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Bearing the Costs of Racial Inequality: *Brown* and the Myth of the Equality/Efficiency Trade-Off

Steven A. Ramirez*

Economists have long recognized that some, even many, policy issues involve a trade-off between two fundamental values: economic efficiency and equality.[1] Some commentators are so taken with this so-called trade-off that they have difficulty even imagining policy initiatives that further both values.[2] Nevertheless, there are many laws and policies that serve both to enhance economic efficiency and to create a more egalitarian society.[3] Indeed, there is a growing body of economic science that looks beyond mere market theory to clarify the endogenous factors associated with growth;[4] economists pursuing endogenous growth theory have increasingly shown that inequality

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1. Kermit Gordon, *Foreword* to ARTHUR M. OKUN, EQUALITY AND EFFICIENCY: THE BIG TRADEOFF at vii-x (1975). "At many points . . . society confronts choices that offer somewhat more equality at the expense of efficiency or somewhat more efficiency at the expense of equality. In the idiom of the economist, a [trade-off] emerges between equality and efficiency." *Id.* at vii. Of course, there are few absolutes in economics. Indeed, "Okun argues that both efficiency and economic equality can be increased by attacking some inequalities of opportunity, such as racial and sexual discrimination in jobs and barriers to access to capital." *Id.* at ix.

2. *See* Richard A. Posner, *The Efficiency and Efficacy of Title VII*, 136 U. PA. L. REV. 513, 513 (1987) ("Social welfare legislation, notably including legislation designed to help minority groups, is usually thought to involve a trade-off between equity and efficiency, or between the just distribution of society's wealth and the aggregate amount of that wealth."). Posner specifically argued that Title VII was not efficient because of the costs implicit in forcing whites to associate with people against their will. *Id.* at 515. Posner, however, fails to even discuss the fact that the decreased utility of forced association results in enhanced wealth through market transactions that may have otherwise not occurred. *See* John J. Donohue III, *Is Title VII Efficient?*, 134 U. PA. L. REV. 1411, 1431 (1986) ("Title VII can be understood to represent wealth-maximizing legislation rather than as some tyrannical or misguided attempt to disregard private preferences.").

3. OKUN, *supra* note 1, at 4 (stating that anything that improves "productivity and earnings potential of unskilled workers might benefit society with greater efficiency *and* greater equality.").

4. Neri Salvadori, *Introduction* to OLD AND NEW GROWTH THEORIES: AN ASSESSMENT xi (N. Salvadori, ed. 2003) ("The recent new growth theory (NGT) is also called 'endogenous growth theory,' since according to it the growth rate is determined from within the model and is not given as an exogenous factor."). *See also* ROBERT J. GORDON, MACROECONOMICS 330 (2003) ("In the late 1980s there was an explosion of activity in what is now called 'endogenous growth theory,' so named because it attempts to explain technical change as the outcome of market . . . incentives rather than just assuming that technical change drops exogenously from the sky."). Endogenous growth theory is just beginning to be impounded into the economic analysis of law. *See* Steven A. Ramirez, *What We Teach When We Teach About Race: The Problem of Law and Pseudo-Economics*, 54 J. LEG. EDUC. 365, 375 n. 49 (2004) [hereinafter Ramirez I] (arguing that racial inequality adds to the macroeconomic costs of race in America because inequality harms growth); Steven A. Ramirez, *The Law and Macroeconomics of the New Deal at 70*, 62 MD. L. REV. 515, 564 n. 380 (2003) [hereinafter Ramirez II] (arguing that elements of the New Deal demonstrated how incentives can be created to spur macroeconomic growth).

threatens growth and stability.[5] Perhaps no inequality is more difficult to justify economically than racial inequality, for race is a social construct with no biological or genetic content.[6] Racial inequality capriciously destroys the ability of individuals to economically self-actualize themselves and systematically strips society of the ability to exploit its human capital to the maximum extent possible.[7] The very concept of race amounts to the wanton and pervasive destruction of human capital.[8] If *Brown v. Board of Education*[9] means anything, it means that American society finally began to realize the self-destruction that accompanied racial apartheid and commenced the long and painful process of deracialization. *Brown* thus triggered an era marked by the most dramatic unleashing of human potential in American history.[10]

Professor Mildred Robinson's essay certainly demonstrates this point.[11] She stated that as an African-American law professor at the University of Virginia, *Brown* had an "exquisite" effect on her life chances and the opportunities available to her.[12] Moreover, as Professor Robinson's forthcoming book demonstrates, she is hardly alone.[13]

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5. *See, e.g.*, Anthony Shorrocks & Rolph van der Hoeven, *Introduction* to GROWTH, INEQUALITY, AND POVERTY: PROSPECTS FOR PRO-POOR ECONOMIC DEVELOPMENT 1, 2 (A. Shorrocks & R. van der Hoeven, eds. 2004) (stating that during the 1990s "[a]n expanding volume of empirical evidence showed no consistent relationship between growth [and] inequality . . . . Furthermore, a consensus emerged that the 'high performing' Asian countries . . . combined rapid growth of per capita income with relatively low and stable inequality."); Phillipe Aghion et al., *Inequality and Economic Growth: The Perspective of the New Growth Theories*, 37 J. ECON. LIT. 1615, 1615 (1999) ("[T]he view that inequality is growth enhancing has been further challenged by a number of empirical studies, often based on cross-country regressions of GDP growth on income inequality. They all find a negative correlation between the average rate of growth and a number of measures of inequality.").

6. Ramirez I, *supra* note 4, at 365 (showing that "[t]he pseudo-science of race appears recently to have suffered some fatal blows").

7. *See id.* at 374-75 (arguing that the cost of the construct of race in America approaches $1 trillion per annum).

8. WILLIAM EASTERLY, THE ELUSIVE QUEST FOR GROWTH 267-78 (2002) (showing that ethnic conflict leads to economically disruptive political divisions, including diminished investment in the human capital of ethnically oppressed persons).

9. 347 U.S. 483 (1954).

10. It is significant that *Brown* dealt with issues of educational opportunity. Endogenous growth theory identifies human capital formation as a crucial element to economic growth, as well as a means of achieving greater equality. *See also* Erich Gundlach et al., *Education is Good for the Poor: A Note on Dollar and Kraay in* Shorrocks, *supra* note 5, at 101 ("[T]aken together, our findings suggest that in addition to its growth effect, improving the stock of human capital may have a substantial [positive] distributional effect on the average income of the poor."). Professor Easterly suggests that ethnic divisions and oppression can lead to serious loss of output. EASTERLY, *supra* note 8, at 272. He also suggests that the decline of Jim Crow turned the South from the most economically backward region to a region that has grown sufficiently to reach near parity with the rest of the nation. *Id.* at 276-77.

