

HUMAN CAPITAL, DIVERGENT OPPORTUNITIES, AND DEVELOPMENT IN THE US

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Abstract: By analyzing cross-sectional data to evaluate three hypotheses of insignificant differences in the US, this paper finds that divergent opportunities exist to acquire human and financial capital. Additionally, empirical estimates reveal that complaints of divergent opportunities do not show significant statistical variation in spending on corrections and the investment in education, relative to per capita spending on corrections. Indicators of human development index (HDI) suggest that Blacks who do not have equitable access to human capital and income are performing poorly relative to their white counterparts. Lack of human capital degrades the employable workforce of the US, exacerbates structural unemployment, and increases crime and unproductive consumption of scarce economic resources. The difficulties of acquiring human capital are compounded by microaggressive behavior and dysfunctional institutions. The paper concludes that lack of opportunities has counterproductive economic consequences for nations that want to improve the wellbeing of their citizens and allocate human capital in such a way that good human capital is not liquidated to increase the supply of relatively worthless capital (a new Gresham's law). Further, the paper argues that as a development policy, public policy should be oriented towards the optimal acquisition of social benefits when social benefits have greater value than private benefits.

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1. Introduction

By analyzing cross-sectional data to evaluate three hypotheses of insignificant differences in the US, this paper finds that divergent opportunities exist to acquire human and financial capital. Additionally, empirical estimates reveal that complaints of divergent opportunities do not show significant statistical variation in spending on corrections and the investment in education, relative to per capita spending on corrections. Indicators of human development index (HDI) suggest that Blacks who do not have equitable access to human capital and income are performing poorly relative to their white counterparts. Lack of human capital degrades the employable workforce of the US, exacerbates structural unemployment, and increases crime and unproductive consumption of scarce economic resources. The difficulties of acquiring human capital are compounded by microaggressive behavior and dysfunctional institutions. The paper concludes that lack of opportunities has counterproductive economic consequences for nations that want to improve the wellbeing of their citizens and allocate human capital in such a way that good human capital is not liquidated to increase the supply of relatively worthless capital (a new Gresham's law). Further, the paper argues that as a development policy, public policy should be oriented towards the optimal acquisition of social benefits when social benefits have greater value than private benefits. Humans coexist in interdependent societies in which all risk exposures and benefits cannot be isolated or limited to any particular group.

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Humans also coexist in societies in which division of labor and divergent skill capacities are indispensable to the production of national output and economic growth. Economic relations are mutually inclusive and humans rise and fall together. Blacks and females consume products that are made by Whites and males, thereby increasing productive propensities. An uneducated child will not make any significant contribution to his country, or the global economy. In fact, he or she will demand more of the scarce resources that are unavailable. Older folks will pass away, leaving behind a legion of uneducated, worthless, and uneventful lives that will surely hasten the demise of formerly prosperous economies when access to education is rationed.

When critical human development indicators of once prosperous nations relapse into unacceptable levels, the lapse should be an indicator of concern. The reversal must be seen as an unequivocal symptom of undesirable policies that are poised to destroy human progress. The gradual regression of critical human indicators has noticeably progressed for quite some time. For example, in 1999, Sen wrote:

“It is remarkable that the extent of deprivation for particular groups in very rich countries can be comparable to that in the so-called third world. For example, in the United States, African Americans as a group have no higher—indeed have a lower—chance of reaching advanced ages than do the people born in immensely poorer economies of China or the Indian state of Kerala (or in Sri Lanka, Jamaica or Costa Rica)” (Sen, p.21).

Per capita income is an insufficient indicator of human progress, because it says nothing about income distribution, or general quality of life. That is, while some can be obscenely rich, and righteously so, others can be extremely poor with no access to national income though the rich and poor are presumed to have the same fraction of national income. Evidently, US per capita income will not offer much information about the welfare of its citizens. The US is extremely wealthy, relative to other nations of the world, and it is virtually improbable that per capita income of Mozambique will converge with per capita income of the US. However, it is conceivable that a black poor in Mozambique or the US will neither see a doctor in his/her life time nor darken the doorstep of any academic institution. Implicitly, the deprivation of an opportunity to succeed or survive is a critical indicator of human backwardness or underdevelopment (substandard human wellbeing). Therefore, indices that do not offer much information about people’s quality of life are less wholesome matrices of human development. I take a closer look at these indicators in Section III.

A brief overview of the relevant literature is provided in the next section. In section III, I examine salient indicators of development as they pertain to the lives of Blacks and Whites in the US, and the institutional barriers to economic development. The section is followed by an empirical evaluation of the scope of discrimination and a comparative analysis of spending on human capital and corrections. The empirical findings are reported at the end of the paper together with some policy implications.

2. The social costs of divergent opportunities: A literary synopsis

Development is a broader indicator of human progress. On several levels, it involves education, healthcare, infrastructural development, and the distribution of income. In some capitalist societies, the latter is erroneously conceptualized—deliberately or otherwise—as a movement to “socialism.” Consequently, it should not be a surprising revelation that unequal opportunity imperils economic growth and human development

when it is situated in its proper context. Some have associated divergent opportunities to racism.

*“Racial discrimination concerns the unequal treatment of races, whereas racial inequality concerns unequal outcomes (in income, education, health, etc.). While racism is often implicated in processes, contemporary racial inequalities and forms of discrimination are not always the immediate results of contemporary racism”*¹ (Pager and Shepherd in Clair and Dennis, p.857).

The racist school of thought maintains that races are distinguished by perceived common physical characteristics, which are thought to be fixed, whereas ethnicities are defined by perceived common ancestry, history, and cultural practices, which are seen as more fluid and self-asserted rather than assigned by others (Cornell and Hartman). Contemporary approaches to racism center on explaining the well-documented persistence of racial inequality and racial discrimination in an era of declining overtly racist attitudes. “Racism” is an odious expression that connotes unethical deprivations and injustice. As such, it is not an expression of endearment and some would rather live without it even though they can be aptly characterized as “racists.” The revelation of the unseemly attribute of racism is embarrassing to those who engage in it; except for those who are brazen enough to outwardly profess and manifest their affection for it while resisting the ire of civil society.

In recent history, racism in North America has undergone a transformation, especially after the post-civil rights era when the conscious democratic belief in equality for groups of color directly clashed with the long history of racism in the society. The more subtle forms of racism have been labeled “modern racism,” “symbolic racism,” and “aversive racism.” All three explanations of contemporary racism share common denominators. They emphasize that racism: (a) is more likely than ever to be disguised and covert, and (b) that racism has evolved from the “old fashioned” form, in which overt racial hatred and bigotry is consciously and publicly displayed, to a more ambiguous and nebulous form that is more difficult to identify and acknowledge (Sue et al., p. 272).

Clair and Denis (2015) direct attention to the institutional roles of modern racism, which is primarily seen as a phenomenon of higher-level entities, such as social processes, social forces, and institutions. Rather than explaining racial inequality via individual-level racism (conscious or otherwise implicit), theories of institutional racism give analytic primacy to the taken-for-granted policies, practices, and norms of organizations, systems, and structures.

While institutional racism can be overt via formal declarations of preferences, it is more often used to explain cases of disparate impact, where organizations or societies distribute more resources to one group than another without overtly stating racist intent. For example, some school districts can get more financial resources than others to tacitly espouse an informal policy of preventing one group from getting equitable access to education.

The rules, processes, and opportunity structures that enable such disparate consequences are what constitute institutional racism and its structural and systemic variants. In effect, Clair and Denis maintain that institutional racism coheres on macro-

¹ Though the term was first used to denote ethnic or national identities, today it is generally used to connote biological differences (Clair and Denis, p.857).

structural processes rather than individual acts. Notably and pointedly, individual infractions can be institutionally tolerated and protected. Therefore, the institutional genre of the literature includes the judiciary or criminal justice system. Dodgy and skewed judicial decisions in favor of one racial group are usually symptoms and circumstantial evidence of judicial bias and corruption. In accordance with the systemic variety of corruption, Svensson (2005) succinctly refers to corruption as outcomes that reflect a country's legal, economic, cultural, and political institutions. These institutions can be exploited with impunity for specific goals that are immoral and contrary to the intentions of well-meaning written laws, or what the eighteenth century French philosopher, Baron de Montesquieu regarded as: *De l'esprit de loix*.

Unenforceable laws facilitate underdevelopment. The literature reflects that development is contingent on structural policies and the role of institutions. It must also be noted that corrupt and underdeveloped countries tend to have significantly lower levels of human capital because of inadequate schooling (education), regardless of the corruption metric that is used to measure development (Svensson). Therefore, countries that cannot enforce laws should not expect to develop rapidly.

In reviewing the literature on contemporary racism, Sue et al. found that contemporary racism can be best characterized as "microaggressive." The term refers to "subtle, stunning, often automatic, and non-verbal exchanges which are 'putdowns'" (Sue et al. p.273). However, in the markets for advanced human capital and the promotion of subtle racism, microinvalidation is usually a complementary attribute of microaggression. "Microinvalidations are characterized by communications that exclude, negate, or nullify the psychological thoughts, feelings, or experiential reality of a person of color" (Sue et al. p.274).

Courts of law are often called upon to deal with the issue of microinvalidation in academic circles when the products of one group are denigrated (putdown) in clear violations of accepted rules and standards of evaluations. Ironically, such products are occasionally superior to that of the oppressors who deliberately set ad hoc and inferior standards for themselves. In such situations, enforcement requires arbitration of standards and not quality, but the enforcement agencies are not always willing to ascertain the inequality of standards. Institutional failures create divergent opportunities that reinforce perverse and unnecessary income inequalities.

