# EIS CP – Da File

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# Topshelf

## 1NC CP

The United States federal government should offer <plan> if, and only if, the recipient of the investment adopts a decision-making process that evaluates potential disparate impacts of <plan>. The United States federal government should withhold funding for <plan> if, and only if, the result of the investment violates disparate impact regulations as set forth in Title VI of the Civil Rights Act.

CP is competitive—it makes funding contingent on the recipient of the investment submitting an impact analysis over the plan and withhold funding unless the project meets disparate impact regulations

Solves the whole aff and is key to prevent discrimination—current applications of Title VI are limited to lawsuits after the project’s implementation and require proof of intentional discrimination—evaluating potential disparate impacts before the implementation and making funding contingent is key

Harvard Law Review, ’03 [April, 2003, 116 Harv. L. Rev. 1774, “After Sandoval: Judicial Challenges and Administrative Possibilities in Title VI Enforcement”, lexis nexis]

Federal agencies must adopt alternative measures to fulfill their enforcement obligations. While changes in complaint processing procedures [\*1790] may prove helpful, preemptive action is warranted. In a post-Sandoval regulatory environment, Title VI will have force only if agencies act to facilitate and to enable compliance, rather than merely to police complaints. One way for agencies to meet this heightened enforcement obligation is to require that federal funding recipients adopt decisionmaking processes that take into account their potential impact on racial and ethnic communities before implementing a policy or program, rather than after.¶ A growing number of legal scholars are responding to the standard problems of administrative performance n74 by imagining a decentralized model of governance. Under this model, public and private actors work as cooperative partners, and local experimentation, innovation, and deliberation complement federal efforts in solving complex problems. n75 Such a model is instructive in considering alternative means to bolster administrative enforcement of Title VI. Sole reliance on the traditional, rights-based litigation model is not effective in a world where discrimination often operates in a subtle, complex, and obscured fashion. n76 As Professors Dorf and Sabel have noted, a "pragmatist" understanding of how decisions are made and problems are solved is needed "in a world, familiar to our own, that is bereft of first principles and beset by unintended consequences, ambiguity, and difference." n77 The current intentional discrimination enforcement regime [\*1791] unrealistically presumes the exact opposite: intentional results, clearly identifiable conduct, and equivalence. Predictably, these presumptions have led to a litigation strategy of enforcement that often fails to address the root causes of discrimination. n78¶ Sandoval's push toward administrative enforcement may force a recognition that the problems of discriminatory effects - as illustrated compellingly in South Camden and Campaign for Fiscal Equity - are caused in large part by the differing costs of certain decisions, the difficulty of identifying less discriminatory alternatives, and a lack of ex ante incentives to consider adverse impacts. The emergent ideas in the growing body of decentralized governance scholarship - collaboration, experimentation, innovation, information-sharing, and benchmarking - are perhaps better suited to address the root causes of disparate impact than is the traditional method of imposing ex post liabilities on funding recipients. Though much of this scholarship has focused on regulation, rulemaking, standards, and other policymaking tools, its insights are fully transferable to the enforcement arena. Enforcement demands compliance, and actors choose whether to comply just as they exercise choice when making other substantive decisions. Thus, the potential for an administrative enforcement regime that incentivizes and facilitates compliance warrants further exploration.¶ Agencies can go further than they have in using their disparate impact regulations as effective enforcement tools. They should impose an affirmative duty on funding recipients to investigate and respond to potential disparate impacts before policies or programs are finalized and implemented. The use of disparate impact analysis as a substantive compliance condition, rather than just a post-complaint enforcement response, would shift agency enforcement priorities to an earlier stage and encourage local participants to develop alternative solutions to prevent disparate harm. Issuing enforcement guidance that creates concretely defined pre-decision processes with which Title VI recipients must comply would promote broader participation, transparency, and, most importantly, accountability in funding recipients' decisions that could have discriminatory impacts. Under this model, the federal [\*1792] agency incentivizes and facilitates compliance, in addition to simply processing complaints. n79¶ The validity of disparate impact regulations is an important component of such an administrative enforcement regime. While these regulations may not be necessary to carry out this Note's suggested reforms, they undoubtedly would heighten federal agencies' efficacy in eliciting compliance with pre-decision disparate impact processes by providing teeth to enforcement efforts at the back end of the process. n80 Without disparate impact regulations, funding recipients will have little incentive to comply with these federal standards, thus undermining their purpose and utility. Assuming agencies would use this decentralized process of determining disparate impact to set enforcement priorities, n81 any agency could use, for instance, failure to comply with pre-decision disparate impact processes as an automatic trigger for initiating an investigation.¶ This proposed use of disparate impact analysis has three components: pre-decision impact analysis, public participation requirements, and post-decision monitoring and mitigation measures. Each of these phases - investigation, participation, and response - requires federal agencies to play an important role in defining what constitutes disparate impact, determining what types of policies or programs tend to result in such an impact, establishing standards for public participation, and disseminating information regarding "best practices" so that federal funding recipients have guidance in evaluating possible alternative policies to mitigate discriminatory effects. First, funding recipients would be required to perform disparate impact analysis prior to implementing certain classes of decisions that are likely to result in a disparate impact. Second, should the analysis reveal that the decision would result in a disparate impact on a community of color, public participation requirements would be triggered to involve members of the affected community in formulating a satisfactory alternative. Finally, recipients would be required to make a good-faith effort to ameliorate the discriminatory impact or to provide remedial or compensatory measures that are satisfactory to the community and funding [\*1793] agency. Thus, federal agencies would establish incentives and infrastructure for local, cooperative solutions that can serve as national models. n82 Although there are added costs to this proposal, they are not prohibitive and are necessary to effectuate the purposes of Title VI.

#### That’s key – an equity impact statement must precede planning and implementation to make transportation infrastructure less racist and more accessible

Levinson '02

[David Levinson, Department of Civil Engineering at University of Minnesoata, "Identifying Winners and Losers in Transportation", pg. online @ Levinson nexus.umn.edu/Papers/winnersandlosers.pdf//]

#### Environmental justice is a good beginning, but it only considers “fair treatment for people of all races, cultures, and incomes” regarding the development of environmental laws and policies (17). It thus only examines environmental outcomes and only addresses a few strata. **There are ways of grouping the population to determine the fairness of the distribution of gains and losses to speciﬁc subpopulations.** Different groupings of the population will result in different assessments of a project’s fairness. Because there is no right way of grouping, multiple groupings should be considered. To that end, **transportation** B/C **analyses should include an “equity impact statement.”** [The Applied Research Center (18) has also developed what they call an equity impact statement; however, th**at document is a qualitative approach to assessing equity** and can be seen as complementary to what is being suggested here. The city of Toronto, Canada (19), has issued an equity impact statement but again of a more qualitative and less systematic type than that suggested here.] This document would speciﬁcally consider the winners and losers for a project. In particular, a set of speciﬁed subgroups would be identiﬁed. Then **the outcomes of the project** (e.g., **travel time and delay, accessibility, consumer’s surplus, air pollution, noise pollution, accidents**) **would be assessed for each of the population groups. Although inequity** across some dimensions **is almost inevitable**, **it is crucial both for fairness and for political expediency**, **given the grow-ing environmental justice movement, to acknowledge** the **inequity and its relative magnitude before a project is implemented.** Chen (20) argues that the **principles** **of social equity** and environmental justice **can be realized only when the conventional top-down approach** to decision making **ends**. **The only way that this can be done is by including all** the **groups** of the community **in the decisionmaking** process. Social equity can be realized only when the needs of all groups are adequately represented. This argument calls for an inclusion of opportunity to participate as a key criterion in an equity impact statement. **For each group, identiﬁcation of whether that group had equal opportunity to affect the project would be made**. Questions would be raised such as “Was the group included among the analysts and decision makers in proportion to its share of the affected population?” **Although state departments of transportation** and metropolitan planning organizations **are attempting to involve minority and low-income populations** to a larger degree, historical **biases remain**. The equity impact statement, a checklist for which is given in Table 3, would thus consider the inputs (the opportunity to participate in decision making) as well as the outcomes (mobility, economic, environmental, health, and other) for transportation projects. **The strata are worth discussing** in some detail: • The population stratification just looks at the population as a whole and investigates how equally distributed are both the opportunities to participate and the outcomes. • **The spatial** (or jurisdictional) **stratiﬁcation would examine how different areas** (from small areas like census blocks or traffic zones to larger areas like census tracts, jurisdictions, or metropolitan areas) **are affected by the project**. **For example, the U.S.** Congress has a House of Representatives, whose seats are allocated in proportion to population, and a **Senate**, which has two seats for every state. One **ensures** population equity, the other a type of **spatial equity**. • The temporal stratiﬁcation would consider the beneﬁts and losses to current residents in comparison with those of (potential) future residents. Many transportation and land use policies, such as impact fees, have signiﬁcant temporal effects (21). • Modal equity considers whether users of different modes (e.g., drivers, pedestrians, transit riders) receive different gains or losses from a project and had equal input into the decision. • **Generational equity differentiates individuals by age**: do the elderly or middle-aged benefit at the expense of the young? • **Gender equity contrasts men and women**. **Because there are known differences in the transportation use patterns by sex**, **distinguishing** the **effects** on the two groups **is important**. • **Ability compares the fairness accorded to those without** any physical or mental **disability** **with** the **fairness** **to those facing such challenges.** • **Racial and cultural equity consider the effects on different races**, ethnic groups, **religions, and cultures**. Insufficient research has to date examined the transportation uses by these groups, but if only **because of historic spatial segregation, transportation investments will have differential impacts**. • Similarly, some investments that serve certain vehicle types and certain areas will inevitably favor the rich over the poor, an issue addressed by examining income equity

## AT: Perm Do The Counterplan

#### Permutation is severance—

#### a) Certainty—the CP only invests if the recipient evaluates the project and proves it does not have a disparate impact

#### The CP text has the USFG offer investment—“Increase” refers to a mandate, not a potential result

HEFC 4 (Higher Education Funding Council, <http://www.publications.parliament.uk/pa/jt200304/jtselect/jtchar/1> 67/167we98.htm# n43)

9.1 The Draft Bill creates an obligation on the principal regulator to do all that it "reasonably can to meet the compliance objective in relation to the charity".[ 45] The Draft Bill defines the compliance objective as "to increase compliance by the charity trustees with their legal obligations in exercising control and management of the administration of the charity".[ 46] 9.2 Although the word "increase" is used in relation to the functions of a number of statutory bodies,[47] such examples demonstrate that "increase" is used in relation to considerations to be taken into account in the exercise of a function, rather than an objective in itself. 9.3 HEFCE is concerned that an obligation on principal regulators to "increase" compliance per se is unworkable, in so far as it does not adequately define the limits or nature of the statutory duty. Indeed, the obligation could be considered to be ever-increasing.

**Resolved = Firm decision**

AHD 6(American Heritage Dictionary, http://dictionary.reference.com/browse/resolved)

Resolve TRANSITIVE VERB:1. To make a firm decision about. 2. To cause (a person) to reach a decision. See synonyms at decide. 3. To decide or express by formal vote.

**“Substantial” means durable**

Ballantine’s 94 (Thesaurus for Legal Research and Writing, p. 173)

substantial [sub . *stan* . shel] *adj*. abundant, consequential, durable, extraordinary, heavyweight, plentiful (“a substantial supply”); actual, concrete, existent, physical, righteous, sensible, tangible (“substantial problem”); affluent, comfortable, easy, opulent, prosperous, solvent.

Prefer our definitions—if the aff is uncertain, they can avoid all DA links and CP competition which compete off the definite nature of the plan

b) Immediacy—the CP doesn’t result in investment until after the project has been evaluated

#### Should is immediate

Summers 94 (Justice – Oklahoma Supreme Court, “Kelsey v. Dollarsaver Food Warehouse of Durant”, 1994 OK 123, 11-8, http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn13)

¶4 The legal question to be resolved by the court is whether the word "should"[13](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287" \l "marker3fn13) in the May 18 order connotes futurity or may be deemed a ruling *in praesenti*.[14](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287" \l "marker3fn14) The answer to this query is not to be divined from rules of grammar;[15](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287" \l "marker3fn15) it must be governed by the age-old practice culture of legal professionals and its immemorial language usage. To determine if the omission (from the critical May 18 entry) of the turgid phrase, "and the same hereby is", (1) makes it an in futuro ruling - i.e., an expression of what the judge will or would do at a later stage - or (2) constitutes an in in praesenti resolution of a disputed law issue, the trial judge's intent must be garnered from the four corners of the entire record.[16](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287" \l "marker3fn16)

[CONTINUES – TO FOOTNOTE]

[13](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker2fn13) "*Should*" not only is used as a "present indicative" synonymous with *ought* but also is the past tense of "shall" with various shades of meaning not always easy to analyze. See 57 C.J. Shall § 9, Judgments § 121 (1932). O. JESPERSEN, GROWTH AND STRUCTURE OF THE ENGLISH LANGUAGE (1984); St. Louis & S.F.R. Co. v. Brown, 45 Okl. 143, 144 P. 1075, 1080-81 (1914). For a more detailed explanation, see the Partridge quotation infra note 15. Certain contexts mandate a construction of the term "should" as more than merely indicating preference or desirability. Brown, supra at 1080-81 (jury instructions stating that jurors "should" reduce the amount of damages in proportion to the amount of contributory negligence of the plaintiff was held to imply an *obligationand to be more than advisory*); Carrigan v. California Horse Racing Board, 60 Wash. App. 79, [802 P.2d 813](http://www.oscn.net/applications/oscn/deliverdocument.asp?box1=802&box2=P.2D&box3=813) (1990) (one of the Rules of Appellate Procedure requiring that a party "should devote a section of the brief to the request for the fee or expenses" was interpreted to mean that a party is under an *obligation* to include the requested segment); State v. Rack, 318 S.W.2d 211, 215 (Mo. 1958) ("should" would mean the same as "shall" or "must"when used in an instruction to the jury which tells the triers they "should disregard false testimony").[14](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287" \l "marker2fn14)*In praesenti*means literally "at the present time." BLACK'S LAW DICTIONARY 792 (6th Ed. 1990). In legal parlance the phrase denotes that which in law is*presently* or *immediately effective*, as opposed to something that*will* or *would*become effective *in the future [in futurol*]. See Van Wyck v. Knevals, [106 U.S. 360](http://www.oscn.net/applications/oscn/deliverdocument.asp?box1=106&box2=U.S.&box3=360), 365, 1 S.Ct. 336, 337, 27 L.Ed. 201 (1882).

#### “Substantial” means immediate and certain

Words and Phrases 64 (40W&P 759)

The words" outward, open, actual, visible, substantial, and exclusive," in connection with a change of possession, mean substantially the same thing. They mean not concealed; not hidden; exposed to view; free from concealment, dissimulation, reserve, or disguise; in full existence; denoting that which not merely can be, but is opposed to potential, apparent, constructive, and imaginary; veritable; genuine; certain: absolute: real at present time, as a matter of fact, not merely nominal; opposed to form; actually existing; true; not including, admitting, or pertaining to any others; undivided; sole; opposed to inclusive.

Prefer our definitions—all DAs assume the status quo conditions at the time of plan implementation—the “invest in a year” aff

#### That’s a voting issue—

## AT: Perm Do Both

#### Doing the impact assessment before the plan is key—permutation distorts the baseline for measurements which doesn’t accurately reflect the equity implications

USAID, ’08 [June 2008, Impact Assessment Primer Series Publication # 7, “Common Problems In Impact Assessment Research”, <http://pdf.usaid.gov/pdf_docs/PNADN201.pdf>]

The timing of the impact assessment may seriously affect the validity of its findings. Ideally, a set aside for an impact assessment is incorporated into the original program budget that includes funding for a technical expert to set up the impact assessment early in the program cycle. More commonly, however, the decision to do an impact assessment occurs after the program is already underway. This can cause a number of problems. To begin with, the baseline may come too late to capture impacts that have already occurred, resulting in an understatement of actual program impacts. The longer the time lag between program launch and the baseline research, the greater the probability that the impact assessment fails to capture certain program impacts.

Even more striking examples of the problems resulting from delaying the start of research are provided by cases in which the impact assessment is done either near the end or after the end of a program. In these cases, there is no possibility of doing a baseline study, or, indeed, of getting any longitudinal data. Everything depends on a one-time set of research activities and often entails a heavy reliance on retrospective questions.

