperate to produce some kind of racial balance to justify its actions, the district resorted to holding enrollment slots vacant for suburban whites. Meanwhile, the children of tax-paying black residents were denied seats in the magnet programs they wanted. After spending $1.7 billion over the course of a decade, the district’s black-white achievement gap in standardized testing hadn’t closed by so much as a decimal point. The high school dropout rate among blacks was more than 50 percent, and, when all was said and done, the percentage of white students in the district had fallen, from 26.4 percent to 24.1 percent.

#### Perm do both

**Theocharis 15** (George is a professor in the school of education at Syracuse University; Washington post. “Forced busing’ didn’t fail. Desegregation is the best way to improve our schools: Racial achievement gaps were narrowest at the height of school integration” https://www.washingtonpost.com/posteverything/wp/2015/10/23/forced-busing-didnt-fail-desegregation-is-the-best-way-to-improve-our-schools/?utm\_term=.854d50dcb76e)

Since the Reagan administration’s “A Nation at Risk” report pronounced that schools across the country were failing, every president has touted a new plan to close the racial academic achievement gap: President Obama installed Race to the Top; George W. Bush had No Child Left Behind; and Clinton pushed Goals 2000. The nation has commissioned studies, held conferences and engaged in endless public lamentation over how to get poor students and children of color to achieve at the level of wealthy white students — as if how to close this opportunity gap was a mystery. But we forget that we’ve done it before. Racial achievement gaps were narrowest at the height of school integration.

U.S. schools have become more segregated since 1990, and students in major metropolitan areas have been most severely divided by race and income, [according to the University of California at Los Angeles’s Civil Rights Project](http://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/brown-at-60-great-progress-a-long-retreat-and-an-uncertain-future). Racially homogenous neighborhoods that resulted from historic housing practices such as red-lining have driven school segregation. The problem is worst in the Northeast — the region that, [in many ways, never desegregated](https://www.washingtonpost.com/opinions/its-not-dixies-fault/2015/07/17/7bf77a2e-2bd6-11e5-bd33-395c05608059_story.html)— where students face some of the largest academic achievement gaps: in Connecticut, Maryland, Massachusetts and the District of Columbia.

More than 60 years after Brown v. Board of Education, federal education policies still implicitly accept the myth of “separate but equal,” by attempting to improve student outcomes without integrating schools. Policymakers have tried creating national standards, encouraging charter schools, implementing high-stakes teacher evaluations and tying testing to school sanctions and funding. These efforts sought to make separate schools better but not less segregated. Ending achievement and opportunity gaps **requires implementing a variety of desegregation methods** – busing, **magnet schools, or merging school districts, for instance** – to create a more just public education system that successfully educates all children.

#### Vagueness in legislation regulating charter and magnet schools guts solvency

Brown-Nagin 2000 Professor of Constitutional Law at Harvard, PhD in History from Duke, JD from Yale. Brown-Nagin, Tomiko. “TOWARD A PRAGMATIC UNDERSTANDING OF STATUS-CONSCIOUSNESS: THE CASE OF DEREGULATED EDUCATION.” *Duke Law Journal* 50.573 (2000).

Although vagueness in legislative drafting sometimes is considered positive, n612 vagueness in charter school enabling legislation may be detrimental to the fulfillment of states' purposes. Like criminal laws found unconstitutional on void-for-vagueness grounds, n613 provisions of charter school enabling legislation that are so vague that the means of complying with them are unclear may make the provisions futile as a practical matter. They may be meaningless both to those upon whom they impose legal duties and unclear to courts that review their constitutionality. n614 In the case of the racial balance provision contained in North Carolina's charter school law, the legislature has failed to provide guidance to schools about what means may be used to comply with the mandate that schools "reasonably reflect" the racial and ethnic composition of the school districts in which they are situated. n615 This vagueness may mean, practically, that schools make little effort to attain a racially balanced student body. Boards of trustees may be too confused about their obligations even to attempt to comply with this putative mandate; or, charter schools may never be founded due to [\*880] prospective sponsors' wariness of the provision's requirements. Such eventualities would be most unfortunate in states such as North Carolina that not only have a history of racial discrimination in the public schools, but also a history of academic underachievement across racial groups. n616 Similarly, the New York state legislature's effort to experiment with single-sex charter schools should not be stymied due to its failure to provide guidance to schools concerning what must be done so that sex-conscious schools will comply with the mandates of equal protection. n617 In turn, these failures may lead to litigation that might have been avoided (as in North Carolina), to the striking down of enabling legislation in its entirety (as in South Carolina), n618 or to the prevention of school openings (as in Benton Harbor, Michigan). n619 All of these results, of course, are adverse to state legislatures' purpose in enacting charter school legislation in the first place - experimentation in education.