Studies that have focused on cross-sectional analyses or cross-country variations of development have looked very closely at levels of income disparities and the factors that contribute to such disparities and poverty. Rodrik, Subramarian and Trebbi (2014) capture the importance of income disparities:

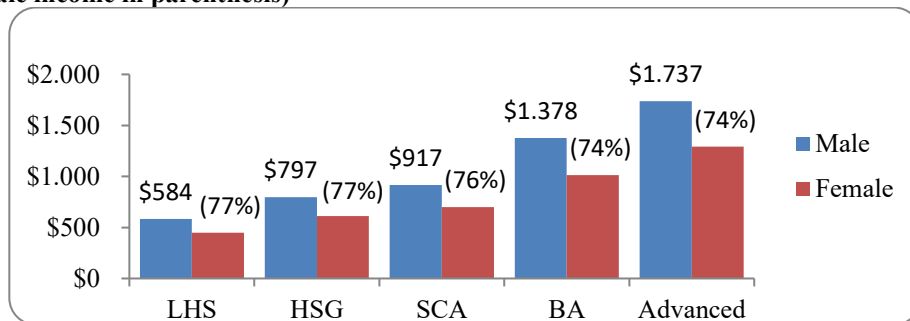
"It is hard to think of any question in economics that is of greater intellectual significance, or of greater relevance to the vast majority of the world's population" (Rodrik, Subramarian and Trebbi, p.111).

While some studies focus on economic variables like trade and openness, they find that the quality of institutions trumps everything else. The improvement in income insinuates nothing about income distribution. However, high levels of income inequality, [the sort that is promoted by institutional racism], leads to political instability and economic decline. *"The inescapable conclusion is that income inequality matters a great deal, for when it is high, a vicious circle of violence and slowed growth is the result"* (Muller and Seligson, p.157).

Income inequality, a critical development indicator, received very little global attention until the start of the twenty-first century (Ortiz and Cummins, p.173). Ortiz and Cummins allude to the pioneering work of the International Labor Organization (ILO), *A Fair Globalization*, which catapulted a series of subsequent publications on the issue of income inequality; including, the United Nations Development Programme's (UNDP's) *The Inequality Predicament* (2005) and the World Bank's *Aid, Trade, and Security in an Unequal World* (2006). In fact, the UNDP developed a Human Development Index (HDI) in 1990. Earlier uses of the index were primarily focused on international cross-sectional analysis and comparative studies of convergence; for example, see the work of Laszlo & Guisan (2008).

Others have directed attention to divergent opportunities based on gender differences, regardless of the level of education. Data from the Bureau of Labor Statistics (BLS) show that men have higher median weekly earnings than females for all categories of education. Divergent opportunities generate a crowding out effect, where females are crowded out of some occupations.²

Figure 1: Median Weekly Earnings, by Level of Education and Gender, 2017 (female percent of male income in parenthesis)



LHS= Less than high school education, HSG= High School graduate, SCA= Some College or Associate degree, BA = Bachelor's degree, and Advanced= Advanced degree. Source: U.S. Bureau of Labor Statistics (2018, usual weekly earnings of wage and salary workers, fourth quarter 2017. Economic News Release USDL-18-0079)

In race relations, unlike the older forms of disparate opportunities that were generally overt and sometimes given legitimacy before the Civil Rights Act of 1964, the newer form of preferences is considered to be “modern” (subtle and rather surreptitious). Some modern institutions covertly defend disparate opportunities by financial allocation, employment practices, and rule adjudication (microaggression and microinvalidation). By so doing, the institutions are not laying the foundations for the accumulation of human capital, equality of opportunity, the reduction of poverty, or access to healthcare.

The literature is generally supportive of the theory that the quality of modern institutions is critical to economic growth and sustainable development. When institutions are infected by racist corruption, they become perfunctory and antithetical to long-term economic growth and development. Human capital is destroyed, poverty is exacerbated, healthcare becomes inaccessible, and latent capacities become abundant. Divergent opportunity puts undue pressure on limited economic resources and it sets the stage for underdevelopment or arrested-development.

² See McConnell, Brue, and Macpherson, p.175.

Institutions help to shape a culture of apathy or motivation. When there is a cultural preference for achievement and judicious reward, humans will strive to be successful. On the contrary, when institutions corruptly stifle the prospects of productive achievement and encourage a culture of despondence, then vagabondary, drug abuse, crime, poverty, and suicides with exorbitant social costs become the alternatives to productive life and development.

The prototypical cultural theory of development, which has been largely attributed to Weber's (1904-1905) Protestant Ethic thesis, is based on the combination of religious transformation and scientific progress (Granato, Inglehart, & Leblang, p.269). According to Weber, medievalism disintegrated as a result of the Protestant Reformation (change) and dynamic scientific logic. The theory was later extended to include education, parenting, and other agencies of socialization. Cultures that emphasize educational achievement tend to show considerably higher rates of economic growth than cultures that do not.

Therefore, there are costs that are associated with divergent opportunities. These costs can be broadly classified as external and social. Broad measures of the cost of crime can be found in the literature. Cohen (2000) provides an interesting insight into the external costs affecting victims of crime and the social costs affecting society as a whole (see also the work of Chalfin, 2016).

Some studies have focused on the costs of incarceration while underscoring racial biases in the criminal justice system. Mai and Subramanian (2017) provide a comprehensive analysis of this genre of literature. They also provide a strong rationale for estimating the per capita cost of incarceration as opposed to the average cost and cautioned against conflating costs and effectiveness of spending.

Social benefits can be derived from investment in human capital that reduces criminal conduct. As such, cost benefit analysis (CBA) has become a logical extension of the cost of crime. Employers usually pay a premium for more education, but education also provides social benefits. Implicitly, it is nonsensical for any racial group of a nation to be deprived of education while expecting the nation to continue on a trajectory of development. In effect, the use of public funds for education is based on the theory that there are social benefits to be derived from such an investment. Invariably, education can increase productivity or it can be a signaling device (Brent, p.35).

Economists have variously estimated CBA, but an influential estimate of education can be found in the work of Blomquist et al. (2014). Their study focused on higher education (Community and Technical College) system of Kentucky. By estimating the difference between total social value and the increase in earnings, which is their measure of the education externality, they found that the social value of expanding the system substantially exceeds private value by approximately 50 percent. Analogously, Hedegaard and Tyran (2018) find that discriminators conduct their own CBA to estimate the price of prejudice.

The social value derived from educational investments is unlike the investment in policing and corrections. Economic researchers have found that penal investments, relative to investment in human capital, are unlikely to be cost-effective. Moreover, cost-benefit evaluations of incarceration and sentencing often fail to consider collateral consequences that will make these policies costlier. The probability that a family will be

poor increases by nearly 40 percent while a father is incarcerated, and a criminal record makes it more difficult to find employment.³

To the extent that about 60 percent of US inmates are people of color, the racial and economic implications should not be easily ignored. It is estimated that Black men are six times as likely to be incarcerated as White men and, for Black men in their thirties, about 1 in every 12 is in prison or jail on any given day.”⁴ These statistics should inevitably be troubling for any nation that wants to set itself on the long-term path of growth and development. Accordingly, this paper presents an insightful analysis of the economic consequences of divergent opportunities for development. It focuses on development indicators and the factors that are essential to promote economic growth and development when national policy is sensitive to the equality of opportunities. In many respects, the paper adopts a CBA approach by focusing on the comparative costs of asymmetric opportunities and the institutional superstructure that reinforces divergent opportunities. The paper finds that there is a need to extend opportunities to less favored groups in order to facilitate development.

3. Indicators

3(a): Deficient development indicators. The HDI of the UNDP has unique importance, because it moves away from the overconcentration on income to that of human wellbeing. The organization identified education, health, and income as critical indicators of a prosperous life. The UNDP’s HDI is a macro-compilation for cross-country analysis, but a miniature index incorporating the same variables can be constructed to reflect the racial deficiencies that impede the prospects of country-specific development. Four variables have been considered to assess the HDI for Blacks and Whites in the US: (i) income per capita, (ii) life expectancy, (iii) literacy, and (iv) gross enrollment. According to the U.S Census Bureau, the per capita income for the overall population in 2016 dollars was \$33,205. It was \$38,948 for non-Hispanic Whites, \$22,861 for Blacks, and \$36,309 for Asians. Per capita income for Hispanics was \$20,430.⁵

Table 1: Racial Development Indicators

Race/ Ethnicity	Income p.c.(\$)	Life Expectancy (after 50 years)	Gross (%) Enrollment	Literacy	Math (500), Reading (500) & Science (300)
Overall	33,205	31 (avg.)	X	X	X
Whites	38,948	32	50	0.303	160, 295, & 160
Blacks	22,861	30	16	0.169	130, 266, & 125
Hispanics	20,430	35	25	X	139, 276, & 136
Asians	36,309	X	5	X	X

Notes: Gross Enrollment=2013 Pk-12 (projected to fall for blacks and whites in 2025), see Figure 1, Literacy data are from *Digest for Education Statistics 2016* for Grade 12, provided by the National Assessment of Educational Progress (NAEP) (maximum scores in parenthesis). **Sources:** Source: US Census Bureau (per capita income), Arias et al. (2017), pp.15, 21, & 27 (life expectancy data, 2014), and National Center for Education Statistics, www.nces.ed.gov

³ See “Economic perspectives on incarceration and the criminal justice system,” (2016, April). Executive Office of the President. Retrieved from <http://www.obamawhitehouse.archives.gov>

⁴ See “Trends in US Corrections.” Washington DC: The Sentencing Project. Retrieved from <http://www.sentencingproject.org>

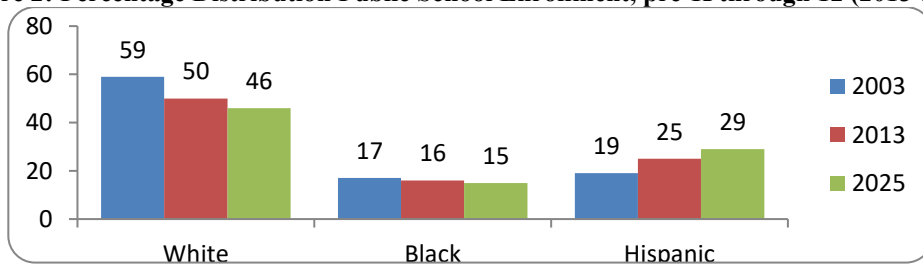
⁵ See <https://www.census.gov/data/tables/time-series/demo/income-poverty/historical-income-people.html>

The index estimates life expectancy after 50 years. The theory behind the selection suggests that most people would have acquired sufficient and useful human capital at that age; also, the probability of dying between the ages of 50 and 65 ranges from 0.02 to 0.05 (Arias et al. p.63). The life expectancy among Whites has been somewhat distorted by the opioid crisis. The data were compiled in 2014 with little likelihood of significant variation in 4 or 5 years.

