

# PLACE, NOT RACE: AFFIRMATIVE ACTION TO REDRESS SEGREGATION IN THE UNITED STATES

Sheryll D. Cashin

Professor of Law. Georgetown University Law Center. Washington D.C, USA

## RESUMEN:

En este ensayo, Sheryll Cashin describe los argumentos clave de su libro, *Place Not Race* (Beacon Press, 2014). Ella sostiene que Estados Unidos es un país con segregación que no está a la altura de los ideales de igualdad de su fundación y Constitución. Ella explora la idea de cómo la segregación por raza y clase, en escuelas y vecindarios, concentra la oportunidad en algunos lugares y la desventaja en otros y facilita el “acaparamiento de oportunidades” por parte de familias ricas y con educación universitaria. Ella concluye que los colegios y universidades selectivos de los EE. UU. tienen la obligación de contrarrestar estas tendencias sistémicas y que la acción afirmativa en las admisiones universitarias debería favorecer a los estudiantes de alto rendimiento en entornos desfavorecidos, independientemente de la raza. Ella también apoya reformas como hacer pruebas estandarizadas opcionales.

## ABSTRACT:

In this essay, Sheryll Cashin outlines the key arguments of her book, *Place Not Race* (Beacon Press, 2014). She argues that America is a segregated country that is not living up to the equality ideals of its founding and Constitution. She explores how segregation by race and class, in schools and neighborhoods, concentrates opportunity in some places and disadvantage in others and facilitates "opportunity hoarding" by affluent, college educated families. She concludes that selective US colleges and universities have an obligation to counter these systemic trends and that affirmative action in college admissions should favor high achieving students from disadvantaged settings, regardless of race. She also supports reforms like making standardized tests optional.

**PALABRAS CLAVE:** *Segregación, acaparamiento de oportunidades*

**KEYWORDS:** *Segregates, opportunity boarding*

I am very honored to speak at this roundtable on Globalization and Human Rights, here at the Universidad Rey Juan Carlos de Madrid. I am going to talk about the role of place and segregation in creating and limiting opportunity in the United States. I hope that this lecture provides useful insights about inter-group relations that are applicable to the European Union. Across the globe, countries face an eternal challenge of humankind: how to create pluralistic societies in which people of all origins have access to opportunity and

no one is excluded because of their race, nationality, ethnicity or economic status.

But before I talk about opportunity and a phenomenon called opportunity hoarding, I would like to begin with my personal story. I graduated from a strong, well-integrated public high school in Huntsville Alabama in 1980, when America and the South in particular were making good on the promise of *Brown v. Board of Education*—the famous case in which the US Supreme Court declared that state-sponsored racial

segregation in public schools was unconstitutional. Between 1968 and 1980, each year schools in the south became more integrated such that by 1980 about 43% of black children attended integrated schools, up from about zero percent when *Brown v. Board* was decided. And gaps in achievement between blacks and whites narrowed greatly during that period.

In 1980, my activist parents were broke but we lived in a sturdy middle class neighborhood and the public schools I had access to, were quite good. They enabled me, a co-valedictorian, to be accepted to Princeton, my dream school, although I decided to attend Vanderbilt on a full scholarship instead. Today a valedictorian from my high school, S.R. Butler, would not likely get much notice from Princeton or any elite institution because Butler and the neighborhood that surrounds it has gone from being integrated and middle class to heavily black and poor.

In a series of cases in the 1990s the Supreme Court signaled to states that segregation in public education is not unconstitutional if it results from segregated housing that the school district itself did not cause. As a result, many school districts stopped pursuing integration and returned to neighborhood school attendance plans that rapidly re-segregated public schools. And in a 2007 decision the Supreme Court barred school districts from considering the race of children in assigning them to schools, even when their goal is school integration. As a result of these cases, African American and Latino children are now more segregated today in US public schools than they have ever been in the last four decades.

Segregation, then, is a fact of American life. Only 42 percent of all Americans now live in a middle class neighborhood, down from 65 percent in 1970. Because of the increasing separation of the affluent and the highly educated from everyone else, place, where one lives, often determines who has access to high-quality elementary and secondary

education and, in turn, selective higher education.

Today only 17 out of about 3000 counties in the United States have a population in which more than half are college educated--counties that selective college recruiters flock to. They include Marin County north of San Francisco; Orange County in North Carolina's research triangle; Boulder County, Colorado; and affluent suburbs bordering Washington DC and New York City. In the vast majority of U.S. counties, however, college graduates are a small minority. College graduates used to be more evenly distributed, but segregation between them and high school graduates has nearly tripled since 1940.

Highly educated people are drawn to metro centers where other people like themselves live, and within the metropolis they gravitate to neighborhoods of their own kind. This is a phenomenon that transcends race. College graduates living in America's most highly educated metro areas are more residentially isolated than African Americans.