11. Mildred Wigfall Robinson, *Fulfilling Brown's Legacy: Bearing the Costs of Realizing Equality*, 44 WASHBURN L.J. 1 (2004).

12. *Id.* at 1 ("Quite simply, were it not for [*Brown*] and the events set in motion thereby I would almost certainly *not* have had the personal and professional experiences that I have, in fact, enjoyed.").

13. *Id.* at 2 (citing MILDRED W. ROBINSON & RICHARD BONNIE, VOICES OF THE *Brown* Generation: Memories and Reflections of Law Professors (forthcoming) (manuscript on file with Professor Robinson)).

Many American law professors are people of color, a fact that simply was not possible before *Brown*.[14] The wealth generated by these law professors of color would have been no more possible than the economic wealth generating machine that is Michael Jordan or Bill Cosby or innumerable other political leaders, artists, writers, CEOs, athletes or entertainers of color.[15] American apartheid simply did not permit people of color to excel, economically or otherwise. How many contributions were extinguished by the legal imposition of American apartheid before *Brown*? How many contributions are being extinguished today by the very well-documented continuation of racial inequality in America? This paper cannot answer these questions. Instead, this paper merely seeks to show that reducing racial inequality in America today is consistent with efficiency and macroeconomic performance; in other words, any purported trade-off between economics and equality is largely illusory and mythological in the context of race in America in 2004, just as it is in many other contexts. Certainly this is the case with regard to Professor Robinson's call for a free, adequate, and effective education accessible to every American child.[16]

Part I of this article will demonstrate the assumptions and suppositions supporting the view that enhanced equality imposes economic costs in terms of either efficiency losses or losses in output. These assumptions will be challenged with specific counter-assumptions in an effort to illustrate the weakness of their foundation. Part II of this paper will demonstrate that inequality in general, and racial inequality in particular, is harmful to macroeconomic growth and stability. It will also attempt to assess the vast endogenous growth theory literature demonstrating this, with a view towards unlocking specific principles for attacking inequality in ways that can achieve higher growth. Part III will suggest specific policy proposals for taking steps to reduce inequality in the United States, through massive investment in human capital formation, along the lines of the GI Bill and the Civilian Conservation Corps. This program can provide a framework for successful public investment that will not cost over the long term, but will instead pay for itself many times over. This is demonstrated generally through endogenous growth theory and specifically by the experience of the United States from the New Deal programs.

In the end, this article fully supports Professor Robinson's call for devoting more resources to securing *Brown's* promise of equal educa-

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14. *Id.*
15. *Id.*
16. Robinson, *supra* note 11, at 6 ("Yet, as has been noted in numerous prior *Brown* anniversary observances, the task of affording every child access to an adequate, effective education in the nation's public schools remains incomplete.").

tional opportunity.[17] Such an investment, if properly structured, would spur growth, stability, and output for decades. In other words, reducing racial inequality through vindication of the underlying values of *Brown* would benefit the economy.

I. Inequality and Economic Efficiency

Economists have long maintained that there is a tension between equality and efficiency insofar as re-distributive taxation policies or social welfare programs are concerned.[18] Others seemingly go a step further, suggesting that there is a fundamental *trade-off* between productive efficiency (and/or growth) and social justice.[19] "If income is perfectly equal and everyone is guaranteed the same income level, then what is the incentive to work? Too much equality may reduce work effort (and investment) and thereby the total product of society."[20] Other commentators suggest that the neoclassical paradigm means that "[o]nce Pareto efficiency is attained, if the resulting society wants more equity it can have more; but equity must then be purchased by a reduction in efficiency."[21] This part of this article seeks to highlight the theoretical dynamics underpinning any trade-off be-

17. Robinson, *supra* note 11, at 29 ("Every child must have the right to an adequate education, complete in all respects. That right must be vindicated.").

18. "Income redistribution is not a socially costless endeavor because the policies required to accomplish it generally produce misallocations of resources. This basic proposition is well known and usually interpreted as implying a trade-off between equality and efficiency." Edgar K. Browning & William R. Johnson, *The Trade-Off Between Equality and Efficiency*, 92 J. Polit. Econ. 175, 175 (1984). Indeed, Arthur Okun cites to the work of Herbert Spencer, dating from 1884, for the proposition that all universally distributed public goods and services create market distortions by offering benefits without requiring any production in return. Okun, *supra* note 1, at 8 (citing Herbert Spencer, The Man versus the State 33 (1884)). Thus, according to Spencer, public libraries provided real income to citizens and enhanced the value of leisure, thereby creating disincentives for work. *Id.* (citing Herbert Spencer, The Man versus the State 33 (1884)). Okun notes that Spencer's argument is flawed because it fails to account for the efficiency-enhancing role of libraries in fostering the accumulation of human capital. *Id.*

19. *See* Aghion et al., *supra* note 5, at 1620.

20. Edward Nathan Wolff, Economics of Poverty Inequality and Discrimination 613 (1997). The only counterargument Professor Wolff articulates with any degree of effectiveness is that the distribution of income may conflict with social goals in terms of fairness. *Id.* at 612. An additional counterargument that Wolff raises is theoretically interesting but ultimately empirically indeterminate. Wolff suggests that because of the law of diminishing marginal returns, it is very likely that from a utilitarian/Pareto efficiency perspective, the redistribution of wealth from rich to poor is likely to maximize utility across society. *Id.* at 612-13. Judge Posner responds to this argument by pointing out that income may already be distributed in accordance with the value that individuals place on money relative to other values such as leisure. It is not clear that there is a means of resolving this debate. *Compare* Wolff, *supra* at 612-13 ("Thus, total utility will reach its highest value when everyone receives the same income.") *with* Richard A. Posner, Economic Analysis of Law 472 (6th ed. 2003) (comparing reasons for income inequality and concluding that if the income differences reflect only differences in taste, as opposed to differences in talent or luck, "then the rich *must* have higher marginal utilities of income than the poor; otherwise they would demand the same leisure, and their incomes would fall").