US Department of Education notes that total enrollment in public and private elementary and secondary schools (prekindergarten through grade 12) has been increasing and decreasing. Enrollment grew rapidly during the 1950s and 1960s, reaching a peak year in 1971, but that this enrollment increase reflected what is known as the "baby boom" syndrome; a dramatic increase in births following World War II. Total elementary and secondary school enrollment decreased every year between 1971 and 1984. After these years of decline, enrollment in elementary and secondary schools started increasing in fall 1985, began hitting new record levels in the mid-1990s, and continued to reach new record levels every year through 2006. Enrollment has fluctuated in the post-2006 period. However, Figure 2 shows declining trends for both White and Black enrollment between 2013 and 2025. Following the UNDP methodology, this variable is not given too much weight. Rather, Math, Reading, and Science are given more weight (two-thirds of the literacy index as opposed to one-third).

Most of the student performance data have been compiled from the *Digest of Education Statistics, 2016*, which are drawn from the National Assessment of Educational Progress (NAEP). The NAEP assessments use three basic designs: the national main NAEP, state NAEP, and long-term trend NAEP.⁶ NAEP has assessed the science abilities of students in grades 4, 8, and 12 in both public and private schools since 1996. Science, reading, and math are graded on scales of 0 to 300, 0 to 500, and 0-500 respectively. In this paper, inquiry is limited to the most advanced level of secondary education, Grade 12. Students are generally expected to enter the job market or pursue further education after this level, which makes the grade a critical turning point for productivity gains. The acquisition and use or misuse of advanced human capital will be discussed later in the paper.

Figure 2: Percentage Distribution Public School Enrollment, pre-K through 12 (2013-2025)



Source: National Center for Education Statistics, www.nces.ed.gov

Ideally, adult literacy will be preferred, but accessible and current data are lacking. Readily available data provide information about prose, document, and quantitative literacy at the 2003 level. Assuming the literacy level has not changed significantly, the

⁶ The national main NAEP and state NAEP provide current information about student performance in subjects including reading, mathematics, science, and writing, while long-term trend NAEP provides information on performance since the early 1970s in reading and mathematics only.

adult literacy data will narrow the gap between the White and Black quality of life by about one to two points. The disparities in the wellbeing of the races are affirmed when per capita income, life expectancy, and literacy are taken into consideration.

The ratio between Blacks and Whites is 0.5870 for income per capita, 0.9375 for life expectancy (after 50 years), 0.32 for gross enrollment and 0.30 for literacy, with an average of 0.5361, with these four indicators, and 0.6082 for the average of three indicators (income, life expectancy and literacy).

The econometric measurements for the development index are discussed below:

- (i) $\text{Income index} = \frac{\log(y) - \log(100)}{\log(All) - \log(100)} = I$; where y is for per capita income of the respective races and “ All ” is for Blacks, Whites, Hispanics, and Asians.⁷
- (ii) $\text{Life expectancy index} = \frac{B - avg}{W - avg} = E$; where B is for expected life span of Blacks after 50 years, and “ avg ” is for the average life expectancy of Blacks, Whites (W), Hispanics, Non-Hispanic Whites, and Non-Hispanic Blacks.⁸ Life expectancy of Whites=1.
- (iii) $\text{Literacy index} = \frac{R - 0}{100 - 0} = L$; where R is for the relevant race, and L is for the index of scaled scores in reading, math, and science.⁹ The three areas are given a weight of two-thirds and combined with the enrollment index to compute the literacy index (L). The enrollment index is given a third of the weight of the literacy index. Illiteracy causes poverty. As many as 75 percent of welfare recipients struggle to read even the simplest texts. In terms of lost productivity, it is estimated that the portion of the population that cannot read costs the US a staggering \$225 billion each year. Being able to read is also important to maintaining good health, particularly on occasions of serious illnesses or conditions that require medication or ongoing treatment. When patients lack basic reading skills, it can impact the healthcare system to the tune of \$100 billion annually (McKenna).

⁷ Apart from capping income, the log transformation captures two important concepts: (i) the diminishing marginal utility of transforming income into human capabilities, and (ii) the greater marginal utility that is derived from lower levels of income. A lower level of income is presumed to have greater impact on standard of living. That is, lower levels of income mean more to poorer people than richer people.

⁸ According to the Center for Disease Control’s National Center for Health Statistics, life expectancy in the US dropped in 2018 for the second year in a row (Kochanek et al. p.1). While it is not quite convincing to determine a trend, the decline has been largely attributed to the opioid deaths. Opioid-related deaths spiked by 137% between 2000 and 2014. The increase in deaths caused by drugs and alcohol is particularly prevalent among White Americans (Donnelly, 2018). The unnatural causes of death detract from a more natural estimation of life expectancy.

⁹ The scaled scores are divided by 100 and expressed as percentages.

$$(iv) \quad \text{Gross enrollment index} = \frac{R - 0}{100 - 0} = G.$$

The HDI for the races is then computed as:

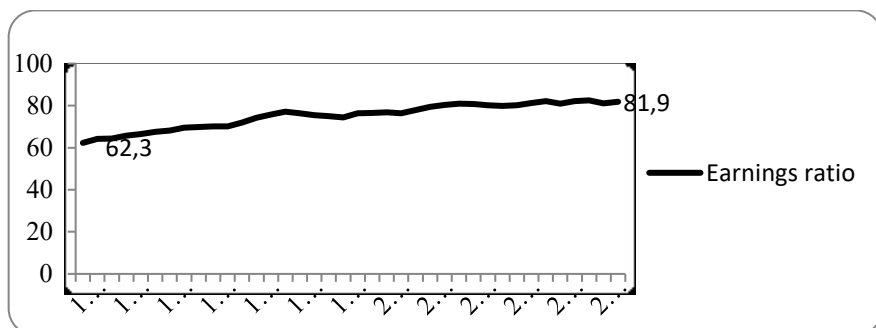
$$HDI_R = \left(\frac{1}{3}\right) * I + \left(\frac{1}{3}\right) * E + \left(\frac{1}{3}\right) * L = \begin{cases} W = 0.77 \\ B = 0.67 \end{cases} \quad (1)$$

The index reveals that Whites have a wellbeing index of 0.77, which is about higher than that of Blacks (0.67). The ratio between Blacks and Whites in *HDI* is 0.87, which reveals less difference than the average of the three indicators that is 0.6082.

Some policy makers tried to deal with the complementary problems of healthcare cost and access in 2010 under what became derisively regarded as “Obama Care” but which was more seriously or substantively (officially) considered to be “The Patient Protection and Affordable Care Act” (PPACA). In 2009, Blacks under age 65 were less likely than Whites to have health insurance (81% compared with 83%), and American Indians/Alaska Natives (AI/ANs) under age 65 were less likely than Whites to have health insurance (68% compared with 83%). There were no statistically significant differences for other racial groups.¹⁰

Though the index is not disaggregated into gender, females have not been performing very well either (see Figure 1).

Figure 3. Earnings Ratio Female/Male (1979-2015)



Source: US Census Bureau

The result is reflected in earnings ratio reported in Figure 3. In 2018, the women-to-men earnings ratio varied by race and ethnicity. White women earned 82.2 percent as much as their male counterparts compared with Black women (86.9 percent), Asian women (77.1 percent), and Hispanic women (86.0 percent).¹¹

Rising healthcare cost can be associated with an aging population, which is similar to that of Europe—I have discussed the issue of aging population and sustainable development elsewhere (Warburton, 2018)—and the demand for healthcare, including the policies of medical professionals, and unhealthy lifestyles that are not proactive. Economists who are very familiar with proven economic theories know that whenever the optimal quantity to be derived from market transactions is greater than what markets are capable of providing (positive externalities), the policy responses can be binary when

¹⁰ US Department of Health & Human Services, Agency for Healthcare Research and Quality; see <http://www.archive.ahrq.gov>

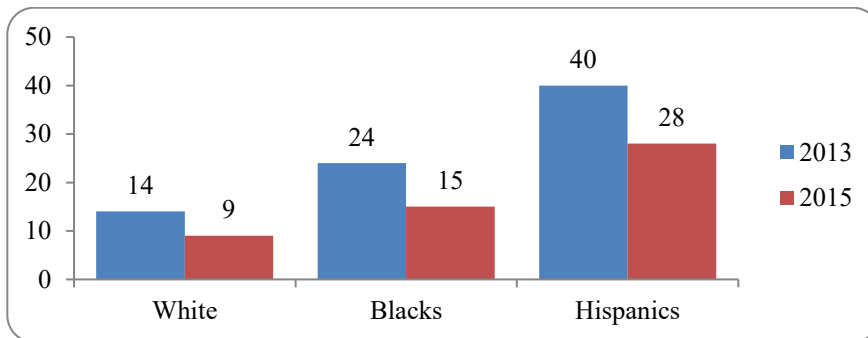
¹¹ See News Release of the Bureau of Labor Statistics, October 16, 2018.

competition is imperfect and pricing mechanisms cannot be made efficient: (i) subsidized production or (ii) subsidized consumption. Limiting access or restraining output to reinforce price distortions is not a rational political or economic policy when markets are inefficient and economic resources are underallocated. Of course, irrational responses to market failures are usually nested in the phobia of “socialism” in a system that irrevocably protects capitalism for good reasons.

