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Algernon Austin

Thurgood Marshall Institute, NAACP Legal Defense and Education Fund, Inc.

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Ending Black America's Permanent Economic Recession: Direct and Indirect Job Creation and Affirmative Action Are Necessary

Algernon Austin†

Abstract

Among the economic demands of the 1963 March on Washington for Jobs and Freedom was a demand for a federal jobs program that would eliminate unemployment for African Americans. From the 1960s to today, Black Americans have been about twice as likely as White Americans to be unemployed. Consequently, Black people never achieve low unemployment. They can be said to be living in a permanent economic recession. This Article presents a suite of policies to end high unemployment in African American communities. The policies include those that work indirectly by increasing the demand for goods and services, and those that directly create jobs. Since anti-Black racial discrimination in the labor market is at the root of the persistently high rate of Black joblessness, a strong affirmative action program to counteract discrimination will also be needed. Some might think that a universal basic income is an acceptable alternative to a jobs program, but a job has economic, psychological, and sociological benefits beyond an income. A society that denies many African Americans the opportunity to work denies them not just an income, but also opportunities for identity, self-esteem, service, and social relationships. Ending the permanent recession in Black America is an important step toward providing equal opportunity in America.

Introduction

Many Americans have heard excerpts of Dr. Martin Luther King Jr.'s 1963 "I Have a Dream" speech, but few Americans know the full title of the march where that speech was given. While the march is commonly referred to as the "March on Washington," the

†. Senior Researcher, Thurgood Marshall Institute, NAACP Legal Defense and Educational Fund, Inc. Please direct comments and questions to algernon.austin@outlook.com.

full title was the “March on Washington for Jobs and Freedom.”¹ The latter part, “for Jobs and Freedom,” is essential to a full understanding of the goals of the African American Civil Rights Movement. Half of the demands of the march were economic justice demands.² The leaders of the march were clear that legal rights without economic justice could not produce full equality for Black people.³ Black people were oppressed on the basis of both race and class, and thus liberation would require both legal rights policies and economic justice policies.

In 1963, on every economic measure, African Americans were significantly worse off than White Americans. About half of all African Americans lived in poverty,⁴ and African Americans were twice as likely to be unemployed.⁵ In a country as strongly capitalist as the United States, one’s economic resources have a significant impact on all aspects of one’s well-being.

It is important to recall this history, because as successful as the African American Civil Rights Movement was, too few people realize that the Movement failed to achieve most of its goals—especially its economic goals.⁶ As a result, today, we are still

1. MARCH ON WASHINGTON FOR JOBS AND FREEDOM, LINCOLN MEMORIAL PROGRAM (1963), http://okra.stanford.edu/transcription/document_images/undecided/630828-042.pdf [perma.cc/7MBE-VLRZ].

2. There was a bit of overlap and redundancy to the formal listing of the demands. *See id.* I re-organize them into six economic demands and three more typical civil rights demands. The economic demands are for (1) decent housing, (2) integrated education, (3) a federal jobs program, (4) a federal minimum living wage, (5) a broadened Fair Labor Standards Act, and (6) a law barring discrimination in employment. The civil rights demands are for (1) access to public accommodations, (2) voting rights, and (3) a broad anti-discrimination policy for all federal programs. The demand for integrated education could be placed in either category.

3. ALGERNON AUSTIN, THE UNFINISHED MARCH: AN OVERVIEW 2 (2013), <https://files.epi.org/2013/EPI-The-Unfinished-March-An-Overview.pdf> [perma.cc/NCB8-BSHQ] [hereinafter AUSTIN, THE UNFINISHED MARCH].

4. The U.S. Census Bureau does not provide the Black poverty rate for 1963, but it does provide Black poverty rates for 1959, when the rate was 55.1 percent, and for 1966, when the rate was 41.8 percent. In 1959, the White poverty rate was 18.1 percent. In 1963, it was 15.3 percent, and in 1966, it was 11.3 percent. JESSICA SEMEGA, MELISSA KOLLAR, EMILY A. SHRIDER & JOHN F. CREAMER, INCOME AND POVERTY IN THE UNITED STATES: 2019, at 61–66 tbl.B-5 (2020), <https://www.census.gov/content/dam/Census/library/publications/2020/demo/p60-270.pdf> [perma.cc/B3JD-5E3G].

5. AUSTIN, THE UNFINISHED MARCH, *supra* note 3, at 7–8.

6. Note 2, *supra*, outlined the civil rights goals. Today, civil rights activists view the voting rights gains as being eroded and the legal victory for integrated education as largely circumvented. *See* Press Release, NAACP Legal Def. & Educ. Fund, Inc., LDF Attorneys to Testify Before Congress in Support of Voting Rights Protections (Oct. 17, 2019), https://naacpldf.org/wp-content/uploads/Janai-Nelson-and-Deuel-Ross-Oct.-17-Testimonies-Press-Statement.pdf?_ga=2.207257555.1933672218.16

struggling with a myriad of racial inequality issues concerning African Americans. Among them are issues of Black-White economic inequality. African Americans are still significantly worse off than White Americans on every economic measure. Black people are more than twice as likely as White people to live in poverty,⁷ and they are twice as likely to be unemployed.⁸ In 2019, the median White family had eight times the net worth of the median Black family.⁹

This Article focuses on one of the economic demands of the March on Washington for Jobs and Freedom—the demand for jobs. The march called for “[a] massive federal program to train and place all unemployed workers—Negro and white—on meaningful and dignified jobs at decent wages.”¹⁰ The first section of this Article explains why this was a demand in 1963 and why it is still an important demand for those working to achieve Black-White racial equality today. From 1963 to today, the Black unemployment rate has consistently been twice the White rate.¹¹ This means that Black America is always experiencing high unemployment and always in a labor market that White Americans would consider to be a recession. The second section of this Article addresses policies that could end persistent high unemployment in Black America. The policies include those that work indirectly by increasing the demand for goods and services and those that directly create jobs. In addition to creating jobs, it will be necessary that African Americans obtain their fair share of the jobs created. Following the policy section, there is a discussion of what exactly affirmative action in employment is—it is not what most Americans think it is—and why there is a need for a strong affirmative action program

15941715-271256527.1615941715 [perma.cc/5TJF-BDBP]; see also AUSTIN, *supra* note 3, at 2–3, 5.

7. In 2019, the poverty rate for non-Hispanic White people was 7.3 percent, while it was 18.8 for the Black population. SEMEGA ET AL., *supra* note 4.

8. Olugbenga Ajilore, *The Persistent Black-White Unemployment Gap Is Built into the Labor Market*, CTR. FOR AM. PROGRESS (Sept. 28, 2020), <https://www.americanprogress.org/issues/economy/news/2020/09/28/490702/persistent-black-white-unemployment-gap-built-labor-market/> [perma.cc/3KWK-KN5G].

9. See Neil Bhutta, Andrew C. Chang, Lisa J. Dettling & Joanne W. Hsu, *Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances*, BD. OF GOVERNORS OF THE FED. RSRV. SYS.: FEDS NOTES (Sept. 28, 2020), <https://www.federalreserve.gov/econres/notes/feds-notes/disparities-in-wealth-by-race-and-ethnicity-in-the-2019-survey-of-consumer-finances-20200928.htm> [perma.cc/4YZG-FCSG].

10. MARCH ON WASHINGTON FOR JOBS AND FREEDOM, *supra* note 1.

11. AUSTIN, *THE UNFINISHED MARCH*, *supra* note 3, at 3, 7; see also Ajilore, *supra* note 8 (noting Black Americans “have consistently shown an unemployment rate double that of whites” since 1972).

to accompany any jobs program. The final section of this Article addresses why a universal basic income should not be substituted for a jobs program.

I. The Permanent Recession in Black America

In 1963, the Black unemployment rate was 2.2 times the White rate.¹² In 2019, the Black unemployment rate was 1.85 times the White rate.¹³ For all of the years in between these two dates, the Black unemployment rate has been about twice the White unemployment rate.¹⁴

Having an unemployment rate twice the White unemployment rate puts African Americans at a level of unemployment typical for economic recessions. To get a sense of what we should consider a low and a high unemployment rate, we can note that in the wake of the 1969 recession, the national quarterly¹⁵ unemployment rate peaked at 6.0 percent.¹⁶ In the wake of the 2001 recession, the quarterly unemployment rate peaked at 6.2 percent.¹⁷ An unemployment rate of 6.0 percent or higher is not a desirable rate.

12. AUSTIN, *THE UNFINISHED MARCH*, *supra* note 3, at 7, 11 n.5.

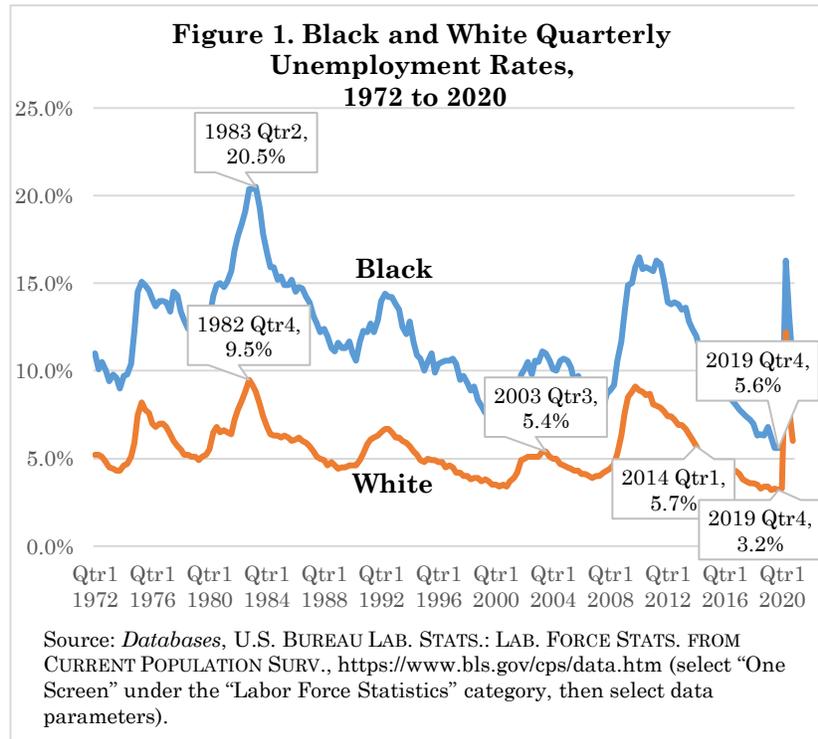
13. Author's analysis of Current Population Survey data. *Employment Status of the Civilian Noninstitutional Population by Sex, Age, and Race*, U.S. BUREAU OF LAB. STAT.: LAB. FORCE STAT. FROM CURRENT POPULATION SURV. (Jan. 22, 2021), <https://www.bls.gov/cps/cpsaat05.htm> [perma.cc/H3DP-YLDJ].

14. AUSTIN, *THE UNFINISHED MARCH*, *supra* note 3, at 7–8; *see also* Ajilore, *supra* note 8.

15. This Article uses quarterly unemployment rates to avoid the statistical noise in the monthly estimate of the Black unemployment rate.

16. Author's analysis of Current Population Survey data and recession dating information. *Databases*, U.S. BUREAU OF LAB. STAT.: LAB. FORCE STAT. FROM CURRENT POPULATION SURV., <https://www.bls.gov/cps/data.htm> (select "One Screen" under the "Labor Force Statistics" category, then select data parameters) [hereinafter Current Population Survey data]; *US Business Cycle Expansions and Contractions*, NAT'L BUREAU OF ECON. RSCH. (June 8, 2020), <https://www.nber.org/research/data/us-business-cycle-expansions-and-contractions> [perma.cc/2JAV-CTLZ].