This concentration of human capital in some places and not others has consequences for children. Some kids, like mine, grow up in environs chock-full of doctors, lawyers, World Bank economists, prize-winning journalists – the list goes on and the networks are deep. This intellectual density greatly raises expectations and provides a steady flow of shared wisdom about what it takes to get into a great college. As educational elites congregate in their own universes, the standards and networks for entry into the leadership class become more foreign and less obtainable to those who live elsewhere. A dean of a prestigious U.S. law school said of the trend: «Those that are afforded a high-quality selective K-12 public or private education enter elite colleges and become leaders and everybody else gets to watch on television.»

## 1.- ROLE OF PLACE IN OPPORTUNITY HOARDING

Sociologist Charles Tilley defined opportunity hoarding as in-group sanctioned practices that have the effect of excluding out-groups. Such exclusion does not have to be intentional. But it happens. Sociologist Douglass Massey has overlaid this analysis with geography. Massey argues that where social boundaries conform to geographic ones, the processes of social stratification that come naturally to human beings become much more efficient and effective. In his words: «If out-group members are spatially segregated from in-group members, then the latter are put in good position to use their social power to create institutions and practices that channel resources away from the places where out-group members live. » The same power can be used to «direct resources systematically toward in-group areas. »

In lay terms, place locks in advantages and disadvantages that are reinforced over time. Geographic separation puts affluent, highly educated jurisdictions in direct competition with lower-opportunity places for finite public and private resources. And affluent jurisdictions are winning. No one says out loud that our public policy should be to give affluent schools more and better resources, but that happens as a result of a concentration of motivated parents who know how to advocate for what they want.

## 2.- SEGREGATION AND K-12 SCHOOL QUALITY

As I summarize in Chapter 2 of my book, *Place, Not Race*, racial segregation persists, though it is declining slowly. African Americans are the most segregated racial or ethnic group, followed by Latinos. Only about 30 percent of African American and Latino children in the US live in a middle class neighborhood. This means that black and brown children typically will attend

schools with less experienced teachers and fewer resources. They may have limited access to grocery stores and amenities like public parks and libraries. Often they will be exposed to violence in their neighborhood.

Meanwhile, economic segregation has spiked since 1970. In fact economic segregation is growing fastest among African Americans and Latinos. As the map illustrates, those persons of color who can escape to higher opportunity do. *Place* or geography, unlike race, reflects the complexity of post-civil rights America. The civil rights movement of the 1960s created the possibility of a black middle class and upper class *but it did not eliminate neighborhoods with concentrated black poverty*, where people with fewer options are stuck. This is the unfinished business of the American civil rights movement. In high poverty black neighborhoods, residents like those watched by the world recently in Ferguson, Missouri, typically endure predatory racial profiling by the police and a racially unfair and fiscally insane war on drugs that leads to costly and counterproductive mass incarceration. Ghetto neighborhoods also contribute to stereotypes about black people that make people with options flee whenever a school or neighborhood becomes identified as black. Finally, segregation of the college educated is growing even faster than economic segregation. Beyond causing opportunity hoarding, rising geographic separation of the affluent and the educated also appears to contribute to rising inequality. A nationwide study by economists at Harvard and Berkeley found that upward mobility for poor children varied greatly across the US, depending on where they lived. Those fortunate to live in cities like Seattle, Salt Lake City and Boston that had a sizeable middle class and enabled poor families to live among them had much higher rates of mobility than poor children in more segregated cities like Atlanta and Charlotte.

This study linking segregation to rising inequality is consistent with research showing

that America has much more of a class system than other developed nations. Contrary to our favored myth of America as the land of opportunity, it is much more likely in America than other advanced economies that a child's life chances depend on the class of her parents. Place seems to be playing a role in this. Income inequality has risen dramatically in the same decades that economic segregation was rising. The ratio of CEO to worker pay has increased 875 percent since 1978. For the super affluent people living in enclaves with no poor or working class people around, it may be easier to make class distinctions because they are not familiar with people who struggle. It may be easier to justify allocating larger shares of corporate revenues to those at the very top of the income scale and to the owners of capital.

Having a leadership class that is truly diverse in origins matters not just for social mobility but also for social cohesion. Elite universities have a critical role to play in creating a fairer, more cohesive society. They should be engines of mobility rather than reifiers of existing stratification.

### 3.- ROLE OF PLACE IN COLLEGE ADMISSIONS

The pool of disadvantaged high achievers is actually much larger than many imagine. Economists Caroline Hoxby and Christopher Avery have found that each year approximately 25,000 to 35,000 *low-income* high school students break the 90<sup>th</sup> percentile on the SAT or ACT (standardized college entrance exams) and have a high school grade point average of A- or better. Nearly 6 percent of this cohort is black and 8 percent is Latino. If admissions offices buy only SAT mailing lists, they will miss all high-scoring students that take only the ACT, which is favored by students the South and Midwest, regions that produce the largest portion of the pool of low-income achievers. Midwest

and Mountain states for example produce 21% of disadvantaged achievers while New England produces only 3.5% of them.