#### We must explicitly recognize issues of equity before implementation to prevent them from becoming political problems

Levinson '03

[David Levinson, Department of Civil Engineering at University of Minnesoata, December 2003, "Perspectives on efficiency in transportation", pg. online @ [www.sciencedirect.com/science/article/pii/S1471405104000035//](http://www.sciencedirect.com/science/article/pii/S1471405104000035//)]

The general focus on systematic efficiency ignores equity effects on individual welfare from a change in the transportation-land use system. While at one level everyone understands that change creates winners and losers, at another, only the aggregate net gain is generally considered. Much cost benefit analysis is based on the Kaldor–Hicks or potential Pareto improvement test. This says that a change is acceptable provided the losers could be compensated from the gains of the winners, whether or not they actually are. But this test may not command social acceptance, particularly from the losers. Thus, economic decisions are devolved into the political and legal arenas, where voices are not necessarily weighted equally. Diffuse winners may not expend energy to defeat concentrated losers, despite an overall “net gain.” By the economic calculus, society is worse off. Can this be anticipated and avoided? It needs to be recognized that winners and losers are created all of the time. The simplest changes to the transportation network create winners and losers, not just due to the taking of land, or the creation of pollution effects, but even mobility reductions from the relatively narrow transportation perspective. It is essential to develop MOEs (both of efficiency and equity) that identify these issues before they become political problem. Unfortunately, no single MOE will capture everything. Complexity implies uncertainty, so any one measure will be incomplete. Yet, the alternative of not doing the analysis is also unacceptable. Explicit consideration of equity and the distribution of winners and losers will highlight potential problems before they manifest themselves.

#### We must engage the public early and genuinely to solve

Sanchez et al, ’03 [2003, The Civil Rights Project at Harvard University. Thomas W. Sanchez is an associate professor of Urban Affairs and Planning and research fellow in the Metropolitan Institute at Virginia Tech in Alexandria, Virginia. Rich Stolz is Senior Policy Analyst at Center for Community Change. Jacinta S. Ma is a Legal and Policy Advocacy Associate at The Civil Rights Project at Harvard., “MOVING TO EQUITY: Addressing Inequitable Effects of Transportation Policies on Minorities”, http://civilrightsproject.ucla.edu/research/metro-and-regional-inequalities/transportation/moving-to-equity-addressing-inequitable-effects-of-transportation-policies-on-minorities/sanchez-moving-to-equity-transportation-policies.pdf]

Several MPOs, in complying with these mandates, have conducted technical analyses to assess how well regional transportation systems serve different social and economic groups. Many of these analyses have been used to demonstrate the need for federal funding for programs such as the Jobs Access and Reverse Commute programs.209 One report found that nearly half of the MPOs they surveyed had conducted different types of reverse commuting and employment access projects, which are targeted to low-income individuals and minorities. 210 These principles of environmental justice were integrated into the TEA-21 administrative regulations and became requirements of the state department of transportation and MPO planning processes.211 ISTEA and TEA-21 required state departments of transportation and MPOs to increase the role of citizen participation in the transportation planning process. The laws required “early and continuous” public involvement, which has become an increasingly important element of environmental and social justice challenges.212 During extensive outreach by FHWA and the Federal Transit Administration (FTA) in preparation for the rulemaking process to implement TEA-21’s planning and environmental provisions, the public raised concerns regarding equity, environmental justice, and Title VI requirements. Suggestions regarding public involvement included 1) increasing stakeholder and public participation, 2) developing strategies to identify and better engage culturally diverse groups in transportation planning and decision making, and 3) withholding planning certification unless the public involvement process includes underserved communities.

#### It has to happen before the plan

Opportunity Agenda ‘09

[The Opportunity Agenda—a communications, research, and advocacy organization dedicated to building the national will to expand opportunity in America, 2009 (“The Opportunity Impact Statement,” Poverty & Race, Volume 18, Issue 2, March/April, Available Online to Subscribing Institutions via Alt Press Watch)

The Opportunity Impact Statement (OIS) is a road map that public bodies, affected communities and the private sector can use to ensure that programs and projects offer equal and expanded opportunity for everyone in a community or region. On both the federal and state level, impact statements are a well-established practice, intended to ensure that policymakers have full awareness of the impact of proposed rules before taking major action. Fiscal impact statements from the non-partisan Congressional Budget Office outline the costs and benefits of congressional legislation, and many states have adopted similar financial analyses for legislative action. Iowa, Connecticut and Minnesota have established impact statements that review proposed changes in criminal justice policy to determine whether such action will exacerbate or reduce racial disparities in sentencing and incarceration. Perhaps the most well-known impact statement is the federal Environmental Impact Statement (EIS) found in the National Environmental Policy Act (NEPA) that federal agencies must prepare when a major construction or other project is likely to have a significant effect on the environment. An EIS is prepared based on available data and investigation. It compares the proposed project to other alternative approaches, and invites public scrutiny and public comment. Ultimately, it aims to facilitate informed, sophisticated and democratic decision-making that pursues sustainable development in service to the public interest. The Opportunity Impact Statement seeks to pursue similar goals in the context of opportunity. Just as the EIS is designed to "force federal agencies to carefully consider significant environmental impacts arising from projects under agency jurisdiction" and to create a formal procedure in which "members of the public are afforded an opportunity for meaningful participation in the agency's consideration of the proposed action, " the Opportunity Impact Statement will bring both the voice of affected communities and balanced analysis to the table in the context of opportunity. Using empirical data as well as community input and investigation, the OIS will assess the extent to which a project will expand or contract opportunity for all—e.g., Would jobs be created or lost? Would affordable housing be created or destroyed?—as well as the extent to which it will equitably serve residents and communities of different races, incomes and other diverse characteristics—e.g., Would displacement or environmental hazards be equitably shared by affected communities? These factors would be considered in the context of communities' differing assets, needs and characteristics. For example, will a construction project offer job-training opportunities to both women and men from communities with high unemployment rates, or will it bypass those communities? Will a new highway or light rail system connect distressed minority neighborhoods to quality jobs, hospitals and green markets, or will it further isolate those communities? Experience shows that simply asking these types of questions and requiring a thorough and public response will have a positive effect on the development of publicly subsidized or authorized projects.

## AT: Perm Do EIS Then Plan Anyways

#### Certain Enforcement key—the CP guarantees that the results of the statement are followed and the permutation doesn’t—that’s critical to equity

Sanchez et al, ’03 [2003, The Civil Rights Project at Harvard University. Thomas W. Sanchez is an associate professor of Urban Affairs and Planning and research fellow in the Metropolitan Institute at Virginia Tech in Alexandria, Virginia. Rich Stolz is Senior Policy Analyst at Center for Community Change. Jacinta S. Ma is a Legal and Policy Advocacy Associate at The Civil Rights Project at Harvard., “MOVING TO EQUITY: Addressing Inequitable Effects of Transportation Policies on Minorities”, http://civilrightsproject.ucla.edu/research/metro-and-regional-inequalities/transportation/moving-to-equity-addressing-inequitable-effects-of-transportation-policies-on-minorities/sanchez-moving-to-equity-transportation-policies.pdf]

Transportation policies not only have inequitable effects on the ability of low-income individuals and minorities to access places, but also have serious indirect effects such as encouraging and reinforcing residential segregation; restricting access to employment and other economic opportunities, housing, and education; and causing health disparities. This report identifies these effects to illustrate the need for those who work on transportation issues to address seriously the inequitable effects of transportation policies. As this report—particularly the section on enforcement of civil rights and environmental laws—has underscored, a vital step is the development of measures or standards of whether the burdens and benefits of transportation polices and decisions are equitable to minority and low income communities. These communities have suffered many of the burdens of transportation policies, and it is unclear how many of the benefits they have gained. Once measures are established, individuals and government officials must be able to easily enforce such measures, including in the courts if necessary; otherwise, equity cannot be ensured. Another critical need identified in this report is for additional research and data collection on transportation equity issues. Existing research provides some strong indications of the links between transportation policies and inequitable effects on minorities and low-income individuals, but some significant gaps remain. Although TEA-21 allocated $3.3 billion over six years for surface transportation research and development to ensure that the United States will be a world leader in these areas, only a very small fraction of those funds are spent on research examining transportation’s effect on social equity.240 Policymakers, researchers, and advocates need to recognize the interaction between transportation, land use, and social equity and support programs that understand and address this interaction. There are many opportunities for policymakers to address some of the inequitable effects of transportation policies on minority and low-income communities. The upcoming reauthorization of TEA-21 is one such opportunity. Housing development policies are another. “Smart growth” initiatives are yet another, but smart growth initiatives have not always incorporated principles of equity. Policymakers should use these many opportunities to move us toward equity for all.

#### The portion of the counterplan that monitors the construction of the aff is key

Harvard Law Review, ’03 [April, 2003, 116 Harv. L. Rev. 1774, “After Sandoval: Judicial Challenges and Administrative Possibilities in Title VI Enforcement”, lexis nexis]

Ensuring that the participation process does not become a mere formality is also a part of the final stage of devolved Title VI enforcement: agencies must respond to findings of discriminatory effect and the results of the public participation process by putting forth a good-faith effort to eliminate or offset that effect.¶ Again, federal agencies act as facilitators and coordinators. Federal agencies must take a more active interest than they historically have in the substance, not just the process, of the deliberation. This could be [\*1796] achieved by requiring a recipient to amend the DES to include a response to public participation (in effect turning the process into a notice-and-comment proceeding); publishing information on past efforts that have successfully involved compromise, remediation, or compensation to give recipients and the community a better idea of their available options; and agreeing on a monitoring process to evaluate the impact post-decision

#### The perm doesn’t include the possibility of modifying the aff—that’s necessary to ensure equity -

**World Bank, ’99** [Social Development Department/Transport Division, The World Bank, November 1999, “Managing the Social Dimensions of Transport: The Role of Social Assessment”, http://www4.worldbank.org/afr/ssatp/Resources/HTML/Gender-RG/Source%20%20documents/Tool%20Kits%20&%20Guides/Social%20Analysis/TLAN1%20SocialDimensionsofTransportSector(429KbPDF).pdf]

Monitoring and evaluation contributes to a better understanding of poverty, enables better and more effective targeting of the poor and vulnerable, maximizes user/stakeholder participation, and can draw attention to the complementary investments needed to support the intended objectives and impact of transport projects. Beyond simply determining the criteria or benchmarks for measuring whether project benefits are reaching the targeted stakeholders, monitoring and evaluation processes should serve as feedback mechanisms. Process indicators that monitor and evaluate operation and maintenance should be specified in addition to adjustments required to meet the needs of beneficiaries, user groups, and service providers more effectively identified. There should be specific points in the life of the project when the results of monitoring are used to introduce modifications into project design to take account of changing circumstances or new information. The mechanisms for doing so should be built into project design from the beginning. In the case of more general social analysis, which is designed to provide information concerning the social landscape and the most effective ways to foster sustainable development, the monitoring of social change should also be carried out on a consistent and ongoing basis. The results of this monitoring should feed back into the development of social policy that in turn should be integrated into economic and development policy in general. In this way, the ongoing monitoring of social groups and how they are changing will inform development policy.

## AT: Perm Do Plan and Statement on Something Else

#### Perm is intrinsic – neither the plan nor the counterplan includes an equity impact statement on something else – intrinsic perms are so unfair they wouldn’t meet the equity impact statement

#### Each time key

Opportunity Agenda 9

[The Opportunity Agenda—a communications, research, and advocacy organization dedicated to building the national will to expand opportunity in America, 2009 (“The Opportunity Impact Statement,” Poverty & Race, Volume 18, Issue 2, March/April, Available Online to Subscribing Institutions via Alt Press Watch)]

An important chance to promote opportunity arises each time a governmental body supports or controls a major public or private project. Taxpayers support, and governments initiate and regulate, a wide range of projects, from highways and mass transit lines, to schools and hospitals, to land use and economic development, to law enforcement and environmental protection. These projects, in turn, can improve or restrict access to quality jobs, housing, education, business opportunities and good health, among other opportunities. And, depending on their design and administration, they can serve all Americans fairly and effectively, or they can create and perpetuate unfairness and inequality based on race, gender or other aspects of who we are. Despite the progress we have made as a nation, research shows that people of color, women, immigrants and low-income people continue to face unequal barriers to opportunity in a range of situations, including education, employment, health care, housing, economic development, asset-building, business opportunities, environmental protection and in the criminal justice system. In authorizing, funding and regulating projects, federal, state and local governments have a responsibility to keep the doors of opportunity equally open to everyone. And history shows that when they fulfill that role, we move forward together as a society.

## AT: EIS Impossible

#### No it’s not

Duthie et. al '07

[Jennifer Duthie, Research Associate at the Center for Transportation Research and the University of Texas, S. Travis Walker, August 2007, "Incorporating Environmental Justice Measures into Equilibrium-based Transportation Network Design Models", pg. online @ swutc.tamu.edu/publications/technicalreports/167265-1.pdf//]

This research outlines three major challenges of incorporating Environmental Justice (EJ) into metropolitan transportation planning and proposes a new variation of the user equilibrium discrete network design problem (UE-DNDP) for achieving EJ amongst population groups.. Needed data is compared with what is currently available on spatial distribution of race and income, spatial distribution of trip ends, trip tables, network performance, and cost estimates of improvements. Several conflicting definitions of equity are offered, as well as applications for each within the context of EJ. The importance of choosing a correct unit of analysis is discussed, with particular emphasis on how the geographic unit of analysis is a poor proxy for the group unit – that is theoretically required as the analysis’ purpose is to compare performance measures between groups. Research into the UE-DNDP examines nine potential objective functions focused on maximizing equity of congestion and travel time. Assuming knowledge of the origindestination travel matrices by population group, numerical analysis is conducted to assess the performance of each proposed formulation. The lower level UE problem is solved using the Frank-Wolfe method, and due to the hard combinatorial nature of EJ-UEDNDP, a selectorecombinative genetic algorithm is implemented to efficiently search the solution space for feasible network improvement strategies. The results of numerical analysis suggest that both pareto-optimal and utility-based approaches can be successfully applied, and that the most effective formulations minimize the difference between the change in congestion or travel time across population groups due to the selected improvement projects.