17. *Id.*



While I see a 6.0 percent unemployment rate as a good place to mark the beginning of a high unemployment rate, the country has experienced much higher rates recently. The national quarterly unemployment rate after the Great Recession peaked at 9.9 percent.¹⁸ The Great Recession was called "Great" because, at the time, it was the worst economic downturn that the country had experienced since the Great Depression.¹⁹ An unemployment rate around 10.0 percent therefore should be considered a very high unemployment rate. With the COVID-19 recession, the national quarterly unemployment rate peaked at 13.0 percent.²⁰ Of course, this rate is worse still.

The quarterly unemployment data for African Americans from the U.S. Bureau of Labor Statistics begins in 1972. From 1972 to the third quarter of 2020, the median quarterly unemployment rate

18. *Id.*

19. *The Great Recession*, INVESTOPEDIA (Oct. 23, 2020), <https://www.investopedia.com/terms/g/great-recession.asp> [perma.cc/WQ4N-3DW5].

20. Author's analysis of Current Population Survey data and recession dating information, *supra* note 16; *US Business Cycle Expansions and Contractions*, *supra* note 16.

for African Americans was 11.3 percent.²¹ This is not merely a high unemployment rate; it is very high. It is significantly higher than the post-Great Recession national peak rate of 9.9 percent. Because it is the median rate, we know that half of the time, African Americans experience rates of unemployment *above 11.3 percent*. The Black unemployment rate peaked in the 1980s at around 20 percent.²²

That is the upper half of the Black unemployment rate distribution, but what about the lower half? How low does the Black unemployment rate typically go? The lowest Black unemployment rate from 1972 to 2020 was 5.6 percent (Figure 1)—close to the peak national rate of 6.0 percent after the 1969 recession. In other words, the lowest Black unemployment rate on record is still a rate that one might associate with a recession. It is for this reason that one can say African Americans live in a permanent recession. In terms of unemployment, Black Americans live in a labor market that feels like it is swinging from mild recessions to severe ones and never reaching a truly healthy low rate of unemployment.

Let us contrast the range of Black unemployment rates with the range for White workers. After the 1969 recession, the White unemployment rate *peaked* at 5.5 percent.²³ After the 2001 recession, the White unemployment rate *peaked* at 5.4 percent (Figure 1). These peaks are below the lowest Black unemployment rate since 1972.

The median White quarterly unemployment rate from 1972 to 2020 is 5.1 percent.²⁴ Half of the time, the White rate was lower than 5.1 percent, even dropping as low as 3.2 percent (Figure 1). Excluding the COVID-19 recession of 2020, the highest White quarterly unemployment rate since 1963 was 9.5 percent in 1982 (Figure 1).²⁵ Recall that the median Black unemployment rate is 11.3 percent. This means that the *worst* labor market conditions that White Americans typically experience is still better than the *average* labor market conditions Black Americans experience.

President Donald Trump repeatedly celebrated the historically low African American unemployment rate during his

21. Author's analysis of Current Population Survey data, *supra* note 16.

22. *Id.*

23. Author's analysis of Current Population Survey data and recession dating information, *supra* note 16; *US Business Cycle Expansions and Contractions*, *supra* note 16.

24. Author's analysis of Current Population Survey data, *supra* note 16.

25. *Id.* (including data from 1963–2020 to capture major recessions; Figure 1 includes only data from 1972–2020 because 1972 is the first year in which quarterly unemployment data for Black Americans is available).

presidency.²⁶ In 2019, the Black quarterly unemployment rate reached a historic low of 5.6 percent in the third and fourth quarters of that year (Figure 1). This was truly a good development—but it was not a development worth celebrating as if it were a great achievement.

Trump would never celebrate a mild recession among White Americans. Recall that the White unemployment rate sometimes has a post-recession peak at about 5.6 percent.²⁷ Why was Trump celebrating an African American unemployment rate one should associate with a mild recession? It is important that we do not accept separate and unequal standards for what is a desirable White unemployment rate and what is a desirable Black one. When the Black unemployment rate was 5.6 percent in the fourth quarter of 2019, White Americans had a truly good unemployment rate of 3.2 percent (Figure 1). Further, at that time, White Americans had experienced an unemployment rate lower than 5.6 percent *for almost six years* (Figure 1).

A. *Rejecting the “Natural Rate of Unemployment”*

In looking at the historical data on unemployment rate peaks and troughs, I am taking an empirical, as opposed to theoretical, approach to defining high and low unemployment. The theoretical approach would use the non-accelerating inflation rate of unemployment (NAIRU) which is similar to the “natural rate of unemployment.”²⁸ Economic theory predicts that if the unemployment rate falls below the NAIRU rate, inflation will accelerate and harm the economy.²⁹ The Federal Reserve has used NAIRU to determine when the unemployment rate is too low. When the unemployment rate falls below the NAIRU level, the Federal

26. See, e.g., Louis Jacobson, *Donald Trump Said He's Done More for African Americans than Any President. Historians Disagree*, POLITIFACT (Aug. 1, 2019), <https://www.politifact.com/article/2019/aug/01/donald-trump-said-hes-done-more-african-americans/> [perma.cc/YX65-MFJE]; Danielle Kurtzleben, *Trump Touts Low Unemployment Rates for African-Americans, Hispanics*, NPR: FACT CHECK (Jan. 8, 2018), <https://www.npr.org/2018/01/08/576552028/fact-check-trump-touts-low-unemployment-rates-for-african-americans-hispanics> [perma.cc/BZ5Z-UAGJ]; Calvin Woodward, Hope Yen & Arijeta Lajka, *AP Fact Check: Trump Exaggerations on Blacks' Economic Gains*, U.S. NEWS & WORLD REP. (June 8, 2020), <https://www.usnews.com/news/politics/articles/2020-06-07/ap-fact-check-trump-exaggerations-on-blacks-economic-gains> [perma.cc/UL5J-4HFH].

27. Author's analysis of Current Population Survey data, *supra* note 16.

28. John Judd, *NAIRU: Is It Useful for Monetary Policy?*, FED. RSRV. BANK OF S.F.: ECON. LETTER (Nov. 21, 1997), <https://www.frbsf.org/economic-research/publications/economic-letter/1997/november/nairu-is-it-useful-for-monetary-policy/> [perma.cc/6KP7-GPTX].

29. *Id.*

Reserve has felt pressure to increase interest rates to slow the economy and *increase unemployment*.³⁰

In recent decades, estimates of NAIRU have included unemployment rates at and above 6 percent,³¹ my starting point for “high” unemployment. Thus, in the past, at a 6 percent unemployment rate, the Federal Reserve would be considering *increasing the unemployment rate* to prevent a predicted rise in inflation. When the national unemployment rate has been around 6 percent, the Black unemployment rate has been around 10 percent.³² Thus, where the Federal Reserve defines “low” unemployment is very important for the economic condition of Black communities.

Although NAIRU is supposed to identify when inflation will accelerate, at least in recent decades, accelerating inflation has failed to appear. The economists Dean Baker and Jared Bernstein observed that “[d]uring much of the 1990s the unemployment rate was below the [Congressional Budget Office]’s NAIRU Yet, inflation actually grew more slowly.”³³ This failure of accelerating inflation to appear has occurred again recently. As the economist John Komlos notes:

Inexplicably, the official unemployment rate has been below the natural rate since March 2017. In May 2018 the official unemployment rate (3.8%) was 0.9% below the supposed natural rate of unemployment of 4.7%. And yet, accelerating inflation was nowhere in sight.³⁴

Komlos’ book was completed before the period of below-NAIRU unemployment ended. This period spanned from the second quarter of 2017 to the fourth quarter of 2019—over two years—without accelerating inflation.³⁵

30. *See id.* (responding to a tight labor market, “[t]he federal funds rate was raised from 3% in early 1994 to 6% in early 1995 without actual increases in broad measures of inflation”).

31. *Id.*

32. Author’s analysis of Current Population Survey data, *supra* note 16.

33. DEAN BAKER & JARED BERNSTEIN, GETTING BACK TO FULL EMPLOYMENT: A BETTER BARGAIN FOR WORKING PEOPLE 3 (2013).

34. JOHN KOMLOS, FOUNDATIONS OF REAL-WORLD ECONOMICS: WHAT EVERY ECONOMICS STUDENT NEEDS TO KNOW 194 (2d ed. 2019).

35. Author’s analysis of Current Population Survey data, *supra* note 16, and Natural Rate of Unemployment (NROU) data, U.S. Cong., Budget Off., *Natural Rate of Unemployment (Long-Term)*, FED. RSRV. BANK OF ST. LOUIS, <https://fred.stlouisfed.org/series/NROU> [perma.cc/PHQ2-A7MW].

As Baker and Bernstein point out, low unemployment rates—below NAIRU—are beneficial to low-wage workers.³⁶ During the 1990s, they report that “low-wage workers made particularly strong [employment] gains, [and] poverty rates fell sharply.”³⁷ These low-wage workers are disproportionately African American.³⁸ It would be a grave mistake to use NAIRU as a target for low unemployment if one wishes to help African Americans.

B. Discrimination, Not Education, Explains the Unemployment Rate Gap

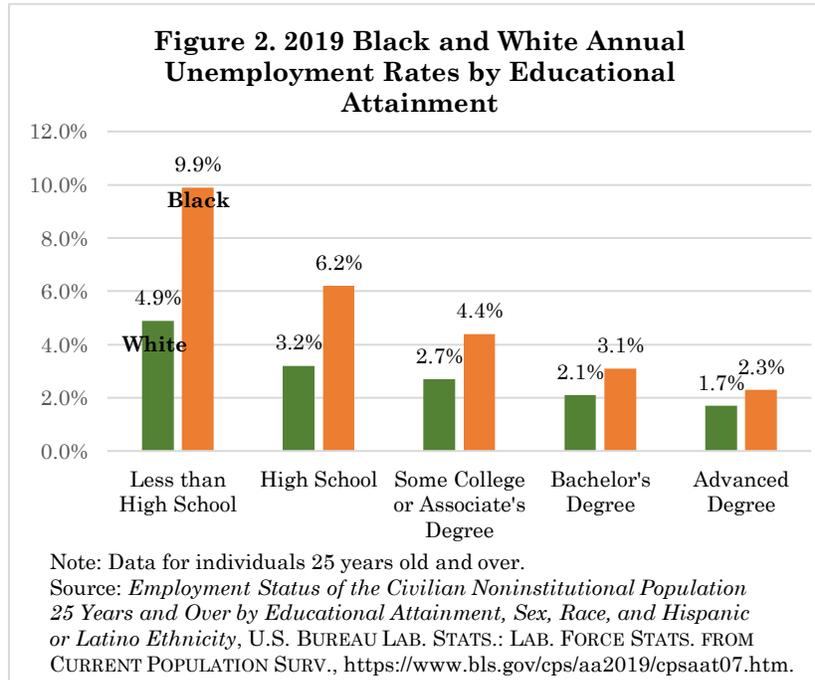
Some may wonder to what degree the Black-White disparity in unemployment is the result of educational attainment differences between the two groups.³⁹ The answer is that educational attainment differences explain little of the unemployment rate gap. We can see this by looking at the annual unemployment rates for Black and White workers by educational attainment level in 2019 (Figure 2).

36. BAKER & BERNSTEIN, *supra* note 33.

37. *Id.* at 3.

38. In 2019, 14.7 percent of Black workers were paid hourly rates, but 17.9 percent were paid at or below the minimum wage. U.S. BUREAU OF LAB. STAT., CHARACTERISTICS OF MINIMUM WAGE WORKERS, 2019, at 3 (Apr. 2020), <https://www.bls.gov/opub/reports/minimum-wage/2019/pdf/home.pdf> [perma.cc/RAR8-J2CV]. See also David Cooper, *Workers of Color Are Far More Likely to be Paid Poverty-level Wages than White Workers*, ECON. POL'Y INST.: WORKING ECON. BLOG (June 21, 2018), <https://www.epi.org/blog/workers-of-color-are-far-more-likely-to-be-paid-poverty-level-wages-than-white-workers/> [perma.cc/Q6FB-C8L5].