21. Herbert Hovenkamp, *The Limits of Preference Based Legal Policy*, 89 Nw. U. L. Rev. 4, 69 (1994). Professor Hovenkamp argues that the supposed trade-off between equity and efficiency is typically overstated, and, in any event, fails to address the fundamental issue of how law can serve to maximize welfare across society. *Id.* at 10-11.

tween equality and either allocative efficiency and macroeconomic output, which is occasionally termed productive efficiency.[22]

One premise underlying this trade-off is that such policies necessarily serve to diminish market incentives for individual innovation and wealth generation by imposing higher marginal taxation rates than would otherwise be necessary or by otherwise decoupling rewards from output.[23] As one prominent economist has stated "[T]he economic institutions of the United States rest on voluntary exchange and on private ownership of productive assets; and they involve money rewards and penalties that generate an unequal distribution of income and wealth."[24] So cast, this argument smacks of an efficiency-based rationale insofar as incentives are viewed as a mandatory foundation for facilitating and maximizing market operation as a means of allocating goods. Professor Wolff, however, casts this same argument with a more macroeconomic flavor: "[t]he **total product** of the economy will be greater if workers are rewarded according to what they produce rather than being guaranteed an income that is not directly related to their productivity."[25] Inequality is seen under this thesis as having both market efficiency and output maximization bases; and lowering inequality would serve to compromise these important economic values. Of course, if inequality reflects a social, political, cultural, and economic reality that entrenches privilege and strips individuals of real economic opportunity, then inequality acts to stunt incentives instead of reflecting an optimized system of incentives and rewards.[26]

A second theoretical basis for supposing that inequality can enhance growth is the higher propensity to save that is associated with

22. *See* JEFFERY L. HARRISON, LAW AND ECONOMICS 42 (2002) (defining productive efficiency as attaining an outcome, presumably macroeconomic output, "at the lowest possible cost"). Typically, macroeconomists, including those studying the endogenous factors driving macroeconomic growth, do not use the term "productive efficiency," preferring instead to use output or GDP. *See generally*, ROBERT J. GORDON, MACROECONOMICS (9th ed., 2003) (using the terms output and GDP). Professor Harrison distinguishes "allocative efficiency" from "productive efficiency" by focusing on the "willingness and ability to pay" of consumers to pay for goods. HARRISON, *supra*, at 42-43. Thus, a given nation may have a Pareto or Kaldor-Hicks efficient allocation of goods without achieving the highest potential macroeconomic output. *See* Steven A. Ramirez, *The Chaos of 12 U.S.C. Section 1821(k): Congressional Subsidizing of Negligent Bank Directors and Officers?*, 65 FORDHAM L. REV. 625, 683-85 (1996). Indeed, this paper supports that position by demonstrating that the distribution of resources may stunt growth, regardless of how efficiently such goods are allocated in accordance with pre-existing ability and willingness to pay.

23. Aghion et al., *supra* note 5, at 1615 ("[T]he conventional textbook approach is that inequality is good for incentives and therefore good for growth, even though incentive and growth considerations might (sometimes) be traded off against equity or insurance goals.").

24. OKUN, *supra* note 1, at 32.

25. WOLFF, *supra* note 20, at 615.

26. I have previously demonstrated that African-Americans in present day America suffer from "pervasive social oppression" as manifest in a range of social indicators of well-being from IQ scores to infant mortality to work environments pervaded by racial hostility. Steven A. Ramirez, *The New Cultural Diversity and Title VII*, 6 MICH. J. RACE & L. 127, 139-40, 150-52 (2000).

higher levels of wealth.[27] Thus, "[i]f the growth rate of GDP is directly related to the proportion of national income that is saved, more unequal economies are bound to grow faster than economies characterized by more equitable distribution of income."[28] This has been termed the "Kaldorian view" of how inequality can spur growth, because it was originally articulated by economist Nicolas Kaldor.[29] However, Kaldor did not assess the possibility that inequality may create political pressure for redistribution through distortionary taxes.[30] Finally, Kaldor did not address the possibility that inequality could have negative implications on a nation's political stability which could create an environment adverse to investment.[31]

A third basis for theorizing that inequality enhances output is the prospect of investment indivisibilities. This idea is somewhat related to the marginal-propensity-to-save thesis, but is explicitly premised on dysfunctional financial markets. "In the absence of a broad and well-functioning market for shares, wealth obviously needs to be sufficiently concentrated in order for an individual . . . to be able to cover . . . large sunk costs and thereby initiate . . . new industrial activity."[32] This thesis fails to support any given level of inequality in developed nations with efficient capital markets like the United States.

Thus, it was once "textbook" economics that inequality was necessary to create incentives for growth.[33] Indeed, even very recent economics textbooks adhere to this construct. For example, *The Economics of Poverty, Inequality and Discrimination*, published in 1997, illustrates the very speculative basis for the whole idea that inequality enhances the "total product" of an economy.[34] The analysis is supported by no empirical data.[35] There is no recognition that every argument in favor of inequality as a prop to growth has a counter speculative argument, nor that empirical data are needed to resolve the dueling theoretical speculations.[36]

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27. WOLFF, *supra* note 20, at 616 n. 2.
28. Aghion et al., *supra* note 5, at 1620.
29. *See* Nicholas Kaldor, *Alternative Theories of Distribution*, 23 REV. ECON. STUD. 83, 94-100 (1956) (articulating a Keynesian theoretical framework regarding the economic implications of differing propensities to save between labor and capitalists and assuming that capitalists will save more than laborers).
30. *See* Alberto Alesina & Dani Rodrik, *Distributive Politics and Economic Growth*, 109 Q. J. ECON. 465 (1994). Alesina & Rodrik posit, but do not test, the theory that inequality leads to political demands for distortionary taxation policies. *See id.* at 468-84.
31. Indeed, Alesina and Perotti find that after controlling for political instability, increased investment from any Kaldor effect appears to be cancelled out by demand for distortionary redistribution policies, or simply does not exist in the first instance. *See* Alberto Alesina & Roberto Perotti, *Income Distribution, Political Instability, and Investment*, 40 EUR. ECON. REV. 1203, 1205 (1996).
32. Aghion et al., *supra* note 5, at 1620.
33. *Id.* at 1615.
34. *See* WOLFF, *supra* note 20, at 615.
35. *See id.* at 611-17.
36. *See id.*

Judge Posner illustrates this habit of indulging only theoretical speculations consistent with the finding that inequality is not economically pernicious. Posner recognizes that a more egalitarian distribution of income is consistent with a lower crime rate because gainful employment would increase the opportunity costs of crimes like theft. Thus, redistribution away from the wealthy would diminish the benefits of such crimes.[37] That conclusion seems sound. Posner then speculates, however, that redistributing wealth could increase crime because the costs of protecting property are lower if property holdings are concentrated, and it would be easier to fence luxury goods in a society with a more egalitarian distribution of wealth.[38] Posner fails to cite any empirical data in support of these speculations and fails to even address whether the reduction in crime from employment outweighs the impact of these latter factors. Simply stated, the Posner analysis on this point is deeply flawed and ultimately amounts to bare speculation. It is difficult to see the point of this kind of economic "analysis" if it serves only as a tool for reaching or reinforcing conclusions that are consistent with the writer's comfort zone, ideology or self-interest.[39]

Instead, what is needed is an economic analysis that actually can provide reliable insight into difficult policy issues of law. The next section will seek to demonstrate that unlike the weak theoretical bases supporting the equality/efficiency trade-off, endogenous growth theory provides empirical support for economic propositions that can serve as a policy basis for legal and regulatory structures in the specific context of reducing racial inequality to *enhance* economic growth.