## AT: CP Normal Means

#### CP solves and assessing the equity impacts over the plan necessary to avoid transportation inequity

Sanchez et al, ’03 [2003, The Civil Rights Project at Harvard University. Thomas W. Sanchez is an associate professor of Urban Affairs and Planning and research fellow in the Metropolitan Institute at Virginia Tech in Alexandria, Virginia. Rich Stolz is Senior Policy Analyst at Center for Community Change. Jacinta S. Ma is a Legal and Policy Advocacy Associate at The Civil Rights Project at Harvard., “MOVING TO EQUITY: Addressing Inequitable Effects of Transportation Policies on Minorities”, http://civilrightsproject.ucla.edu/research/metro-and-regional-inequalities/transportation/moving-to-equity-addressing-inequitable-effects-of-transportation-policies-on-minorities/sanchez-moving-to-equity-transportation-policies.pdf]

The requirements of The National Environmental Policy Act of 1969 (NEPA) unquestionably apply to transportation decisionmaking processes.232 In some instances, The NEPA has given minority communities some protections because of the strong procedural requirements for public review and consideration of alternatives and mitigation (and, increasingly, cumulative and adverse impacts) involved at the transportation project stage. Specifically, NEPA requires 1) identification of the purpose and need for a proposed project or program; 2) an assessment of a project’s or program’s environmental effects, “including human health, economic, and social effects,” on minority and low-income communities, and Indian tribes; 3) consideration of alternatives when significant impacts are expected; 4) identification of mitigation measures to eliminate or minimize significant impacts; and 5) a public process for review of need, impacts, alternatives, and mitigation options. NEPA challenges to highway proposals are increasingly raising the lack of analyses examining cumulative environmental and social impacts in efforts to stop destructive transportation projects. MPOs and state transportation departments need to consider not only travel patterns encouraged and secondary land use impacts, but also the consequences for access and mobility, household expenditures for transportation, and urban congestion. Laws and policies protecting people of color are often more difficult to advance than policies protecting the environment. For example, the Endangered Species Act233effectively protects endangered species whose habitats are threatened with harm by transportation projects, but similarly strong laws are not in place to protect minority and low-income communities from inequitable transportation projects. Specific impacts on open spaces, plant and animal habitats, and other ecosystems tend to be easier to quantify than social and economic impacts such as decreased housing affordability, unemployment, weakened economic development, and weakened neighborhood cohesion.234 NEPA requires an assessment of the impact of any planned transportation project on the environment and community before the project can begin.235 Although some consideration has been given to quantifying or determining how to measure the impact on a community, little attention has been given to conducting these types of assessments.236 Current environmental justice efforts related to transportation are encouraging public involvement during the impact assessment phases of project development that can be crucial for residents of disproportionately impacted neighborhoods. While some policymakers are seeking to streamline the approval process for transportation projects, including the environmental impact assessment, assessing the impact on the community is a requirement that was never seriously implemented. POLICY RECOMMENDATIONS TEA-21, which directs more than $200 billion in transportation funding to states and communities and determines how these funds may be used, will expire on September 30, 2003. The reauthorization of the act provides Congress with an enormous opportunity to incorporate provisions that will meaningfully address travel issues and concerns of minority and low-income communities across the nation. The following are some recommendations that follow from the issues raised in the report and from what we know from existing research. Implementation of these recommendations would help address the racial injustices created by transportation policies across the country and advance the national—and constitutional—goal of equality. 1. Increase funding for public transportation, and develop new programs and support existing programs that improve minorities’ mobility. Public transportation is a public service that should be supported. Also, support programs focusing on the needs of low income and minority transit users to provide reliable connections to job sites and other necessary destinations. For example, the Job Access and Reverse Commute programs support a number of promising efforts to connect low-wage workers to jobs and services, but additional funding is needed to examine which of these efforts are most effective and most likely to be successfully replicated. Also, a handful of significant research identifies increased access to cars as having a positive impact on the ability of minorities to gain access to and retain employment, which suggests that pilot programs that help low-income minorities access cars when public transit is inadequate should be developed. Include performance measures in legislation that evaluate whether transportation decisions and outcomes are equitable and that can be easily enforced by individuals and governmental officials. Standards are needed to measure whether transportation decisions and project outcomes—including environmental, economic, social, and mobility impacts— are fair for minority and low-income communities. These standards should include analyses of alternative approaches to project design and implementation that provide minority and low-income communities genuine options with respect to the impacts they would face. These measures should encompass equitable transportation planning processes and implementation. 3. Improve data collection. Support data collection and management processes that can be used to evaluate the impact of transportation projects and plans on minority and low-income communities. For example, more data about the types of transportation investments that are being made and the specific geographical areas to which these investments are being directed are necessary to better understand 1) whether the needs of minority communities are being met and 2) the relationship between transportation policies and social and economic effects on minority communities. Fund research to inform whether new transportation data collection strategies are necessary, recommend appropriate changes to current collection efforts (such as collecting data in foreign languages), provide guidance on standards to measure whether data collection on minority communities has been adequate, and suggest a medium for data to be systematically reported in a way that allows for comparison across communities. 4. Increase funding for enforcement of civil rights and environmental laws and regulations, such as Title VI and NEPA, and improve efforts to enforce them. Encourage efforts to enforce civil rights laws by codifying existing regulatory provisions authorizing DOT to withhold funds if an MPO or a state fails to comply with Title VI. Refine and clarify the obligations carried by states, MPOs, and other recipients of federal transportation funds by identifying the types of data, public input, and modeling efforts that would most likely ensure that minority communities do not disproportionately suffer negative effects from transportation policies. 5. Increase funding for research that examines the social equity impact of transportation projects. There is a critical gap in research on these issues. TEA-21 provides funding to ensure that the United States will be a world leader in surface transportation research and development in such areas as human factors and the use of advanced materials by providing $3.3 billion in funding over six years. In DOT’s description of “Reports and Studies Required by TEA-21,”237 only 2 of the 80 items listed appear to address issues related to social equity. This funding could be used in part to create and support efforts to develop research programs that focus the attention of academic institutions, in partnership with community organizations, on examining impacts, including social and economic impacts, of transportation policies on low-income and minority communities.238 These research programs should be collaborative and lead to ideas for practical ways to address negative impacts. 6. Recognize the interaction between transportation, land use, and social equity, and support programs that understand and address this interaction. Policymakers should use all opportunities to address the inequitable effects of transportation. For example, California and Maryland have prioritized allocation of Low-Income Housing Tax Credits to transitaccessible areas,239 and other states have different financial incentives for transit-oriented housing development. Also, equity principles should be incorporated into smart growth initiatives because inequitable growth is not “smart.”

#### No enforcement now

Harvard Law Review, ’03 [April, 2003, 116 Harv. L. Rev. 1774, “After Sandoval: Judicial Challenges and Administrative Possibilities in Title VI Enforcement”, lexis nexis]

This Note has been optimistic, albeit reservedly, about the potential for better administrative Title VI governance in the wake of Sandoval and subsequent decisions like South Camden and Campaign for Fiscal Equity. After Sandoval, the outlook for private enforcement of Title VI is extremely bleak. One commentator, speaking specifically about the school reform context, has noted that "lawyers can contribute greatly to the advancement of educational equity not by becoming more informed about the nuts and bolts of specific education practice areas or by initiating additional litigation, but rather by becoming better and more persuasive policy wonks." n93 Sandoval sends another [\*1797] message that the courts are, perhaps, no longer the best forum for civil rights enforcement. The answer to the question, "What now?", is that lawyers-turned-wonks must act to effect change by fixing the political processes so that they are more transparent, accountable, democratic, decentralized, and efficient.¶ Moving Title VI enforcement to the pre-complaint stage of the funding recipient's decisionmaking processes promotes many of the values and results that are fundamental to Title VI's aspiration of obligating funding recipients to make decisions in a nondiscriminatory fashion. The DES provides the basis for holding recipients accountable to their Title VI obligations and for spreading information about discriminatory consequences to all of the relevant stakeholders - community members, federal agencies, and possibly even reviewing courts. The participation requirements encourage local experimentation in settling agency-community conflicts that is not only beneficial from an enforcement perspective, but also provides a potentially instructive model for future deliberations or even federal post-complaint efforts at voluntary compliance. In other words, they create a set of "best practices" and a community memory that can be used for future guidance. And because these decisions often involve repeat players, these measures also aid communities in building the social and political capital and skills that are vital to such deliberations. Finally, the response requirements give this effort its teeth, demanding that the DES and public participation process be truly democratic and inclusive, rather than merely pro forma conditions.

## 2NC CP Solves Aff

#### The CP solves better

#### A. Uncompensated losers coopt the aff

Levinson '02

[David Levinson, Department of Civil Engineering at University of Minnesoata, "Identifying Winners and Losers in Transportation", pg. online @ Levinson nexus.umn.edu/Papers/winnersandlosers.pdf//]

Any new transportation project or policy creates both winners and losers from the standpoints of mobility, accessibility, and environmental and economic concerns. In some cases, an improvement does not even make society better off as a whole; the gains of the winners do not exceed the losses of the losers. Whether society gains overall depends on both the shape of the network and the elasticity of demand. Thus there may be a great deal of conﬂict around new construction or policy changes, in which the losers attempt to use the political process to stop projects that may have an overall net beneﬁt to society. In this paper, methods for measuring gains and losses are developed. It is hoped that this information can be used to create situations in which the losers are compensated rather than excluded from the process.

#### B. Lowers costs and reduces inefficiencies

Kim 2k8

(Sukkoo, Associate Professor, Department of Economics UCLA, Economic History; Urban and Regional Economics; Trade and Development ,“Spatial Inequality and Economic Development: Theories, Facts and Policies”      <https://docs.google.com/viewer?a=v&q=cache:wm0xC4ZyVu8J:www.growthcommission.org/storage/cgdev/documents/kim_final_draft.pdf+&hl=en&gl=us&pid=bl&srcid=ADGEESjEtZgJt4maAQXU7At0qH_d6skw73SUk1JBRHjSLLFc1EQzvvJUahEmJkZaTfibs8Qq8BW4R346hQGNxlBWVmtBQ79ZOVylFk112mCYbC1ElO1EEmb5ugvpWMA-ZukxiWqkyGi2&sig=AHIEtbTf2vSCCjxg9M1XO5gWyBYFu19gJA&pli=1>, March 2008)

There are many reasons for why policy makers may be concerned with spatial inequality. From an efficiency standpoint, policy makers want to obtain the optimal level of spatial inequality. Because most of the second nature explanations imply market imperfections and inefficient levels of agglomeration, policy makers may want to adopt policies to correct these failures. From an equity or an egalitarian standpoint, even when spatial inequality is beneficial, policy makers may want to reduce the effects of uneven spatial development. Finally, policy makers may be concerned that sharp regional divergence in economic fortunes of different regions may contribute to deep political divisions which may impose significant social costs.

#### 3. Consideration of equity stops construction blocking

Levinson '02

[David Levinson, Department of Civil Engineering at University of Minnesoata, "Identifying Winners and Losers in Transportation", pg. online @ Levinson nexus.umn.edu/Papers/winnersandlosers.pdf//]

 A healthy skepticism by concerned citizens toward transportation projects is warranted on the basis of both the transportation and the external effects such projects have. It is no longer enough to apply the pareto maxim that so long as the losers could be compensated by the winners, the project is worthwhile. In the absence of such compensation, political opposition will continue to rise and new construction will continue to be more and more difficult. Philosopher John Rawls (22) discusses the conditions for a fair outcome. He imagines two individuals shrouded in a “veil of ignorance”; they know what they prefer but don’t know things like their social class. They must agree to divide some spoils (political rights, money, etc.) but don’t know which side of the spoils they will get. Rawls argues that they will come to a fair agreement because each has an equal possibility of receiving either side of the division. Rawls’s approach is just a sophisticated version of the pie-cutter problem. Imagine that there is a pie and several (N) people: how do you ensure that each gets an equal share? The solution is to let one person cut the pie into N pieces, but the person who cuts the pie gets the Nth piece. He will ensure that the pieces are as equal as possible in order to get that last piece. However, the pie-cutter problem assumes a zero-sum world, whereas often there are gains from trade. Solutions to equity problems include ideas such as bundling improvements, so that not only is there a net beneﬁt (when all projects are considered together), but the number of winners exceeds the number of losers by a signiﬁcant amount. Because of the sensitivity of equity analysis to the units of measurement and the deﬁnition of the groups, it becomes difficult to select a single, right method of evaluation. The method of equity analysis must be based on the community aspirations and needs. Leaving aside what is the “right” thing to do, consideration of equity is the efficient thing to do in a political environment that empowers many disparate groups. An equity impact statement or its equivalent could help to clarify the impacts of a policy or infrastructure proposal and to test alternative strategies. Equity considerations should be given consideration just as efficiency has traditionally been considered in transportation. Decisions are not made by society based on equity alone or efficiency alone, but rather some mix. Improving the measurement of both equity and efficiency can only lead to better decisions.

# Net Benefits

## 1NC Constitution Turn

#### Equity is a constitutional responsibility

Levinson '02

[David Levinson, Department of Civil Engineering at University of Minnesoata, "Identifying Winners and Losers in Transportation", pg. online @ Levinson nexus.umn.edu/Papers/winnersandlosers.pdf//]

From the normative point of view, there are two additional concepts. Equality of opportunity, or process equity, is concerned with equal access to the planning and decision-making process. In contrast, equality of outcome, or result equity, examines the consequences of the product. The U.S. Constitution enshrines the ﬁrst, whereas the Declaration of Independence only posits the right to pursue happiness, not happiness itself. In contrast to the utilitarian aim to maximize total welfare, the egalitarian view would maximize the welfare (or opportunities) of the least advantaged member of society, and thus move society toward greater equity, as championed by the environmental justice movement (8, 9). Compared with the wealthy, the poor spend a larger portion of their income on transportation (as well as a variety of other goods). Furthermore, the poor and disadvantaged have historically borne the burden of transportation investments and improvements, which are often cited in their neighborhoods.

# Racial Equity Net Benefit

## 1NC Shell

#### Status quo transportation decisions are based solely on efficiency and costs—this ignores issues of equity and maintains status quo hierarchies

Sanchez et al, ’03 [2003, The Civil Rights Project at Harvard University. Thomas W. Sanchez is an associate professor of Urban Affairs and Planning and research fellow in the Metropolitan Institute at Virginia Tech in Alexandria, Virginia. Rich Stolz is Senior Policy Analyst at Center for Community Change. Jacinta S. Ma is a Legal and Policy Advocacy Associate at The Civil Rights Project at Harvard., “MOVING TO EQUITY: Addressing Inequitable Effects of Transportation Policies on Minorities”, http://civilrightsproject.ucla.edu/research/metro-and-regional-inequalities/transportation/moving-to-equity-addressing-inequitable-effects-of-transportation-policies-on-minorities/sanchez-moving-to-equity-transportation-policies.pdf]

Before examining the specific economic and social effects of transportation policies on minority and low-income communities, it is necessary to define transportation equity. While most transportation planners are concerned primarily with the efficiency and cost of transportation, including people’s mobility levels and the accessibility of transportation to the most people, those concerned about transportation equity seek fairness in mobility and accessibility levels across race, class, gender, and disability. The ultimate objective of transportation equity is to provide equal access to social and economic opportunity by providing equitable levels of access to all places. In the United States, concern about providing equal access to social and economic opportunity has mostly centered around an issue first identified by John Kain (1968) that is now commonly referred to as the “spatial mismatch hypothesis.” Spatial mismatch refers to the disconnect between the locations of housing and jobs suitable for lower-income people. In other words, those who most need entry-level jobs (primarily people of color) generally live in central cities while entry-level jobs are mostly in suburban locations that are not easily accessible from central cities. In England, however, policymakers and advocates often take a broader view of social inequity. The British effort to combat “social exclusion” is a more wide-ranging approach than the American battle against spatial mismatch.62 Efforts to eradicate social exclusion address communities that are isolated from or marginalized by general society. The English government defines social exclusion as “a shorthand term for what can happen when people or areas suffer from a combination of linked problems such as unemployment, poor skills, low incomes, poor housing, high crime, bad health and family breakdown.”63 Instead of directly addressing spatial equity questions through housing and land use policies that would improve housing affordability, discourage sprawling development, and improve enforcement of housing discrimination laws, U.S. policymakers have directed significant attention to overcoming the combined problem of residential segregation and limited employment accessibility for low-income persons by improving their transportation mobility. Federal policies fail to directly address the more fundamental issue of “access and participation” on a broad scale. In the United States, attempts to counter spatial inequity are usually limited to improving housing and employment access—represented in some respects by residential segregation—whereas social exclusion is a much broader concept. It encompasses concerns about 1) physical (personal) exclusion, 2) geographic exclusion, 3) exclusion from facilities, 4) economic exclusion, 5) temporal exclusion, 6) fear-based exclusion, and 7) space exclusion. Addressing social exclusion includes addressing problems such as lack of access to jobs, education, and training; low levels of access to public transportation at particular times of the day, which has an impact on persons without cars working late and early-morning shifts; and limited access to public and private spaces because of unsafe conditions and design.64 Transportation equity is a similarly broad concept. The importance of transportation policies and their inequitable effect on minority and low-income communities by limiting access to social and economic opportunities must be understood in this broader context.