39. See, e.g., David Andolfatto & Andrew Spewak, *Why Do Unemployment Rates Vary by Race and Ethnicity?*, FED. RSRV. BANK OF ST. LOUIS: ON ECON. BLOG (Feb. 6, 2017), <https://www.stlouisfed.org/on-the-economy/2017/february/why-unemployment-rates-vary-races-ethnicity> [perma.cc/C9H6-AG8G] (reviewing possible factors—educational attainment among them—that are thought to contribute to the racial disparities in unemployment rates).



The unemployment rate for Black workers without a high school diploma was 9.9 percent, but it was only 4.9 percent for their White peers (Figure 2). For Black workers who have a high school diploma, the unemployment rate was 6.2 percent—higher than the rate for White high school dropouts (Figure 2). For Black workers with a bachelor's degree, the rate was 3.1 percent, which was about the same as the 3.2 percent rate for Whites who only had a high school diploma (Figure 2). At every educational attainment level, the Black unemployment rate is significantly higher than the White unemployment rate (Figure 2). Because of this situation, even if Black workers had the same educational attainment as White workers, we would still see 91 percent of the Black-White unemployment rate disparity.⁴⁰ Education cannot solve this problem.

40. In 2019, if we were to give the Black labor force the educational distribution of the White labor force, the Black unemployment rate would be reduced 0.2 percentage points, which is to say that 91 percent of the Black-White unemployment rate gap would remain. This estimate is based on the author's analysis of Current Population Survey data. *Employment Status of the Civilian Noninstitutional Population 25 Years and Over by Educational Attainment, Sex, Race, and Hispanic or Latino Ethnicity*, U.S. BUREAU OF LAB. STAT.: LAB. FORCE STAT. FROM CURRENT POPULATION SURV., <https://www.bls.gov/cps/aa2019/cpsaat07.htm> [perma.cc/G7TV-Q42M].

While education does not explain much of the unemployment disparity, there is considerable reason to believe that racial discrimination plays a significant role. Anyone conducting a serious examination of American society would expect this to be so. The economic subjugation of Black people is a deep part of the American political economy. As the sociologist Orlando Patterson summarizes:

For two and a half centuries America enslaved its black population, whose labor was a critical source of the country's capitalist modernization and prosperity. Upon the abolition of legal, interpersonal slavery, the exploitation and degradation of blacks continued in the neoslavery system of Jim Crow, a domestic terrorist regime fully sanctioned by the state and courts of the nation, and including Nazi-like instruments of ritualized human slaughter.⁴¹

Therefore, for over three centuries, anti-Blackness was sustained in American culture and social structure.

Since the passage of anti-discrimination laws in the 1960s, people with anti-Black bias and people who discriminate against Black people have become more covert and subtle in their expression of anti-Black attitudes and behavior.⁴² It is not reasonable to think that the anti-Blackness that persisted for over three centuries, and that incited anti-Black riots and lynchings, disappeared overnight with the passage of anti-discrimination legislation. This belief would be equivalent to arguing that opposition to abortion ended because of *Roe v. Wade*.⁴³

While it has become harder to document anti-Black bias and discrimination in the post-Civil Rights era, it is still being done. Because individuals want to present themselves as unbiased, people often try to hide their bias when completing surveys.⁴⁴ But

41. Orlando Patterson, *Affirmative Action: The Uniquely American Experiment*, N.Y. TIMES: BOOK REV. (Jan. 30, 2020), <https://www.nytimes.com/2020/01/30/books/review/the-affirmative-action-puzzle-melvin-i-urofsky.html> [perma.cc/M6A3-FTKL].

42. See MAHZARIN R. BANAJI & ANTHONY G. GREENWALD, BLINDSPOT: HIDDEN BIASES OF GOOD PEOPLE 178, 184 (2013).

43. *Roe v. Wade*, 410 U.S. 113 (1973); see, e.g., Linda Greenhouse & Reva B. Siegel, *Before (and After) Roe v. Wade: New Questions About Backlash*, 120 YALE L.J. 2028 (2011) (highlighting the polarization of attitudes towards abortion post-*Roe*).

44. Social scientists recognize that survey data can be inaccurate because of this social-desirability effect. FLOYD J. FOWLER, JR., SURVEY RESEARCH METHODS 94 (5th ed. 2014). They also find that when people aren't aware that they are being studied, their measures of racial prejudice and discrimination reveal higher levels of anti-Black bias than in survey data. See BANAJI & GREENWALD, *supra* note 42, at 181–84.

with some creative data analysis techniques and some new measures of anti-Blackness, it is still possible to find evidence of anti-Blackness in survey data. I have found that about 30 percent of Americans rate Black people as significantly lazier than White people, and about 30 percent of Americans register a high level of anti-Blackness on a measure of racial resentment.⁴⁵ Note that these percentages represent Americans scoring at a high level of anti-Black bias, not those who show any evidence of bias at all.⁴⁶ When researchers average racial resentment scores for all Americans, they find that the country on average exhibits anti-Black bias.⁴⁷

Social media offers a way to analyze racial views surreptitiously. By using social media, analysts can, to a degree, circumvent people's inclinations to hide their racial prejudice. The data scientist Seth Stephens-Davidowitz has found that Americans use the word "nigger" or "niggers" (excluding "nigga(s)" found in rap songs) in Google searches as frequently as they search for "migraine(s)," "economist," and "Lakers."⁴⁸ Many of these searches are for "nigger jokes" or for information related to "stupid niggers" or "I hate niggers."⁴⁹ Amnesty International analyzed tweets sent to journalists and politicians and found that Black women were 84 percent more likely to be abused on Twitter than White women.⁵⁰ Social media analysis allows us to see numerous examples of unvarnished hate, but its weakness is that it does not allow us to obtain a good estimate of the prevalence of anti-Black racial attitudes.

It is reasonable to expect that if anti-Black prejudice is fairly common in American society, it would also be present among people making hiring decisions regarding African Americans. Scholars have been able to find evidence of explicit anti-Black bias by employers. In a telephone survey, researchers asked a sample of over 2,000 employers in four major cities whether they thought that

45. ALGERNON AUSTIN, AMERICA IS NOT POST-RACIAL: XENOPHOBIA, ISLAMOPHOBIA, RACISM, AND THE 44TH PRESIDENT 74, 121 (2015).

46. *Id.*

47. See MICHAEL TESLER & DAVID O. SEARS, OBAMA'S RACE: THE 2008 ELECTION AND THE DREAM OF A POST-RACIAL AMERICA 19–20 (2010).

48. SETH STEPHENS-DAVIDOWITZ, EVERYBODY LIES: BIG DATA, NEW DATA, AND WHAT THE INTERNET CAN TELL US ABOUT WHO WE REALLY ARE 6 (2017).

49. *Id.*

50. Tom Fogden, *Amnesty International Study Highlights Misogyny and Racism on Twitter*, TECH.CO (Dec. 20, 2018), <https://tech.co/news/amnesty-study-misogyny-racism-twitter-2018-12> [perma.cc/KW9K-YRND].

*other employers*⁵¹ in their industry showed a preference for employees of their own race. A fifth of employers agreed that there was a same-race preference.⁵² A fifth of employers is an amount large enough to have a substantial negative impact on Black employment opportunities. But given the strong desire to hide anti-Black biases, it is fair to assume that a fifth is an underestimate. Face-to-face interviews of a representative sample of Chicago employers found that three-quarters expressed negative views of Black workers.⁵³ A qualitative study of the manufacturing industry in Silicon Valley documented explicit anti-Black sentiments among managers.⁵⁴ Another qualitative study of Los Angeles electronics firms found that anti-Black views were fairly common among individuals making hiring decisions.⁵⁵ The presence of anti-Black bias among employers leads to qualified Black workers being denied opportunities.

The strongest evidence of anti-Black discrimination in the labor market comes from audit studies. In audit studies, Black and White applicants with equivalent qualifications are presented to employers with job openings. The rate of positive responses from employers by race is then compared. These studies consistently find a preference for White workers over Black ones; a review of twenty-four audit studies found no decline in anti-Black discrimination in the labor market since 1989.⁵⁶

C. *The Methods of Discrimination*

Anti-Black discrimination in the labor market can take at least three forms: (1) opportunity hoarding by hiring through

51. Since individuals are reluctant to admit that they are racially biased, asking about other individuals—not the respondent—is a way to try to assess the prevalence of bias indirectly. The researchers found that “[a] much higher fraction of employers report a negative perception of other races or ethnicities on the part of *others* than they do a negative assessment of other races or ethnicities *themselves*.” PHILIP MOSS & CHRIS TILLY, *STORIES EMPLOYERS TELL: RACE, SKILL, AND HIRING IN AMERICA* 95 (2001).

52. *Id.* at 92.

53. WILLIAM JULIUS WILSON, *WHEN WORK DISAPPEARS: THE WORLD OF THE NEW URBAN POOR* 111–12 (1996).

54. Edward J. W. Park, *Racial Ideology and Hiring Decisions in Silicon Valley*, 22 *QUALITATIVE SOCIO.* 223, 229–31 (1999).

55. Ward Thomas, *Mitigating Barriers to Black Employment Through Affirmative Action Regulations: A Case Study*, 27 *REV. BLACK POL. ECON.* 81, 93–94 (2000).

56. Lincoln Quillian, Devah Pager, Ole Hexel & Arnfinn H. Midtbøen, *Meta-analysis of Field Experiments Shows No Change in Racial Discrimination in Hiring over Time*, 114 *PROC. NAT'L ACAD. SCI.* 10870, 10870 (2017).

segregated social networks, (2) overt anti-Black racial discrimination, and (3) implicit biases against African Americans.

There is an old saying that captures the significance of networks to finding a job: it is not what you know, but who you know. Many jobs are not widely advertised; therefore, if you are not socially connected to the employer, you may not even be able to find out that the job is available.⁵⁷ Additionally, employers often do not have a reliable way of telling who will truly be good for a job, so having someone they know and trust vouch for an individual is persuasive. As one career coach explains:

“Hiring managers would prefer to hire someone they know, like, and trust,” notes psychologist and career coach Janet Civitelli, Ph.D., of VocationVillage.com. “If they cannot identify a known candidate to hire, they will settle for a referral from someone they know, like, and trust. Their absolute last choice is to advertise the job, sort through hundreds of resumes, and hire someone with no connection to anyone in the hiring manager’s network.”⁵⁸

Furthermore, employers may feel a need to do favors for friends and family, and therefore they may hire individuals that friends and family recommend. For all of these reasons, being connected via personal relationships to individuals doing the hiring is a powerful means of getting a job.⁵⁹

Because White Americans make up a larger share of the population, and because they are advantaged in the American

57. There is a popular saying that 80 percent of jobs are not advertised, but that appears to be based on errors and exaggerations. See Jennifer Parris, *The Biggest Job Search Myth, Debunked*, FLEXJOBS (May 13, 2016), <https://www.flexjobs.com/blog/post/biggest-job-search-myth-debunked/> [perma.cc/CD4N-7474]. It may be impossible to determine the percent of jobs that are hidden or not widely publicized since they are hidden or not widely publicized. But there is reason to believe the “hidden” job market is a real thing. See *Is the Hidden Job Market a Myth? An Investigative Report*, LIVECAREER, <https://www.livecareer.com/resources/jobs/search/hidden-job-market-myth> [perma.cc/VT4A-BDLU] (providing nine reasons why an employer may not fully advertise an opening). A 2017 survey suggests that about a third of hires come from referrals (15.83 percent) and internal hires (15.25 percent) combined. RONEN SHETELBOIM, WEIJEN HSU & AMANDA VAN NUYS, 2017 RECRUITING FUNNEL BENCHMARK REPORT 12 (2017), https://www.jobvite.com/wp-content/uploads/2017/05/Jobvite_2017_Recruiting_Funnel_Benchmark_Report.pdf [perma.cc/G8Q7-NQEY]. These positions, therefore, need not have been advertised to be filled, and the individuals hired had a social connection to the employer.