It is very common knowledge that positive externalities abound in the markets for education and healthcare and that no amount of market exceptionalism can adequately allocate economic resources in the markets for education and healthcare; especially when policies tacitly affirm discriminatory access to education and upward mobility. The social benefits to be derived from education and healthcare are far greater than the private benefits that the markets for these services can offer (see also the Kentucky study that was referenced earlier on). In effect, social benefits must be peremptory when policy makers craft public policies to deal with external social benefits and costs.

Not surprisingly, policies that were designed to increase access to healthcare narrowed the disparities in access to healthcare between 2013 and 2015. Figure 4 shows that the access of Whites to healthcare (insurance) increased by about 5 percent, while that of Blacks and Hispanics increased by about 9 and 12 percent respectively.¹²

Figure 4: Percent of uninsured adults ages 19-64 (US average before and after ACA expansions)



Source: Hayes et al. (www.commonwealthfund.org)

Inefficient policy choices continue to increase social cost and endanger the welfare of the nation. “United States health spending is projected to rise 5.3 percent in 2018, reflecting rising prices of medical goods and services and higher Medicaid costs, a U.S. government health agency said on Wednesday, an upward trend it forecasts for the next decade. The primary drivers of the increased spending include the aging baby-boom population that will increase enrollment in the Medicare health insurance program for the elderly and disabled, a climb in the prices of medical goods and services and more disposable personal income, the report said. U.S. [Centers for Medicare and Medicaid Services] CMS projected that healthcare spending will on average rise 5.5 percent

¹² The PPACA’s coverage expansions were associated with increased access to care and reduced racial and ethnic disparities in access to care, with generally greater improvements in Medicaid expansion states (Hayes et al.). The USCCR also finds evidence of intra- and extra-variations in inequity for various school districts (p.49). The spending variations and inequities impact access to education and achievements (literacy).

annually from 2017 to 2026 and will comprise 19.7 percent of the U.S. economy in 2026, up from 17.9 percent in 2016. By 2026, health spending is projected to reach \$5.7 trillion” (Abutaleb).

3 (b) Bifurcated acquisition and destruction of human capital: A new Gresham’s Law

Advanced human capital is sometimes liquidated by microaggressive behavior to increase the supply of relatively worthless capital. In the sixteenth century, Britain experienced something similar with financial capital (money). High quality money was liquidated to increase the supply of relatively worthless money.¹³ While the practice may have generated some amount of macro-stability, because of the substitutability of financial capital to stabilize prices under the bimetallic standard, the destruction of human capital does not have a luxurious outcome as the liquidation of substitutable financial capital. Worthless human capital is destabilizing. The importance of human capital and access to human capital has long been recognized. Liquidation of capital and asymmetric opportunity may be because of race, gender, and religious differences.

Title VI of the Civil Rights Act of 1964 prohibits discrimination in programs that receive federal financial assistance on the basis of race, color or national origin. Public education in the US is funded in part by federal dollars. A variety of public educational agencies and institutions are covered by Title VI, and all programs that receive federal funds must operate in a nondiscriminatory manner. The Office for Civil Rights (OCR) is charged with enforcement to ensure that all students are given an equal opportunity to education. Prior to the Civil Rights Act of 1964, the United States Supreme Court ruled (in 1954) that public education is a right that should be available to all on equal terms. *“Each year, the U.S. spends over \$550 billion on public education. While school districts spend an average of \$11,066 on each student each year, that number fluctuates drastically from district to district. Public schools in the U.S. are funded from a combination of local, state, and federal dollars. The revenue that local governments provide for public education is primarily generated from local property taxes, thus the funding provided for public education is largely tied to property values and the wealth of a community. This contributes to school funding inequities between high poverty and low-poverty districts” (USCCR, p.6)*

According to the US Commission on Civil Rights (USCCR), states bear the obligation to provide public education for their students, and as a result of funding inequity lawsuits brought in the majority of states, many states have implemented state funding reforms to increase funding in districts serving the most racially disadvantaged students. However, the Commission reports that there are still stark funding inequities, as the highest-poverty districts receive an average of \$1,200 less per-pupil than the lowest-poverty districts, and districts serving the largest numbers of students of color receive about \$2,000 less per-pupil than districts who serve the fewest students of color (USCCR, pp.6-7).

Although the United States Supreme Court ruled in *Brown v. Board of Education* (1954) that public education is a right that should be available to all on equal terms,

¹³ In sixteenth century England, it was not unusual for more valuable currencies with bullion content to be extracted from circulation in order to be melted to increase the supply of the cheaper variety. This practice became known as Gresham’s law. Sir Thomas Gresham (1519-79), a financial adviser to Queen Elizabeth 1, first characterized the practice as “bad money drives out good.”

funding has been profoundly unequal. School districts that serve the most disadvantaged students often require higher levels of funding to overcome the financial challenges of serving the needs of disadvantaged students, including students with disabilities, and English language learners, particularly those who come from low-income households and who are also students of color (USCCR, p.7).

There are two hypothetical and disagreeable preconditions for racially motivated funding to acquire human capital: (i) that minorities are incapable of beneficially absorbing, processing, and utilizing productive capital (investment), a variant of the old Hamitic hypothesis, and (ii) that minorities must not be granted opportunities for upward mobility and productivity; an antithesis to settled theories of economic growth and development.

In keeping with the findings of the USCCR, White writes: *“In America, schools with a lot of minority students are chronically underfunded. Is that the case because these students are poor, and poor communities have fewer resources for funding their schools? Or, is it because of the color of these students’ skin?”* (White, 2015). Implicitly, no matter how rich or poor the district in question is, funding gaps existed solely because of the racial composition of a school district. Mere increases in the presence of minority students are sufficient to deflate a district’s funding level. The finding of Mosenkis is further revealing: *“Mosenkis delved into funding data for 500 school districts in the state of Pennsylvania. Because richer school districts are able to drum up more cash through taxes, they should receive less state funding, and poorer districts should receive more. He looked at how much money they received and sorted those findings based on race and income”* (Ibid). Biases in the access to human capital have been systematically corroborated.

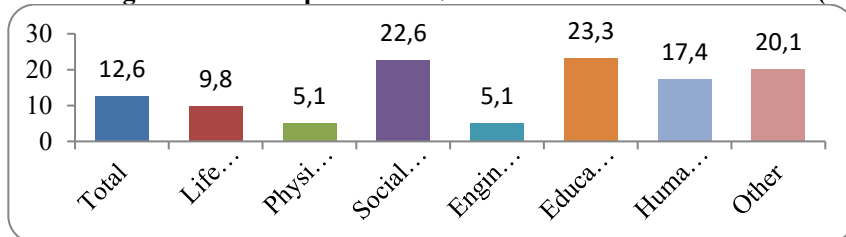
The Center for American Progress finds that: *“Across the country schools spent \$334 more on every white student than on every nonwhite student. Mostly white schools (90 percent or more white) spent \$733 more per student than mostly nonwhite schools (90 percent or more nonwhite). The United States spends \$293 less per year on students in mostly nonwhite schools than on students in all other schools. That’s 7 percent of the median per-pupil spending”* (American Progress.org).

If access to human capital is daunting at fundamental levels, the inefficiency with which capital is utilized at advanced levels is surprising. A substantial amount of costly advanced human capital is underemployed or unemployed, partly as a result of institutionalized neo-racist apologies and practices. A National Science Foundation report finds that many newly minted Ph.D.s complete school after nearly 10 years of studies with significant debt and without the promise of a job. Consequently, more than 12 percent of all Ph.D.s complete their doctoral programs with over \$70,000 of combined undergraduate and graduate student-loan debt. Rates are especially high in the social sciences and education. Those debt levels are alarming, especially because fewer students have jobs lined up immediately after graduation than was the case 10 years ago (McKenna, 2016). In the face of costly investments, unemployment, and underemployment, will people continue to acquire terminal degrees or advanced quality human capital as the population ages?¹⁴

¹⁴ McKenna reports that most Ph.D. holders are typically nearing or in their 30s by the time they begin their careers. Many of their friends have probably already banked a decade’s worth of retirement money

A brief analysis of the cost of human capital is provided in Figure 5. It is becoming costlier to acquire advanced degrees in the social sciences and education, relative to other disciplines. However, the financial cost of human capital is rather subsidiary to the scope of this paper. The paper is designed to discuss the institutional racial barriers to human capital accumulation and the consequences of the destruction of human capital by microaggressive behavior after the costly acquisition of human capital. In 2014, about 40 percent of Ph.D. holders could not be accounted for (Atlantic.com). While Figure 5 shows cost of advanced human capital, Figure 6 shows various categories of discrimination with socio-economic anxieties, complementarities, and implications.