#### Placing a commitment to transportation equality at the center of our decision-making calculus is critical to break-down racial inequality—necessary to challenge institutional and structural racism that pervades the status quo

JCPES 11 – The Joint Center for Political and Economic Studies, an NGO with the goal of improving the socioeconomic status of African Americans and other people of color, expanding their effective participation in the political and public policy arenas, and promoting communications and relationships across racial and ethnic lines, April 13, 2011, “Structural Racism, Privilege, and Policy: A Systems Perspective,” online: <http://www.jointcenter.org/hpi/sites/all/files/DL14%20Concept%20Paper%2004%2001%2011.pdf>

Given the nation’s ongoing economic crises, equity is a critical lens through which we should plan and examine decision-making. In addition, we need to take into account the role of structural racism in the production of inequities. Since the post-World War II period, we have witnessed great gains in wealth among middle-class families – although those gains were not shared by all groups – and they have played a key role in creating health inequities in our society. Current economic circumstances faced by families, communities, organizations, and government create monumental obstacles that could potentially alter the trajectory of racial inequality. We know that there are structural and systemic policies in place that create inequities by denying whole segments of our population the opportunity to reach their full potential and access to the resources needed to do so. We must address this as a country, but if we allow decisions to be made without examining their equity impacts, we will exacerbate our current situation. During such times, many feel burdens, but unfortunately burdens and benefits are not equitably distributed. We can therefore choose to ignore the equity impacts of our decisions – potentially placing the burden on those that already have too many and allowing racial inequality to widen – or we can face our past and work to equitably distribute both burdens and benefits, consequently changing our trajectory to achieve racial equity. Design Lab 14 provides an important opportunity for peer networking and collaborative learning across PLACE MATTERS communities. Based on team progress, ongoing PLACE MATTERS work and the current national climate, CommonHealth ACTION and the Joint Center Health Policy Institute have developed plenary sessions and interactive exercises to explore and build strategies that address structural racism, particularly in the realm of policy. Operational Definitions of Racism One goal of this concept paper is to ground participants in a common language and the definitions that will support effective discussion of these challenging topics. While there are numerous definitions for each concept, we ask that you keep these definitions in mind when reading the concept paper and throughout your Design Lab conversations—even if they are different than your past learning, understanding, or current perceptions. This is not to say that one belief or understanding is more “correct” than another, but that these are the definitions that will frame this Place Matters dialogue on structural racism and support concepts within the Design Lab framework. In fact, it would be useful for you to think about the differences between the definitions we provide and your own beliefs. First, it is important to recognize that we are talking about racism, not race. Race is “a social construct that artificially divides people into distinct groups based on characteristics such as physical appearance (particularly color), ancestral heritage, cultural affiliation, cultural history, ethnic classification, and the social, economic, and political needs of a society at a given period of time” (Adams, Bell, & Griffin, 1997). Racism is a “ system of privilege based on race” (Wellman, 1977). Working definitions for Design Lab 14: Racism (VISIONS):  Personal Racism: individual attitudes, regarding the inferiority of people of color and the superiority of Whites, that have been learned or internalized either directly (e.g. negative experiences or explicit messages) or indirectly (e.g. imitation and modeling of significant others' reactions, emotional responses to the media; exposure to broad racial disparities). These attitudes may be conscious or unconscious and are learned from exposure to racism at primarily the institutional and cultural levels.  Interpersonal Racism: actions that perpetuate inequalities on the basis of race. Such behaviors may be intentional or unintentional. Unintentional acts may be racist in their consequence.  Institutional Racism: established laws, customs, traditions, and practices that systematically result in racial inequalities in a society -- the institutionalization of personal racism.  Cultural Racism: the individual and institutional expression of the superiority of one race's cultural heritage and values over that of another (Bryant, 2008). Structural Racism describes the ways in which history, ideology, public policies, institutional practices, and culture interact to maintain a racial hierarchy that allows for the privileges associated with ”whiteness” and the disadvantages associated with color to endure and adapt over time. The structural racism framework takes a step back from institutional racism, and recognizes the racialized cultural and historical context in which institutions and individuals are unavoidably embedded (Lawrence, Sutton, Kubisch, Susi, & Fulbright-Anderson, 2004). Four domains and systems of Privilege (Alan Johnson):  Dominance: the default is for power to be held by the dominant group (whites, men, etc.); therefore, most power is held by privileged groups.  Obsession with control: control over dominant and subordinate groups is necessary to maintain systems of privilege. Dominant groups use the perception of their greater capacity for control to justify their superior position and related privilege.  Identification: the dominant group is “the standard” and superior; subordinate groups are “the other.” What is associated with the dominant group is positively valued in the culture, including control and power.  Centeredness: In media coverage, conversation, meetings, etc., members of the dominant group are placed at the center of attention (Johnson, 2006). Privilege and Structural Racism Before addressing structural racism, we must discuss what allows it to persist throughout our ideology, our culture, and our public policy decisions: privilege. Privilege allows us to attribute positive outcomes solely to individual actions, and vice-versa with negative actions, without acknowledging the context in which a person grows up and lives their life. By focusing on individual attributes as the reason for success or failure, we are not having an honest conversation about what precedes those individual actions. Opportunities arise throughout an individual’s life, but it is in the unfair distribution of opportunity, and the preparedness to seize the opportunity, that we see the evidence of structural racism. Structural Racism: A Systems Perspective Privilege allows structural racism to persist by affecting the way we conceptualize, talk about, and try to combat it. To fully address the issue, we must first change the way we think about the development of structural racism. We can accomplish this by utilizing a systems-thinking perspective. A systems-thinking perspective helps to show the depth and complexity of the connections that link structural racism, privilege, and policy. To elucidate the use of systems-thinking as a frame for structural racism, we will share three examples. These examples demonstrate how to identify structurally racist policies and how seemingly race-neutral policies can promote privilege and create additional unfair and unearned advantages. A system can be defined as an interdependent group of agents working together as a whole (Menendian & Watt, 2009). Systems-thinking dictates that outcomes are not the result of a linear progression of events or individual behavioral choices. Instead, outcomes are borne out of multiple and multi-faceted relationships. This illuminates that systems are more than just the sum of individual parts. According to the Kirwan Institute, “outcomes are a product of mutual, multiple, and reciprocal interactions within the system” (Menendian & Watt, 2009). Using a structural racism lens, poor health outcomes among African Americans are not simply the sum of structurally racist policies in housing, education, transportation, employment, and finance. The historical and current relationships are so intertwined that we cannot separate out which factors directly cause the most harm. The interactions of culture, ideology, public policy—throughout the expanse of time—have allowed for the promotion of white advantage over the disadvantage of color. When it comes to cause and effect, we can observe the most proximal relationship as a starting point, but we cannot allow ourselves to stop there. While we search for intentional discrimination as an obvious barrier borne from structural racism, we must also examine privilege. To illustrate the interconnectedness of structurally racist policies and privilege, the connections among housing, employment, and education policies serve as useful examples. It is important to place policy into historical and cultural contexts. Unfortunately, we do not have the time to discuss the history of white privilege vis-à-vis the disadvantage of color; keep that in mind as we progress through this first example. Similar to today, the Great Depression created many challenges and opportunities. Many people needed help to secure capital to purchase a home and begin the process of creating generational wealth. However, the benefits of homeownership were not experienced by all segments of the population due to racially discriminatory practices. In a time when everyone needed help to purchase a home, people in certain areas were barred from obtaining loans. These discriminatory practices, adopted from individual property holders influenced commercial mortgage lenders and the Federal government. Property holders promoted segregation in housing through the use of racial covenants. Validated in 1926 by the Supreme Court, racial covenants were put into practice to keep specific blacks, Hispanics, Asians, and Jews out of white neighborhoods. Research of King County, WA in 2005 found 416 deeds that still contained racially restricting language (Lind). Many of these covenants confined minority populations to neighborhoods inside of central cities. Here we can see how privilege perpetuated structurally racist policies. Privilege allowed whites to make racial covenants, and allowed lenders to adopt the practice without questioning the validity or implications. This created a policy environment in which loans were not made available in areas with predominantly black or other minority populations. White privilege allowed discriminatory attitudes to influence policy development. The practice of discriminatory lending was so firmly entrenched in popular and policy culture, any policy that was created to increase homeownership without specifically addressing the barriers of race was virtually useless. The post-World War II time period, 1949-1964, was very important in that it was the first time middle-class families had the opportunity to generate wealth, mostly through homeownership (Shapiro, 2004). With people of color structurally excluded from homeownership and unable to move to new areas due to racial covenants, segregation established deep roots that not even the banning of overtly racist practices could uproot. Simultaneously, two things were happening that solidified segregation even further. The 1956 Interstate Highway act allowed white people to move farther out from the inner cities, but Federal transit policy did not immediately follow. It was not until 1964 and 1970 that Congress contributed significant money to urban mass transit. But, in a decision that has had far-reaching effects, the money administered by the department of Housing and Urban Development starting in 1974, separated urban transit from the larger Federal transportation strategy (Shoup & Lang, 2011). Employers, noticing that many of their employees were leaving the city, and looking to take advantage of cheaper land and access to highways, moved out of the inner cities (Wilson, 1996). The cumulative effects of these actions were that jobs left the inner cities, but people of color were neither able to move to because of racial covenants nor were they able to travel to employment due to a lack of access to urban transit. These policies created the contexts within which whites were able to accumulate wealth while communities of color were pushed into poverty. In addition to the aforementioned housing and transportation policies, what happens when a policy is introduced to fund public schools based on property taxes raised from local school districts? Districts receive money from the state, and then are able to exercise local control over additional funds for their schools. However, when this policy is implemented within a structurally racist context, the policy itself may result in harmful racial bias. This is a real world example that can be seen in the Supreme Court case, San Antonio v. Rodriguez. The plaintiffs used two neighborhoods in the San Antonio metro area to demonstrate the disparity in school funding. The Edgewood neighborhood had a population that was 90% Hispanic and 6% African American. It also had the highest property tax rate in the metro area, yet it generated only $356 per student ($26 coming from tax revenue). In contrast, Alamo Heights, a northern inner-ring suburb, whose population was 18% Hispanic and 1% African American, generated $594 per pupil, with $333 coming from tax revenue. The Supreme Court ruled in favor of the defendants, citing that the policy itself was not discriminatory in nature (Sutton, 2008). Sometimes, we do not have to investigate the historical context of a policy to understand its racial implications. One such example is the practice of redlining. It is also an unfortunately useful example to show how disadvantage can accumulate across time. The presence of historically racist lending policies laid the foundation for the relatively recent phenomenon known as “reverse redlining”. Reverse redlining led communities of color to be some of the hardest hit by the economic and housing crises. In 1933, the Federal Housing Authority (FHA) was created to regulate the housing industry and increase homeownership. Areas were rated based on lending risk, with “high-risk” communities outlined in red. Areas that had a high proportion of black residents were labeled as “high-risk.” This practice was not based in any type of official mandate, but was adapted from commercial mortgage lenders that were influential in the policy creation process. This exemplifies that even when institutions do not explicitly discriminate, practices based on discrimination can work their way into policies, creating structural barriers to opportunity. Over time, other bills were passed that should have alleviated the disadvantage faced by blacks, such as the GI Bill, but because they were passed into a structurally racist environment they did not achieve their goal, and in fact helped to reinforce the two worlds of privilege for whites and disadvantage for people of color (Wessler, 2009). This foundation of structurally racist housing policy led to chronic disinvestment in areas that had a majority black population. It was in this environment that the Financial Modernization Act of 1999 was passed. The Act was a de-regulatory bill that allowed financial institutions to offer products and services within one company (e.g., savings and investments) that prior to that was not allowed. Industry advocates supported this policy because it allowed them to consolidate their services instead of needing to establish different companies to offer specific products and services. This bill virtually eliminated consumer protections by permitting collaborations between banks, securities firms, and insurance companies. These newly consolidated institutions were able to lend money, and were exempt from previous laws constructed to prevent discriminatory and predatory lending. Taking full advantage, banks and other entities began to sell subprime mortgages heavily targeted at communities of color that had been distressed by decades of disinvestment (Wessler, 2009). Here we can see the inequitable distribution of benefits and burdens. Blinded by white privilege, the authors of the Act saw the opportunity to accumulate vast amounts of wealth, at the expense of those already facing substantial burdens. The Bush-era tax cuts, the dismantling of the estate tax, and the recent continuation of tax cuts for the wealthy, implicitly promote white advantage. Any policy in which the benefits are not equally distributed should raise a red flag for advocates and warrant further examination. When it comes to tax cuts such as these, the people receiving the benefits are overwhelmingly white. As a result, wealth becomes even more concentrated at the top, government revenues are reduced, leaving those who depend on government services, overwhelmingly people of color, struggling to survive. Your Call to Action on Structural Racism Through these examples, we can conclude that an important component of the systems perspective is that the disadvantages we see for people of color today are not the result of a singular policy, or the actions of a single individual. In fact, they rarely are. Our policy and legal decisions have made sure that blatantly racist policies and practices are a thing of the past. What we have not done as a society is acknowledge the lasting effects of structurally racist policies that persist due to white privilege. If we fail to examine the equity impacts of policy, structural racism will persist. The public policy foundation we have built is structurally racist, and if any policy does not take that into consideration, then it will likely be structurally racist. In order to break the cycles that systematically stunt the opportunities in all domains for people of color, and put the country on a trajectory towards racial equity, we must: 1) acknowledge the fact that new policies must address the history of structural racism; and 2) ensure that policy impacts are examined from numerous perspectives and address the relationships that systematically deny opportunity. While the blame for structural racism does not fall on the shoulders of individuals, the opportunity to change the system and its structure is in our hands. Interpersonal racism still exists, but it is not the primary driver of the systematic denial of opportunity for people of color (Menendian & Watt, 2009). That being said, we will never break the cycle if individuals do not become conscious of their responsibility as individuals to be part of something bigger than themselves. A system that produces such large differentials in advantage and disadvantage will not change on its own; there is no incentive for it to do so. As Paul Johnson says in his book, “people will always take the paths of least resistance,” which in this situation is inaction (Johnson, 2006). For many people, the system works satisfactorily and there is no reason to work to change the system—individuals can afford to continue along our current trajectory. As the Place Matters community, however, we cannot. We must be the actors that initiate and when necessary carry out the change, not just in one sector, but at key points in the system that will facilitate real and lasting equity.

## 2NC Solves Precedent

#### The CP sets a precedent for Title VI application—prior and binding usage is key

Harvard Law Review, ’03 [April, 2003, 116 Harv. L. Rev. 1774, “After Sandoval: Judicial Challenges and Administrative Possibilities in Title VI Enforcement”, lexis nexis]

This Note has been optimistic, albeit reservedly, about the potential for better administrative Title VI governance in the wake of Sandoval and subsequent decisions like South Camden and Campaign for Fiscal Equity. After Sandoval, the outlook for private enforcement of Title VI is extremely bleak. One commentator, speaking specifically about the school reform context, has noted that "lawyers can contribute greatly to the advancement of educational equity not by becoming more informed about the nuts and bolts of specific education practice areas or by initiating additional litigation, but rather by becoming better and more persuasive policy wonks." n93 Sandoval sends another [\*1797] message that the courts are, perhaps, no longer the best forum for civil rights enforcement. The answer to the question, "What now?", is that lawyers-turned-wonks must act to effect change by fixing the political processes so that they are more transparent, accountable, democratic, decentralized, and efficient.¶ Moving Title VI enforcement to the pre-complaint stage of the funding recipient's decisionmaking processes promotes many of the values and results that are fundamental to Title VI's aspiration of obligating funding recipients to make decisions in a nondiscriminatory fashion. The DES provides the basis for holding recipients accountable to their Title VI obligations and for spreading information about discriminatory consequences to all of the relevant stakeholders - community members, federal agencies, and possibly even reviewing courts. The participation requirements encourage local experimentation in settling agency-community conflicts that is not only beneficial from an enforcement perspective, but also provides a potentially instructive model for future deliberations or even federal post-complaint efforts at voluntary compliance. In other words, they create a set of "best practices" and a community memory that can be used for future guidance. And because these decisions often involve repeat players, these measures also aid communities in building the social and political capital and skills that are vital to such deliberations. Finally, the response requirements give this effort its teeth, demanding that the DES and public participation process be truly democratic and inclusive, rather than merely pro forma conditions.