II. Inequality and Macroeconomic Growth and Stability

Economists now recognize that whatever the microeconomic efficiency of inequality, it impairs macroeconomic performance, leading

37. Posner, *supra* note 20, at 219.

38. *Id.* at 219-20.

39. A related theory of the relationship between economic performance and inequality is the Kuznets Hypothesis. In 1963, economist Simon Kuznets found an inverted U-shaped relationship between income inequality and per capita GNP. Aghion, *supra* note 5, at 1616 (citing Simon Kuznets, *Quantitative Aspects of the Economic Growth of Nations*, 11 Econ. Dev. & Cult. Change 1 (1963)). This has been widely interpreted to mean that inequality is needed to spur growth at the beginning of economic development and industrialization, but that the growth that comes with development then operates to diminish inequality. *Id.* Through the 1970s, the relationship seemed to hold, particularly with respect to developed nations like the United States. *Id.* Recently, inequality has risen significantly in a number of developed nations, including the United States. *Id.* The decline of the Kuznets Hypothesis tracks the decline of the so-called efficiency/equity trade-off, and it too suffered from a weak empirical basis accompanied by excessively sanguine theoretical assumptions. It also supports the suggestion that new theories are needed to understand the relationship between economic growth and inequality. *Id.* at 1617.

to reduced growth.[40] As of 2004, it was clear that among economists engaged in the study of growth, there was a "growing consensus that countries with relatively egalitarian distribution of assets and incomes tend to grow faster."[41] This consensus emerged coincident with the development of endogenous growth theory in the 1990s; several studies of national economic growth from large cross-sections of countries have examined the impact of inequality.[42] "The picture they draw is impressively unambiguous, since they all suggest that greater inequality reduces the rate of growth."[43] These cross-country regressions of GDP growth on inequality seemingly reach the same conclusion regardless of the precise measure of inequality utilized or whether developed or less-developed economies are studied.[44]

Thus, the proposition that inequality hinders growth has been tested empirically in a variety of differing contexts. In 1994, Alberto Alesina and Dani Rodrik regressed the average growth rate for differing sets of countries from 1960 to 1985 on the Gini coefficient[45] (a

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> The development of endogenous growth theory and the availability of comparable data on national incomes and growth rates for a large cross-section of countries has permitted the empirical analysis of the causes of national differences in growth rates. Within this vast literature, several studies have examined the impact of inequality upon economic growth. The picture they draw is impressively unambiguous, since they all suggest that greater inequality reduces the rate of growth.

Aghion et al., *supra* note 5, at 1617 (citing Alberto Alesina & Roberto Perotti, *Distributive Politics and Economic Growth*, 40 EUROPEAN ECON. REV. 1203, 1225 (1996) ("[I]ncome inequality increases social discontent and fuels social unrest. The latter . . . has a negative effect on investment and, as a consequence, reduces growth.")); *see also* Roberto Perotti, *Growth, Income Distribution and Democracy: What the Data Say*, 1 J. ECON. GROWTH 149 (1996); Torsten Persson & Guido Tabellini, *Is Inequality Harmful to Growth?*, 84 AMER. ECON. REV. 600, 617 (1994) (stating that: "[Our] main theoretical result is that income inequality is harmful for growth, because it leads to policies that do not protect property rights and do not allow full private appropriation of returns from investment" and that "[t]his implication is strongly supported by the historical evidence of a narrow [cross-section] of countries and by the postwar evidence from a broad [cross-section] of countries"); Roberto Perotti, *Political Equilibrium, Income Distribution and Growth*, 60 REV. ECON. STUDIES, 755, 757 (1993) (stating that a very unequal society will fail to invest in human capital formation sufficiently to sustain enhanced growth and that a more egalitarian society will invest in education sufficiently to reduce inequality and spur growth).

41. Shorrocks & van der Hoeven, *Introduction* to Shorrocks, *supra* note 5, at 7.

> To sum up, polarization because of inequality is a recipe for continuing underdevelopment. Either populist governments will seek to redistribute income to their supporters, or the elites will suppress democracy and mass education . . . . The data confirm that countries that are more unequal are also more politically unstable; they have more revolutions and coups. Societies with a large middle class, on the other hand, have incentives favorably aligned for growth, political stability, and democracy.

EASTERLY, *supra* note 8, at 267.

42. Aghion et al., *supra* note 5, at 1617.

43. *Id.*

44. Philippe Aghion, *Inequality and Economic Growth*, *in* GROWTH, INEQUALITY, AND GLOBALIZATION 7 (Philippe Aghion & Jeffrey G. Williamson, eds., 1998) (citing, e.g., R. Hausmann and M. Gavin, *Securing Stability and Growth in a Shock-Prone Region: The Policy Challenges for Latin America, in* SECURING STABILITY AND GROWTH IN LATIN AMERICA (Hausmann & Reisen, eds., 1996)).

45. The Gini coefficient:

> measures the inequality . . . within a country. It varies from zero, which indicates perfect equality, with every household earning exactly the same, to one, which implies absolute inequality, with a single household earning a country's entire income. Latin

measure of inequality) of income and of land. Both variables had a negative impact on growth, even after controlling for per capita income and primary school enrollment in 1960.[46] Torsten Persson and Guido Tabelli regressed the GDP growth on income inequality in a narrow cross-section of nine developed countries from 1830 to 1985 and a broad cross-section of fifty-six less-developed nations from 1960 to 1985. For the broader cross-section, they found that a greater share of income in the middle quintile of income distribution was robustly and significantly associated with higher growth.[47] From the more narrow cross-section they found that countries with more income concentrated in the top quintile suffered retarded growth.[48] "We can summarize our tentative conclusion in a simple aphorism: inequality is harmful for growth."[49] Roberto Perotti regressed growth on a wide variety of factors including inequality in a large cross-section of developed economies over a period of several decades; he also found a positive association between equality and growth.[50]

Aside from cross-country regressions of output and inequality, there is further evidence that any trade-off between equality and efficiency (or output) is mythological. Case studies from specific countries also support the central finding that inequality harms growth. For example, Alesina and Perotti support their analysis regarding the macro-economically pernicious effect of inequality with a comparison of successful Asian economies and less successful Latin American nations.[51] They suggest that their empirical analysis is consistent with events in those two regions, even though the data were not sufficient to include these nations in their study.[52] East Asian economies, like the "four dragons" of Hong Kong, Singapore, South Korea, and Taiwan, benefited from land reform after World War II, and thereafter enjoyed political stability and strong growth; Latin American nations were marked by durable inequality and slow growth.[53] Similarly,

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> America is the world's most unequal region with a Gini coefficient of around 0.5; in rich countries the figure is closer to 0.3.