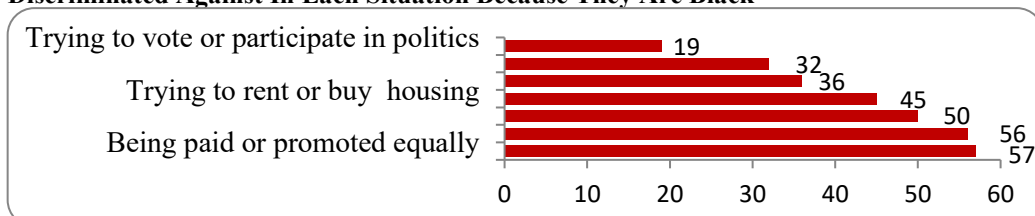
Figure 5: Percentage of Ph.D. Recipients with \$70K+ in Educated Related Debt (2014)



Source: The Atlantic (www.theatlantic.com)

The tripartite study of NPR, Robert Wood Johnson Foundation and the Harvard School of Public Health, reveals that the gravest racial discrimination concerns of less favored groups, applying for jobs and being paid or promoted equally (Figure 6). However, these concerns must not necessarily supersede getting into college; the gateway to success, which also has economic implications.

Figure 6: Percent of African Americans Saying They Have Ever Been Personally Discriminated Against In Each Situation Because They Are Black



Source: NPR/Robert Wood Johnson Foundation/Harvard T.H. Chan School of Public Health, *discrimination in America: Experiences and Views of African Americans*, January 26 – April 9, 2017 (p.6)

Apparently, the struggle to acquire human capital transcends the fundamental challenges of funding at rudimentary levels. These concerns are fundamental to human development (recall the HDI) and they also show why there has been a pool of underutilized resource that is associated with a racial disutility parameter. The inability to provide and prepare a workforce for available jobs is equally damning. An ill-prepared workforce, part of which relies on an opioid sedative to salvage feelings of inadequacy and despondence, is not going to facilitate the growth and development of any nation. The economic deficiency is already beginning to become apparent.

in a 401K account and some may have already put a down payment on a small town house. That is, the opportunity cost for getting a terminal degree is becoming too exorbitant.

The study of Carnevale et al. (2013) is very instructive. Some of their findings are worth restating for a sobering reflection on the resonance of skill deficiency and the contemporary state of structural unemployment. Obviously, the skill deficiency cannot be entirely attributed to institutional bias. Wage expectations (frictions), geography, and working conditions cannot be discounted.

By 2020, 65 percent of all jobs in the US economy will require postsecondary education and training beyond high school. There will be 55 million job openings in the economy through 2020: 24 million openings from newly created jobs and 31 million openings due to baby boomer retirements. Job openings in healthcare, community services, and Science, Technology, Engineering, and Math (STEM) will grow the fastest among occupational clusters. The United States will fall short by 5 million workers with postsecondary education—at the current production rate—by 2020 (Carnevale et al., p.2). In April, 2018, The Bureau of Labor Statistics reported that there were about 6.7 million job openings. In effect, the racial preferences (inefficiencies) that are built into investment choices and the labor market are counterproductive.

When more productive workers who have invested time and money to acquire an education under inauspicious circumstances are denied employment opportunities in hostile work environments—because they are more productive or because they look different—human capital is destroyed and unproductive residual capital is maintained at a steady state of gratuitous inertia. In fact, the very presence of divergent opportunities distorts the significance of literacy in the HDI. In reality, when people are literate and worthless at the same time, the metric of human development becomes a misleading indicator of human progress. The HDI barely shows that some amount of literacy has been acquired without fully accounting for the functionality of literacy, even in terms of income or life expectancy. The social effects of this anomaly cannot be trivialized.

The compensation for the use of labor is bifurcated when neo-racist and discriminatory sentiments permeate market outcomes. While the marginal productivity of residual labor is less than its compensatory value on the one hand, the marginal productivity of efficient labor may not necessarily be adequately compensated on the other hand. Consider the productivity of a female employee who is deprived of work, because she is more productive, or looks and sound different from her male counterpart:

$$MPL_M < PL_M \neq MPL_F \geq PL_F; \quad (2)$$

the less efficient but preferred worker earns an inefficiency wage when $MPL_M < PL_F$ and he could easily retire with distinction. The productivity-wage gap becomes a societal deadweight loss (efficiency loss). This anomaly coexists with an inefficient disutility parameter that is illegal and unrelated to output but tolerated by risk-loving employers:

$$W_M = W_F + \beta D; \quad (3) \quad \beta = \frac{W_M - W_F}{D}; \quad (4)$$

where β is the incremental disutility coefficient or parameter. The prejudicial employer incorporates the lack of outright societal opprobrium into his risk calculus. Hedegaard and Tyran (2018) find that discriminators will forego 8 percent of their earnings to avoid a coworker of another ethnicity. Under normal circumstances, the cost and benefit of the disutility parameter should be private. It is a pecuniary reward to an employee of preference and a psychological satisfaction to a discriminating employer who is unwilling to countenance the unlawfully rejected employee; a transfer of monetary benefit to the

counterpart of a favored employee. However, the discriminating employer externalizes the cost by encouraging society to divert the use of limited societal resources to adjudicate the approximate value of dynamic bias that is in violation of civil laws:¹⁵ Alternatively, β is an indicator of the amount by which the wage of preferred employees will deviate from normal or equitable value as employers subordinate the lives of unwanted female employees to preferred male employees by incrementally increasing the disutility for unwanted employees.

The shortfall, $W_M - \beta D$ (disequilibrium), is usually a statistical value of life (SVL) issue; where the value of the life of one employee or race is being devalued below the market value. These socio-economic concepts are rather apparent in situations where the quality and productivity of labor can be quickly estimated to determine the value of essential human capital that is required for the economic development of any society. Figure 7 extends the analysis to all categories of disadvantaged groups.

Beyond the usual and mundane theoretical propositions of the cost and benefit of human capital, Figure 7, in the Annex, highlights multiple observations of inefficient labor preferences in racist societies or environments. Under normal circumstances, someone with less education or human capital can be expected to get an initial return of “a” after incurring a cost of C_1 to acquire education. Under the preference for discrimination theory with a disutility parameter, a less educated employee can be paid just as much as a more educated employee with more human capital and an investment of $C_1 + C_2$; where $C_1 + C_2$ can be estimated to be well over \$70,000 in current dollars.

Assuming that both employees retire at the same time/age (R^*), the benefits of acquiring human capital will be significantly different for both employees; with the less competent employee acquiring more benefit (B_1 , e , B_3 and B_2) than the more competent employee (B_2 and B_3) who spent more time and financial resources to acquire human capital. In effect, there is a minimum efficiency loss to society, which is approximated by areas “e” and B_3 when there is a preference for discrimination and discriminatory compensation. The foregoing argument is based on the concept that a less qualified White/male employee is paid just as much as a Black/female employee who is more qualified.

The preference model also shows that there is a societal problem when employees are equally qualified but compensated differently for comparable investments ($C_1 + C_2$) in human capital. Unlike the compensation for investment in human capital incurred by the subordinated colored employee ($B_2 + B_3$), the preferred White employee will get $B_2 + B_3 + B_4$

¹⁵ This presupposes that employment preferences are dynamic, and that triers of facts do not share the same prejudicial sentiments as employers (no collinearity). Notably, society incurs the cost even when judicial institutions negligently fail to impose the required punitive sanctions. It is not unusual for discriminating employers or discriminators to brand victims of discrimination as “litigious” while also blaming them for the private and social costs of adjudication. The branding, which is an aversive form of discrimination, implicitly means that the victims are not entitled to legal rights after abuse in hostile work environments. Further, the branding is intended to ensure perpetual divergent opportunities—that is, it is intended to make the victims of bias perpetually unemployable (a retaliatory contrivance). Alternatively, aversive discrimination maintains that even if victims are treated fairly, they will still sue potential employers because they like to hang out in courts of law to frivolously spend money that do not have and waste their time for no apparent reason. The aversive form of preference disingenuously presupposes that victims do not need to have standing in any court of law and that they must perpetually be subjected to original sin—the sin of being “originally inferior” and filing a suit—even when their human rights have been violated.

for a higher initial compensation and the privilege of retiring at a later age (R^{*+}) when he/she is likely to be less productive. For example, after 40 years of work, an employee may no longer be intellectually active to innovate for subsequent generation even though similarly situated employees continue to innovate; especially after he/she has shown no propensity to be intellectually inquisitive during his/her relatively younger years of privileged employment. Of course, the privileged employee can provide some nontransferable (static) administrative benefit. In the interim, new and potentially productive entrants are kept out of the labor market. The model reveals another disturbing reality when human capital is underutilized. When a less qualified employee is preferred to do the work of a more qualified employee, the more qualified employee becomes underemployed or unemployed. He/she may be subtly conditioned to perform the work of a less qualified employee. Instead of earning the initial equivalent rates of “c” or “d,” the devalued employee initially earns a substandard rate that is slightly more than “a” after investing C_1+C_2 in human capital. The underemployed and devalued employee is worse off, because he loses $B_1+B_3+B_4$, which is also an equivalent of a disutility measure incurred by society. The NPR study (Figure 4) is rather revealing of the theoretical racial biases and inefficiencies illustrated by Figure 5. Preferential overvaluation and devaluation of human lives is a social cost that is antithetical to the proper and sensible utilization of human capital for sustainable economic development. By enacting laws that prohibit racial discrimination or discriminatory compensation, societies declare what they are willing to pay (WTP) for the productive use of human capital regardless of the ethnicity, gender, or religious affiliation of an employee. That is, the willingness to pay for human capital is rather declarative, even when it comes to assorted forms of human capabilities.¹⁶

Economists define efficient and inefficient allocations of labor in terms of the value of marginal product of labor (VMP_L) or the product of the marginal product of labor and its price. The VMP_L is the societal value of marginal product of labor, which means that undesirable valuations distort the societal value that is attached to the use of labor. A society allocates its labor resources efficiently when the VMP_L of available labor is approximately equivalent to each other within industrial sectors. Underemployment of any form reduces VMP_L . Pointedly, labor is not being paid its fair (market) price. Civilized societies have institutions and laws to promote efficiencies and equity in labor markets. Yet, these institutions use up inordinate time and valuable economic resources to inefficiently address reckless issues of racial prejudice and disutility. The social costs are compounded when these institutions become corrupt and dysfunctional. The next section of the paper discusses the modus operandi of dysfunctional institutions.