58. *Is the Hidden Job Market a Myth?*, *supra* note 57.

59. Internal candidates and referrals “have a much higher percentage of hires when compared to the average percentage hired across all sources.” SHETELBOIM ET AL., *supra* note 57, at 13.

economy, they are more likely to be the ones who are making hiring decisions. Although White Americans were 62 percent of everyone working in 2018, they were 72 percent of CEOs and managers.⁶⁰ In contrast, Black people were 12 percent of the employed, but only 7 percent of CEOs and managers.⁶¹ White Americans are also likely to have social networks that have few or no Black people. A recent survey found that “75 percent of whites have ‘entirely white social networks without any minority presence.’”⁶² Thus, when White employers rely on their White social networks for hiring, they exclude Black people from jobs.⁶³

In addition to the somewhat covert and passive exclusion of Black workers from job opportunities via social networks, employers also actively discriminate against Black job applicants. For example, in his study of the manufacturing industry of Silicon Valley, the sociologist Edward J. W. Park concludes:

In their *strategic use* of race, high technology employers rely both on [the] crudest forms of racism *and* more nuanced racial explanations that nonetheless unequally structure the labor market opportunities for different racial groups. Whether a personnel manager believes that African Americans, by nature, lack patience, or lost their work ethic due to the welfare state, or are politically too empowered, all of these factors undermine African American employment opportunities in the high technology industry with devastating consequences.⁶⁴

Negative racial stereotypes in American culture block African Americans from job opportunities.

The subtlest and most covert form of anti-Black bias is implicit bias. Implicit bias is a subconscious bias that can exist even among people who are committed to being anti-racist. Anyone raised in

60. Author’s analysis of 2014–2018 American Community Survey data from Steven Ruggles, Sarah Flood, Ronald Goeken, Josiah Grover, Erin Meyer, Jose Pacas & Matthew Sobek, IPUMS USA: VERSION 10.0 [dataset] (2020), <https://doi.org/10.18128/D010.V10.0> (follow “Get Data” hyperlink; then follow “Analyze Data Online” hyperlink; then follow “2018 ACS” hyperlink).

61. *Id.*

62. Christopher Ingraham, *Three Quarters of Whites Don’t Have Any Non-White Friends*, WASH. POST (Aug. 25, 2014), <https://www.washingtonpost.com/news/wonk/wp/2014/08/25/three-quarters-of-whites-dont-have-any-non-white-friends/> [perma.cc/8GML-EF86].

63. For full analyses and discussions of this method of labor market discrimination, see DEIRDRE A. ROYSTER, RACE AND THE INVISIBLE HAND: HOW WHITE NETWORKS EXCLUDE BLACK MEN FROM BLUE-COLLAR JOBS (2003), and NANCY DiTOMASO, THE AMERICAN NON-DILEMMA: RACIAL INEQUALITY WITHOUT RACISM (2013).

64. Park, *supra* note 54, at 231.

American culture with its many negative associations linked to Black people is at risk of having an implicit anti-Black bias.⁶⁵ Implicit bias can make employers conclude that a White job candidate is more qualified, more likeable, and a better fit for their workplace than an *equally qualified* Black candidate. Nearly three quarters of Americans who take the Implicit Association Test—an empirical tool widely used to measure implicit stereotypical cognition—register this subconscious bias against African Americans.⁶⁶ This means that Black job applicants are constantly confronting this bias when they apply for jobs. It also explains why Black workers have to rely so much on tight labor markets where the availability of White workers is relatively low or on being *significantly better qualified* than White candidates to find work.

It may be difficult to measure precisely the contribution of anti-Black bias and discrimination in producing the Black-White gap in unemployment, but it would be unreasonable to assume that anti-Blackness plays no significant role. All of the evidence indicates that anti-Blackness continues to be a significant part of American culture and social structure.

D. *What Is the Size of the Black Jobs Gap?*

Although the unemployment rate is the most popularly discussed measure to assess joblessness, it is not the best measure for assessing joblessness among African Americans. Individuals who face significant challenges in finding work can become discouraged and stop looking for work. For example, the COVID-19 recession has caused many people to leave the labor force, which means that they are jobless but have stopped looking for work.⁶⁷ To be counted as unemployed by the U.S. Bureau of Labor Statistics, one has to be actively looking for work.⁶⁸ Individuals who have stopped looking for work because they don't see any suitable job openings or because they have been repeatedly rejected by

65. BANAJI & GREENWALD, *supra* note 42, at 46–47.

66. *Id.* at 47 (“[A]lmost 75 percent of those who take the Race [Implicit Association Test] on the Internet or in laboratory studies reveal automatic White preference.”).

67. Lauren Bauer, Kristen E. Broady, Wendy Edelberg & Jimmy O’Donnell, *Ten Facts About COVID-19 and the U.S. Economy*, BROOKINGS INST. (Sept. 17, 2020), <https://www.brookings.edu/research/ten-facts-about-covid-19-and-the-u-s-economy/> [perma.cc/FH5E-53JX].

68. *How the Government Measures Unemployment*, U.S. BUREAU OF LAB. STAT. (Oct. 8, 2015), https://www.bls.gov/cps/cps_htgm.htm#unemployed [perma.cc/9C2U-T4MN].

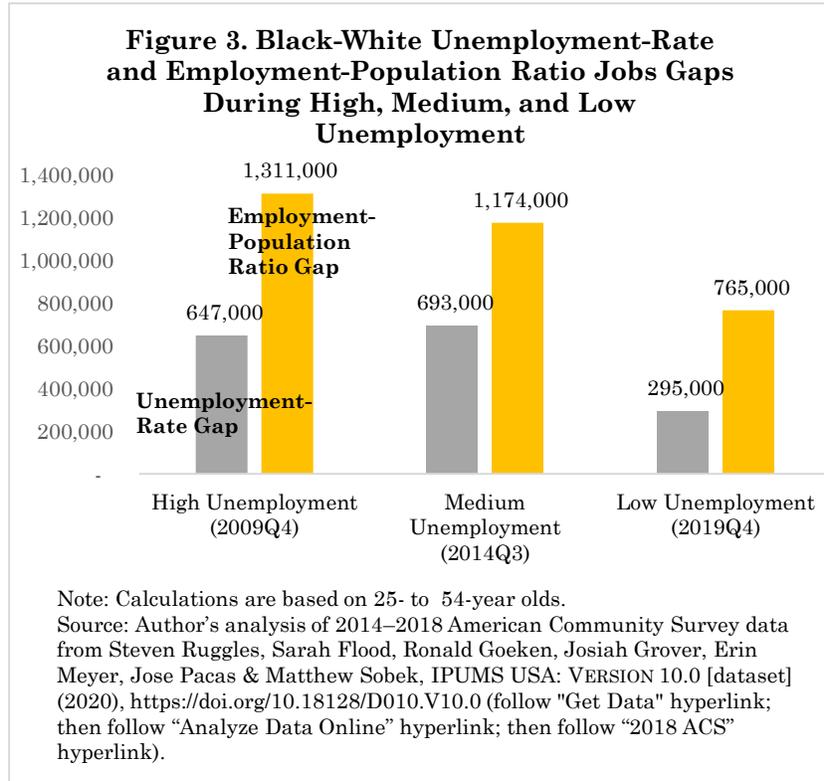
employers are not counted as unemployed even though they are jobless.

As discussed above, African Americans live under conditions that feel like a permanent recession. This situation leads to a large number of discouraged⁶⁹ Black workers and fewer Black people in the labor force than there should be.

A better measure of joblessness for African Americans is the employment-population ratio. As the name suggests, this measure is a ratio the number of people employed relative to the number of people in the population. It can be converted into a percent to indicate the percent of the population that is employed. Because some people are full-time students, retired, disabled and cannot work, or do only unpaid work in the home, the employment-population-ratio is never 100 percent.

To illustrate the importance of using the employment-population ratio to assess the Black-White jobs gap, we can compare the number of jobs needed to close the Black-White unemployment rate gap and the Black-White employment-population ratio gap. We will first look at the statistics from the third quarter of 2014 because that was when African Americans were at their median unemployment rate (Figure 3).

69. When I use the word “discouraged” here and elsewhere, I am referring more to something like the group that the Bureau of Labor Statistics (BLS) refers to as “not in the labor force who currently want a job” rather than the much narrower technical BLS category of a “discouraged worker.” *See id.*; News Release, Bureau of Lab. Stat., U.S. Dep’t of Lab., The Employment Situation – December 2020 (Jan. 8, 2021), https://www.bls.gov/news.release/archives/empsit_01082021.pdf [perma.cc/N5Z4-UM86].



It is useful to focus on prime-age workers, those who are 25 to 54 years old. The age distribution of the Black and White populations is different. Older individuals are more likely to be out of the labor force because of retirement or disability. Younger individuals may not be ready to enter the labor force or may be dedicating themselves to being full-time students. Since the employment-population ratio is calculated based on the population, differences in the age distribution can affect the jobs-gap estimates. By focusing on prime-age workers, we eliminate these differences and have more of an apples-to-apples comparison. However, by doing this, we are also likely to underestimate the true size of the jobs gap.

In the third quarter of 2014, the Black unemployment rate was 11.3 percent, and the White unemployment rate was 5.2 percent.⁷⁰ The *prime-age* unemployment rate, however, was 9.7 percent for

70. Author's analysis of Current Population Survey data, *supra* note 16.

Black workers and 4.3 percent for White workers.⁷¹ By focusing on the prime-age unemployment rate, we have trimmed off the high-unemployment youth segments of the populations. The employment-population-ratio for Black prime-age workers was 71.0 percent, and it was 78.2 percent for White prime-age workers.⁷² If one wished to lower the Black prime-age unemployment rate to the White rate, one would have needed 693,000 jobs for Black workers (Figure 3). If one wished to raise the Black prime-age employment-population ratio to the level of the White ratio, one would have needed 1,174,000 jobs for Black workers.

The jobs gap measured by the employment-population ratio is larger by 481,000 (1,174,000 minus 693,000) workers. This means we can estimate that there were about 481,000 “missing” Black workers from the labor force who were not being counted as unemployed. If there were a history of equal opportunity in the American labor market, we would expect the Black prime-age employment-population ratio to be very similar to the White ratio.

It is important to be aware that this estimate is not counting individuals who are incarcerated. Those who are incarcerated are excluded from the population used to calculate the employment-population ratio. If we were to include jobs needed for the incarcerated population, the Black-White jobs gap estimate would be larger still.

Our estimate for the Black-White employment-population ratio jobs gap is for when the overall Black unemployment rate was at its median—11.3 percent. It is informative to examine how this jobs gap changes during periods when the country as a whole experiences high unemployment and low unemployment (Figure 3). The post-Great Recession peak quarterly unemployment rate was 9.9 percent in the fourth quarter of 2009. Comparing the Black and White prime-age employment-population ratios at that time would yield an employment-population ratio jobs gap of 1,311,000 jobs. In the fourth quarter of 2019—the time of the historic low for the Black unemployment rate—the Black-White prime-age employment-population ratio jobs gap was 765,000 jobs. Thus, we see that the Black-White jobs gap tends to increase as the overall unemployment rate increases and shrink when the overall unemployment rate decreases. But even at the end of 2019, in what

71. Author's analysis of 2014–2018 American Community Survey data from Ruggles et al., *supra* note 60.

72. *Id.*

most Americans would regard as a good economy, there was still a need for 765,000 more jobs for African Americans.

II. How to Create a Million Black Jobs to End the Black Permanent Recession

In the third quarter of 2014, when the Black unemployment rate was at its median of 11.3 percent, the Black-White prime-age employment-population ratio jobs gap was 1,174,000 jobs. Therefore, creating roughly one million additional jobs for Black workers is a good target for ending the permanent recession in Black America.