Economics A-Z, THE ECONOMIST NEWSPAPER LTD. (2004) *available at* http://www.economist.com/research/Economics/alphabetic.cfm?LETTER=G#GINI%20COEFFICIENT (last visited Oct. 17, 2004).

46. Alesina & Rodrik, *supra* note 30, at 481. The Alesina & Rodrik empirical study uses two samples: first, a high data quality sample of forty-six nations that included all developed economies; and second, a larger sample of seventy nations that included many less developed countries. *Id.* at 479-82 and 486-87. Alesina & Rodrik also tested the impact of a democratic versus a nondemocratic government and negated any influence of this factor over the relationship between inequality and growth. *Id.* at 481.

47. Persson & Tabellini, *supra* note 40, at 610-15.

48. *Id.* at 605-10.

49. *Id.* at 600.

50. Roberto Perotti, *Fiscal Policy, Income Distribution , and Growth*, 1 J. ECON. GROWTH 149 (1996).

51. Alesina & Perotti, *supra* note 40, at 1226.

52. *Id.*

53. *Id.*

South Korea and the Philippines have served to provide an interesting case study demonstrating the relationship between growth and inequality.[54] In the early 1960s, these two nations had strikingly similar macroeconomic profiles.[55] Their GDP per capita, investment rates, and savings rates were comparable.[56] With respect to inequality, however, the Philippines had twice the level of income inequality as South Korea.[57] Over the next thirty years, South Korea's output quintupled, while the Philippines merely doubled.[58] Such dramatic differences in macroeconomic performance defy any microeconomic suppositions or theoretical speculations that there is some kind of trade-off between the pursuit of equality and the pursuit of growth.[59] All of this evidence is consistent: the supposed trade-off between equality and economic performance is illusory at best; indeed, the great weight of evidence strongly suggests that inequality harms growth.[60]

Moreover, there is good reason to think that the elimination of racial inequality carries a particularly powerful potential for enhanced growth. Race is a social construct. There is no biological nor genetic significance to anything that approaches traditional racial categories.[61] Therefore, all socially significant disparities must also be artificial social constructs. Indeed, in light of evidence from the new genetics, the burden of proof is clearly on our society in general to attempt to justify the deep social chasms that plague our society based only upon the thin veneer of race. In other words, inequality in general in the United States can plausibly be attributed, in part, to a rational system of market rewards and penalties; for African-Americans and other

54. Roland Benabou, *Inequality & Growth*, *in* NBER MACROECONOMICS ANNUAL 11-74 (1996).

55. Aghion et al., *supra* note 5, at 1615-16.

56. *Id.*

57. *Id.* at 1616.

58. *Id.*

59. *Id.* at 1616 (stating with respect to the comparison of South Korea and the Philippines that "contrary to what the standard argument predicts, the more unequal country grew more slowly").

60. *See* Saurav Dev Bhatta, *Are Inequality and Poverty Harmful for Economic Growth*: Evidence from the Metropolitan Areas of the United States, 23 J. URBAN AFFAIRS 335, 335-36 (2001) (stating that the "dominant view is that inequality is harmful for growth" but that there is evidence that inequality and growth are positively related for high GDP nations) (citing, e.g., ROBERT J. BARRO, INEQUALITY, GROWTH AND INVESTMENT, Nat'l Bureau of Econ. Research, Working Paper No. 7038, 1999). The alternative view suggests that the real culprit driving suppressed growth is not inequality, but rather poverty. Bhatta's empirical study supports the view that poverty, not inequality, suppresses growth. Nevertheless, Bhatta's study of the influence of inequality and poverty on growth in the major metropolitan areas of the United States fully supports the main thesis of this article: "there is definitely no tradeoff between poverty reduction and economic growth." *Id.* at 357. The issue of whether poverty reduction or inequality is the culprit is beyond the scope of this paper. This paper is essentially a search for policies that both reduce poverty/inequality and enhance growth. Bhatta concludes that "there may exist a virtuous cycle of poverty reduction and economic growth—higher economic growth helps to reduce poverty, and a lower poverty rate is beneficial for economic growth." *Id.* Unfortunately, due to Bhatta's limited focus on metropolitan areas, he is unable to pinpoint any particular set of policies to explain how to achieve that virtuous cycle.

61. Ramirez I, *supra* note 4, at 365-66.

people of color it is clearly a function of pervasive social oppression at work as manifest in measures of social well-being ranging from standardized test scores to infant mortality to life expectancy.[62] As such, there is a high degree of likelihood that reduction of racial inequality in America would deliver superior and durable boosts to macroeconomic performance. It is simply a reflection of the depth and durability of the racial disparities that are present today in the United States.

Some economists suggest that nations afflicted with racial strife suffer retarded macroeconomic growth by 2% per annum.[63] This occurs because ethnic and cultural strife and tensions create both distortions in public investments and harmful fiscal and monetary policies.[64] Ethnic diversity may be harmful to growth because politicians exploit ethnic jealousies and hatreds.[65] William Easterly has demonstrated that while economic inequality harms macroeconomic performance, and racial tension similarly harms macroeconomic performance, the two together create a powerful drag on output.[66] In the United States, racial oppression inflicts costs approaching $1 trillion per annum.[67] These costs may be understated relative to a society that embraces diversity and uses it as a strategic strength to enhance critical thinking skills and broaden cultural perspectives.[68] Empirical data suggest that harnessing these cognitive skills could enhance the productivity of a nation.[69] Consequently, a nation with cultural or ethnic diversity faces a choice: it may enact policies and a legal structure to facilitate unleashing the benefits of cultural diversity,[70] or it may do nothing and

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62. *Id.* at 374-75.

63. EASTERLY, *supra* note 8, at 273 (table 13.2).

64. *Id.* at 270-73.

65. *Id.* at 270.

66. *Id.* at 280 (figure 13.1).

67. *See supra* note 7.

68. *See, e.g.*, Poppy Lauretta McLeod, Sharon Alisa Lobel & Taylor Cox, Jr., *Ethnic Diversity and Creativity in Small Groups*, 27 SMALL GROUP RES. 248, 252 (1996) (finding that ethnically diverse workgroups produced higher quality ideas than homogenous groups).