Geographic bias continues with outreach. Selective universities tend to visit high schools that are reliable feeders or are located where plenty of high achievers from other schools can also get to a recruitment presentation. The well-travelled route is to areas dense with college-educated parents: urban counties in southern New England, the Mid-Atlantic region, southern Florida or coastal California or large cities like Chicago, Houston, Dallas or Atlanta. Such traditional recruitment patterns explain why selective private schools fall short in their representation of low-income, high-ability students. They focus on the parts of the country with small numbers of such students and neglect areas with a lot more of them. This creates a false perception among selective colleges that the pool of disadvantaged achievers is miniscule, while doing little to increase college-attending behavior of strivers from low opportunity places.

Place influences not just where colleges choose to recruit but also where achievers choose to apply. Ironically high achieving students from low opportunity places get worse advice than their less stellar peers because high school guidance counselors tend to focus on colleges and practices that fit the general population. The end result of conventional practices in college admissions is that low-income achievers of all colors—even high-achieving ones, even valedictorians—are being overlooked by selective campuses because of geography.

### 4.- PLACE AND AFFIRMATIVE ACTION

In the United States affirmative action programs were developed in the 1960s, initially to make up for a long history of racial discrimination. In higher education, however,

universities have followed the guidance of the Supreme Court, which allows them to take race into consideration in the admissions process in order to achieve a diverse student body that confers educational benefits on everyone. The race of an individual applicant may be considered as a modest «plus factor,» if that person will contribute to the diversity of the student body, regardless of whether the person is disadvantaged.

I argue that what has been missing from affirmative action policies is an acknowledgement of the role of segregation in curtailing access to educational opportunity. Race-based affirmative action is a poor substitute, and possibly a deterrent, to dismantling the opportunity hoarding that now pervades elite college admissions. Race is no longer a definitive marker for who is disadvantaged in American society. Race-based affirmative action primarily benefits the most advantaged applicants of color, often the children of well-educated African immigrants who tend to live in integrated neighborhoods and do not suffer the legacy of American slavery or apartheid. These students and their wealthy black American cousins, like my children, will get into a very good college, even an elite one, if they choose to work very hard and take the most challenging classes available to them. But college-bound students from medium and low opportunity environs, particularly African Americans who disproportionately attend segregated schools, must be superhuman to overcome the structural disadvantages of place. Among those disadvantages are under-resourced schools with less experienced teachers and counselors, and fewer high achieving peers that raise expectations and share knowledge about the college admissions process. Ironically for proponents of affirmative action, a place-based approach, along with reforms like eliminating standardized entrance exams, would be more likely to help the populations that diversity advocates purport to care about.

In addition to helping people who are *actually* disadvantaged, I prefer college diversity strategies that encourage rather than discourage cross-racial alliances. Dr. Martin Luther King, Jr. saw in his increasingly multiracial band of civil rights soldiers an early example of the beloved community he espoused. The movement itself could be an approximation of the spirit of agape love and community that he envisioned for the whole of America. One expression of this love for community was seeing the mutuality in all types of human suffering. As King famously said, «Injustice anywhere is a threat to justice everywhere.» In the end, he did not turn away from the hardest part of community building. In his last book, King wrote, «Our loyalties must transcend our race, our tribe, our class, and our nation.»

There are obvious lessons here for supporters of affirmative action or any form of justice or fairness. Currently most civil rights advocates in the US focus on racial disparities, typically comparing the lives and struggles of blacks and Latinos to that of whites without ever acknowledging that plenty of whites are also harmed by the same structural barriers that most people of color face.

In America, poverty is growing fastest in the suburbs, where the majority of whites live. African Americans and working class whites have a lot more in common than affluent and poor whites do. I argue that we need to begin to harness this mutuality.

As awful and racially disparate as mass incarceration is, incarceration rates for black men have decreased over the past decade while incarceration rates have risen in the same period for white men. A focus solely on black-white disparities, however, masks a common experience of over-incarceration of high school dropouts of all colors.

Working class whites in particular hear in arguments about racial disparities an accusation of racism that turns them off and limits possibilities for strong multiracial alliances that could enact fairer policies that

bring all people along. While race remains highly salient in American society, a civil rights discourse that focuses on common harms and common values is needed to bridge huge gaps of perception between whites and people of color that contribute to toxic, partisan gridlock.

Thus I recommend giving special consideration to any high achiever who lives in a neighborhood or attends a school where 20 percent or more of their peers are poor, regardless of that person's race. I recommend that any high achiever who comes from low family wealth should also benefit from affirmative action. Both of these proposals accurately reflect the legacy of American segregation and are much more viable politically and legally than race. I believe my proposals are much more radical and unifying than trying to hold on to race-based affirmative action, which many states and schools are retreating from.

I also argue that standardized tests should be optional or not used at all; that financial aid should return to being based solely upon need, not so-called merit; that «legacy» preferences for the children of alumni should be scrapped; and that institutions that are serious about diversity should work with partner organizations like the Posse Foundation and Questbridge, which are astute at finding disadvantaged achievers who are prepared to succeed at elite institutions.

Those who have not escaped segregation are being excluded from the most viable route to the middle class – selective higher education - - and need the obstacles they face to be acknowledged and mitigated. These reforms will help marginalized racial and ethnic minorities but also all people with dreams that find themselves living in the wrong places through no fault of their own.