A. Creating a Low National Unemployment Rate

We have seen that having a strong American economy overall with a low unemployment rate does help Black workers, even if it is not enough to close the jobs gap.⁷³ Our employment-population ratio jobs gap estimate above, for when the overall unemployment rate was high, was 1,311,000 jobs (Figure 3). When the overall unemployment rate was at a historic low, it was 765,000 jobs, 546,000 fewer. Reducing the number of jobs needed to be created by over half a million is substantial.

There are a number of policies that our leaders can pursue to help keep the American economy strong and the overall unemployment rate low. One policy has already been enacted: the Federal Reserve will no longer rush to slow the economy.⁷⁴ Because of NAIRU-based fears of runaway inflation, the Federal Reserve historically has slowed the economy as the national unemployment rate began to reach lower levels.⁷⁵ Since the Black unemployment rate is nearly double the national rate, this policy kept the Black rate very high.

The leaders of the Federal Reserve are finally realizing that it is not necessary to put the brakes on the economy as soon in an economic expansion as they have done historically. Federal Reserve Chair Jerome H. Powell stated that their new approach “reflects our appreciation for the benefits of a strong labor market, particularly for many in low- and moderate-income communities, and that a robust job market can be sustained without causing an unwelcome

73. See *supra* Figure 3.

74. Rachel Siegel, *Fed Changes Its Approach to Inflation, As Leaders Aim to Navigate Future Crises and Reach Full Employment*, WASH. POST (Aug. 27, 2020), <https://www.washingtonpost.com/business/2020/08/27/powell-jackson-hole-inflation/> [perma.cc/CWU2-MN5T].

75. Judd, *supra* note 28.

increase in inflation.⁷⁶ The Black unemployment rate would not have reached its historic low in 2019 if the Federal Reserve had been as fearful as it had been in prior decades of the risk of inflation.

Lowering the U.S. trade deficit is another way to create more jobs for African Americans.⁷⁷ The economist Robert E. Scott estimated that African American workers lost 230,000 good jobs between 2001 and 2007 because of bad trade policy.⁷⁸ If we reduce the trade deficit, we can create more jobs in the United States. This can be done by lowering the value of the U.S. dollar. When the U.S. dollar is lower, U.S. goods are cheaper in foreign markets, and foreign goods are more expensive in the United States. This change in the value of the dollar would reduce the amount of foreign goods Americans purchase and at the same time increase the amount of American goods that both Americans and foreigners purchase. The American economy would have to produce more to meet this increased demand for goods, which should increase the employment level in the United States.⁷⁹

Another way to increase employment is to reduce the number of hours Americans work. Imagine a company that requires its total workforce to complete 4,000 hours of work a week. If each worker works 40 hours per week, then the company only needs 100 workers. But if the company employs workers at 35 hours per week, it would need to hire about 114 workers—14 more. This dynamic also occurs at the national level. Policies that reduce work hours can increase employment. A small reduction in work hours economy-wide could lead to a demand for millions of additional workers.⁸⁰

The best way to reduce work hours in the United States is to have stronger vacation, paid sick days, and paid family leave policies. Compared to other rich countries, the United States does poorly in terms of these types of paid leave policies.⁸¹ As a result, the average number of hours worked per year is greater in the United States than in other rich countries.⁸² If the United States reduced its work year to Canada's, there would be a need for 5

76. Siegel, *supra* note 74.

77. BAKER & BERNSTEIN, *supra* note 33, at 63–71.

78. ROBERT E. SCOTT, ECON. POL'Y INST., *THE CHINA TRADE TOLL: WIDESPREAD WAGE SUPPRESSION, 2 MILLION JOBS LOST IN THE U.S.* (2008), <https://www.epi.org/publication/bp219/> [perma.cc/2XQ4-FLF2].

79. BAKER & BERNSTEIN, *supra* note 33, at 66.

80. This example adapted from BAKER & BERNSTEIN, *supra* note 33, at 81.

81. *Id.* at 86–87 (showing how the U.S. does not mandate any paid leave, while many comparable countries mandate between ten and thirty paid vacation days and holidays per year).

82. *Id.* at 81–84, 86.

million additional workers.⁸³ If the United States reduced its work year to France's, there would be a need for 29 million additional workers.⁸⁴ Using Germany as the standard, there would be a need for an additional 37 million workers.⁸⁵

Being able to take vacations, sick days, and time off to care for family members is extremely important to one's health, the health of loved ones, and to one's well-being. Enacting these policies has benefits beyond the pressure they can create for increasing employment. It is still the case that women are primarily responsible for caregiving. These policies would be very helpful for workers who need to take care of loved ones.⁸⁶ There is a relatively high rate of Black female single parenthood among African Americans.⁸⁷ These policies would make it slightly easier for Black female single parents to manage work and childcare. We should also note that increasing the employment rates for Black men should increase the marriage rates for Black women.⁸⁸

During recessions, it is also possible for employers to reduce work hours rather than lay off workers. This practice is called work sharing.⁸⁹ To illustrate with a simplified example of how this works, let us return to our hypothetical firm with 100 employees working 40 hours per week. In a healthy economy, the firm has 4,000 hours of work a week. During a recession though, with fewer sales, the firm only has 3,600 hours of work a week. The firm could lay off 10 employees and have the remaining 90 work 40 hours per week. These 10 laid off employees would have to rely on unemployment insurance, but they would still lose much of their income. When the

83. *Id.* at 88 (“According to these [Organisation for Economic Co-operation and Development (OECD)] data, the average work year in the United States is 3.6 percent longer than the average work year in Canada; reducing the work year in the United States by this amount would imply the need for 5 million additional workers.”).

84. *Id.* (using the same OECD data but substituting France's average work year for Canada's).

85. *Id.*

86. *Id.*

87. Terry-Ann L. Craigie, Samuel L. Myers, Jr. & William A. Darity, Jr., *Racial Differences in the Effect of Marriageable Males on Female Family Headship*, 84 J. DEMOGRAPHIC ECON. 231, 233 (2018).

88. *Id.* at 231–56 (arguing that because women “will only marry if the economic benefits gained from marriage exceed those gained outside of marriage,” increasing men's earning ability, and thus their potential to add economic benefit to a household, will result in more marriages).

89. See *Work Sharing: An Alternative to Layoffs*, NAT'L EMP. L. PROJECT (July 6, 2016), <https://www.nelp.org/publication/work-sharing-an-alternative-to-layoffs/> [perma.cc/ZE3K-92V2].

economy recovers, however, the firm may have to spend time finding and training 10 new employees.⁹⁰

An alternative is for the firm to use work-sharing policies. In this scenario, rather than lay off 10 workers, the firm reduces the hours of the 100 employees to 36 hours a week. *It reduces work hours without laying anyone off.* The employees receive unemployment insurance for the 4 hours lost in their work week. When the economy recovers, the employer increases the work hours of the employees without needing to find and train any new workers.⁹¹

This work-sharing approach is used well in Germany. In the 2001 recession, the Great Recession, and the COVID-19 recession, the unemployment rate in Germany increased much less than in the United States.⁹² For example, during the COVID-19 recession, the U.S. monthly unemployment rate peaked at nearly 15 percent in April of 2020, but it only reached 4.4 percent in Germany.⁹³ Some U.S. states have adopted work-sharing policies, but they are not fully utilized.⁹⁴

Widespread use of work sharing would significantly benefit Black workers. Black workers are hit very hard by recessions. They typically see their unemployment rates rise faster than other racial groups.⁹⁵ Work sharing, if used to its maximum, would reduce the spike in unemployment that Black workers typically experience during downturns in the economy. As a relatively low-income and low-wealth population, staying employed with a somewhat lower income is much preferable to unemployment for Black workers.

90. This example is adapted from BAKER & BERNSTEIN, *supra* note 33, at 82.

91. *Id.*

92. See Heather Long & Andrew Van Dam, *As U.S. Unemployment Soared, Germany's Barely Budged. Is America's Safety Net Enough?*, WASH. POST (Oct. 13, 2020) <https://www.washingtonpost.com/business/2020/10/13/germany-unemployment/> [perma.cc/A8VM-BQSC] ("Germany expanded its Kurzarbeit program before the Great Recession. Since then, its unemployment rate has remained far lower than the U.S. rate during downturns."); see also BAKER & BERNSTEIN, *supra* note 33, at 824 ("A big part of Germany's success has been its policy of *Kurzarbeit*, or short-work, under which the government makes up a portion of the wages that workers lose as a result of the shortening of the workweek.").

93. Long & Van Dam, *supra* note 92.

94. See BAKER & BERNSTEIN, *supra* note 33, at 83.

95. *E.g.*, Christopher Famighetti & Darrick Hamilton, *The Great Recession, Education, Race, and Homeownership*, ECON. POLY INST. (May 15, 2019), <https://www.epi.org/blog/the-great-recession-education-race-and-homeownership/> [perma.cc/JM8E-BXVS] ("Relative to white wealth, black wealth was hit especially hard by the Great Recession. Black [people] saw their median net worth fall precipitously compared with white [people] (that is, in percentage terms, not in absolute terms). Between 2005 and 2009, the median net worth of black households dropped by 53 percent, while white household net worth dropped by 17 percent.").

B. Job Creation Programs

The policies discussed above would create jobs indirectly or prevent the loss of jobs. It is also possible to enact policies that would create jobs directly. These policies include infrastructure investments, a federal jobs guarantee, and targeted job creation.

i. Infrastructure Investments and Mitigating Climate Change

America's infrastructure is facing a crisis. The American Society of Civil Engineers gave America's infrastructure a D+ grade on its last infrastructure report card.⁹⁶ Additionally, climate change will result in more extreme weather conditions that will put extra stress on our already weak infrastructure. If we don't repair, renew, and adapt our infrastructure, we will be faced with a variety of catastrophes as our systems fail.⁹⁷

Ideally, we should not simply repair and adapt our infrastructure for climate change; we should try to prevent the worst climate change outcomes from occurring. One way to do this is by creating a net-zero greenhouse-gas economy as soon as possible. Moving our energy systems away from fossil fuels as fast as possible would require very large investments in clean energy production and distribution systems.⁹⁸

These problems are also opportunities for job creation. If we make the necessary investments in our infrastructure, we can create millions of jobs. Addressing America's general overall infrastructure needs is estimated to create 3 million jobs.⁹⁹ Making

96. AM. SOC'Y OF CIVIL ENG'RS & ECON. DEV. RSCH. GROUP, FAILURE TO ACT: ECONOMIC IMPACTS OF STATUS QUO INVESTMENT ACROSS INFRASTRUCTURE SYSTEMS 2 (2021), https://www.infrastructurereportcard.org/wp-content/uploads/2021/02/FTA_Econ_Impacts_Status_Quo-1.pdf [perma.cc/F5S2-PHPP] ("In 2017, the U.S. infrastructure earned a D+ average.").

97. Jonathan Woetzel, Mekala Krishnan, Dickon Pinner, Hamid Samandari, Hauke Engel, Brodie Boland, Peter Cooper & Byron Ruby, *Will Infrastructure Bend or Break Under Climate Stress?*, MCKINSEY & CO. (Aug. 19, 2020), <https://www.mckinsey.com/business-functions/sustainability/our-insights/will-infrastructure-bend-or-break-under-climate-stress> [perma.cc/6LY7-CKZR].

98. Cf. SAUL GRIFFITH, SAM CALISCH & ALEX LASKEY, REWIRING AMERICA, MOBILIZING FOR A ZERO CARBON AMERICA: JOBS, JOBS, JOBS, AND MORE JOBS: A JOBS AND EMPLOYMENT STUDY REPORT (2020), <https://www.rewiringamerica.org/jobs-report> [perma.cc/JP4U-ET8B] (follow "Download the Report" hyperlink) (recommending rapid decarbonization across all U.S. industries as a way to combat climate change and create more employment opportunities).