69. *See e.g.*, David A. Carter et al., *Corporate Governance, Board Diversity, and Firm Value*, 38 FIN. REV. 33, 36 (2003) ("[D]iversity produces more effective problem solving. While heterogeneity may initially produce more conflict . . . the variety of perspectives that emerges cause decision makers to evaluate more alternatives and more carefully explore the consequences of these alternatives."). This study specifically found "a positive significant relationship between board diversity and firm value." *Id.* Absent studies of the macroeconomic impact of a society-wide embrace of diversity, such studies serve to provide the best inferential support that embracing diversity will support macroeconomic performance. Professor Easterly suggests that the repeal of "Jim Crow" laws in the South, and the end of apartheid generally in the United States, has mitigated the economic effects of race in America. EASTERLY, *supra* note 8, at 276-77.

70. A sample of such policies in the specific context of the American legal system would include encouraging businesses to implement diversity policies, requiring businesses to disclose risks of diversity, and adjusting the United States Supreme Court's approach to diversity issues under the Fourteenth Amendment. *See* Steven A. Ramirez, *A General Theory of Cultural Diversity*, 7 MICH. J. RACE & L. 33, 67-77 (2001) [hereinafter Ramirez III]; Steven A. Ramirez, *Diversity and the Boardroom*, 6 STAN. J. L. BUS. & FIN. 85, 109-32 (2000).

allow cultural diversity to slowly erode its economic performance and social fabric.[71] If not managed appropriately, ethnic and cultural divisions will sap an economy's strength; in combination with economic inequality it will seriously impede macroeconomic performance.[72]

This is significant in terms of the policy dynamics across a range of issues from tax policy to employment discrimination law.[73] Yet, in general terms showing that the alleged equality/efficiency trade-off is largely mythological is a beginning not an end.[74] For example, is there some threshold level at which inequality may benefit macroeconomic growth, notwithstanding the fact that the empirical record suggests that most of the world is not at that threshold? In general terms, the economic performance of communism suggests that societies in the past have pursued an equal distribution of resources in ways that diminished incentives to produce.[75] Certainly, it is fair to say that the empirical data thus far does not simply support blind pursuit of equality, everywhere and always.[76] No economist has suggested that perfect equality maximizes macroeconomic performance.[77] Moreover, mere recognition that inequality seems to have burdened most of the world's capitalist economies in no way illuminates the best methods of diminishing inequality in a way that will unleash a virtuous cycle of economic growth.[78] Endogenous growth theory teaches that many legal, regulatory, and policy initiatives support superior growth and macroeconomic performance.[79] Some of these initiatives may dimin-

71. *See supra* text accompanying notes 63-67.

72. "Inequality in labor income has increased sharply in the [United States] since the early 1970s." Jonathon Heathcote, Kjetil Storesletten & Giovanni L. Violante, The Cross-Sectional Implications of Rising Wage Inequality in the United States at 29 (January 2004) (unpublished manuscript, on file with author). "[W]e find that the unconditional expected welfare losses associated with widening wage inequality can be large. For example, they are equivalent to a five percent decline in lifetime income for cohorts entering the labor market in the mid 1980s." *Id.* at 30. The authors of this particular study state that one way to extend their research would be to focus upon inequality among non-white workers. *Id.* The data suggest, however, that despite a brief respite in the mid-1960s, the costs of racial inequality has also risen since the 1970s. Ramirez I, *supra* note 4, at 373.

73. *See generally* William Easterly & Sergio Rebelo, *Fiscal Policy and Economic Growth: An Empirical Investigation*, 32 J. MONETARY ECON. 417 (1993) (finding that redistribution through taxation and social spending raised growth rates); Perotti, *supra* note 40, at 150-51 (finding that high marginal tax rates are associated with a significant positive impact on growth).

74. *See supra* notes 5, 40, 41, and 44 and accompanying text.

75. EASTERLY, *supra* note 8, at 33-34 (recounting economic problems associated with communism and stating that as of 2001 the Soviet Union had one-sixth the per capita GDP of the United States).

76. Edward Glaeser, Jose Scheinkman, & Andrei Shleifer, *The Injustice of Inequality*, at 29 (July 29, 2002) (working paper, on file with author) (noting that massive redistribution of wealth is typically associated with "dramatically slowed economic and social progress").

77. Aghion, Caroli, and Garcia Penalosa specifically attempt to create a theoretical framework that explains why "in some instances, greater inequality may reduce an economy's rate of growth." Aghion et al., *supra* note 5, at 1616.

78. *See supra* notes 74-77.

79. *See* Aghion et al., *supra* note 5, at 1618 (stating that standard regressions in the endogenous growth theory include per capita GDP, educational levels, and the investment deflator).

ish and others may exacerbate inequality.[80] The mere recognition that inequality can retard growth does not in itself demonstrate any optimal means of pursuing equality or growth without understanding the underlying dynamics of an economy and the relationship of inequality to growth.[81]

Macroeconomists have worked to shed more light on the relationship between inequality and output by investigating a number of channels by which inequality may harm macroeconomic performance.[82] One approach stresses the role inequality may play in exacerbating macroeconomic instability and volatility.[83] Others suggest that political instability associated with social unrest leads to riots and other disruptions to commercial stability and expectations.[84] Another approach focuses on the ability of the rich to use political influence to subvert property rights and impair growth.[85] A final channel through which inequality harms macroeconomic performance is through credit rationing. Specifically, financial markets will often divert credit from those with the most productive uses to those with the most wealth available to secure repayment. Thus, greater credit availability is associated with higher growth.[86] The underlying theory to all of those approaches is that wealth inequality undermines investment in human or physical capital, impairing long-term growth.[87] In a globalized economy, where unskilled labor must be prepared to compete with Indian, Chinese, and Mexican laborers, human capital in particular seems pivotal to macroeconomic growth.[88]

Therefore, it makes intuitive sense that enhancing the ability of the impoverished to accumulate capital, and human capital in particular, can serve to mitigate inequality while simultaneously enhancing

80. Humberto Lopez, *Macroeconomics and Inequality*, at 1 (Oct. 23-24, 2003) (IMF working paper, on file with author) (finding that some "pro-growth policies" diminish inequality and others exacerbate inequality).

81. The theoretical framework for explaining why inequality harms includes the following four factors: 1) disaving or unproductive investment by the rich; 2) deficient human capital formation among the poor; 3) suppressed demand as the poor seek basic goods locally produced; and 4) political rejection among the masses. MICHAEL TODARO, ECONOMIC DEVELOPMENT 165-66 (1997).