## cp – state courts

### 2ac state courts cp

#### The court’s ruling in Milliken makes desegregation impossible—only the AFF solves

Chemerinsky 2016 Dean and Distinguished Professor of Law at UC Irvine, JD from Harvard Law. Chemerinsky, Erwin. “Fifty Years of Constitutional Law: What's Changed.” *Utah Law Review* 2016.5 (2016): 689-708.

From 1964 to 1988, by every measure, American public schools were less racially segregated. Since 1988, every year American public schools have become more racially segregated.162 And according to UCLA professor Gary Orfield, they're becoming more racially segregated at an accelerating rate.' 63 And I think Supreme Court decisions are largely responsible for this. I point to Milliken v. Bradley,164 in 1977 that said that there cannot be interdistrict remedies for school segregation.' 65 Students generally cannot be taken from suburbs and moved to city schools, or from cities and moved to suburban schools. The result is, very little in the way of meaningful school desegregation can be achieved. In most major cities, the school systems are 80% or 90% more minority students.166 Unless students can be brought across district lines, desegregation cannot be achieved. In Oklahoma City v. Dowell,167 in 1991, the Supreme Court said once a school system has achieved so-called unitary status, federal court desegregation orders must end even when it's going to mean the resegregation of the schools.'6 8 And most recently in 2007, in Parents Involved in Community Schools v. Seattle School District No. 1,169 the Supreme Court said that school systems cannot on their own use race as a factor of assigning students into their schools to achieve diversity and desegregation.170 These cases-Milliken, Oklahoma City v. Dowell, Parents Involved all are responsible for what has increasingly become separate and unequal schools.,'7 So that's why I say that generally, there has been a greater commitment to equality by the Supreme Court, but it's been much less evident with regard to race.

#### 50 State Uniform Fiat is bad—it’s not real world—lack of a literature base produces unfair debates since it’s impossible to find DAs and solvency deficits to the CP AND kills topic education by privileging discussions that are wholly irrelevant outside debate

#### No solvency—federal action is key to uniformity

Greenspahn 2008 former research officer for the Institute of International Education, JD from George Washington. Greenspahn, Daniel S. “A CONSTITUTIONAL RIGHT TO LEARN: THE UNCERTAIN ALLURE OF MAKING A FEDERAL CASE OUT OF EDUCATION.” *South Carolina Law Review* 59.4 (2008): 755-792.

All citizens of a just society should have the same basic rights regardless of where they live. 92 Children, in particular, should not be subjected to a substandard education solely because of their residence, a matter over which they have no control. Only a federally enforceable right can provide a basic national standard in education93 and overcome funding disparities between states, disparities which comprise the majority of educational inequities.94 Furthermore, the federal government is also in a better position to coordinate interstate steps towards more uniform standards and equitable funding.9 " It has "the greatest ability to redistribute wealth" and "address substandard academic performance of students nationwide.""6 Thus, the argument goes, educational shortcomings across the country require a national response, not piecemeal and protracted litigation in each of the fifty states.97

#### Perm do both

#### The Milliken decision upheld education federalism

Brown-Nagin 2000 Professor of Constitutional Law at Harvard, PhD in History from Duke, JD from Yale. Brown-Nagin, Tomiko. “TOWARD A PRAGMATIC UNDERSTANDING OF STATUS-CONSCIOUSNESS: THE CASE OF DEREGULATED EDUCATION.” *Duke Law Journal* 50.573 (2000).