99. JOSH BIVENS, ECON. POL'Y INST., THE SHORT- AND LONG-TERM IMPACT OF INFRASTRUCTURE INVESTMENTS ON EMPLOYMENT AND ECONOMIC ACTIVITY IN THE U.S. ECONOMY (2014), <https://www.epi.org/publication/impact-of-infrastructure-investments/> [perma.cc/EV2B-BW9N].

the investments necessary to address climate change by transitioning rapidly to a net-zero carbon economy could create 25 million jobs in the shorter term.¹⁰⁰ This estimate includes direct jobs, indirect jobs, and jobs from the re-spending of workers who have gained direct and indirect jobs. In the long-term, the net-zero greenhouse-gas transition is predicted to add 5 million permanent jobs to the economy.¹⁰¹ Roughly 10 percent of the jobs created from both of these infrastructure proposals are expected to go to African Americans.¹⁰²

ii. A Federal Jobs Guarantee

One of the demands of the 1963 March on Washington for Jobs and Freedom was for “[a] massive federal program to train and place all unemployed workers—Negro and white—on meaningful and dignified jobs at decent wages.”¹⁰³ Today’s call for a federal jobs guarantee is most in line with this demand.

A federally guaranteed jobs program has significant strengths. It would certainly solve the problem of high Black joblessness. It is a universal program, and universal programs tend to receive more public support than targeted programs, especially programs that can be thought of—whether accurate or not—as targeting African Americans.¹⁰⁴ There is public support for the idea. In 2018, about half of Americans supported a jobs guarantee with the remaining half divided between those who are opposed and those who are neutral or undecided.¹⁰⁵

While there is significant support for a federal jobs guarantee,¹⁰⁶ it is not likely that the general public fully appreciates how a jobs guarantee would re-order the American economy. First,

100. GRIFFITH ET AL., *supra* note 98, at 2.

101. *Id.* at 2, 7.

102. ALGERNON AUSTIN, ECON. POL’Y INST., INFRASTRUCTURE INVESTMENTS AND LATINO AND AFRICAN AMERICAN JOB CREATION (2013), <https://www.epi.org/publication/infrastructure-investments-latino-african/> [perma.cc/K3PT-N7L4].

103. MARCH ON WASHINGTON FOR JOBS AND FREEDOM, *supra* note 1.

104. Lawrence Bobo & James R. Kluegel, *Opposition to Race-Targeting: Self-Interest, Stratification Ideology, or Racial Attitudes?*, 58 AM. SOC. REV. 443 (1993); MARTIN GILENS, WHY AMERICANS HATE WELFARE: RACE, MEDIA, AND THE POLITICS OF ANTIPOVERTY POLICY 42–45 (1999) (explaining that public support is generally higher for universal welfare programs versus means-tested programs).

105. DATA FOR PROGRESS, POLLING THE LEFT AGENDA (2018), <https://www.dataforprogress.org/polling-the-left-agenda/> [perma.cc/6LL8-5W3J]. See also John Bowden, *46 Percent of Americans Support Government Jobs Guarantee: Poll*, THE HILL (May 2, 2018), <https://thehill.com/blogs/blog-briefing-room/news/385840-46-percent-of-americans-support-government-jobs-guarantee-poll> [perma.cc/7CGC-G9RY].

106. *Id.*

we should note that this policy is not like the idea of universal health coverage where we know that several other countries have been able to do it successfully for decades. No Western capitalist country—and I include the Nordic social democracies here—has done this.¹⁰⁷

A federal jobs guarantee like the one envisioned by Mark Paul, William Darity, Jr., and Darrick Hamilton would be very attractive to many low-wage workers and probably also to some middle-wage workers. The Paul, Darity, and Hamilton (PDH) proposal calls for a wage higher than the federal minimum wage, one that is high enough to lift a family of four out of poverty.¹⁰⁸ Additionally, it would provide health insurance, retirement plans, paid family and sick leave, and paid vacation.¹⁰⁹ Many American workers lack these benefits.

The PDH estimate for the uptake for their jobs guarantee is about 11 million workers.¹¹⁰ This estimate is from a period of low unemployment. It is based on an alternative measure of the unemployed and underemployed, specifically the U-6 unemployment measure, in January 2018.¹¹¹ In October of 2020, a period of high unemployment, the equivalent estimate would be about 17 million workers.¹¹² As illustrated here, the program would expand substantially during economic downturns.

107. This conclusion is based on the fact that Mark Paul, William Darity, Jr. & Darrick Hamilton only discuss much more modest programs in India and Argentina in support of their federal jobs guarantee proposal. MARK PAUL, WILLIAM DARITY, JR. & DARRICK HAMILTON, CTR. ON BUDGET & POL'Y PRIORITIES, THE FEDERAL JOB GUARANTEE: A POLICY TO ACHIEVE PERMANENT FULL EMPLOYMENT 7 (2018), <https://www.cbpp.org/sites/default/files/atoms/files/3-9-18fe.pdf> [perma.cc/SC66-L2XY].

108. *Id.* at 3.

109. *Id.* at 4.

110. *Id.* at 12 (“This would result in the employment of 10.7 million workers, or 9.7 million full-time equivalent positions.”).

111. *Id.* at 11 n.40 (“U3 is the International Labour Organization official unemployment rate that includes individuals that are unemployed and have actively looked for work within the past four weeks. U6 is a broader unemployment, or ‘underemployment’ rate, which, in addition to U3, includes ‘discouraged workers,’ or those who have stopped looking for work due to current economic conditions; other marginally attached workers who are willing and able to work but have not actively sought employment in the past four weeks; part-time workers who seek but cannot attain full-time employment.”).

112. Author’s calculations based on Current Population Survey data. *See BLS Data Viewer*, U.S. BUREAU OF LAB. STAT.: LAB. FORCE STAT. FROM CURRENT POPULATION SURV., <https://beta.bls.gov/dataViewer/view/cef3bbaf735a435388c4af64c2397638> [perma.cc/3U8P-3E3D] (displaying the civilian labor force level) [hereinafter *CPS Labor Force Data*]; *BLS Data Viewer*, U.S. BUREAU OF LAB. STAT.: LAB. FORCE STAT. FROM CURRENT POPULATION SURV., <https://beta.bls.gov/>

The PDH estimate of the jobs needed is likely too low. About a quarter of the labor force earns wages lower than what would be offered by the PDH proposal.¹¹³ It seems reasonable to expect these workers to leave their jobs for a guaranteed job that pays higher wages and that probably also has better benefits. If one adds these workers to the U-6 workers, then the program could end up with around 50 million workers.¹¹⁴ It seems possible that some workers who earn a higher wage than what is offered in the PDH proposal might still want a PDH job for the benefits offered. If this is the case, then the size of the program would be larger still.

In 2019, the federal workforce had 2.8 million workers—1.7 percent of the employed.¹¹⁵ At its peak, the Depression-era Works Progress Administration provided jobs for about 3.3 million Americans¹¹⁶—about 6 percent of the labor force at the time.¹¹⁷ The PDH proposal would have the federal government provide jobs for about 30 percent of the labor force.¹¹⁸ A federal jobs guarantee like the PDH plan would require a significant re-shaping of the American economy.

iii. Targeting Job Creation Programs to High-Unemployment Communities

An alternative to offering a federally sponsored job to everyone who might want one is to do a program that is more limited and

dataViewer/view/a46a5d0c288c448a987a35ca5e81ba95 [perma.cc/LMB4-P3H7] (displaying the U-6 measure).

113. The PDH proposal is designed to start at the poverty-level wage—the minimum wage needed to keep a family of four out of poverty. In 2016, 23.7 percent of workers earned less than this wage. *State of Working America: Data Library*, ECON. POL'Y INST. (2019), <https://www.epi.org/data/#?subject=povwage> [perma.cc/G3K9-2XJZ].

114. Author's calculations based on Economic Policy Institute data and Current Population Survey data. *See id.*; *CPS Labor Force Data*, *supra* note 112.

115. *Employment by Major Industry Sector*, U.S. BUREAU OF LAB. STAT.: LAB. FORCE STAT. FROM CURRENT POPULATION SURV., <https://www.bls.gov/emp/tables/employment-by-major-industry-sector.htm> [perma.cc/ZRR9-Y5BH].

116. *Works Progress Administration (WPA)*, HISTORY (June 10, 2019), <https://www.history.com/topics/great-depression/works-progress-administration> [perma.cc/F3PL-9V7X].

117. Author's calculations based on WPA data and historical labor force data. *See id.*; *Labor Force, Employment, and Unemployment, 1929-39: Estimating Methods*, U.S. BUREAU OF LAB. STAT. (July 1948), <https://www.bls.gov/opub/mlr/1948/article/pdf/labor-force-employment-and-unemployment-1929-39-estimating-methods.pdf> [perma.cc/SAZ7-5NQT].

118. Author's calculations based on Economic Policy Institute data, Current Population Survey data, and industry sector data. *See State of Working America: Data Library*, *supra* note 113; *CPS Labor Force Data*, *supra* note 112; *Employment by Major Industry Sector*, *supra* note 115.

targeted. One way to do this is to target communities with persistently high unemployment. These communities could receive federal subsidies for local employers to hire net new local workers. After the unemployment rate is lowered in a community, the program can be gradually phased out.¹¹⁹

It would be important to design the program so that it does not produce a windfall for individuals and organizations who do not need help. The geography covered by the specific local programs needs to be carefully selected so that a sufficiently large local program can be administered, but not one so large that resources are expended on individuals and organizations who do not need assistance. The employers would be required to use the subsidies for net new hires of long-term local residents.

Because this program would be targeted to high-unemployment communities, it would bring benefits to people of all races. It would bring disproportionate benefit to African American communities because they are more likely to be high-unemployment communities. Thus, this program too is universal as far as the race of the recipients, although it is targeted geographically to high-unemployment communities.

If our leaders and the Federal Reserve were strongly committed to maximizing employment in the U.S. economy, they could easily create a sufficient number of jobs to end the permanent recession in Black America. To accomplish this goal, the Federal Reserve would hold off on slowing down the economy until there are clear signs of high inflation.¹²⁰ Our political leaders would lower the value of the dollar to eliminate the trade deficit and create more U.S. jobs. They would also require stronger vacation, family, and sick leave policies. Additionally, they would encourage shorter work weeks and work-sharing during recessions. These policies would significantly increase the demand for workers. Addressing our

119. See ALGERNON AUSTIN, *ECON. POL'Y INST., A JOBS-CENTERED APPROACH TO AFRICAN AMERICAN COMMUNITY DEVELOPMENT* 7–8 (2011), <https://files.epi.org/2011/bp328.pdf> [perma.cc/ZTA7-7WTV] (“The program could be phased out in communities over a five-year period after the annual unemployment rate fell below 6 percent.”).

120. JOSH BIVENS, *ECON. POL'Y INST., WHAT SHOULD WE KNOW ABOUT THE NEXT RECESSION?* (Apr. 18, 2019), <https://www.epi.org/publication/next-recession-bivens/> [perma.cc/4ZSY-ARBW] (“Excessively contractionary monetary policy is likely the single most common cause of recessions in the post–World War II period. When the Federal Reserve thinks that growth in aggregate demand threatens to run ahead of growth in the economy’s productive capacity and spark accelerating inflation, it raises interest rates to keep the economy from ‘overheating.’ These interest rate hikes slow debt-financed spending . . . Too often, however, the Fed has raised rates too far and too fast, and the result has been a recession.”).

infrastructure needs and climate change would also create millions of jobs.

The policies listed already are likely sufficient to close the jobs gap. If they are not, federally subsidized jobs targeted to high-unemployment communities should be enough to provide the additional needed jobs.