3(c) Institutional dysfunction (corruption) in defense of bias

All civilized societies expect their legal systems to interpret laws in a judicious manner. This expectation is generally taken for granted; it is generally presumed that courts will uphold the spirit and intent of just laws. This expectation also means that judicial decisions should be informed by general principles of law and what is fair/reasonable and just (*ex*

¹⁶ See the US Civil Rights Act; Title VII of the Civil Rights Act of 1964 prohibits discrimination in employment on the basis of color, sex, or ethnic origin. The Age Discrimination in Employment Act (ADEA) outlaws discrimination against employees 40 years and older, and the Americans with Disabilities Act (ADA) forbids discrimination in employment on the basis of disabilities. Employers must reasonably accommodate individuals with disabilities who can otherwise perform a job.

aequo et bono); meaning that the devaluation of human lives will continue when laws are corruptly and prejudicially interpreted and applied to preserve a backward status quo.

The issue of corruption is archaic, but it garnered unusual international attention as a result of its corrosive effect on twentieth century commerce.¹⁷ In the US, labor issues dealing with inequalities or illegal biases are usually dealt with by the Equal Employment Opportunity Commission (EEOC) and State or Federal courts. However, there has been growing resentment for the way and manner in which cases of bias are investigated and litigated in quasi-judicial and judicial settings. The EEOC typically conducts investigations for about 6 months, after which it must make a determination as to whether a complaint merits further investigation or has a reasonable cause. Aggrieved parties will usually file complaints (charges) with a state's Division of Human Rights or the EEOC to trigger an inquiry into racial bias in a workplace (See Table A1 in the Appendix for state charges in 2015 and 2017). Most of the state charges are reasonably high, with higher numbers for Alabama, Arkansas, and Mississippi.¹⁸

To determine that a complaint does not have reasonable cause or merit, the EEOC must use its investigative evidence to show that there is a reasonable chance that discrimination did not take place but that the complainant should be given a *pro forma* right to sue in a court of law. The right to sue presupposes that victims of discrimination, who are usually unemployed or underemployed, can retain qualified or willing lawyers to litigate their cases against public and private entities in "independent" courts of law. Figures 8 and 9 present findings of no reasonable cause (NRC), reasonable cause, and law suits brought by the EEOC. While there are other forms of resolution between the gaps, it is rather puzzling that the number of complaints and findings of no probable cause in discrimination cases can be so dramatically different. Figure 7 shows that findings of no reasonable cause are poised to surpass findings of reasonable cause in the near future. The *prima facie* evidence indicates that employment discrimination is dwindling and that labor markets are becoming racially friendlier and more efficient in the allocation of human capital. Victims of racial discrimination will disagree. The volumes of charges and cavalier dismissals indicate otherwise. Why are perceptions, complaints, and the data so incongruous, incompatible, or counterintuitive?

Corruption is a surreptitious misbehavior that is not immediately visible to outsiders. That is, outsiders will never be aware of the magnitude and corrosive outcomes of corruption without the revelation of corruption by the participants themselves, or those who have been privy to insider-information about unethical and corruptive conduct. Whistleblowers perform a valuable social function, especially because they make it possible for the public to collect information about social malfeasance for corrective action. Since whistleblowers are susceptible to punishment and assorted risks, they are generally protected by institutions that have well-meaning intentions to function properly

¹⁷ The US pioneered the Foreign Corrupt Practices Act (FCPA) in 1977. The FCPA has two main parts: an antibribery provision and an accounting provision (Biegelman and Biegelman, p.23). Beyond the corrosive effects of corruption in the normal course of business, the issue of corruption became so important that Transparency International devoted a Report to Judicial Corruption in 2007.

¹⁸ According to the EEOC, the number for total charges reflects the number of individual charge filings. Because individuals often file charges claiming multiple types of discrimination, the number of total charges for any given fiscal year will be less than the total of the ten types of discrimination listed.

as mandated. Consequently, laws officially protect whistleblowers from retaliation. However, the implementation of such laws depends on the disposition of judges and their alliances or color of independence in a social structure. In the twenty-first century, some of the most valuable information about the inner workings of the EEOC came from one of its own employees, Ricardo Jones, who served as Senior Federal Investigator from 2001 to 2010. Jones provided information about systemic corruption involving Federal Investigators, Federal Trial attorneys, and managers of the EEOC who took bribes and encouraged kickbacks to fix and throw out investigation for personal enrichment. Further, Jones reveals that only 1 percent of the complaints made to the EEOC are investigated, and that typically those made by African-Americans are labeled as “unfounded” (NRC). It is extraordinary that a Senior Federal Investigator would make such a revealing disclosure of institutional corruption with meticulous detail. The disclosure gives the public a rare and unusual glimpse into the operations of a perfunctory institution that is incapable of completely protecting the rights and fundamental liberties of those who depend on it. *“Many whistleblowers of color depend on the EEOC to protect their rights, especially in the federal service where whistleblowers do not normally have access to trials by jury. To hear that EEOC would fire Jones after he accused the agency of failing to do its job weakens the cause of ending discrimination through the administrative process”* (National Whistleblower Legal Defense & Education Fund).

These undesirable and suspicious activities of institutionalized malfeasance naturally complement any negligent and tawdry investigative procedure (willful negligence). For example, proper investigations do not disregard the central issues of a complaint, report findings based on partial hearsay, eliminate inculpatory evidence from reports, and willingly tolerate the contempt of respondents without the exercise of subpoena power. As such, the data trends must not be separated from investigative malfeasance and public disclosure of corrupt intent. Corrupt intent makes it unreasonable to demand increased funding for institutional operations and, not surprisingly, the literature has shown that there is little evidence that devoting additional resources to existing legal and financial government monitoring institutions will reduce corruption when workers are corrupt (Svensson, p.35). Unlike the revelation of malfeasance in enforcement, judicial corruption is more difficult to detect. Judges have an unusual *esprit de corps* of decorum and they promptly invoke “judicial independence.” They are rarely whistleblowers. Yet, judicial decisions affect the stability and vitality of nations. Judicial decisions impinge on inequality of opportunities, poverty, the quality of human capital, access to healthcare, the inability of families to educate their children, and the poverty spirals that are so prevalent in underdeveloped economies.

Judicial corruption is usually driven by conflicts of interest, bribery, and implicit bias that run afoul of ethical codes of judicial conduct. Levinson et al. (2010) note that legal commentators have often recognized that racial discrimination in America has evolved from intentional and overt to unintentional and covert. Reflecting on the manner in which racial bias is practiced and propagated, legal scholarship considering implicit bias has most frequently focused on the ways in which these covert biases manifest in society, such as in hiring and promotion decisions. In various hypothetical court scenarios, participant judges have shown implicit biases for Whites over Blacks (Levinson et al. p.197). Realistically, the progress or decay of civil society is also contingent on the behavior of those who are entrusted with a unique responsibility to interpret laws in a humane and

equitable manner that is free from corruption in order to increase public trust in the judiciary. Rose-Ackerman, one of the leading experts on the assessment of corrupt behavior, writes: *“Even if access to the judiciary is merit-based, corruption inside the judicial hierarchy can be particularly harmful. If top judges are corrupt or dependent on political leaders, they can use promotions and transfers of judges to discipline those unwilling to play the corruption game. Lower-level judges might then collect bribes and pass a share to those above. Top judges may also be able to manipulate the assignment of cases to those willing to rule in favour of powerful clients. The lack of dissents and low level of lay participation will make corruption relatively easy to hide.... To the extent that trial procedures are under the control of judges rather than lawyers, this will give litigants incentives to corrupt lower-level trial judges who can manipulate procedures in their favour....”* (Rose-Ackerman, p.22).¹⁹

While judicial corruption may not always be very evident, virtually all forms of corruption have common attributes, willful negligence and aberrant or unusual conduct. For example, building a case on hearsay and immunizing public defendants under tacky or dodgy nonsensical rulings are ocularly spurious and antithetical to normal jurisprudence. Implicitly, such an immunization from a civil suit will suggest that public employers can prejudicially create hostile and microaggressive work environments to discriminate and subordinate the lives of a particular group of employees.