Milliken v. Bradley. The retreat from questioning state and local decisionmaking about education signaled in Rodriguez has been affirmed in many other cases, including the ruling in Milliken n438 that figured prominently in the previous part's discussion. As explained in Part II, the issue in Milliken was the proper scope of a remedial decree where a core city was guilty of de jure segregation, but the surrounding suburban districts were not. n439 The Court's conclusion that suburban districts could not be ordered to participate in a desegregation decree under these circumstances was based on the principle of federalism. The Milliken Court's language suggesting that the federal courts should not be involved in local educational policymaking was strikingly similar to that used in Rodriguez. The Milliken majority argued that neighborhood attendance policies should be preserved because "no single tradition in public education was so deeply rooted." n440 Although the majority admitted that locally determined district lines [\*841] were not "sacrosanct," the Court maintained that requiring districts to change them to affect an interdisctrict remedy would "disrupt and alter the structure of public education in Michigan." n441 In a classic parade of horribles, the Court warned that innumerable administrative, logistical, financial, transportation, and other problems of an unspecified nature would result if interdisctrict relief were ordered. A "vast super school district" would result, and the district court would become a virtual "legislative authority" and "school superintendent." n442 Not wishing to cause such disruption in state and local educational affairs where the suburban districts to be included in an interdisctrict remedy were not liable for intentional discrimination, the Court refused to order a remedy for the wrong committed by the core city. Milliken was a landmark case - the first post-Brown decision in which the Supreme Court found a constitutional violation but ordered no integrative remedy for the wrong. n443

#### Education federalism guarantees inferior outcomes for poor and minority students

Robinson 2013 Professor of Law at the University of Richmond, JD from Harvard. Robinson, Kimberly Jenkins. “THE HIGH COST OF EDUCATION FEDERALISM.” *Wake Forest Law Review* 48.2 (2013): 287-332.

Although the nation's current approach to education federalism undoubtedly generates some benefits, it also tolerates substantial inequitable disparities in educational opportunity both within and between states. 7 The reality of local control of education for many communities means the ability to control inadequate resources that provide many students substandard educational opportunities. s The opportunity divide in American education continues to relegate far too many poor and minority schoolchildren to substandard educational opportunities.9 These communities are left behind in the competition for educational excellence.10 In addition, highpoverty schools, particularly those within urban school districts, regularly yield the worst academic outcomes.11

#### No solvency—state court rulings fail if they don’t offer specific remedies

Weishart 2016 Associate Professor of law at West Virginia University, JD from UC Berkeley. Weishart, Joshua E. “Reconstituting the Right to Education.” *Alabama Law Review* 67.4 (2016): 917-978.

Yet even “the state constitutional right to education is in danger of being rendered meaningless” due to lingering doubts about its justiciability and the increasing reluctance of courts to order remediation in the face of legislative deficiencies or outright defiance.16 School funding cases have long been laden with separation of powers concerns, causing some courts to abdicate their role entirely. Other courts previously willing to intervene have begun to demur, faced with the prospect of enforcing the right in ways that might continuously encroach on legislative prerogatives.17

## da – pqd

### 2ac pqd da

#### No spillover—the AFF doesn’t spill over to affect how the PQD is applied in national security cases, which is what their impact evidence is in the context of.

#### The PQD is bad—it locks in climate change

Weinberg 2008 Professor of Law at St. John’s University, JD from Columbia. Weinberg, Philip. “"POLITICAL QUESTIONS": AN INVASIVE SPECIES INFECTING THE COURTS.” *Duke Environmental Law & Policy Forum* 19.1 (2008): 155-164.