82. Aghion et al., *supra* note 5, at 1618.

83. *See id.*

84. *See generally* R. Hausmann & M. Gavin, *Securing Stability and Growth in a Shock Prone Region: The Policy Challenges for Latin America*, *in* SECURING STABILITY AND GROWTH IN LATIN AMERICA (R. Hausmann & H. Reisen, eds., 1996) (finding that inequality is associated with macroeconomic volatility in Latin America). *See also* G. Ramey & V.A. Ramey, *Cross Country Evidence on the Link Between Volatility and Growth*, 85 AMER. ECON. REV. 1138, 1138 (1995) (finding that volatility in the rate of growth is associated with a lower average growth rate).

85. Edward Glaeser, et al., *supra* note 76, at 28 ("This paper describes a possibly important adverse effect of inequality on economic and social progress: the subversion of legal, regulatory, and political institutions by the powerful .... [T]his risk indeed became a reality in the [United States] during the Gilded Age and in Russia in the 1990s.").

86. *See* EASTERLY, *supra* note 8, at 267-78.

87. Aghion et al., *supra* note 5, at 1617.

88. *Supra* note 10.

economic growth.[89] Indeed, Humberto Lopez has specifically studied which pro-growth strategies are most likely to unleash a virtuous cycle of growth and poverty reduction.[90] "[W]e find that improvements in education and infrastructure . . . would lead to both growth and progressive distributional change."[91] Others have found that using a quality-adjusted measure of human capital investment manifests not only the key role human capital plays in achieving higher levels of growth, but also the ability for such investments to reduce inequality.[92] Other studies have pinpointed basic education as the crucial factor in dictating whether a community will participate in general macroeconomic growth.[93] Therefore, there is no doubt that investments in expanded educational opportunity for the economically marginalized can enhance growth and diminish inequality.

The next section of this article will seek to define further which measures are most likely to achieve these ends.

III. THE MACROECONOMIC GROWTH POTENTIAL OF REALIZING THE PROMISE OF *BROWN*

All of this demonstrates that realizing the promise of *Brown* is not costly; instead, enhancing educational opportunities for African-American children is far more likely to support gains in macroeconomic growth. Broad-based educational investments have been identified as pro-growth policies that also serve to diminish inequality. The United States seems poised to enjoy a virtuous cycle of growth and diminished inequality, and endogenous growth theory shows that these values do not conflict.

89. "Human capital has a crucial and positive role in long-run growth that goes beyond its direct role as a factor of production. Education and human capital may also be considered a complement to other production factors, determine the rate of technological innovation, and facilitate technological absorption." Lopez, *supra* note 80, at 9.

90. *Id.* at 20.

91. *Id.*

92. Gundlach, et al., *Education is Good for the Poor: A Note on Dollar & Kraay*, *in* Shorrocks, *supra* note 5, at 101 ("Hence, taken together, our findings suggest that in addition to its growth effect, improving the stock of human capital may have a substantial distributional effect on the average income of the poor."). This study responds to empirical findings that although primary educational enrollment and attainment were associated with higher growth, these factors had little distributional effect beyond the growth generated. *Id.* at 101-02. Both of these studies concur that enhanced human capital development leads to higher growth as Dollar and Kraay specifically find that secondary education is "positively and significantly associated with growth." David Dollar & Aart Kraay, *Growth is Good for the Poor*, *in* Shorrocks, *supra* note 5, at 48. These findings are also easily reconciled with the realization that skilled human capital is the input most likely to support growth and jobs in a globalized market, rather than mere primary education. *See supra* note 10. Finally, for purposes of this paper, any conflict between these studies is unimportant; neither suggests that enhancing educational opportunity as a means of reducing racial inequality would harm the economy or would imply any sort of trade-off with efficiency or some other economic value.

93. Martin Ravallion & Gaurev Datt, *Why Has Economic Growth Been More Pro Poor in Some States in India than Others?*, 68 J. DEVELOP. ECON. 381, 396 (2002) (finding that human capital development accounted for differences among states in economic outcomes in India).

Nevertheless, it is not as easy as just spending money. "[H]ighlighting the importance of education policy . . . should be accompanied by a more precise identification of effective education policies that would actually generate the expected effects."[94] Empirical evidence now shows that the institutional structure of the education system can be as important as resources.[95] Specifically, the following factors are associated with school performance even more than funding: central control over examinations and curricular and budgetary affairs; school autonomy in process and personnel decisions; competition from private educational institutions; individual teachers having both incentives and power to select teaching methods; limited union influence; scrutiny of students' outputs; and encouragement of parental involvement.[96] Thus, endogenous growth theory teaches the elements of a more effective means of structuring educational institutions.

Professor Robinson calls for neighborhood schools that are adequately funded and have a diverse learning environment.[97] At the same time she laments the realities that continue to plague that vision: the problems inherent in using the property tax system as the primary means of funding education; the problems of re-segregation of schools and re-segregation within schools that are ostensibly integrated; the United States Supreme Court's post-*Brown* retrenchment; and the erosion of urban tax bases.[98] Professor Robinson's vision is economically sound. She adds elements that are of certain value, such as a diverse learning environment, even though these elements have not yet been economically tested.[99] Her vision includes elements that are associated in the endogenous growth theory literature with successful educational (and therefore economic) outcomes.[100] Nevertheless, many such elements are beyond the scope of her paper. For example, her article does not address the role of unions. Moreover, Professor Robinson tacitly admits that many of the problems she articulates defy easy solution and may be intractable.[101] Thus, in the end, endog-

94. Erich Gundlach et al., *Education is Good for the Poor: A Note on Dollar and Kraay*, *in* Shorrocks, *supra* note 5, at 102.

95. *Id.* at 102 (citing Ludgar Woessmann, *Why Students in Some Countries do Better: International Evidence on the Importance of Education Policy*, 1 EDUC. MATTERS 67 (2001); Erich Gundlach & Ludgar Woessmann, *The Fading Productivity of Schooling in East Asia*, 12 J. ASIAN ECON. 401 (2001); and Erich Gundlach, Ludgar Woessmann & Jens Gmelin, *The Decline of Schooling Productivity in OECD Countries*, 111 ECON. J. 135 (2001)).

96. *Id.*

97. Robinson, *supra* note 11, at 28.

98. *Id.* at 10-24.

99. Ramirez III, *supra* note 70, at 54-55 (summarizing empirical data and constructing theoretical model regarding the benefits and power of well-managed diversity in education).

100. *Supra* notes 94-96.

101. Robinson, *supra* note 11, at 27.

enous growth theory merely suggests that her vision would spur growth.