No law permits employers (public or private) to perform their duties without a reasonable amount of care and diligence. It is easily discernible that there is no legal foundation for immunity when duties are poorly executed with prejudice and callous indifference. Of course, absolute immunity must also be separated from qualified immunity and there is no reasonable basis to conflate the two under any juridical circumstance. Further, as a matter of normal practice, real courts do not traditionally tolerate any measure of perjury at any level. The judicial system is based on truth-telling to prevent miscarriages of justice. Although judicial indiscretion is bad enough, it is particularly egregious when it is ostensibly used at a lower level of pleading to prevent a jury from hearing viable cases of bias. Not surprisingly, judicial decisions that deviate from reasonable and normal standards to make unusual concessions to a particular group will be naturally perceived as unconventional and odious. Such decisions injuriously betray public trust and alienate human lives. Stiglitz succinctly captures the essence of the rule of law: *“In any society what one person does may hurt, or benefit, others. Economists refer to these effects as externalities. When those who injure others don’t have to bear the full consequences of their actions, they will have inadequate incentives not to injure them, and to take precautions to avoid risks of injury. We have laws to provide incentives for each of us to avoid injuries to others—to their property, their health, and the public goods (such as nature) that they enjoy”* (Stiglitz, 2012, p.188).

The next section empirically analyzes the effects of spending on human capital and the opportunity costs of bifurcated investments in human capital. The basic assumption is that the cohort (minorities) with limited access to human capital is disproportionately imprisoned as a huge percentage of the US prison population. The hypotheses test whether the bias has a national dimension and whether the spending on per capita incarceration

¹⁹ In some countries where panels of judges and lay judges sit with professionals, corruption may be easily detected and discouraged.

relative to education is significantly different from state to state. The chi-squared estimator is utilized to estimate data in the Appendix. The results have implications for development or developmental goals.

4. Empirical findings: Are there significant variations in the costs of racial discrimination?

The deprivation of access to education (decrease in human capital) does not only degrade the quality of an employable workforce by creating a pool of unemployable and unskilled workers, it also increases the pool of actual and potential criminals who will demand more of societal resources in unproductive ways. It is naturally problematic when deprivations become systemic or national. Labor becomes immobile and job openings will also persist because of bias and underemployment. That is, workers will not be able to move from one state to another, because of the futility and impracticality of separating racially “bad” from racially “good” states.

Are the complaints of racial discrimination statistically different from state to state? This section examines the results of nonparametric single variable tests. The first test presumes that there is no significant variation in the number of charges of racial discrimination across the US in 2017. The District of Columbia is included to increase the degrees of freedom for the test (see Appendix A1). The second test proposes that state spending per correction inmate is not significantly different in the US (see Appendix A2). The data for the test have been obtained from the Vera state prison expenditure survey and US Census Bureau, Population Annual Estimates. Some studies have strenuously tried to rationalize differences in per capita spending and the drivers of such differences. The final test evaluates differences in per capita education and correction spending (at the state level) under the hypothesis that such spending is not statistically different from 1979 to 1980 and 2012 to 2013 (see also Appendix A3). The results of these tests are reported in Table 2. The samples for the second and third tests are relatively smaller (45 and 50 respectively)—without loss of numerical and statistical significance—because of data availability. The tests assume that the majority of the complaints represent the discontents of deprived minorities. The variables are weighted to reflect state variations and each sample observation is associated with a specific weight, w_i (5). The basic chi-squared model takes the usual form (6):

$$\bar{x}_w = \sum_{i=1}^n w_i = 1; \quad (5)$$

$$X_{obt}^2 = \sum \frac{(f_o - f_e)^2}{f_e}; \quad (6)$$

where f_o is for the weighted values of obtained (observed) frequencies, f_e is for the expected frequencies (weighted averages), and X_{obt}^2 is for the chi-squared obtained, which is compared to the critical chi-squared by tolerating 5 percent error. The weighted average is the preferred measure, because of variations in the amount of intra-state complaints and spending levels. Therefore, this approach takes into consideration the significance of the variations in intra-state complaints and the attractive property of consistency in variable operationalization. Figures 10 and 11, in the Annex, give a sneak peek into state expenditures on corrections and the racial dichotomy in incarcerations:

With a tolerance of 5 percent error, there is no significant statistical variation in the complaints of racial discrimination from state to state, no significant statistical variation in state spending per correction inmate, and no statistically significant variation in the policy of spending more on correction rather than education at the secondary level of

public education. In general, the fitted or expected frequency of the difference between per capita spending on education and corrections is about 2 percent in favor of corrections after controlling for state variations between 1979 and 2013. The expected frequency is also true for discrimination charges filed with the EEOC. The empirical results show that the null hypotheses cannot be rejected (see Table 2).

Table 2: Empirical Findings, (1979-2013). Ho: No significant variation across the US

Variables	Findings: (Ho)	Chi-Squared Statistic
State charges filed with the EEOC	Not significant	0.09**<67.50 [‡] (df=50, $\alpha=0.05$)
State spending per correction inmate	Not significant	0.25**< 60.48 (df= 44, $\alpha=0.05$)
Spending on education and corrections at state and local levels	No significant difference*	0.60**< 66.34 (df= 49, $\alpha=0.05$)

[‡] Including Puerto Rico (df=50). Critical values are not in percentages. On all instances, there is a failure to reject the null hypothesis. * The policy of spending more on corrections rather than education is not statistically different

5. Concluding remarks and policy implications

The creation of divergent opportunities has consequences for economic development and the prosperity of a nation. When a segment or segments of any society do not have complete access to rewarding education, the society cannot possibly develop a robust and employable workforce. The external and social costs of the development indicators reveal that policymakers must create auspicious conditions to increase human wellbeing; especially when social benefits are greater than private benefits. Institutional promotion of divergent opportunities not only misallocates human capital, it reduces and destroys human capital. Unchecked microaggressive behavior is known to liquidate superior human capital in favor of relatively worthless human capital.

Additionally, people who do not have access to educational opportunity and work can quickly become poorer and incapable of maintaining their health. In effect, divergent opportunities cause unwanted spirals that inhibit development. Poverty prevents families from living better and healthier lives and healthcare is not a tradable commodity or service. Therefore, as a policy matter, policymakers must deliberately promote and enforce policies that are designed attain equality of opportunity for the development of any nation.

The destructive nature of poverty has been aptly captured by Stiglitz: *It is not that the poor are lazy; they often work harder, with longer hours, than those who are far better off. Many are caught in a series of vicious spirals: lack of food leads to ill health, which limits their earning ability, leading to still poorer health. Barely surviving, they cannot send their children to school, and without education, their children are condemned to a life of poverty. Poverty is passed along from one generation to another...Along with poverty come feelings of powerlessness. For its 2000 World Development Report, the World Bank interviewed thousands of poor in an exercise that was called *The Voices of the Poor*. Several themes—hardly unexpected—emerge. The poor feel that they are voiceless, and that they do not have control over their own destiny”* (Stiglitz, 177-8).

The empirical evidence suggests that preferential treatment is a national problem with adverse national effects for education and labor mobility. More so, systemic bias gives no voice to the voiceless when public institutions are dysfunctional. It prevents an increasing supply of human capital and stifles better use of human capital. Unproductive capacities that hinder development are increased.

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Appendix

Table A1: EEOC Racial Discrimination State Charges as a Percent of Other State Charges (2015/17)

State	2015	2017	State	2015	2017
Alabama	49.60	46.40	Nebraska	20.40	21.20
Alaska	32.50	27.70	Nevada	32.70	32.10
Arizona	23.40	22.00	New Hampshire	10.30	11.10
Arkansas	42.10	43.50	New Jersey	34.70	33.10
California	32.50	33.40	New Mexico	17.20	18.30
Colorado	26.00	27.20	New York	28.30	29.70
Connecticut	26.50	37.10	North Carolina	40.20	38.60
Delaware	35.70	35.00	North Dakota	32.70	32.80
District of Columbia	39.50	40.10	Ohio	35.00	34.50
Florida	29.80	31.40	Oklahoma	34.00	31.70
Georgia	40.30	38.10	Oregon	24.30	15.10
Hawaii	32.30	28.20	Pennsylvania	27.50	26.50
Idaho	11.50	17.50	Puerto Rico	30.20	2.60
Illinois	39.80	37.90	Rhode Island	42.60	16.20
Indiana	32.30	33.20	South Carolina	17.20	38.90
Iowa	19.10	27.60	South Dakota	38.60	28.60
Kansas	32.40	31.80	Tennessee	35.20	36.70
Kentucky	37.70	37.10	Texas	17.10	34.00
Louisiana	45.80	41.00	US Virgin Islands	24.40	22.20
Maine	25.90	14.30	Utah	37.60	11.40
Maryland	37.70	37.40	Vermont	32.20	17.40
Massachusetts	19.90	24.50	Virginia	20.40	35.40
Michigan	30.80	31.30	Washington	32.70	32.10
Minnesota	39.30	34.90	West Virginia	22.00	24.00
Mississippi	44.00	41.30	Wisconsin	34.90	38.30
Missouri	37.50	35.20	Wyoming	19.60	16.70
Montana	20.80	10.70			

Notes: Puerto Rico and US Virgin Islands (US territories) are excluded from the empirical estimates. The charges are weighted to obtain state differences and observed frequencies.