Recent court rulings have distorted the hoary "political questions" doctrine into an excuse to evade the courts' responsibility to decide serious justiciable issues in environmental law. Unless overturned, these decisions not to decide important legal questions will carve out an unwarranted escape hatch and thwart effective judicial redress for environmental harms. And, ironically, the weightier the legal issue, the more likely these courts are to dodge it. Last year, the federal district court in People of California v. General Motors Corp. (GMC) dismissed a public nuisance suit seeking damages from the major auto manufacturers for injuries to the state's environment stemming from climate change.1 These asserted injuries included severe loss of water supply due to melting snow pack, increased risk of flooding, beach erosion, and forest fires.2 The court concluded that this public nuisance action, no different from hundreds of others brought by states except for the higher stakes involved, was a political question and therefore beyond the court's jurisdiction, since it "would have an inextricable effect on interstate commerce and foreign policy-issues constitutionally committed to the political branches of government,, 3 and because there was, in the court's view, no "manageable method of discerning the entities that are creating and contributing to the alleged nuisance. 4 Two years earlier, another federal court rebuffed a suit by Connecticut, New York, and several other states seeking to enjoin, as a public nuisance, carbon dioxide (CO2) emissions from the nation's five largest electric utilities, again citing their impact on global warming.5 In Connecticut v. American Electric Power Co. (AEP) the court likewise found this to be a political question for similar reasons.6

#### Even if the AFF undermines the application of the PQD in the context of education, we still win—the 1ac proves the courts aren’t taking an active enough role in crafting education policy

#### No impact -- prez powers in the context of foreign affairs are resilient

Tushnet, 2015- professor at Harvard Law School with a JD from Yale (Mark Tushnet, Spring 2015, “The Presidential Empire,” published in Dissent, vol. 62 issue 2)

The origin of the imperial presidency in each of these spheres is different, however. The imperial presidency’s place in international affairs will be secure—as long as U.S. foreign policymakers seek to preserve the nation’s hegemonic role in the world—and dangerous, because the stakes, war and peace, are so high. In the domestic arena, the imperial presidency is a response to contemporary political gridlock. But although such gridlock has existed for a while, the imperial exercise of presidential power has not become as deeply embedded in our domestic politics as it has—at least as elite consensus would have it—in our nation’s role in the world beyond. Given that the president’s leading role in domestic affairs has significant legal justification, it also poses less of a threat to the ideal that the actions of the U.S. government are always bound by the Constitution. Exploring the different reasons for the imperial presidency in foreign affairs and domestic policy may help identify future possibilities for more democratic control over policy-making in both domains.

#### Tons of other checks on executive powers thump the impact—the PQD isn’t key

Feldman, 15- Harvard law professor and author of multiple books on the American political system with a PhD in Oriental studies from Oxford and a JD from Yale (Noah Feldman, 12/31/15, “Obama and the limits of executive power,” <http://www.japantimes.co.jp/opinion/2015/12/31/commentary/world-commentary/obama-limits-executive-power/#.VojA75MrKYV>)

CAMBRIDGE, MASSACHUSETTS – 2015 was supposed to be the year U.S. President Barack Obama would use unilateral executive action to accomplish major goals of his administration that had been blocked by Congress: relaxing deportations, closing the prison at Guantanamo Bay, Cuba, and restricting access to guns. But all three goals stalled. Obama’s executive action on immigration, announced in November 2014, was stymied in the federal courts. An executive plan to close Guantanamo, rumored to be on the verge of announcement, was held back after the Paris attacks. And although some executive action on guns is still expected in the new year, it’s sure to be challenged in court and may not take effect during Obama’s presidency. For liberals who relish the idea of Obama unbound, the limits on executive action, both legal and political, feel like unfair usurpations of legitimate presidential power. For conservatives who don’t like the policies that Obama would enact, the delays surely come as evidence that the tripartite system of government is a working relationship. Who’s right? The question is important — and not just because it’s a reminder that liberals don’t always favor a weaker executive nor conservatives a stronger one. If the next president is Hillary Clinton, it’s likely to recur, because the Senate seems unlikely to turn Democratic and the House even less so. The season of New Year’s resolutions is a good time to ask yourself: What do you really believe about executive power, independent of who occupies the office? There are two ways to think about the constitutional separation of powers. One is textual and historical. It asks what the Constitution says. And because the Constitution’s pronouncements on each branch’s power are cryptic and brief, this approach also asks how it’s been interpreted over the years. The other is functional. It asks how our government works in practice — and how we want it to. Start with the words of the Constitution itself, which give “all legislative powers herein granted” to Congress; “the judicial power” to the judiciary; and “the executive power” to the president. Advocates of the “unitary executive” like to emphasize that Congress’ powers are limited to those enumerated, while the president’s executive power is unmodified except by the definite article. But it’s possible to make too much of that argument. The framers — especially James Madison — thought that, by definition, the job of the executive was to execute the laws made by Congress. The limitations on Congress’ powers were therefore understood as extending to the president as well. The other powers of the president, such as his roles as commander in chief and treaty maker, were expressly granted by the text of the Constitution — and they could only be exercised in conjunction with Congress, which retained the power to declare war and (through the Senate) to approve treaties. The upshot of all this is that the Constitution won’t really tell you what you should think about unilateral executive action. Rather, whatever you conclude can be read backward into the text. Custom might be a better guide. It’s traditional for the courts to treat the history of executive action as a “gloss” upon the president’s constitutional powers when they’re deciding who’s in charge of what. Seen in historic terms, Obama’s struggles with executive action make a good deal of sense.