## 2NC Transportation Key

#### Improving equity in transportation is key—it affects health, crime rates, safety, sexism, racism, and multiple other forms of suffering and exploitation

BRU 3 (Bus Riders Union, organization that works to increase funding for inner city bus service, “BILLIONS FOR BUSES”, February 11, 2003, bru.vcn.bc.ca/uploads/images/26/position\_paper.pdf)

 Access to transportation has important implications for social justice in our region. For transit dependent¶ people, access to transit shapes and limits our ability to access school, work, health care, recreation,¶ volunteer commitments, daycare, the political process, information, peers, nature, and the arts.¶ From our experience of organizing on Vancouver’s buses, we at the Bus Riders Union know that¶ transit dependent people are low-wage workers, the unemployed, refugees, students, children, seniors,¶ people with disabilities, First Nations people, and immigrants. They are majority people of¶ colour and majority women. They are the economically exploited and politically marginalized in this¶ society. Policies that negatively impact transit dependent people are implicitly racist and sexist policies.¶ Social justice for the transit dependent is not just a vague slogan for us at the Bus Riders Union. It is¶ a principle that requires specific policy measures.¶ Social Justice means lower fares for the overwhelming majority of bus riders who ride the bus out of¶ economic necessity. For the mom on welfare who has to take $103 out of her $370 a month budget¶ to get around the city (that’s almost a third of her disposable income to buy a bus pass for herself and¶ her child); and for the new immigrant making the $6/hour training wage who works a full hour just to¶ cover the bus fare to and from work.¶ Social justice means late night bus service for transit dependent shift workers, overwhelmingly new¶ immigrants and refugees. And for people like the Kwantlen college student who recently told a BRU¶ organizer that he doesn’t get to go out with his friends much because the last bus home is at 10¶ o’clock.¶ Social justice means expanding accessibility so that people with disabilities have equal access to all¶ parts of the city without having to book handy-dart 4 days in advance.¶ Social justice is about more buses so that bus riders don’t have to face the everyday frustration of¶ long waits and overcrowding.¶ Principles¶ BRU Billions for Buses¶ Public Health¶ Everyone who lives in Greater Vancouver knows what a critical question air quality is for the region.¶ Everyone in this region enjoys the air quality benefits that accrue from a public transit system. However,¶ the positive public health impact of improved transit (or the negative impact of cuts) includes¶ more than just air quality. For transit dependent people, in particular seniors and people with disabilities,¶ the mobility that comes with an accessible, reliable transit system is critical to maintaining good¶ health. And for women, children, gays and lesbians, targets of domestic violence, sexual assault and¶ hate crimes, a reliable ride home is absolutely critical to their personal safety.¶ From this broad public health perspective clearly an expanded fleet of clean air and trolley buses is the¶ highest priority for the region. Buses meet the critical transportation needs of the transit dependent.¶ In terms of air quality, buses have a crowding out effect on cars, as opposed to grade separated transit¶ like Skytrain which actually creates room for more cars on the road. A well run bus system is dynamic¶ and flexible to the changing transportation patterns of a growing region.¶ While “shaping growth” through transportation policy may be an important long-term strategy for the¶ region, it becomes an empty slogan when TransLink responds to financial crisis brought on by Millennium¶ Skytrain costs by making poor decisions such as implementing the use of lower grade diesel fuel¶ in buses.¶ If policy makers are serious about improving the public health of this region they would do well to¶ listen to rider priorities: expanded service, lower fares, more rapid bus routes, increased accessibility,¶ clean air buses, quieter buses, new routes, and night owls.

#### A lack of infrastructural investment in public transit disproportionately impacts minority-groups---new investment is necessary to reduce suburban sprawl

**Raya & Rubin 6** “Safety, Growth, and Equity: Transportation” Richard Raya and Victor Rubin, policylink transportation series, http://www.policylink.org/atf/cf/%7B97C6D565-BB43-406D-A6D5-ECA3BBF35AF0%7D/SGE-Transportation.pdf

Likewise, transportation projects can also have serious and negative impacts on communities. For example, the practice of siting urban highways through existing low-income and minority communities has displaced thousands of families in cities across the nation, reduced the supply of affordable housing, physically divided thriving communities, and served as a precursor to disinvestment and urban blight in these areas. Additionally, automobile emissions, noise, and trafﬁ c danger from highways and major thoroughfares impact the health of families living nearby. Investments in transportation infrastructure have been a driving force behind regional growth trends and the rise of “suburban sprawl,” a dispersed, low-density pattern of single-use development that makes driving the only convenient mode of travel. In a recent survey, the nation’s leading urban scholars ranked the federal subsidy of the interstate highway system as the number-one inﬂ uence on the American metropolis over the past 50 years. 4 The 41,000-mile interstate highway system transformed American cities by facilitating suburbanization and sprawl development and triggering white ﬂ ight from central cities. By paving new roadways to cheap land outside the central city, highway builders made it possible for developers to put new housing and development in outlying areas which were previously inaccessible. The car is king in California. The state’s residents make the vast majority of their trips by car (86 percent), and 84 percent of trips to work are made by individuals driving alone. Public transit accounts for 2.2 percent of trips annually, 8.4 percent are made on foot, and about 1 percent is made by bicycle. 5 These numbers illustrate the modern reality in California: that driving is often the fastest, most convenient way to get around. Each household is also driving more miles every year, and the increase in miles driven consistently outpaces population growth. 6 Although driving is the mode of choice, children and youth, the elderly, and the disabled are often dependent on alternative modes of transportation for independent mobility, and these segments of society are steadily growing. Children 17 years and under—a fast-growing segment of the population—made up 27 percent of California’s population in 2000. 7 The elderly are a growing percentage of the population as well. While California’s overall population is expected to increase nearly 33 percent by 2020, the senior age group is projected to increase about 71 percent. 8 Those who cannot afford cars or who are unable to drive independently face substantial barriers to mobility today. In 2000–2001, 9.3 percent of California households did not have a car. 9 Additionally, over 90 percent of former welfare recipients have no access to a car. 10 Without a car, many job opportunities are out of reach for welfare recipients and low-income families. Researchers studying the most recent national travel data conclude, “Clearly, many low-income households are cut off from some destinations they need to reach because they cannot afford the automotive transportation needed to access most parts of metropolitan areas.” 11 A study conducted by the Transportation and Land Use Coalition of the Bay Area (TALC) found that poor transit service is a barrier to health for many families. In Contra Costa County, only 20 percent of residents in low-income neighborhoods have transit access to a hospital; 33 percent have transit access to a community clinic, and only 39 percent have a supermarket within walking distance of their homes. 12 An equitable transportation system will be ﬂ exible and responsive to the needs of different communities and groups.3 PolicyLink Low-income and minority groups use transit, bike, and walk more often than whites and higher-income groups. Generally, transit ridership declines as income increases, and this drop is particularly stark for bus transit. Low-income households are eight times as likely as wealthy households to take a trip by bus (4 percent vs. 0.5 percent). 13 In Los Angeles, 48 percent of riders on the county MTA’s (Metropolitan Transit Authority) buses have household incomes of less than $15,000. 14 The most recent national survey shows that African Americans are almost six times more likely than whites to take transit (5.3 percent vs. 0.3 percent), and Latinos are about three times more likely to ride transit than whites (2.4 percent vs. 0.3 percent). 15 Our nation has a legacy of transportation policies and investments that inadequately serve and often isolate low-income and minority communities from jobs, services, education, and housing opportunities essential to escape poverty and fully participate in society. In fact, the civil rights movement began with efforts to ﬁ ght racism in the transportation system. 16 Shortly after Rosa Parks refused to move to the back of the bus, Martin Luther King, Jr., and others organized the Montgomery, Alabama, bus boycott; and later the “Freedom Riders” risked their lives traveling across the country to exercise their right to ride on desegregated buses.

## 2NC Structural Violence Impact

#### Current trends in transportation causes systemic poverty, health issues, and environmental damage—comprehensive assessments are key

**World Bank, ’99** [Social Development Department/Transport Division, The World Bank, November 1999, “Managing the Social Dimensions of Transport: The Role of Social Assessment”, http://www4.worldbank.org/afr/ssatp/Resources/HTML/Gender-RG/Source%20%20documents/Tool%20Kits%20&%20Guides/Social%20Analysis/TLAN1%20SocialDimensionsofTransportSector(429KbPDF).pdf]

Future transport concerns will represent increasingly complex social and spatial considerations that will require more expansive monitoring and evaluation tools that utilize the best of quantitative and qualitative methodologies. Social assessment is a strategic way to begin meeting the social development challenges facing transport planning in the future. Consider the following examples: · As liberalization of domestic and international trade expands, larger volumes of goods over greater distances will be the norm. The rapid urbanization of city centers throughout the world, but especially in developing countries, will strain and over extend existing transport systems. The impact of rapid urbanization and failing transport infrastructure will affect the poor in negative ways. · As a result of urban overcrowding and overuse of transport vehicles, environmental health problems will likely worsen and safety issues will become paramount. About 500,000 persons are killed each year in road accidents in the Bank’s developing member countries, and about 70 percent of these fatalities are pedestrians.6 · The increasing emphasis on road transport may have negative impacts on other modes of transport, such as inland waterways. Large numbers of people engaged in the informal transport sector may be unable to compete, with resulting problems of unemployment or loss of income. · The opening up of isolated regions has often resulted in extraction of raw materials and other resources without benefiting local populations. In many parts of the world, tribal groups, ethnic minorities and other vulnerable groups have been negatively affected by increased exposure to disease or migrations of more powerful groups who have put pressures on local resources and lifestyles. In the future, transport planners will have to take better account of who wins and who loses in development projects. In summary, the social development challenges facing transport are daunting. To address such issues effectively, however, will require systematic quantitative and qualitative research, highly participatory processes, inter-sectoral cooperation, and refined monitoring and evaluation tools. Social assessment is a comprehensive approach toward meeting these challenges, and it is the principal mechanism to ensuring that Bank-financed development initiatives contribute to poverty alleviation, enhance inclusionary practices, increase social capital, build ownership, and avoid adverse social impacts. Social assessment has become an integral part of project feasibility analyses. It complements economic, financial, technical and environmental analyses and is used to refine and direct investment programs toward more effective and socially sustainable development objectives. The following chapters elaborate on the social development issues in the transport sector and offer a step-by-step approach for analysis of these issues through the social assessment process.

## 2NC EJ Impact

#### Transportation inequality and environmental racism go hand-in hand---improving access to transit is necessary to reduce the disparate impact of environmental problems

Owens et al. 8 – Research Associate at the Center for Transportation Training and Research at Texas Southern University (Edward Owens; Gwen Goodwin, Research Associate in the Center for Transportation Training & Research at Texas Southern University; Carol Lewis, Ph.D. in political science from the University of Houston, associate professor in Transportation Studies and Director of the Center for Transportation Training and Research at Texas Southern University, former manager and director of planning at the Metropolitan Transit Authority of Harris County, executive assistant to Mayor Bill White for Transportation Planning; Jeffery Mallory, Research Associate at Center for Transportation Training and Research at Texas Southern University; May 2008, “An Evaluation of Environmental Justice and Environmental Equity: Laws and Issues that Affect Minority and Low-Income Populations,” http://swutc.tamu.edu/publications/technicalreports/167921-1.pdf)

An Analysis of Environmental Justice Issues and Concerns At the 1994 conference, Dr. Robert Bullard, Director of Environmental Justice Resources Center at Clark Atlanta University, asserted that environmental justice equals sustainability, and even though the Department of Transportation did not participate in the original work on environmental justice, now is the time for that agency to be more assertive in environmental justice protections. There are many issues that must be addressed, including cumulative risks. There are clear violations of Title VI of the Civil Rights Act in the use of federal transportation funds. The 1964 Civil Rights Act must be enforced. Another enforcement issue arises in the National Environmental Protection Act (NEPA) and the social impacts that need to be included in assessments. Dr. Bullard also challenged the definition of "environmentalism." According to Dr. Bullard, “environmentalism" must be redefined to include the total community of where we live and work as well as the natural environment (Panel 2 Discussion, From Rhetoric to Reality; Transportation Environmental Justice and Social Equity Conference, 1994.) Public Participation Environmental justice guidelines and practice stress the need for communities to be involved in the planning as well as the evaluation stages of transportation. It is important that agencies coordinate with a cross section of community organizations that represent the public and that bring critical issues to the table. Public participation is needed for all citizens in decision making and in the planning process for the development of more equitable solutions to facility location matters, especially the transportation needs of minorities and low-income people that often overlooked. One of the intense challenges for government agencies is to not only provide citizens the opportunity to comment, but incorporate those comments into design stages; citizens must be involved throughout the entire planning, evaluation and implementation process. Access to Public Transportation Many citizens are locked out of opportunities for education, employment, healthcare, social and other essential or governmental services because they have no transportation and are not included in the processes through which transportation policies and plans are made. This is one example of an environment justice infraction. Similar to the private sector markets, policy officials tend to focus on the lowest immediate costs associated with sites, using conventional marketplace criteria in making their decisions for federal, state, county and municipal public service offices. Criteria include the price of land, construction costs and build-out expenses. Such costs are also the criterion applied to decisions about a wide range of public facilities, including county hospitals, post offices, public welfare offices, transit services and accommodations for senior citizens, and public housing complexes. The rationale is that the government must get the best deals for the tax payer money. A transportation system that can provide people with efficient and affordable access to these locations is a factor that is often overlooked in the long-term success of a facility. If the people who need the services most are unable to easily use them, even the best facilities are useless. A community's ability to provide services such as educational and cultural programs and to aid in economic development, an asset upon which communities can build and develop, is largely dependent upon the positive role of transportation to that community. It can allow communities an option to suburban sprawl, which contributes to deterioration in inner cities, often negatively affects the environment and creates public health problems. However, there is an inequity in the expenditure of public funds on urban/rural poor and communities of color in comparison with those spent on wealthy/suburban communities. Many communities believe that government has a responsibility to correct its historical lack of investment in inner city communities. Locating Public Facilities Sometimes, government programs and policies do not work in tandem which is a concern. Even in agencies with a mandate to promote access, the agency's real estate office, working in isolation, may locate inaccessible facilities. In contrast, transportation programs working closely with housing, health, education, and other community service systems, can dramatically enhance equity and environmental quality. However, the essential connection between transportation and the location of governmental services is part of a broader issue. Transportation planning usually focuses on mobility issues, but location and access can play a much more important role by making sure that government offices are near the people who need to use them. Access to Health Care Health care facilities already exist to serve the poor and the uninsured, but many people are not able to benefit from these health services due to the lack of transportation. Facilities are often located in areas not served by public transportation and those without automobiles have to rely on expensive alternatives such as taxis, ambulances, or even a car rental. Some Americans choose to use their money needed for food and shelter either to get to the clinic for routine check-ups or to go without preventive health care. Sometimes, emergency care becomes the only kind of care that they receive. Transportation’s impact on health care is likely greater than generally considered. The Tahana Whitecrow Advocacy Alliance organization in Oregon described how public transportation issues are critical to the Native American community. For the urban Native American community, transportation has sometimes been a barrier and sometimes a lifeline to services, particularly health care. This Oregon community worked together regarding transit access to a local health clinic. The public transit line serving that population stopped roughly one mile from the only Native American medical clinic. Transit-dependent patients, including patients who were sick, pregnant, disabled, elderly or simply in need of routine check-ups were forced to walk a mile on what amounted to be a muddy trail because there were no sidewalks. The Tahana Whitecrow Advocacy Alliance asked the transit agency on behalf of the community to extend the transit line an additional mile. The General Manager denied their request. It took protests, legal challenges, and a new General Manager before the community won the mile-long extension (Panel 2 Discussion, From Rhetoric to Reality; Transportation Environmental Justice and Social Equity Conference, 1994). Contra Costa's citizens in San Francisco were more successful in their efforts. They engaged the NAACP Legal Defense and Educational Fund to file a class-action lawsuit to prevent the County from building a new hospital in an area inaccessible to poor and minority residents. Although the hospital was already under construction, the federal district court halted the project, citing that construction of the new county hospital in Central County, without any improvement in public transportation or the availability of health care services to the Western and Eastern Counties near poor minorities, will, in effect, entrench and perpetuate the county's alleged systemic discrimination against the county's indigent minorities (U.S. District Judge Saundra Brown Armstrong, August 1994). Judge Armstrong also made it clear that looking at statistics on travel time for all county residents was not relevant; only data that zeroed in on the people who actually used the hospital were to be considered. Transit Linkage Transportation's interrelationship with service delivery needs to be viewed from three perspectives: 1) public participation in decision-making, 2) citizens access to facilities, and 3) community economic development. Sometimes, fragmented governmental authority is responsible for instances of social inequity. Usually, a capital planning, real estate, or procurement office does the work of finding locations, negotiating leases, and purchasing properties. Often the operating agency which will occupy the facility is not involved in the siting process, even though it will be accountable, ultimately, for providing services and is in the best position to understand the potential impacts that siting decisions can have on their clientele. Clearly, operating agencies should be more closely involved in the location of their facilities so they can be held accountable for their success in providing services, but often, in those rare instances when the best possible site for a facility is in an area not served by public transportation, the government agency is responsible for working with transit officials to provide efficient public transit access to the site-using the provisions of the TEA-21 transit legislation. Further, the need to expand limited public transit service is extremely acute in rural areas, as well as in inter-village/town transportation where no public transit access exists and thus maintains a serious, chronic barrier to accessible government services. Transit-Oriented Development Transit-oriented development (TOD) involves promoting densification, mixed land uses, and design for human scale. Critics have charged that many of these concepts lead to gentrification— many "neo-traditional" neighborhoods are too expensive for low-income individuals. Communities have been relatively unsuccessful in identifying long term solutions that maintain a level of affordability in TOD neighborhoods. The California legislature is currently considering a bill that would allow for "mixed-income" zoning, requiring new developments to contain at least 15 percent affordable housing (Senate Bill 46, As Amended: July 5, 2997). The project or area served by the grant must include 15 percent of units that will be affordable to renters earning no more than 60 percent of the area median income or homeowners earning not more than 120 percent of area median income. It also requires rental units remain affordable for 55 years and ownership units be sold to qualified households and subject to resale restrictions for at least 30 years (http://info.sen.ca.gov/pub/07- 08/bill/sen/sb\_0001-0050/sb\_46\_cfa\_20070709\_132639\_asm\_comm.html ). Transportation advocates view TOD as a proven strategy to reduce commuting pressures and the inducement of traffic flow and continued sprawl. It is believed that zoning changes can also vary property use within city blocks, giving people easy access to more services. Public Transportation Even the most successful low-income community economic development program will not be successful without transportation services that are affordable, efficient, convenient, and that cover sufficient territory. For many economically disadvantaged individuals, mass transit may be the only form of transportation accessible. Low-income people constitute the largest share of total public transit ridership. Although U.S. public transit services in some locales deteriorated between the 1980s and 1990s, there is renewed interest in public transit as a means of alleviating congestion and air pollution, and of improving access and mobility. The passage of ISTEA, TEA21 and SAFETEA-LU granted municipalities the latitude to shift highway funds to transit projects and promoted coordination of transportation and land use. These bills provided a clear signal that communities are beginning to recognize the strains resulting from extreme auto dependency. Federal Response to Environmental Justice Issues and Concerns Following the Clinton Administration’s issuance of its Executive Order on Environmental Justice in 1994, activists called for an advisory council initiating a process of inclusion with the EPA and established the National Environmental Justice Advisory Council (http://www.epa.gov/compliance/environmentaljustice/nejac/index.html). ISTEA, TEA-21, and SAFETEA-LU not only contain strong public participation rules, but offer a variety of funding sources to facilitate community development and adequate local transportation including the Congestion Mitigation and Air Quality funds (CMAQ), statewide transportation enhancement funds, and flexible funding for Surface Transportation Program (STP) projects which include roads, transit, bicycling, and walking. Low-income communities can take advantage of these funding opportunities as they offer greater emphasis on transit, bicycling, walking, and travel modes dominant in low income neighborhoods. Transportation officials must ensure that their transportation plans comply with Title VI of the Civil Rights Act, a requirement made by ISTEA, TEA 21, and SAFETEA-LU. Although some see this as a barrier, Title VI requires that any transportation investments or policies involving federal funds, such as the siting of highway corridors or the implementation of congestion pricing do not disproportionately harm communities of color. Rural areas, with less than a fourth of the nation's total population but nearly forty percent of the nation's poor only receive about 7 percent of transportation funds. The limited potential for funding in rural areas is also compromised by the difficulty rural communities encounter in meeting the 50 percent operating expenses (collected mainly through fares) matching fund requirement that is often stipulated at the state level (Surface Transportation Policy Project, 1995). Access Questions on measures of system accessibility include: 1) Coverage and extent. Is a transit line or arterial near the minority neighborhood under consideration? Are minority groups in the region likely to depend on transit for their local travel? Do transportation options link housing with services and employment sites? 2) Service level. How often does the bus come by? How crowded is it? Urban minority neighborhoods are sometimes characterized by packed buses, and pass-ups. Some systems provide higher quality service for suburban park and ride patrons, buses with luggage racks, reading lights and higher quality seating. Unpaved roads or no transit service at all is usually par in rural areas. Assessing Transit Investment A civil rights or environmental justice analysis could: examine investment patterns proposed in the long-range plan or transportation improvement program; seek to pinpoint the percentage of road and transit funding going to areas with high proportions of minority residents, and how this investment pattern compares to the population pattern in the region or state; ask whether adequate funding is being devoted to maintain older areas with high minority populations or is the bulk of funding being devoted to new projects in newly developing areas; determine if lowincome and minority communities are receiving older, less reliable transportation equipment and vehicles than wealthier communities. When discussing questions of fairness, the disproportionate subsidization of transportation services for wealthier communities can be examined. The Labor Community Strategies Center in Los Angeles pointed out that overcrowded bus routes in its center city actually break even or make money while the new commuter rail lines to outlying suburbs require tax subsidies of $10- $20 per rider.