Source: www1.eoc.gov

Table A2: State Prison spending per state resident, 2015

State	Cost per state resident	State	Cost per state resident
Alabama	0.015979	Montana	0.015313
Alaska	0.071405	Nevada	0.014148
Arizona	0.026132	New Jersey	0.0253
Arkansas	0.020806	New Mexico	0.021138
California	0.036618	New York	0.031125
Colorado	0.021638	North Carolina	0.018475
Connecticut	0.047104	North Dakota	0.014481
Delaware	0.046937	Ohio	0.019141
Florida	0.015812	Oklahoma	0.019308
Georgia	0.01498	Oregon	0.026465
Hawaii	0.020806	Pennsylvania	0.027963
Idaho	0.018142	Rhode Island	0.029461
Illinois	0.020639	South Carolina	0.014814
Indiana	0.012983	South Dakota	0.014148
Iowa	0.016478	Tennessee	0.018309
Kansas	0.013648	Texas	0.019973
Kentucky	0.013149	Utah	0.008489
Louisiana	0.022137	Vermont	0.030959
Maryland	0.029794	Virginia	0.016312
Massachusetts	0.014647	Washington	0.014647
Michigan	0.026132	Wisconsin	0.024967
Minnesota	0.012317	West Virginia	0.017144
Missouri	0.01964		

Note: State spending (observed frequency) has been reported as weighted values to reflect the weight of individual state spending.

Source: Vera state prison expenditure survey and the US Census Bureau, Population Division Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2016.

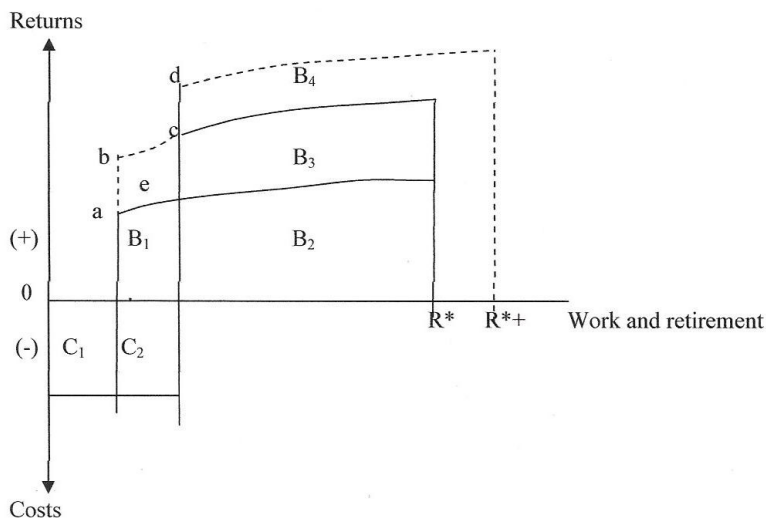
Table A3: Change between PK-12 current Expenditures and State and Local Corrections Current Expenditures from 1979-80 to 2012-2013 (percentage point difference in percent change)*

State	PK-12	Corrections	Difference	State	Pk-12	Corrections	Difference
Alabama	94	165	72	Montana	58	178	120
Alaska	43	114	71	Nebraska	95	258	163
Arizona	35	127	92	Nevada	41	57	16
Arkansas	117	344	226	New Hampshire	172	171	-1
California	40	178	138	New Jersey	120	199	79
Colorado	29	216	187	New Mexico	64	351	286
Connecticut	168	183	15	New York	122	143	21
Delaware	77	172	95	North Carolina	71	94	23
Florida	58	173	115	North Dakota	101	320	220
Georgia	105	189	84	Ohio	100	191	91
Hawaii	89	193	104	Oklahoma	47	230	183
Idaho	47	331	284	Oregon	28	163	135
Illinois	86	143	56	Pennsylvania	94	265	172
Indiana	85	179	94	Rhode Island	113	198	85
Iowa	60	132	73	South Carolina	98	104	5
Kansas	71	251	180	South Dakota	63	407	344
Kentucky	100	174	74	Tennessee	89	155	66
Louisiana	117	219	102	Texas	59	386	326
Maine	151	155	4	Utah	39	193	154
Maryland	106	152	45	Vermont	201	212	12
Massachusetts	102	100	-2	Virginia	102	170	68
Michigan	41	172	130	Washington	37	113	76
Minnesota	62	127	66	West Virginia	116	450	334
Mississippi	74	303	230	Wisconsin	69	241	172
Missouri	89	192	104	Wyoming	124	493	369

Notes: *Change in expenditures per person. The costs are also weighted to reflect the size of state expenditures. It is important to conceptualize the racial demography of incarceration—in the aftermath of the racial disparities in human capital accumulation—to put the table in perspective. Source: US Department of Education, *State and Local Expenditures on Corrections and Education: A Brief from the US Department of Education, Policy, and Program Studies Service*, July 2016, p. 21.

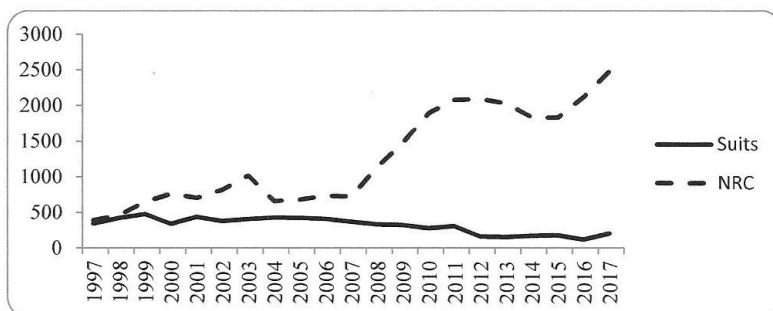
Figures

Figure 7: Inefficient societal allocations of human capital

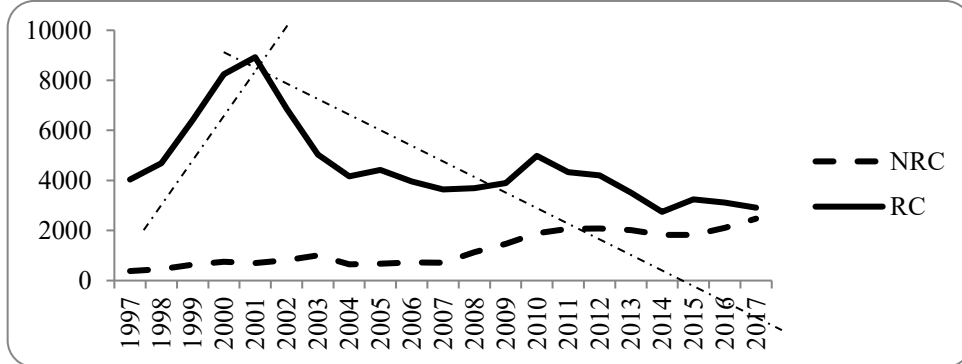


Source: Van den Berg, p.453, and author

Figure 8: Findings of No Reasonable Cause and All suits filed by the EEOC FY1997-2017

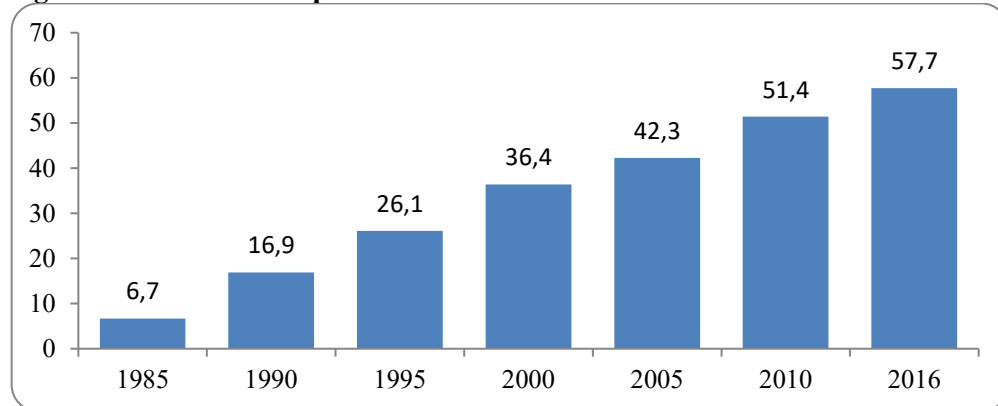


Data Source: www1.eoc.gov

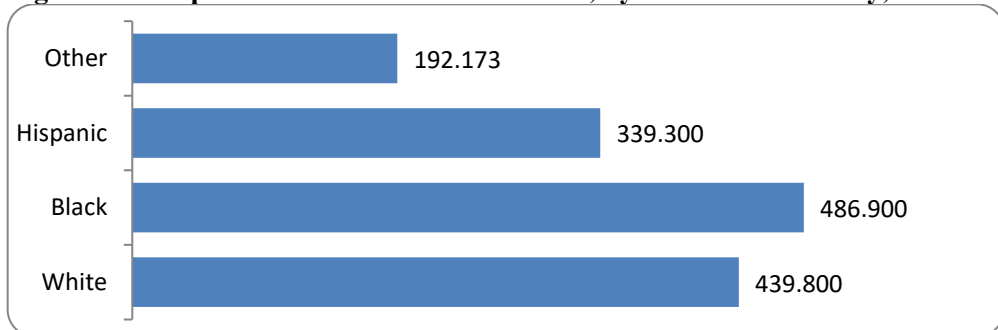
Figure 9: Findings of Reasonable and No Reasonable Causes FY1997-2017

Notes: The data on Receipts and Resolutions are imprecise and confounding. Resolutions are greater than receipts and the author has disregarded both in the absence of clarity.

Data Source: www1.eoc.gov

Figure 10: Total state expenditures on corrections in the US from 1985 to 2016 (\$b)

Source: statistica.com

Figure 11: People in State and Federal Prisons, by Race and Ethnicity, 2016

Source: Carson, E.A. (2018). *Prisoners in 2016*. Washington, DC: Bureau of Justice Statistics (cited in sentencing project, p.5).