#### Presidential powers cause war

Healy, a senior editor at the Cato Institute, 8

[Gene, The Cult of the Presidency Americas Dangerous Devotion to Executive Power, pgs 127-8, AS]

Far more troubling were what some have called the ‘‘Wag the Dog’’ bombings, after the 1997 film starring Robert De Niro and Dustin Hoffman. In the movie, the Dick Morrisesque spin doctor played by De Niro diverts attention from a presidential sex scandal by enlisting a Hollywood producer (played by Dustin Hoffman) to create a fake war. Unlike the Hollywood version, though, the Washington production used real missiles. The third week of August 1998 was a tumultuous one for President Clinton. On Monday, he went on national television to admit his affair with Monica Lewinsky; the president’s nonapology wasn’t well received. On Thursday, with the media reporting that independent counsel Kenneth Starr had obtained a DNA sample from the president, and Lewinsky starting her second round of testimony before the grand jury, President Clinton ordered surprise missile strikes on Sudan and Afghanistan. The Sudan strike soon proved to be an early case of missing WMDs. The administration refused to release the evidence it claimed to have relied on for its assertion that the Sudanese pharmaceutical plant targeted in the strike manufactured nerve gas. Independent tests conducted by the head of Boston University’s chemistry department confirmed, contrary to the administration’s claims, that no nerve gas precursors could be found in the soil surrounding the factory.90 The Clinton administration later issued an order unfreezing the plant owner’s assets, rather than coming forward with evidence supporting the owner’s purported connection to Osama Bin Laden. Absent the dubious timing, one might, with post-9/11 hindsight, see the missile strike as a laudable attempt to do something about a gathering threat. As it was, apart from shifting the news cycle toward less prurient matters, the administration managed only to knock over some empty tents in Afghanistan and wipe out an important source of medicine in a desperately poor country. If the timing of the Afghanistan and Sudan strikes was suspicious, the timing of the ‘‘Desert Fox’’ airstrikes on Iraq could hardly have been more so. The Desert Fox operation began on the eve of the House impeachment debate. President Clinton asserted that ‘‘we had to act and act now [because] without a strong inspections system, Iraq would be free to retain and begin to rebuild its chemical, biological, and nuclear weapons programs—in months, not years.’’91 However, as a direct result of the president’s action, we went nearly four 127 THE CULT OF THE PRESIDENCY years without any weapons inspection system, strong or otherwise. The inspectors withdrew shortly before the bombing and did not return until November 2002. The urgent need to reestablish inspections seemed to have vanished as soon as the threat of impeachment did. The timing of President Clinton’s actions inevitably gave rise to suspicion about his motives. Some pundits found those suspicions distressingly cynical. Washington Post columnist David Broder professed to be shocked that then Senate Majority Leader Lott would question the timing of President Clinton’s attack on Iraq,92 and former Nixon speechwriter William Safire could not ‘‘bring [him]self to think’’ that a U.S. president would ‘‘stoop to risking lives to cling to power.’’93 Is it really so cynical to suppose that embattled presidents might be tempted to distract the public by waging war abroad? Perhaps so, but only in the sense offered by Ambrose Bierce in his Devil’s Dictionary: ‘‘Cynic, n.: a blackguard whose faulty vision sees things as they are, not as they ought to be.’’94 In 1995, the American Economic Review published an article examining the relationship between military conflict, national economic health, and the presidential election cycle from Eisenhower through Reagan. The authors postulated that conflict initiation or escalation would be more likely in the case of a first-term president up for reelection in the midst of a weak economy, then tested that prediction using data on military conflict and the business cycle. Their results were robust, to say the least; based on the data from 1953 to 1988, ‘‘the probability of conflict initiation or escalation exceeds 60 percent in years in which a president is up for reelection and the economy is doing poorly. By contrast, the probability is only about 30 percent in years in which either the economy is healthy or a president is not up for reelection.’’95 Beleaguered first-term presidents are about twice as likely to resort to the sword as second termers or boomtime leaders. The erosion of Congress’s power ‘‘to declare War’’ means that nothing stands in their way. The Framers, too, were cynics in the Biercean sense. They saw human nature for what it is, and rejected unchecked war power for that reason. As Madison put it, the power to start a war had been lodged in Congress because otherwise ‘‘the trust and the temptation would be too great for any one man.’