#### Environmental justice is a fundamental issue---only explicitly acknowledging the disparate impact of environmental harms can avoid perpetuating the racist legacy of colonialism and mass violence

**Rasmussen 10** [Larry Rasmussen, Th.D., Reinhold Niebuhr Professor Emeritus of Social Ethics, Union Theological Seminary, New York City, “Environmental Racism and Environmental Justice: Moral Theory in the Making?”, <http://www.ecojusticenow.org/resources/Eco-Justice-Ethics/Environmental-Racism-and-Environmental-Justice.pdf>, 9/12/2010] SV

For the EJ movement, experiences of environmental racism and injustice are not random, nor are they individual. Environmental injustice happens to groups and its causes are systemic. And while EJ advocates are diverse—far more than the membership of other environmentalist organizations—they are of a common mind that understanding the collective experience of injustice means “uncovering the way society reproduces unshared power arrangements.” 7 Routine privilege, or lack of the same, is not a product of the dice throw of good or back luck. Privilege and its absence are not acts of God, good or bad karma, or individual merit earned or lost on a putative level playing field. Yes, the evolutionary happenstances of nature and the idiosyncrasies of history down the long corridors of time do decide socio-environmental conditions in grave measure. (Jared Diamond’s Guns, Germs, and Steel and Rick Potts’ Humanity’s Descent: The Consequences of Ecological Instability argue this in different but compelling ways. 8 ) Yet even signature socio-evolutionary developments finally play out “in the ‘hood,’” the work of power relations in society-nature, not fate. The EJ conclusion is that unshared power and lack of access to self-determining power is at the root of collective socioenvironmental injustice. (This means, for a theory of justice, that justice as recognition and participation move alongside justice as distribution and may be as critical. More on that anon.) History carries harsh reasons for this conclusion about (lack of) power and access. Near-term reasons rest in Civil Rights issues and, behind those, a drama that stretches back to the Civil War. Few other environmentalists link to Civil Rights and post-Civil War struggles but EJ activists often do, for their networks, strategies, and inspiration. Martin Luther King, Jr.’s last act as one of solidarity with Memphis garbage workers is remembered as a bridge from Civil Rights struggles to environmental justice ones. The term “environmental racism” itself emerged in a similar context. It was the charge shouted by a young woman at a 1982 protest in Warren County, North Carolina, against another PCB landfill in that predominately African-American county. “This here ain’t nothin’ but environmental racism,” she said. With that, the experience of generations rose to the surface, and the term stuck. Deeper history runs back even farther, to the underlying first works of the modern era itself. Those works rest in what some now refer to as “the first wave of globalization.” 9 They center in the impact of Europe-based ways on the local well-being of peoples and their environments around the world within the framework of conquest, colonization, commerce and Christian implantation. This complex, which sailed from Europe starting in the 15 th century or so, established advantages that continue into the present. The point for the EJ movement is that these four interlocking “C’s” exploited peoples of color together with their lands across the very epoch they created. To be sure, the legacy of slavery and the plunder of Native Peoples and their lands, together with the colonization of Latin and Caribbean peoples and lands, is not a matter of daily rhetoric in every EJ campaign. More proximate issues and causes capture the attention on most days. But in sharp contrast to the consciousness and narrative of white environmentalists, these burning memories live on. As part of knowing “whence [one] came” (Baldwin), they continue to fire the movement’s commitment to environmental justice. This collective injustice, bolstered by memories firmly set in the bones, creates a markedly different moral world for the EJ movement compared with those of other environmentalist organizations and movements. Preservationist and conservationist organizations, for example, frequently make their case on the basis of an assumed common good. To their credit, more-than-human membership belongs to the moral universe of this assumed good. The goal is to bequeath as many elements of present nature as possible—forests, grasslands, rivers, wetlands and oceans, species—to future generations. Yet justice and a race/class/gender/culture analysis, together with a concentration on urban conditions and those of the urban, rural and reservation poor, hasn’t been part of this “common” good as normal fare. Commonly these have not appeared at all. Or, in the face of recent and stinging criticism, they appear a public relations afterthought rather than a substantive redirection. Nor has the core question of the EJ movement been the chief question of preservationists and conservationists. Namely, “What constitute healthy, livable, sustainable, and vital communities in the places we live, work, and play, as the outcome of interrelated natural, built, social, and cultural/spiritual environments?”

## 2NC CP Key

#### Conventional decisionmaking is rigged against the poor—injecting equity into the process is key

Gannon and Liu 97 (Colin Gannon and Zhi Liu, Zhi Liu Lead is an infrastructure Specialist, East Asia and Pacific Region, World Bank, Beijing; Colin Gannon is senior transport economist at the World Bank, “Poverty and Transport”, September, 1997, http://siteresources.worldbank.org/INTURBANTRANSPORT/Resources/twu-30.pdf)

Transport sector operations do have important direct impacts on the poor. In particular, some problems inherent in the transport project evaluation process and in transport market structures often adversely affect the poor more than the rich. Because these adverse impacts on the poor contribute to both relative poverty and absolute poverty, heightened awareness on these distributive impacts is very important for appreciating the contribution of the transport sector to poverty reduction. This awareness needs to be translated in systematic manner into the formulation of national transport policies and investment programs, and into the selection and design of transport development projects. Unfortunately, there have been very few studies of the distributive impact of transport in general, and transport operations in particular. The consequences for the poor of transport projects, external effects, and government regulations have not been adequately documented. 4.30 Conventional cost-benefit analysis does not take distributive impact into account and hence does not inform government decision-makers of the social groups that stand to gain and lose as a result of their decisions. Nor does it inform decision-makers of the effect of projects on poverty reduction. In addition, since cost-benefit analysis involves adding the gains and losses to all affected groups on the same basis, it may be argued that it involves a selection orientation against low-income groups. To overcome this orientation, one approach is to introduce distributional weights that assign different weights to money gains or losses to different income groups. In general, this approach is not appropriate. Distributional judgments should be resolved through political processes. However, these processes can be assisted in a rigorous way by extending the conventional cost-benefit analysis framework to cover distributional outcomes and to display this information in a balance sheet format as an adjunct to the conventional cost benefit analysis. Analysis of distributive outcomes can be difficult, however. The practical extent to which it can be undertaken needs to be judged carefully; for example, a strong(er) case prevails in situations where the distributive outcome is likely to differ significantly across alternatives, and especially where there is little difference in efficiency among alternatives.

#### The CP is key to move beyond solely economic perspectives to social impacts

**World Bank, ’99** [Social Development Department/Transport Division, The World Bank, November 1999, “Managing the Social Dimensions of Transport: The Role of Social Assessment”, http://www4.worldbank.org/afr/ssatp/Resources/HTML/Gender-RG/Source%20%20documents/Tool%20Kits%20&%20Guides/Social%20Analysis/TLAN1%20SocialDimensionsofTransportSector(429KbPDF).pdf]

As we enter the twenty-first century, transport is a critical link between economic and social development. Effective transport systems allow people to get to their jobs, take care of their health, pursue an education, and obtain the necessary food and goods to support their daily existence. Likewise, poorly planned transport systems can perpetuate existing inequities, increase air and noise pollution, and add to the complexity of solving urban and rural planning dilemmas. There can be little doubt that transport in the twenty-first century will be as much about moving people and goods and facilitating equitable access to services, as the previous century has been focused on moving vehicles.1 Once dominated by engineering and economic perspectives, transport policy has in the past decade begun to focus more intently on an integrated approach to addressing social development issues. The increase in the range of stakeholders in transportation decision-making has led to an increased awareness of the multi-faceted dimensions of the costs and benefits of such decisions. What was often lacking in the past was a detailed analysis of how individuals and groups were positively or negatively affected by transport projects. Since transport strategies result from the complex interrelationships existing between the physical environment and social, economic, and political activity, transport planning has been transformed from what was considered a business, into an important development tool that targets the needs of the community it serves.2 Transport policy is no longer simply summarized in a few performance criteria, but instead engages social policy to guide transport investments. Multiple criteria for evaluation (efficiency, distribution and environmental effects) are therefore necessary in order to address the different and often competing objectives involved in effective transport planning, including adequate funding sources, social equity, and environmental impact. The involvement of local stakeholders (user groups, transport service providers, academia, government, private sector groups, NGOs) in the fact-finding and decision-making processes has been central to improving the responsiveness of transport planning to a broad set of users, as well as making the best use of limited public resources. These interests range from such traditional concerns as mobility, congestion, and mitigation to a wide range of non-traditional concerns such as social equity, economic development and competitiveness, institutional effects, and environmental costs.3 In spite of these advances in transport and development, there remains a critical need for new assessment and evaluation regimes that better articulate the benefits of transport investments and their alternatives, and better plan for the goals of social equity and inclusion. Theoretical analysis that link transport influences to social and economic change require more complex models that go beyond the general and aggregate levels of data collection. Thus far, few studies of transport have addressed the consequences of social change or derived predictive models to deal with this set of issues. Moreover, there has not been sufficient examination of transport’s impact on social issues within a qualitative framework.4 For example, in many instances only economic criteria are applied to the analysis of “improved accessibility.” But more than commodities move over roads. It is important to also consider the flow of social capital in the form of information, news, or job opportunities facilitated through transport networks. Social capital, a fairly recent addition to economic analysis at the Bank, is the set of norms, networks, and organizations through which people gain access to power and resources, and through which decisionmaking and policy formulation occur.5 The role of transport in facilitating or limiting social capital expands economic criteria models when measuring the impact of transport projects. Transport accounts for $5 billion of new World Bank lending each year, and thus presents a critical entry point for the systematic incorporation of social development concerns. In Bank-funded investments and operations, the main approach for accomplishing this is social assessment (SA). While analysis of the socio-economic context of transport development has traditionally been a part of standard transport planning, social assessment provides a framework to improve the consideration and integration of social issues and impacts into the transport project cycle process. As an analytic and development framework, social assessment addresses the differential needs, priorities and constraints of particular stakeholder and social groups in the project design. It also assesses anticipated distribution of benefits during implementation and establishes ongoing monitoring and evaluation mechanisms to ensure that benefits continue to reach intended beneficiaries equitably beyond the end of the project cycle. Equally important, the use of social assessment can also help to identify, minimize, and manage potential adverse social impacts. The aim of this compendium is to support the adoption of social assessments in transport operations. Over forty transport projects were reviewed and analyzed (see Annex 3) in order to synthesize the growing body of knowledge about how social issues are identified, addressed, and monitored in transport projects. As a means of highlighting the ways in which transport and social development directly or indirectly intersect, Chapter 2 elaborates upon six key social dimensions including poverty, access, gender, sustainability, mitigation, and safety. Chapter 3 presents a practical guide to the social assessment process in transport projects. Using case studies, it relates the social assessment process to transport project design and project cycle. Beyond these steps, the compendium will contribute to the existing knowledge base and lessons learned on social development and transport. Although major strides have been made in conceptualizing the social dimensions of transport, the twenty-first century will present even more complex transport challenges than the previous century when growth in mobility and freedom of movement indelibly shaped the sector.

#### **The CP ensures social equity in all stages of the aff**

Litman & Brenman 12 [Todd Litman, Victoria Transport Policy Institute, Marc Brenman, Social Justice Consultancy and Senior Policy Advisor to The City Project, “A New Social Equity Agenda For Sustainable Transportation”, http://www.vtpi.org/equityagenda.pdf, 8 March 2012] SV

Currently, social equity analysis tends to be ad hoc, with analysis, scope and methodologies that vary widely depending on the preferences and knowledge of people involved in a particular planning process. It would be useful to help develop better understanding of social equity issues, and more comprehensive and consistent evaluation practices. For example Forkenbrock and Weisbrod (2001) and Litman (2002) define various types of transport equity impacts, describe how they can be evaluated, and identify appropriate performance indicators. Table 4 summarizes five transport equity indicators that can be used when evaluating transport policies and projects. Gao and Johnston (2009) and Rodier, et al. (2010) use geographic information systems (GIS) and integrated transport models to evaluate cost and benefits of various transport policies on different types of residents, including those with low incomes or inability to drive. Carlson and Howard (2010) demonstrate how various transport demand management strategies would affect various groups. Ng (2005) and Robinson, et al. (2010) demonstrate how transport equity analysis can be incorporated into regional transport planning. Schweitzer and Taylor (2008) and Wachs (2003) show various ways to evaluate transport pricing options, and ways to incorporate social equity objectives. These are just a few examples of resources and examples that can be used to develop more comprehensive transport social equity analysis. These methodologies can be used to identify various equity impacts of specific policies and projects perform, and help develop alternatives that better achieve equity objectives. The new agenda for transport social equity considers a broader range of impacts, recognizes the problems of automobile dependency and the benefits of a more diverse transport system, and favors win-win strategies that help support other planning objectives because these provide an opportunity to build broader coalitions which interest groups with economic and environmental goals. Table 5 compares the old and new agendas. Below are recommendations for a new transport social equity agenda:  Define key social equity concepts. Establish standard definitions of key terms such as basic mobility, accessibility, transport diversity, and categories of transport disadvantage, and standard analysis methodologies and performance indicators suitable for transport planning.  Incorporate social equity analysis in all planning stages, including funding allocation, strategic planning, public participation, economic evaluation, project design, operations, evaluation and enforcement.