While the motivation for this plan is to end the African American permanent recession, people of all races would see tremendous benefits if our leaders were to commit to these policies. Adding millions of jobs to the economy will lower *all* racial groups' rates of joblessness, put upward pressure on wages, and lead to increased benefits for workers.

III. Affirmative Action

While the jobs policies listed above are guaranteed to provide a large benefit for non-Blacks, there is reason to worry that Black workers may not receive their fair share. The same racial discrimination that causes the jobs gap would also be present in the hiring for the jobs created by the policies above.¹²¹ Strong affirmative action policies and enforcement would be necessary to see that Black workers are provided equal opportunity.

Affirmative action programs are highly controversial in no small part due to misunderstanding and misinformation. One reason affirmative action is misunderstood is because it is somewhat complex. To start with, there are two different programs: one in higher education and one in employment.¹²² Each program has a somewhat different logic and is complex on its own. The American public generally does not understand what affirmative action in employment is or how it works.¹²³ For this reason, it is necessary to explain what it is and how it works.

The discussion below will focus on affirmative action in employment relating to African Americans. But it is important to remember that the target groups for affirmative action include the Latino, Asian American, and American Indian populations, as well as women and veterans. White Americans are more opposed to affirmative action for Black people than to affirmative action per se. Researchers have found that White people are more opposed to the

121. See discussion of Ward Thomas study, *infra* notes 126–145 and accompanying text.

122. See FAYE CROSBY, AFFIRMATIVE ACTION IS DEAD; LONG LIVE AFFIRMATIVE ACTION 6–10 (2004).

123. *Id.* at 64–73.

idea of affirmative action when told that it is for Black people than when told it is for women.¹²⁴ Although admissions policies in elite higher education that benefit White students and particularly children of alumni, who are disproportionately White, are far more substantial, the program constantly being attacked in court is the admission policy—affirmative action—which benefits Black students.¹²⁵ These findings are what one would expect in a society with significant anti-Black attitudes—precisely the type of society in which affirmative action programs for Black people would be necessary.

To explain affirmative action in employment, we will take a quick look at Ward Thomas' study of affirmative action in electronics firms in Los Angeles in the late 1990s.¹²⁶ We will begin by looking at the actual application of affirmative action. After reviewing some key aspects of affirmative action in practice, we will discuss the ideals of the program. First, one must be aware that affirmative action in employment only applies to firms with at least fifty employees and \$50,000 worth of federal government contracts.¹²⁷ About 20 percent of American workers are in a workplace covered by mandatory affirmative action.¹²⁸

Thomas' study is based on a random sample of fifty firms.¹²⁹ Twenty-two of the firms were subject to affirmative action and twenty-eight firms were not.¹³⁰ Thomas compared the recruiting and screening of job applicants in the affirmative action firms with the non-affirmative action firms.¹³¹ There were no radical differences between the recruiting practices of affirmative action

124. BANAJI & GREENWALD, *supra* note 42, at 179.

125. See, e.g., Camille G. Caldera, *Legacy, Athlete, and Donor Preferences Disproportionately Benefit White Applicants, per Analysis*, HARV. CRIMSON (Oct. 23, 2019), <https://www.thecrimson.com/article/2019/10/23/nber-admissions-data/> [perma.cc/7YTR-QD56]; Jordan Weissman, *43 Percent of White Students Harvard Admits Are Legacies, Jocks, or the Kids of Donors and Faculty*, SLATE (Sept. 23, 2019), <https://slate.com/business/2019/09/harvard-admissions-affirmative-action-white-students-legacy-athletes-donors.html> [perma.cc/9EUC-Q29M].

126. Thomas, *supra* note 55, at 86–88.

127. *Affirmative Action Plans*, FINDLAW (Feb. 16, 2018), <https://www.findlaw.com/smallbusiness/employment-law-and-human-resources/are-employers-required-to-have-affirmative-action-plans.html> [perma.cc/8BQL-GMTP]. For veterans, the requirement is a federal contract of \$100,000. 38 U.S.C. § 4212 (2018).

128. CROSBY, *supra* note 122, at 9.

129. Thomas, *supra* note 55, at 86.

130. *Id.* at 86–87.

131. *Id.* at 88.

firms and non-affirmative action firms.¹³² The difference was in degree, not in kind.¹³³

One way that Black job-seekers are disadvantaged is that some firms advertise and recruit for jobs in ways that made it difficult for Black workers to learn of openings. In Thomas' study, the affirmative action firms were more likely to use recruiting methods accessible to African Americans.¹³⁴ For example, for higher-skilled positions, 34 percent of affirmative action firms publicized their openings at colleges while only 10 percent of non-affirmative action firms did.¹³⁵ Non-affirmative action firms were more likely to rely on employee referrals (24 percent) than affirmative action firms (8 percent).¹³⁶ Employee referrals tend to reproduce the existing racial makeup of the firm.¹³⁷ Affirmative action firms do more outreach to build a racially diverse applicant pool.

The affirmative action firms in Thomas' study relied more on more objective screening methods than the non-affirmative action firms, but again the difference was of degree, not of kind. For example, for lower-skilled positions, 95 percent of the affirmative action firms looked at prior work experience in evaluating candidates, but 77 percent of the non-affirmative action firms did.¹³⁸ The non-affirmative action firms were more likely to evaluate the attitude of the worker (42 percent versus 14 percent for affirmative action firms).¹³⁹ An evaluation of attitude is likely to be fairly subjective, and it may be open to implicit anti-Black biases and sub-cultural misunderstanding.

Thomas found that hiring officials at non-affirmative action firms were more likely to share negative stereotypes about African Americans in his interviews (for lower-skilled workers: 56 percent versus 33 percent for affirmative action firms).¹⁴⁰ Affirmative action firms are more conscious and committed to eliminating anti-Black bias from their hiring decisions.

In Thomas' analysis, 3.7 percent of the employees in the affirmative action firms were Black compared to 2.4 percent in the

132. *Id.* at 91.

133. *Id.* at 99.

134. *Id.* at 89–90.

135. *Id.* at 89.

136. *Id.* at 90.

137. *Id.* at 83.

138. *Id.* at 92.

139. *Id.*

140. *Id.* at 94.

non-affirmative action firms.¹⁴¹ In other words, affirmative action appears to have increased the representation of Black workers by 1.3 percentage points.¹⁴² This small impact is in line with other research. In Los Angeles at the time of the study, the labor force was 9 percent Black.¹⁴³ Affirmative action employers do not willy-nilly hire individuals from targeted groups. Affirmative action hiring goals are based on the share of the targeted population *with the necessary qualifications* for the position.¹⁴⁴

Affirmative action can be defined as “both voluntary and mandatory efforts undertaken by federal, state, and local governments; private employers; and schools to combat discrimination and to promote equal opportunity in education and employment for all.”¹⁴⁵ As Thomas’s study illustrates, affirmative action firms put more effort into finding a diverse applicant pool, and they rely more on explicitly work-related and objective means of evaluating applicants. Firms have a tremendous degree of flexibility in how they pursue affirmative action.

The affirmative action information above is likely very different from what most Americans imagine when they think of affirmative action in employment. Even supporters of the program are sometimes unclear about the program and are poor at describing it.¹⁴⁶

More importantly, opponents of affirmative action have been very effective at spreading misinformation about the program. Opponents of the program regularly describe it as a quota system when hiring quotas are illegal.¹⁴⁷ Affirmative action expert Faye Crosby reports that “a study commissioned by Sen. Robert Dole . . . proved that no affirmative action measure involved quotas. Not a single one.”¹⁴⁸ These facts will not stop opponents from repeating the falsehood.

We can see the effectiveness of the anti-affirmative action activists in this “affirmative action” survey question from the National Opinion Research Center:

141. *Id.* at 96.

142. *Id.*

143. *Id.* at 97.

144. CROSBY, *supra* note 122, at 7.

145. *Id.* at 5 (quoting AM. PSYCH. ASS’N, AFFIRMATIVE ACTION: WHO BENEFITS? (1996)).

146. *Id.* at 64 (“A substantial proportion of the people I’ve encountered at events focusing on affirmative action have only a vague idea of what the policy entails.”).

147. *Id.* at 70–71.

148. *Id.* at 6.

Some people say that because of past discrimination, blacks should be given preference in hiring and promotion. Others say that such preference in hiring and promotion of blacks is wrong because it discriminates against whites. What about your opinion—are you for or against preferential hiring and promotion of blacks?¹⁴⁹

This “affirmative action” question is not precisely asking about affirmative action. Affirmative action is a policy to counteract discrimination *in the present*, not the past.¹⁵⁰ It is described by many as a system of “preference,” but this is not truly accurate. It is a system to undo White preference. As a human resource official told Thomas,

If they [a minority applicant] are qualified and a manager or supervisor says I don't want to hire that person, you have to point out, very diplomatically, what the reasons are to hire a certain person, not by look or by gender, but by qualifications, and that's it.¹⁵¹

Black job candidates should not be passed over because of the conscious or unconscious biases of managers or supervisors. Prior to affirmative action, most employers have hiring processes that consciously and unconsciously advantage White applicants. Affirmative action works to undo that White preference.

If we wish to ensure that Black workers receive their fair share of jobs from the jobs policies, we will need affirmative action. We should look for ways to expand and strengthen affirmative action programs so that they are more effective at increasing the hiring of Black workers. For example, firms have tremendous flexibility in pursuing affirmative action goals. It may be better to develop a set of best practices and to encourage firms to use them.

IV. A Universal Basic Income Is Not a Substitute for a Job

Some people may propose that we stop worrying about jobs and focus on providing the jobless with a universal basic income.¹⁵² This perspective misses the full meaning and benefits of

149. Frank Newport, *Affirmative Action and Public Opinion*, GALLUP NEWS (Aug. 7, 2020), <https://news.gallup.com/opinion/polling-matters/317006/affirmative-action-public-opinion.aspx> [perma.cc/ZX4K-W325].

150. CROSBY, *supra* note 122, at 4–5.

151. Thomas, *supra* note 55, at 95.

152. MICHAEL TANNER, CATO INST., *THE PROS AND CONS OF A GUARANTEED NATIONAL INCOME* 2 (2015).

employment in U.S. society. Work has economic, psychological, and sociological benefits beyond an income.¹⁵³ Thus, it would be a mistake and a grave disservice to the African American jobless to try to fill their need for jobs with just a basic income. Before we examine these other dimensions of work, we should first examine the problems that universal basic income proposals have in providing a basic income.

For people who aren't poor or jobless, the thought of an additional \$1,000 a month as Andrew Yang's universal basic income (UBI) proposal¹⁵⁴ calls for is very seductive. Many Americans are struggling, even if they aren't officially poor. For the poor, UBI proposals can sound like liberation from a paternalistic and punitive safety net bureaucracy with its many requirements for receiving benefits. But UBI won't truly be helping the poor if it leaves them poorer. It is important to examine UBI proposals very carefully.

Yang's proposal called for a \$1,000 per month basic income to all American citizens over 18.¹⁵⁵ It is important to be aware that this amount, \$12,000 per year, is lower than the Census Bureau's 2019 poverty threshold for a single adult under 65.¹⁵⁶ While Yang's UBI can lift households with multiple adults out of poverty, it cannot lift single individuals out of poverty—and certainly not if that individual has one or more dependent children.

Yang's UBI proposal also asks people to choose between a basic income and safety net programs. It states, “[c]urrent welfare and social program beneficiaries would be given a choice between their current benefits or \$1,000 cash unconditionally—most would prefer cash with no restriction.”¹⁵⁷ While at one point in an individual's life, Yang's UBI might be worth more than the benefits an individual receives, in the future—during a recession or during retirement or when the individual develops a disability or has children or becomes homeless—it might not. If there is a significant decline in the uptake of a particular safety net program because

153. Alice Boyes, *What Psychological Benefits Do You Get from Work?*, PSYCH. TODAY (Aug. 22, 2019), <https://www.psychologytoday.com/us/blog/in-practice/201908/what-psychological-benefits-do-you-get-work> [perma.cc/BRW3-BGQB].