This is the essential limitation of the endogenous growth theory. As a positive approach to economics it can explain much. Still, with a fundamental value of skepticism with respect to theoretical conjecture, the theory's youthful lack of specificity is crippling as a normative tool.[102] At times, it can provide useful insights into past successes and failures.[103] Rarely will its empirically based literature give definitive policy prescriptions.[104] Indeed, because endogenous growth theory relies heavily upon empirical studies of macroeconomic performance across nations, one may justifiably be skeptical of its lessons on a very fundamental basis: just because a certain policy approach is associated with desired economic outcomes in certain nations does not necessarily mean the same policy will yield identical results in another nation with a different social and cultural context.[105] Aside from providing general guidance about the likely effectiveness of general policies, however, endogenous growth theory certainly provides a foundation for further analysis. It can be supplemented with interdisciplinary studies bearing upon the same issue.[106] In addition, history can illustrate how the lessons from endogenous growth theory may be implemented most propitiously in a given society.[107]

For example, in the United States, one of the most successful educational investment programs has been the GI Bill.[108] The GI Bill provided $14 billion in educational benefits to 7.8 million returning veterans after World War II.[109] In a cost-benefit analysis of these expenditures, Congress found that for every dollar invested, the nation received between $5 and $12.50 in benefits.[110] "These are extraordinarily high ratios of benefits to costs, far above the returns earned by most other forms of investment, either government or private. Furthermore, the additional taxes paid by these college-educated veterans during their working lives more than paid for the cost of the program."[111] Thus, funding the aspirations of veterans who chose to at-

102. Endogenous growth theory dates to the late 1980s. GORDON, *supra* note 4, at 330.
103. *See supra* notes 51-60.
104. *Supra* notes 92-94.
105. For example, human capital investments in African-Americans prior to the demolition of "Jim Crow" laws would have been unlikely to spur growth to the same extent as afterwards. *See* EASTERLY, *supra* note 8, at 276-77.
106. *Supra* note 95.
107. Ramirez II, *supra* note 4, at 555-59 (providing overview of United States government sponsorship of human capital investments during the New Deal).
108. *Id.* at 557-59 (reviewing evidence of the success of the GI Bill). *See also* Staff Report, Subcommittee on Education and Health, Joint Economic Committee, A Cost-Benefit Analysis of Government Investment in Post-Secondary Education Under the World War II GI Bill, at 1 (Dec. 14, 1988) (unpublished report, on file with author) [hereinafter "Staff Report"].
109. Staff Report, *supra* note 108, at 1.
110. *Id.*
111. *Id.*

tend college, as a form of repayment for service to the nation, seems to be a self-funding proposition that yields benefits long into the future.[112]

A similar program for the development of human capital was the Civilian Conservation Corps (CCC). The point of the CCC was to divert idle youth from the temptations of urban mischief to productive works in service to the nation, often in national park or forest lands.[113] In the process, these youths learned skills and responsibility.[114] Commentators from the CCC era claimed that the benefits of the program greatly exceeded the costs of the program, even though no rigorous cost/benefit analysis is extant.[115] The work done by the CCC was important work: billions of trees were planted; millions of acres of land were protected from erosion and flooding; and hundreds of parks and recreation areas were developed.[116] In addition to forging men from boys, the CCC also gave American youth the opportunity to become acquainted with one another.[117]

There is similarly important work to be done today. In the third year of the War on Terror, our borders are still largely unguarded and key elements of our nation's infrastructure are not secure.[118] Yet, the African-American teen unemployment rate stands at 32.5%, while whites and Hispanics suffer a teen unemployment rate of 15.7% and 19.7%, respectively.[119] With so much need and so many idle youths, a modern reincarnation of the CCC focused specifically on civil defense against terror, seems reasonable. Service in this new civil defense corps can be an explicit *quid pro quo* for educational benefits, much like the GI Bill.[120] Volunteers from the most deprived backgrounds (but from all segments of America) could have the opportunity to attend a new federally funded network of secondary schools in exchange for future commitments of national service.[121] This network of federally-endowed schools can be explicitly structured to mimic key features associated with the success of the GI Bill and the CCC. These educational benefits would therefore be earned by self-selected

112. The Staff Report based its calculations on a thirty-five-year period of accruing benefits. *Id.* at 2.

113. Ramirez II, *supra* note 4, at 555-57.

114. *Id.* at 556.

115. JOHN A. SALMOND, THE CIVILIAN CONVERSATION CORPS, 1933-1942: A NEW DEAL CASE STUDY 218 (1967).

116. *Id.* at 221.

117. *See id.*

118. *See* Rhonda Chriss Lokeman, *Three Years After Sept. 11 Attack, U.S. is Still Vulnerable*, KAN. CITY STAR, Sept. 12, 2004, at B11 (reviewing insecure elements of homeland defense).

119. Sue Kirchoff, *Minorities Haven't Felt Economic Growth*, USA TODAY, June 16, 2004, at 4B.

120. *Supra* note 108.

121. This structure closely tracks the structure of the CCC and the GI Bill. *See supra* notes 108 to 118.

individuals, just as GI Bill educational benefits were distributed.[122] Our nation could be more secure and better educated. We could reduce inequality and enhance growth.

This alternative to Professor Robinson's vision has the advantage of being written on a clean slate, unburdened by the history of secondary education and the strong political bias against federal education.[123] Imagining a federal effort to funnel billions into secondary education is easier than actually forging a political coalition to make it happen.[124] After all, it is the failure of political will to continue the battle against racial oppression that is one of the most noteworthy messages from *Brown*.[125] As Professor Robinson catalogues, that history is one of massive resistance, massive judicial retrenchment, and a massive political failure to pursue racial justice as well as a failure to create a more powerful political economy for all Americans.[126]

A failure to pursue enhanced equity and output means we tolerate and accept diminished equity despite its huge costs. Such is the power of race in America in 2004.

IV. Conclusion

In general, Professor Robinson's call for vindication of the fundamental values of *Brown* is fully consistent with the new endogenous growth theory and maximizing the output of the nation. There is no trade-off between efficiency (or any other economic value) and equity, insofar as educating an oppressed minority is concerned. The wanton and pervasive destruction of human capital implicit in race in America is neither efficient nor consistent with maximum economic growth, output, and stability. *Brown* is economically correct today; the problem is the lack of political will to reduce racial inequality, not the economic incentives for doing so.

122. *Supra* note 108.
123. *See* Robinson, *supra* note 11, at 8.
124. *See* Robinson, *supra* note 11, at 13.
125. *See* Robinson, *supra* note 11, at 29.
126. *See* Robinson, *supra* note 11, at 10-24.