# Disability Net Benefit

## 1NC Shell

AAPD, 2012 (The American Association of People With Disabilities, “Equity in Transportation for People with Disabilities”, May 23, http://www.infrastructureusa.org/equity-in-transportation-for-people-with-disabilities/)

**Transportation and mobility play key roles in the struggle for civil rights and equal opportunity in the disability community**. **Affordable and reliable transportation allows people with disabilities access** to important opportunities in **education, employment, health care, housing, and community life.** **Because our nation’s** investments in transportation infrastructure **have disproportionately favored cars and highways, those who cannot afford cars or do not drive** cars **often lack viable transportation options.** **People with disabilities**—particularly in rural areas—**need accessible, affordable transportation options that bring employment, health care, education, housing, and community life within reach. Unfortunately, adults with disabilities are twice as likely as those without disabilities to have inadequate transportation** (31 percent vs. 13 percent).1 Of the nearly 2 million people with disabilities who never leave their homes, 560,000 never leave home because of transportation difficulties.2 Leaving people out has real costs to the nation. **Keeping people with disabilities at home keeps them out of jobs**, away from shopping, and **out of community life, and it prevents them from making valuable contributions to** our **society as individuals**, as workers, as consumers, and as taxpayers. Transportation and The Americans with Disabilities Act The Americans with Disabilities Act of 1990 (ADA) is the landmark civil rights law that addresses the rights of people with disabilities. Title II of the ADA prohibits discrimination on the basis of disability in public transportation services, such as city buses and public rail (subways, commuter trains, etc.). Under the ADA; all new vehicles used in public transit must be accessible; key existing rail stations and all new rail stations and facilities must be accessible; and transit operators must provide paratransit (on-demand, door-to-door) services for those who cannot use available mass transit. Surface Transportation Legislation The current legislation that authorizes all highway and transit funding is the 2005 Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). SAFETEA-LU authorized $286.5 billion to fund the nation’s transportation network through 2009. It authorizes funds for highways and highway safety and transit programs, including paratransit and grant programs related to transportation for people with disabilities. The bill originally expired on September 30, 2009, and has been extended a number of times as Congress seeks a long-term funding solution for the nation’s transportation infrastructure and considers reauthorization legislation. Accessibility **Twenty years after passage of the ADA, transportation choices for people with disabilities are still limited.** The ADA has led to major improvements in transit systems across the United States. However, there are persistent gaps in compliance that continue to create significant barriers for people with disabilities. In addition, because the ADA only addresses public transportation, few transportation options exist for people with disabilities where no public transportation is available. In some areas, such as in rural communities, **insufficient funding has left people with disabilities with little or no transportation options.** In urban areas, where individuals often rely on accessible taxis, a lack of requirements has meant very uneven progress.

#### Specifically—These seemingly innocuous investment decisions render differently-abled people prisoner to a transportation infrastructure system that forces immobility upon them.

Langan, 2001 (Celeste, Associate Professor of English at the University of California Berkeley, “Mobility Disability”, Public Culture, Vol. 13 No. 3, Fall, Project Muse)

**To think about mobility disability is to think about norms of speed and ranges of motion**; perhaps also of desired ends. Rousseau long ago declared in The Social Contract that the cripple who wants to run and the able-bodied man who doesn’t will both remain where they are. But by **focusing on internal resources and intentions**, Rousseau **forgot** to mention all **those whose mobility is affected by external constraints.** **To consider those constraints is to notice how the built environment**— **social practices and material infrastructures**—can **create mobility disabilities** that diminish the difference between the “cripple” and the ambulatory person who may well wish to move. Two examples, one from the United States, one from Turkey. Title VI of the 1964 Civil Rights Act appeared to sweep away legal obstacles to the mobility of African Americans. But in “The Legacy of Jim Crow in Macon, Georgia,” David Oedel (1997: 98) describes how the **contemporary** transportation infrastructure **still has discriminatory effects**: A steady stream of **seemingly innocuous funding and operational decisions** . . . **have**, since 1964, **quietly but effectively restricted** the **mobility** of poor African-Americans and other disfavored minorities who do not own cars. **Meanwhile**, these same **officials** and citizens **have simultaneously lavished public funds on transportation accommodations favored by the car-owning majority, who have used** the **new and improved roads**, streets, **and highways in effect to live free from close contact with** poor African-Americans and **others** similarly situated. **The power of “funding and operational decisions” to create mobility disabilities becomes** even **clear**er upon consideration of the Turkish case, **where discrimination takes place under the sign** not of race but **of modernization: the homogenization and amplification of speed.** Responding to (but also stimulating) the massive urbanization and mobilization of its population, Turkey has built new multilane highways with lowered gradients that allow traffic to move with greater efficiency. All sorts of traffic one encounters on other roads, however, are absent on the new freeways. Pedestrians, horse-drawn carts, and tractors are all prohibited; highway signs proclaim which forms of mobility are no longer “up to speed.” **Those disqualified from travel** on the new highways may soon **discover that schools, stores, and other public facilities are** more spread out and **hard**er **to reach, for such amplified norms of mobility alter the spatial dimensions of people’s lives.** Two Hollywood films of recent vintage offer contrasting representations of the mobility disabilities created by norms of speed in the United States. David Lynch’s The Straight Story (1999) chronicles the journey of sixty-eight-year-old Alvin Straight, whose visual impairment prohibits him from driving and whose antipathy to being a passenger—whether in his daughter’s car or on a bus—sets him on the unusual course of riding a lawn mower from Iowa to Wisconsin, at an average speed of three to four miles an hour (roughly the norm of walking). Lynch makes us aware, as we watch the film, of the extent to which even our visual experience of space has been transformed by speed—not only by the twenty-four-frame-per-second speed of film projection, but by the rate at which cameras usually move over the landscape. The deliberately slowed pace of the film creates the illusion of “real time,” and the return to a human scale implied in the title reinforces the film’s thematic suggestion that autonomy—figured as escape from the immobility implicit in mass-mediated consumption—is still possible. As Straight painstakingly repairs his mower, builds his trailer, and buys his prosthetic “grabber,” he seems to tap an interior resourcefulness—talents and industry—sufficient to restore the capacity for what might be termed automobility to his aging body. In its offbeat way, The Straight Story enshrines the appearance in the discourse of freedom and in the public sphere of a new political category: the “individuals with wheelchairs” recognized by the 1990 Americans with Disabilities Act (ADA). But the film partly undermines, or at least complicates, its celebration of Straight’s independence in two scenes about failed automobility. On his first try, Straight gets barely five miles out of town before his mower breaks down. After having it towed home and finding it irreparable, he takes his shotgun and blows the defective mower to bits—as if it didn’t deserve to live. Using his savings to purchase a newer mower, Straight gets much farther the second time. But halfway toward his destination the old man has an accident that burns out his motor, and he must delay the completion of his journey until he receives enough money from his Social Security check to pay for repairs. There are, in other words, two aspects of Straight’s mobility disability—physical and economic; and two necessary conditions for the recovery of automobility—equality of opportunity (wheelchair- or lawn mower–accessible highways) resources and sufficient material to take advantage of that opportunity.1 **The** other road **movie** I have in mind is **Speed** (Jan De Bont, 1994). As the title indicates, the film’s sensibility provides a counterpoint to that of Lynch’s. Yet it too brings attention to what we might call prosthetic travel. The film**’s** distinctive **contribution** to the action genre **is the substitution of the bus for the car** as the lead vehicle; **the bus seems unsuited** to the role **precisely because it relegates potential actors to the status of passengers traveling along a fixed route**, whereas the conventional chase scene of action films represents the superior agency of the hero as the greater speed at which he or she negotiates the world. The frisson of Speed depends on the injunction (courtesy of the disabled villain, played by Dennis Hopper2) that the bus’s speed must not drop below fifty miles per hour; the reminder is that, **in normal circumstances, buses go considerably** more **slow**ly than that, **even when they travel on freeways**. The narrative mechanisms by which the bus is transformed into an action vehicle are mostly obvious. Two characters—clearly identified as infrequent users of mass transit—take over its navigation after the bus driver is shot. The character played by Sandra Bullock is heard frequently to declare “I love my car”; she is riding the bus only because her license to drive has been temporarily suspended for speeding. She drives the bus under the direction of the policeman, played by Keanu Reeves, who has left his SUV behind only to perform the requisite rescue. Keeping the speedometer above fifty requires them to perform all sorts of off-route maneuvers, including, in a climactic scene, the achievement of flight.3 But **the film imagines** the other **bus riders** much differently. They **are almost entirely low-income people of color, with assorted others whose automobility is disabled by quasi-cognitive impairments**: **the white woman too nervous to drive** the Los Angeles freeways, **the white tourist who doesn’t know his way around**. This imagining complicates the problem that Speed, as an action film, is supposed to solve. For **the “hostage situation” that traps the bus passengers is virtually indistinguishable from their regular status as bus riders**, or so the film implies. **The status of passenger and** the **status of hostage are virtually conflated.** And if the bus is abnormally forced by a villainous demand to go above fifty, the film suggests that going below fifty—the threat posed by congested highways—represents an equivalent loss of freedom. The injunction to speed is general. **One population of bus riders is not represented in Speed: physically disabled people.** **It’s too bad, in a way**—**not just** **because it might make the film more** mimetically **accurate or increase the visibility of disabled people** in the public imagination, **but because the ambiguous mobility that disabled people represent in that imagination** (an ambiguity evident in that curious phrase, “confined to a wheelchair”) **might capture the ideological contradiction that Speed exposes.** **Although the passengers have freely chosen**—even paid—**to ride the bus, the suggestion is that the bus** (**or mass transportation in general**) **is an imperfect form of mobility in its evident confinement of passengers to a fixed route and a speed regulated from elsewhere.** And despite the contrast between bus and automobile on which the film depends for its originality, Speed suggests that **the enforced community of hostages is generalizable to the population at large.** **We are** at once **hostages to speed and to a failure to maintain speed**. **The** normative **tyranny of this** “express” **bus threatens and is threatened by all those who cannot get out of its way quickly enough**; as the bus barrels down the surface streets and through intersections where it would, under normal conditions, make regular stops, it cannot now even stop for traffic lights or pedestrians. **The demand to pause in consideration of others is represented as life threatening**. **The solutions the film poses to this conundrum are revealing: on the one hand, an expanded highway system with restricted access** (the bus escapes highway congestion by bursting through to an as-yet-unfinished extension); **on the other, a quicker completion of the L.A. subway system** (Reeves and Bullock blast through a subway-construction wall in the last episode of the film). **Subways, presumably, have the virtue of keeping slower citizens**—**mass-transit users**—**out of the public view, off the streets.** These solutions are not unfamiliar to Los Angelenos; the city has already experimented with toll roads for the wealthy, and the controversial redirection of transit funds from the bus system to subway and fixed rail has been much in the news. **It is as if this social stratification of transportation options is necessary to release the privileged minority**—in this case, Reeves and Bullock— **from** what Ronald Dworkin (1981: 312) calls “the slavery of the talented”: **the perception that one’s own mobility options have been hijacked by public policies that try to equalize mobility resources. Only such a stratified transportation system, ironically, seems to guarantee that mobility will be felt as freedom.** And thus Speed, in its peculiar way, introduces an even newer category of political subject than the ADA’s “individuals with wheelchairs”: the mass-transit dependent.

#### This relationship to those who are differently abled culminates in the genocidal impulse – the institutional spaces of exclusion epitomized by transportation policies legitimize state-sponsored violence

Hughes, 2002 (Bill, Professor of Social Policy at the University Glasgow, Disability Studies, p. 60-62)

The dominant framework for understanding disability in the modern period has been the medical model. From the early nineteenth century onwards, biomedicine legitimated the view that biophysical ‘abnormality’ or ‘maladaptation’ leads to, or is the cause of, social ‘abnormality’ or ‘maladaptation.’ In other words, to be defined as a ‘flawed body’ is simultaneously to be defined as incapable of adequate social participation. The corporealization of disability meant, in practical terms, the segregation of those so labeled. The logic of the medical model runs from diagnosis to social response. In causal terms, there seem to be three linked elements in the chain: impairment leads to disability, which in turn leads to confinement or ‘institutionalization’. The social respond to the ‘flawed’ body particularly in the nineteenth century – was anthropoemic. This concept refers to the expulsion or exile of alien persons. The Victorian penchant for excluding people from social participation on the ground of what today might be called ‘difference’ was summed up by Foucault’s (1969) notion of the ‘great confinement.’ The segregation associated with confinement was not only equivalent to a custodial sentence – often for life – but was also the sentence of a ‘social death,’ which was – in itself a sort of tacit legitimation for the denial of human rights and the application of oppressive practices of care (Barnes 1990). **These institutional spaces of exclusion**, into which disabled people were cast, were, after all, **‘civilized’ by medical jurisdiction**. The very authority that had objectified disabled people by reducing them to their impairments now had the opportunity to define disabled people’s needs and, in many cases, act *in locl parentis.* [continues] The medical model of disability is, and has been, strongly associated with the potentially reactionary, theme that ‘biology is destiny,’ and is embedded in popular culture by the ‘naturalization’ of the view that natural aptitudes determine life chances. Nurture is causally impotent in the social world, it is natural endowment that is the most efficacious variable. At its worst, in the nineteenth century, the medicalization of disability dovetailed with what Foucault called the ‘**racisms of the state’** (1979: 54), with the Darwinist and eugenicist perspectives which promised to cleanse the social body of impunity, imperfection, degeneracy and effectiveness. [continues] The concept of ‘fitness’ was used, in such contexts, as a criterion for making ‘humanity’ – defined in terms of aesthetic ideals of embodiment – into a relative term. Modernity is riddled with such eugenic conceptions of social hygiene. They are based on the view that disabled people are either ‘unfit’ to be in society or to reproduce. The eugenic gaze proposes collective solutions to the contaminant that disabled bodies represent, but does not propose collectivist explanations. It is imprisoned in the repertoire of socio-biology and social Darwinism, and treats disability as an error of nature that should be righted. When wedded to a rigid concept of heredity, biological reductionism may at its worst **translate into a politics of genocide**.