### 1ar presidential powers resilient

#### Presidential powers in the context of foreign affairs are inevitable

Tushnet, 2015- professor at Harvard Law School with a JD from Yale (Mark Tushnet, Spring 2015, “The Presidential Empire,” published in Dissent, vol. 62 issue 2)

Presidential Administration and the National Surveillance State are almost certainly here to stay because they arise from the persistent quagmire of congressional politics and our hegemonic tendencies in foreign policy. These conditions will change only in the face of new political mobilizations around these two issues. At present it seems to me unlikely that we will see popular mobilizations strong enough to destabilize the consensus around the need for the National Surveillance State. Mobilizing partisans to produce a unified government in which Presidential Administration is replaced by collaboration between the president and Congress seems somewhat more likely. What domestic policies that collaboration would yield depends, of course, on whether Democrats or Republicans are in control.

#### War powers are resilient -- McConnell’s new legislation

Byas, 16- journalist at The New American (Steve Byas, 1/23/16, “McConnell Would Give President Sweeping War Authority,” <http://www.thenewamerican.com/usnews/constitution/item/22380-mcconnell-would-give-president-sweeping-war-authority>)

Senate Majority Leader Mitch McConnell introduced legislation (S. J. Res. 29) on Wednesday that would give President Obama sweeping authority to take action against the Islamic terrorist group ISIS. The proposal has no termination date, and no limitations on where troops could be sent or how they would be used. Additionally, the proposal would maintain the 2001 Authorization for Military Force, which has never expired, designed to let the president take military action against anyone, anywhere, if a connection is made to those allegedly involved in the 9/11 attacks. Obama spokeswoman Brandi Hoffine said that the White House welcomes interest by the Republicans “in specifically authorizing the continued use of military force against ISIL.” She promised, We will review the proposal put forward by Leader McConnell, and look forward to continued consultations as Congress undertakes what we hope will be the robust debate and amendment process the American people deserve on this important topic. But, she added, The president has been clear from the beginning that we will not be engaging in the type of armed conflict we saw in Iraq and Afghanistan, and that remains the case. President Obama has used the 2001 Authorization for Use of Military Force (AUMF) passed in the aftermath of the 9/11 attacks, arguing that ISIS (ISIL) is an offshoot of al-Qaeda, and therefore, he may carry out attacks on various individuals and groups in the Middle East without further congressional action. There is wide support in Congress for military action against ISIS, but because of differences of opinion as to the exact nature of that action, there has been no new authorization of force from Congress. Some, such as Senator Lindsey Graham (R-S.C.). have even called for the insertion of American ground troops into Syria and Iraq: that is, “boots on the ground.” Of course, those boots would be worn by American soldiers. Senator Chris Murphy (D-Conn.) disagreed with McConnell’s proposal, declaring, This resolution is a total rewrite of the War Powers Clause in the U.S. Constitution. It is essentially a declaration of international martial law, a sweeping transfer of military power to the president that will allow him or her to send U.S. ground troops almost anywhere in the world, for almost any reason, with absolutely no limitations. Murphy’s inclusion of the pronoun “her” to describe the next president illustrates one of the problems with McConnell’s proposed resolution. Murphy is expecting that any initiation of force under such a proposal would drag on into at least the tenure of the next occupant of the White House, and he is no doubt suggesting that that person could be former Secretary of State Hillary Clinton. The 2001 AUMF that gave President George W. Bush sweeping authority to make war on the alleged perpetrators of the 9/11 attacks is still in effect today, more than 14 years later. Before introducing his bill Wedesday, McConnell defended his position on ABC’s This Week, asserting, “Look, I don’t want to tie the hands of the next president. The next president may want to actually defeat ISIL. I think an AUMF ... that ties the president’s hands behind his back is not something I would want to do to a new president who’s going to have to clean up this mess, created by all of the passivity over the last eight years.”