154. *The Freedom Dividend, Defined*, YANG2020 (2020), <https://2020.yang2020.com/what-is-freedom-dividend-faq/> [perma.cc/93GY-M2X4].

155. *Id.*

156. The 2019 poverty threshold for a single adult under sixty-five years old was \$13,300. U.S. CENSUS BUREAU, POVERTY THRESHOLDS (2020), <https://www.census.gov/data/tables/time-series/demo/income-poverty/historical-poverty-thresholds.html> [perma.cc/M2WM-THKG].

157. *The Freedom Dividend, Defined*, *supra* note 154.

people have chosen the UBI, will there not be increased pressure from conservatives to end the program completely?

Conservatives support a UBI precisely because they see it as a means to eliminate safety net programs.¹⁵⁸ For example, in 2006 the conservative Charles Murray argued for eliminating all welfare transfer programs—including Social Security and Medicare—for an annual grant of \$10,000.¹⁵⁹ Adjusting that amount for inflation would make it about \$12,700 in 2020.¹⁶⁰ The average Social Security benefit in 2020 was worth \$18,000—\$5,300 more.¹⁶¹ For some people, before retiring, Murray's UBI would add to their income, but once they retire it would significantly reduce their income. The medical bills covered by Medicare can easily be worth much more than \$12,700. In retirement, Murray's UBI would dramatically increase poverty and extreme economic hardship among the elderly. Only if a UBI is added on top of our existing safety net would the poor be guaranteed to be better off.

Yang's proposal lifts households with multiple adults out of poverty if one uses the Census Bureau's poverty threshold.¹⁶² But that threshold has been criticized for being too low.¹⁶³ If one uses a "family-budget" standard which would provide "a modest yet adequate standard of living,"¹⁶⁴ Yang's UBI is not enough. For example, for a family of two working adults and one child in Birmingham, Alabama, the family-budget income that family needs is estimated to be \$66,000 a year.¹⁶⁵ Yang's UBI would provide only \$24,000 to two jobless adults with a child.¹⁶⁶ Thus, if the goal is to

158. Noah J. Gordon, *The Conservative Case for a Guaranteed Basic Income*, THE ATLANTIC (Aug. 6, 2014), <https://www.theatlantic.com/politics/archive/2014/08/why-arent-reformicons-pushing-a-guaranteed-basic-income/375600/> [perma.cc/2RQB-YEP4].

159. *Id.*

160. Inflation calculation based on June 2006 to June 2020. U.S. BUREAU OF LAB. STAT., CPI INFLATION CALCULATOR, https://www.bls.gov/data/inflation_calculator.htm.

161. Sean Williams estimates the average 2020 Social Security benefit to be \$1,503 per month. Sean Williams, *The Average Social Security Retirement Benefit in 2020*, MOTLEY FOOL (Dec. 22, 2019), <https://www.fool.com/retirement/2019/12/22/the-average-social-security-retirement-benefit-in.aspx> [perma.cc/3TYV-MTPU].

162. See U.S. CENSUS BUREAU, *supra* note 156.

163. Sean Fremstad, *The Federal Poverty Line Is Too Damn Low*, THE NATION (Sept. 14, 2016), <https://www.thenation.com/article/archive/the-federal-poverty-line-is-too-damn-low/> [perma.cc/3QH-X-BU8H].

164. ECON. POL'Y INST., FAMILY BUDGET CALCULATOR (Mar. 2018), <https://www.epi.org/resources/budget/> [perma.cc/J46S-EUNN].

165. *Id.*

166. *The Freedom Dividend, Defined*, *supra* note 154.

allow people to have a decent standard of living without a job, the UBI would have to be significantly more than what Yang proposes.

The public policy professors Hilary W. Hoynes and Jesse Rothstein calculate that Yang's \$1,000-per-month UBI proposal would require doubling federal tax revenue to pay for it.¹⁶⁷ Of course, if we wished the UBI to meet the higher family-budget standard, it would be much, much more costly. Since a UBI is universal, most of this increased federal expenditure would go to non-poor, non-jobless households¹⁶⁸ while possibly putting at risk safety net programs for the needy.

We have seen that there are several problems in UBI proposals' provision of a "basic income." But the challenges for UBI as a substitute for jobs do not end there. Economically, a job is more than an income. At work, people gain work experience, learn skills, and build social networks that can lead them to higher pay and better jobs.¹⁶⁹ If an income is used to replace a job, then these opportunities for upward economic mobility are cut off. We do not want a policy that will work to further block Black upward economic mobility.

In American society, a job is an important part of individual's identity and self-esteem. When people are asked to describe themselves to strangers, they often begin with a discussion of their work.¹⁷⁰ In Alford A. Young, Jr.'s study of the Black working class, he documents how these individuals think about the non-economic value of work. Young observes, "[t]he women's ideas of good work had a lot to do with feeling good about themselves as a consequence of what they believed they were offering to others in the course of their work."¹⁷¹ While the women felt pride in their ability to help others, the men focused more on jobs as an opportunity to build their social status and to achieve respect in the eyes of others. Young reports, "men often talked about what the good job would do for their sense of personal identity in ways that would not de-

167. Hilary W. Hoynes & Jesse Rothstein, *Universal Basic Income in the U.S. and Advanced Countries* 2, 6 (Nat'l Bureau of Econ. Rsch., Working Paper No. 25538, 2019), https://www.nber.org/system/files/working_papers/w25538/w25538.pdf [perma.cc/8R7S-N23H].

168. *Id.* at 14.

169. See Boyes, *supra* note 153.

170. Work is one of the more common topics for small talk. See Arlin Cuncic, *Preparing for Small Talk: A List of the Best and Worst Topics*, VERYWELL MIND (June 28, 2020), <https://www.verywellmind.com/small-talk-topics-3024421> [perma.cc/ZDL3-RP4Z].

171. ALFORD A. YOUNG, JR., FROM THE EDGE OF THE GHETTO: AFRICAN AMERICANS AND THE WORLD OF WORK 112 (2020).

emphasize service to others, but rather provide elevated attention to social status and individual accomplishments made at work.”¹⁷² Substituting income for a job would cut individuals off from an important source of identity and self-esteem in American society. As a policy to help unemployed Black people, UBI as a substitute for employment has the potential to further marginalize these individuals and keep them outside of the American mainstream.

The former U.S. Surgeon General Vivek Murthy has argued that there is a loneliness epidemic in America.¹⁷³ In 2019, 61 percent of Americans reported some degree of loneliness.¹⁷⁴ Loneliness has been shown to be associated with a greater risk of heart disease, depression, anxiety, and dementia.¹⁷⁵ Loneliness may be as harmful to one’s health as smoking 15 cigarettes a day.¹⁷⁶ There is research suggesting that African Americans suffer from loneliness to a greater degree than White Americans.¹⁷⁷ Lower-income individuals report higher rates of loneliness than higher-income individuals.¹⁷⁸

While a job does not guarantee an escape from loneliness, it does have the potential to be a positive site for social interaction. At work, people can have regular meaningful contact with others, they can form friendships, and they can even develop romantic relationships. If we were to try to solve the problem of African American joblessness with a UBI, we may be exacerbating the problem of loneliness for African Americans.

A job is a lot more than an income. But it is important to note that there are UBI proposals that could lead to lowering some people’s income and increasing poverty and economic hardship.¹⁷⁹ Beyond the risk of lowering income, a UBI fails as a substitute for

172. *Id.* at 118.

173. Jena McGregor, *This Former Surgeon General Says There’s a ‘Loneliness Epidemic’ and Work Is Partly to Blame*, WASH. POST (Oct. 4, 2017), <https://www.washingtonpost.com/news/on-leadership/wp/2017/10/04/this-former-surgeon-general-says-theres-a-loneliness-epidemic-and-work-is-partly-to-blame/> [perma.cc/KUA4-J4V8].

174. CIGNA, LONELINESS AND THE WORKPLACE 1 (2020), <https://www.cigna.com/static/www-cigna-com/docs/about-us/newsroom/studies-and-reports/combating-loneliness/cigna-2020-loneliness-factsheet.pdf> [perma.cc/7KJ9-3NYG].

175. McGregor, *supra* note 173.

176. *Id.*

177. See Kristen Monaco, *Social Isolation, Loneliness Real for Midlife Minority Women*, MEDPAGE TODAY (May 22, 2019), <https://www.medpagetoday.com/meetingcoverage/apa/79987> [perma.cc/2KGL-J6CN] (describing a study finding that Black and Hispanic middle-aged women reported high levels of loneliness).

178. CIGNA, *supra* note 174.

179. See *supra* text accompanying notes 160 and 161.

a job. UBIs do not provide individuals with opportunities for upward mobility that can come with working. UBIs do not provide individuals with opportunities to feel like they are helping others, contributing to society, or doing a job well. A UBI also does not provide individuals with opportunities for positive, meaningful social interactions to combat loneliness like work does. Of course, there are too many bad jobs that fail to achieve all of the positive potential of work. But even the best UBI would fail in achieving these broader benefits of work beyond an income.

When we recognize the non-income value of work, we can also gain a deeper appreciation of the harms caused by a society that produces a permanently high rate of joblessness among African Americans. The damage from the loss of income is severe and serious, but that is not all of the damage. Joblessness also makes it more difficult for unemployed African Americans to build a good, meaningful, and purposeful life.

Conclusion

The 1963 March on Washington for Jobs and Freedom called for “[a] massive federal program to train and place all unemployed workers—Negro and white—on meaningful and dignified jobs at decent wages.”¹⁸⁰ At that time Black workers were twice as likely to be unemployed as White workers.¹⁸¹ Today, Black workers are still twice as likely to be unemployed.¹⁸² While Black educational attainment has increased since the 1960s,¹⁸³ the Black-White unemployment rate ratio has remained the same.¹⁸⁴ This ratio has consigned Black America to live under conditions that feel like a permanent economic recession.

More than half a century has passed since the 1963 demand for jobs—more than half a century of continued racial inequality in the labor market. We should delay no further in creating federal policies to employ all workers. As the Jobs and Freedom activists envisioned, addressing the problem of high Black unemployment would create jobs for people of all races. If the Federal Reserve refrains from prematurely reversing economic growth, the number

180. MARCH ON WASHINGTON FOR JOBS AND FREEDOM, *supra* note 1.

181. AUSTIN, THE UNFINISHED MARCH, *supra* note 3, at 3.

182. Ajilore, *supra* note 8.

183. JENNIFER CHEESEMAN DAY, U.S. CENSUS BUREAU, BLACK HIGH SCHOOL ATTAINMENT NEARLY ON PAR WITH NATIONAL AVERAGE (2020), <https://www.census.gov/library/stories/2020/06/black-high-school-attainment-nearly-on-par-with-national-average.html> [perma.cc/LR7G-AY8R].

184. AUSTIN, THE UNFINISHED MARCH, *supra* note 3, at 8.

of available jobs would increase for all. If we eliminate the trade deficit, that would increase the number of jobs available for all. If we shorten work weeks and increase vacation and paid leave for workers, that would create jobs for all. If we make the needed investments in infrastructure and in fighting climate change, that would produce jobs for all. If we invest through employment subsidies in high-unemployment communities, that would create jobs for all.

Although these jobs policies would create jobs for all Americans, there is reason to worry about whether African Americans would receive their fair share. The Black-White jobs gap is the product of racial discrimination in the labor market.¹⁸⁵ Direct and indirect job-creation policies do not address this problem. Affirmative action is a small and modest intervention to counteract the overt and covert forms of anti-Black discrimination in the labor market. We will need a strong commitment to affirmative action to break the half-century pattern of Black people being twice as likely to be unemployed as White people.

We know the policies necessary to end the permanent recession in Black America. We just need to create the political will.

185. *See supra* Section I.C.