## solvency

### at: circumvention

#### No circumvention—legislative statutes following up on Court decisions are normal means

Ostrander 2015 Associate at the Law Offices of Vincent P. Hurley, JD from New England Law. Ostrander, Rachel R. “School Funding: Inequality in District Funding and the Disparate Impact on Urban Migrant School Children.” *B.Y.U. Education and Law Journal* 2015.1 (2015): 271-295.

While there has not been any real change implemented following the constitutional challenges which have been brought in the past, there is hope in pursuing change through overriding statutory law if the demand were made.70 We can use the model of desegregation for guidance on how to achieve meaningful change in the school finance structure through legislative action, as we have herein by close examination of those challenges. In early desegregation era cases, it is important to note that it was not until statutes were enacted to support the changes mandated by court decisions that meaningful change was seen in the desegregation effort in the South. This was largely due to the fact that courts played a minimal role in effecting a lasting policy remedy.71 In Brown, the Court clearly outlawed state-sanctioned racial segregation in education, but following the decision there was little real world effect without legislative follow up. Similar to the challenges to funding disparity and the effect on migrant and urban populations, as we will see in the McDuffy example, the Court was also left to monitor the progress of the mandated changes in the Brown era with little meaningful effect. In those early desegregation cases, local districts that wanted to eliminate segregation lacked any tools or roadmap for doing so, and were weak in the face of staunch political opposition. Those remedial rulings allowed school districts to proceed at a sluggish pace in removing firmly entrenched barriers to educational opportunity for minorities.72 This is mirrored in the school finance litigation case of McDuffy v. Secretary of Executive Office of Education. Without a firm push from the courts to see real change through legislative action, it is unlikely that it will occur absent the crucial statutory law mandating it. If we take a lesson from history, we can see that courts will continue to be an inadequate means to change the system without legislative follow up to create policies effecting those changes, even when the right cases are brought.

### at: hollow hope

#### Rosenberg is wrong—the hollow hope thesis is empirically disproven, especially in the case of desegregation measures

Rebell 2009 Executive Director of the Campaign for Educational Equity at Teachers College, Columbia University, LLB from Yale Law. Rebell, Michael A. *Courts & Kids: Pursuing Educational Equity Through th*e *State Courts*. Chicago: University of Chicago Press, 2009.

Rosenberg’s critique has engendered a vigorous response from social scientists who maintain, consistent with comparative institutional analysis, that although courts cannot on their own bring about major social change, their role in the process is essential. Michael McCann, in a major empirical analysis of the equal pay movement, has demonstrated how the “indirect effects” of litigation and the legal discourse that courts provide define and advance social reform agendas.9 Kevin J. McMahon and Michael Paris, in a close analysis of the Montgomery bus boycott, showed that Rosenberg’s assumption that the Brown decision had little to do with inspiring and maintaining the Montgomery bus boycott was wrong, and that the vision provided by the Supreme Court’s decision in Brown was a sine qua non for both the initiation and successful conclusion of this landmark civil rights event.10 And writing specifi cally as a “rejoinder to Rosenberg,” Douglas S. Reed has described the “meaningful effects [state] courts have had on school fi nance.11 In short, Rosenberg is attacking a straw man when he faults the courts for not singlehandedly bringing about dramatic social changes. He “neglects the repetitive, dialogic nature of the interactions between courts, legislatures, agencies, and other social processes, as well as the political synergy that some litigation engenders.” 12 Actual social reform processes necessarily involve dynamic interactions among all three branches. From this perspective, the successful-remedies model I am advocating is merely a specifi c mechanism for more successfully organizing that dialogue in the context of implementing remedies in sound basic education cases.

### at: segregation = a choice

#### Segregation is a result of policy

**Rothstein 14** (Richard is a research associate of the Economic Policy Institute and a fellow at the Thurgood Marshall Institute of the NAACP Legal Defense Fund. “The Racial Achievement Gap, Segregated Schools, and Segregated Neighborhoods- A Constitutional insult” http://www.epi.org/publication/the-racial-achievement-gap-segregated-schools-and-segregated-neighborhoods-a-constitutional-insult/)

This is a dubious proposition. Certainly, Northern schools have not been segregated by policies assigning blacks to some schools and whites to others – at least not since the 1940s; they are segregated because their neighborhoods are racially homogenous.

But neighborhoods did not get that way from “innocent private decisions” or, as the late Justice Potter Stewart once put it, from “unknown and perhaps unknowable factors such as in-migration, birth rates, economic changes, or cumulative acts of private racial fears” (*Milliken v. Bradley*, 1974).

In truth, residential segregation’s causes are both knowable and known – twentieth century federal, state and local policies explicitly designed to separate the races and whose effects endure today. In any meaningful sense, neighborhoods and in consequence, schools, have been segregated *de jure*. The notion of *de facto* segregation is a myth, although widely accepted in a national consensus that wants to avoid confronting our racial history.

### at: transfer policies solve

#### Transfer policies disadvantage minority students

**Potter & Quick 16** (Halley is a senior fellow at The Century Foundation, where she researches public policy solutions for addressing educational inequality. Kimberly is a policy associate at The Century Foundation. “A New Wave of School integration” https://tcf.org/content/report/a-new-wave-of-school-integration/)

Research shows, however, that transfer programs that do not explicitly pursue socioeconomic diversity actually wind up making matters worse. The majority of interdistrict transfers through open enrollment laws serve to increase school segregation, on average, because the students using this option tend to be relatively more advantaged students trg out of low-performing districts.**55Research on intradistrict transfers similarly finds that more-advantaged students are more likely to participate**.56

We identified seventeen districts with transfer policies that consider socioeconomic status. Four of these districts have policies designed to increase socioeconomic integration in both inter- and intradistrict transfers, eight have policies applying to intradistrict transfers only, and five have policies addressing interdistrict transfers only.

### at: zoning fails

#### Zoning has worked

**Potter & Quick 16** (Halley is a senior fellow at The Century Foundation, where she researches public policy solutions for addressing educational inequality. Kimberly is a policy associate at The Century Foundation. “A New Wave of School integration” https://tcf.org/content/report/a-new-wave-of-school-integration/)

In other districts, encouraging socioeconomic integration through boundary reassignments has been a smoother process. The school board of [McKinney Independent School District](http://www.mckinneyisd.net/) (MISD) outside Dallas, Texas, passed a policy back in 1995 that socioeconomic diversity should be a consideration in school zoning decisions, particularly at the middle and high school level. Twenty years and multiple rezoning processes later, the schools are relatively economically balanced at the middle and high school level. The rezoning process is never easy, but McKinney has kept its commitment to making socioeconomic integration part of these conversations. In a statement released in response to a recent high school rezoning process, the district admitted that not everyone would be satisfied with the outcome, but maintained a commitment to socioeconomic balance. “Changing schools is an emotional issue for all involved and is an inevitable issue to be addressed frequently in a growing school district like MISD,” the press release [stated](http://www.mckinneyonline.com/October-2013/McKinney-ISD-2014-High-School-Rezoning-FAQs/index.php?cparticle=1&siarticle=0#artanc). “Our guiding principle is to provide the best and most equitable opportunities for all children.”45