## 2NC Transportation Key

#### Lack of mobility lies at the heart of exclusion – transportation for the disabled is key

Mattson, Hough, and Abeson, 2010 (Jeremy, Jill, Alan, Faculty at North Dakota State University, “Assessing Existing and Needed Community Transportation for People with Disabilities in North Dakota”, Small Urban & Rural Transit Center, Upper Great Plains Transportation Institute, North Dakota State University, November)

**Mobility is fundamental for people to live full and satisfying lives in their communities. With** community **mobility, people have opportunities for employment, civic involvement, health care**, shopping, **socialization, and participation in community** activities. **Without it, people may experience isolation and depression** (Hughes, Nosek, and Robinson-Whelen 2007; Marottoli et al. 1997). **For adults with disabilities, access to** community **transportation is often limited or non-existent.** While the need for improving this situation is increasingly being recognized, moving forward requires current and accurate descriptive information about transportation services used and needed. A survey by the Bureau of Transportation Statistics in 2002 showed that **almost 15 million people in the United States have difficulties getting the transportation they need**, and of these, 6 million are people with disabilities (U.S. Department of Transportation, Bureau of Transportation Statistics 2003). The survey also showed that more than 3.5 million people in the country never leave their homes, more than half of whom are people with disabilities. **Lack of transportation was a major contributing factor, as about 560,000 people with disabilities were found to never leave home because of transportation difficulties.** **The problem could become more severe as the population ages.** Estimates show that the percentage of the population age 65 or older in North Dakota will increase from 15% in 2005 to 23% by 2020, which would be nearly 150,000 people (Rathge 2007). Although disability is not an inevitable consequence of aging, estimates from the Census show that disability rates increase significantly with age. According to the 2006 American Community Survey (U.S. Census Bureau 2006), 14.1% of the non-institutionalized population in North Dakota age 5 or older has a disability, just below the national average of 15.1%. For people age 65 to 74 in the state, 28.3% have a disability, and more than half of the people in the state (51.5%) age 75 or older are found to have a disability. People with disabilities clearly represent a sizable segment of the population. For those of working age, disabilities can become a barrier to gaining employment. Approximately one in ten people age 21 to 64 in the state has a disability. Among this working age population, the percentage of people employed is much lower for those with disabilities. For example, among people age 35 to 64 in the state, 86% of those with no disability are employed, compared with just 50% of those with a disability. Poor access to transportation could be one factor contributing to this lower rate of employment. A number of studies and surveys both in North Dakota and nationwide have shown that people with disabilities have experienced problems with transportation. A study published by the Small Urban & Rural Transit Center (SURTC) in 2003 (Hegland and Hough 2003) surveyed people with disabilities in the state regarding their transportation needs and found that many of the respondents used transit; more would use it if it were available to them, and many reported problems with transportation. An update to this previous study is warranted because the scope of that survey was somewhat limited, and conditions may have changed, for better or worse, during the years since that survey was conducted. A new study could address areas not covered in the previous survey, determine if there has been any progress in addressing the transportation needs of people with disabilities, and provide an instrument that can be used for future research either to track progress or collect similar information in other communities. Additionally, the results of the study might **enable transportation planners and providers, as well as local and state policy makers, to undertake actions to address the deficiencies documented by this effort.** The objectives for this study, therefore, are to 1) obtain a current and accurate description of existing and needed community transportation for adults with disabilities in North Dakota, 2) **establish a methodology** for obtaining this information **that can be used** over time to assess progress **in providing transportation for adults with disabilities** in North Dakota, and 3) create a data collection instrument that can be used by communities and states beyond North Dakota for collecting similar information.

## 2NC Value to Life Impact

#### The isolation and concealment of disabled bodies deems them worthless and strips them of all human value

Snyder and Mitchell, 2001 (Sharon, Assistant Professor in the Department of Disability and Human Development at the University of Illinois at Chicago, David, Professor and Director of Graduate Studies in the Department of Disability and Human Development at the University of Illinois at Chicago, “Re-engaging the Body: Disability Studies and the Resistance to Embodiment”, Public Culture, Vol. 13 No. 3, Fall, Project Muse)

We begin with Byron’s The Deformed Transformed as an allegory for the efforts of U.S. disability studies first to disengage from, and then to re-engage with, disabled bodies. In the drama, rejection of the apparently visceral life of disability for the evidently social ideal of a “classical” and “able” body encapsulates the double bind that confronts **those who inhabit disabled bodies: one must either endure the cultural slander heaped upon bodily difference or seek to evade the object of derision. Such erasures of disabled people have** historically **been achieved through such cultural “solutions” as institutionalization, isolation, genocide, cure, concealment, segregation, exile, quarantine, and prosthetic masking**, among others. As a theatrical effort to destigmatize the disabled body, Byron’s play—much like research in **disability studies** over the past twenty years—**aims to debunk the fictions of desirability that invest the “able” body**. In critiquing the presumed desirability invested in able bodies, disability studies has sought to destigmatize disabled bodies only by default. In the mid-1990s, U.S. disability studies returned to encounter the sloughed-off disabled body **after the “perfectible,” able body had been rethought as a matter of epistemology**, as opposed to biology. We argue that disability studies has strategically neglected the question of the experience of disabled embodiment in order to disassociate disability from its mooring in medical cultures and institutions. Although recently disability criticism has been calling for a return to a phenomenology of the disabled body,3 this return has been slow in coming. Like feminized, raced, and queered bodies, the disabled body became situated in definitive contrast to the articulation of what amounted to a hegemonic aesthetic premised on biology. **Within this cultural belief system, the “normal” body provided the baseline for determinations of desirability and human value.**

## 2NC Disability K2 “isms”

#### Addressing disability allows us to rethink the basis of social collectivity on a broader scale – it reformulates our entire conception of justice

Breckenridge and Vogler, 2001 (Carol, Department of South Asian Languages and Civilizations at the University of Chicago, Candace, Associate Professor of Philosophy at the University of Chicago, “The Critical Limits of Embodiment: Disability’s Criticism”, Public Culture, Vol. 13 No. 3, Fall, Project Muse)

Some of us have hereditary traits that register socially and culturally as disabilities. Some of us become disabled naturally through aging, coercively through warfare, and accidentally through misfortune—whether the disabling incident occurs during the passage through the birth canal (when cerebral palsy can occur), at the industrial workplace, or in the course of everyday life. **No one emerges selfsufficient from the womb, no able-bodied person can be sure that she will continue to be able-bodied throughout her later years, and there is no guarantee that any of us will escape disabling encounters with the world. In this sense, no one is ever more than temporarily able-bodied**. The designation temporarily ablebodied invites us to consider different sorts of vulnerability, different points of frailty, as features of our common lot and accordingly to shift our understandings of flourishing, social justice, and embodiment. **Anxiety on the part of the able-bodied that their condition is both fortunate and temporary implicitly acknowledges that things can happen to make life much more difficult for them** than it is at present—on even the worst, the most impossible, day. The anxiety and the significance of able-bodiedness register the centrality of economic circumstances to disability studies. In the United States, for example, few of us are ever more than a few paychecks away from material devastation. **Developing an understanding of social justice informed by disability studies would require us to break frame with** much **current thought about the distribution of social goods and resources and with** the **traditional** rationales given for various **distributive schemes**. Whether the “goods” to be “distributed” were educational, nutritional, material, social, or political, we would no longer be able to see the end of social justice as the production of a body politic, each member of which brought a roughly equal share of cognitive, affective, and physical “ability” to the business of the daily reproduction of individual and social life. Traditional theories of justice always tend to presuppose that the places where wealth is lodged now are places where it belongs, that it was accumulated in some legitimate, vaguely Lockean fashion, and that the way to produce equity is by ensuring that individuals are well equipped to pursue wealth individually. The production of disability through, for example, warfare and conditions of poverty that defy Lockean analysis, **the nurture of a heterogeneously able society** through liberal reproductive choice, and the victories won through disability activism **make disability studies a powerful lever for transforming** traditional North American and European work on **justice**. **We need to ask what justice would look like if we assumed that everybody who is here belongs here** and that any reasonable image of collective flourishing will take this into account. A first step might be to imagine collectivities—for example, a disabled person and her caregivers—as the bearer of rights, rather than simply to identify a collective’s individual members as rights-bearers. **In thinking disability, we have the opportunity to rethink the basis of social collectivity more generally and, through it, both well-being and justice.**

#### The societal concept of disability sets the basis for discrimination and violence against other minorities

Baynton, 2001 (Douglas C., Associate Professor at the University of Iowa, "Disability and the Justification of Inequality in American History", http://courses.washington.edu/intro2ds/Readings/Baynton.pdf)

Disability has functioned historically to justify inequality for disabled people themselves, but it has also done so for women and minority groups. That is, not only has it been considered justifiable to treat disabled people unequally, but the concept of disability has been used to justify discrimination against other groups by attributing disability to them. Disability was a significant factor in the three great citizenship debates of the nineteenth and early twentieth centuries: women's suffrage, African American freedom and civil rights, and the restriction of immigration. When categories of citizenship were questioned, challenged, and disrupted, disability was called on to clarify and define who deserved, and who was deservedly excluded from, citizenship. Opponents of political and social equality for women cited their supposed physical, intellectual, and psychological flaws, deficits, and deviations from the male norm. These flaws-irrationality, excessive emotionality, physical weakness-arc m essence menial, emotional, and physical disabilities, although they are rarely discussed or examined as such, Arguments for racial inequality and immigration restrictions invoked supposed tendencies to feeble-mindedness, mental illness, deafness, blindness, and other disabilities in particular races and ethnic groups. Furthermore, disability figured prominently not just in arguments for the inequality of women and minorities but also in arguments against those inequalities. Such arguments took the form of vigorous denials that the groups in question actually had these disabilities; they were not disabled, the argument went, and therefore were not proper subjects for discrimination. Rarely have oppressed groups denied that disability is an adequate justification for social and political inequality. Thus, while disabled people can be considered one of the minority groups historically assigned inferior status and subjected to discrimination, disability has functioned for all such groups as a sign of and justification for inferiority.

## 2NC D-Rule

#### As an American policy intellectual you are morally obligated to support domestic disability protections

Olberholtzer, 2001 (Jerry, Professor at University of Notre Dame, “Equality of Attitude”, May 7, [http://www](http://www/).nd.edu/~frswrite/issues/2001-2002/Philbin.shtml)

As a compassionate society, **America has a moral obligation to help the disabled make a life for themselves**. This can be seen as **thinking of the disabled as equal**s in the workplace and, more importantly, in everyday interaction. These are individuals who, mostly through no fault of their own, have to face increased adversity to succeed. In order to create equality, society must take various courses of action to bring equality to the greater community. The first is to change its attitudes toward the disabled members of society. Society must recognize that most disabled individuals are, with some additional help, fully capable of living a productive life. A popular public opinion is that the disabled are a feeble arm of the community. Society has stigmatized handicapped individuals and stereotyped them to be frail and unable to function on their own. This stereotype holds back the equality issue and prevents any drastic changes. Society must implement an idea of social contract, that is, an obligation to help those who are not afforded an equal opportunity to succeed (Charlton 71). In order for social contract to apply, one must first think of the disabled as equals. Stereotypes create the necessity for legislation such as the ADA, and simultaneously prevent its effectiveness on a change of society’s attitudes. The disabled of America are a minority, a group of people who exist as stigmatized individuals in society. Yet, if given the opportunity and resources to succeed, the disabled can overcome adversity and create a successful life for themselves, and at the same time, improve the workplace environment. Demonstrating courage and a strong work ethic can motivate other workers to work even harder. However, the disabled are often not given the opportunity to improve the workplace for various reasons. John Kregel calls attention to the largest factor denying work to disabled when he says, “Stereotypic employer attitudes and outright employment discrimination still deny many individuals with disabilities the chance to show their skills and abilities” (Kregel 132). Kregel continues to state that the employers of disabled employees see a positive impact on the workplace output. It is unfortunate that employers who do not hire a disabled individual because of a handicap will not reap the benefits of an improved workplace. Changing the fundamental attitude of society will better the employment situation of disabled people by opening up more opportunity. If the disabled get the opportunity to prove themselves, then society will slowly become more confident in their abilities. This is the spirit of the ADA, but more must be done to accomplish its goals of equality. It is not fully effective to simply guarantee protection from discrimination. Rather, government must help provide the tools to succeed. The government, acting on moral obligation by allotting funds for greater special education programs and financial subsidies to help the welfare of the disabled, can create an equal starting point in the workforce for the physically and mentally challenged. In turn, those whom the government helps will be less reliant upon these subsidy programs, and at the same time, be productive, full members of society.

## 2NC R/C of Violence

#### The medicalization of life and the biological degradation of certain segments of the species is the root cause of conflict – wars are fought and life is exterminated not because of particular geopolitical interests but because of the biopolitical commitment to eugenic violence

Elden, 2002 (Stuart, Professor of Politics at the University Warwick, Boundary 2, 29.2)

The reverse side is the power to allow death. State racism is a recoding of the old mechanisms of blood through the new procedures of regulation. Racism, as biologizing, as tied to a state, takes shape where the procedures of intervention ‘‘at the level of the body, conduct, health, and everyday life, received their color and their justification from the mythical concern with protecting the purity of the blood and ensuring the triumph of the race’’ (VS, 197; WK, 149).37 For example, the old anti-Semitism based on religion is reused under the new rubric of state racism. The integrity and purity of the race is threatened, and the state apparatuses are introduced against the race that has infiltrated and introduced noxious elements into the body. The Jews are characterized as the race present in the middle of all races (FDS, 76).38 The use of medical language is important. **Because certain groups in society are conceived of in medical terms**, society is no longer in need of being defended from the outsider but from the insider: the abnormal in behavior, species, or race. What is novel is not the mentality of power but the **technology of power** (FDS, 230). The recoding of old problems is made possible through new techniques. A break or cut (coupure) is fundamental to racism: a division or incision between those who must live and those who must die. The ‘‘biological continuum of the human species’’ is fragmented by the apparition of races, which are seen as distinguished, hierarchized, qualified as good or inferior, and so forth. The species is subdivided into subgroups that are thought of as races. In a sense, then, just as the continuum of geometry becomes divisible in Descartes,39 the human continuum is divided, that is, made calculable and orderable, two centuries later. As Anderson has persuasively argued, to suggest that racism has its roots in nationalism is a mistake. He suggests that ‘‘the dreams of racism actually have their origin in ideologies of class, rather than in those of nation: above all in claims to divinity among rulers and to ‘blue’ or ‘white’ blood and breeding among aristocracies.’’40 As Stoler has noted, for Foucault, it is the other way around: ‘‘A discourse of class derives from an earlier discourse of races.’’41 But it is a more subtle distinction than that. What Foucault suggests is that discourses of class have their roots in the war of races, but so, too, does modern racism; what is different is the biological spin put on the concepts.42 But as well as emphasizing the biological, modern racism puts this another way: to survive, to live, **one must be prepared to massacre one’s enemies**, a relation of war. As a relation of war, this is no different from the earlier war of races that Foucault has spent so much of the course explaining. But when coupled with the mechanisms of mathematics and medicine in bio-power, this can be conceived of in entirely different ways. Bio-power is able to establish, between my life and the death of the other, a relation that is not warlike or confrontational but biological: ‘‘The more inferior species tend to disappear, **the more abnormal individuals can be eliminated**, the less the species will be degenerated, the more I— not as an individual but as a species—will live, will be strong, will be vigorous, will be able to proliferate.’’ The death of the other does not just make me safer personally, but the death of the other, of the bad, inferior race or the degenerate or abnormal, makes life in general healthier and purer (FDS, 227–28). ‘‘The existence in question is no longer of sovereignty, juridical; but that of the population, biological. **If genocide is truly the dream of modern powers**, this is not because of a return today of the ancient right to kill; it is because power is situated and exercised at the level of life, the species, the race, and the large-scale phenomena of population’’ (VS, 180; WK, 136). ‘‘If the power of normalization wishes to exercise the ancient sovereign right of killing, it must pass through racism. And if, inversely, a sovereign power, that is to say a power with the right of life and death, wishes to function with the instruments, mechanisms, and technology of normalization, it must also pass through racism’’ (FDS, 228). This holds for indirect death—the exposure to death—as much as for direct killing. While not Darwinism, this biological sense of power is based on evolutionism and enables a thinking of colonial relations, the necessity of wars, criminality, phenomena of madness and mental illness, class divisions, and so forth. The link to colonialism is central: This form of modern state racism develops first with colonial genocide. The theme of the political enemy is extrapolated biologically. But what is important in the shift at the end of the nineteenth century is that war is no longer simply a way of securing one race by eliminating the other but of regenerating that race (FDS, 228–30). As Foucault puts it in La volonté de savoir : **Wars are no longer waged in the name of a sovereign who must be defended**; they are waged on behalf of the existence of all; entire populations are mobilized for the purpose of wholesale slaughter in the name of life necessity. Massacres have become vital [vitaux— understood in a dual sense, both as essential and biological]. **It is as managers of life and survival, of bodies and the race, that so many regimes have been able to wage so many wars, causing so many men to be killed.** (VS, 180; WK, 136)

## 2NC F/W

#### As students participating in policy debates we have an obligation to put disability at the center of our discussion because what we debate about here says a lot about human conduct on a larger scale—even if we lose every argument, you can vote negative as an endorsement of our pedagogy

Bérubé, 2003 (Michael, Paterno Family Professor in Literature at Pennsylvania State University, “Citizenship and Disability”, Spring, http://www.dissentmagazine.org/article/?article=506)

It is striking, nonetheless, that so few leftists have understood disability in these terms. Disability is not the only area of social life in which the politics of recognition are inseparable from the politics of redistribution; other matters central to citizenship, such as immigration, reproductive rights, and criminal justice, are every bit as complex. Nonetheless, our society's representations of disability are intricately tied to, and sometimes the very basis for, our public policies for "administering" disability. And when we contemplate, in these terms, the history of people with cognitive and developmental disabilities, we find a history in which "representation" takes on a double valence: first, in that people who were deemed incapable of representing themselves were therefore represented by a socio-medical apparatus that defined—or, in a social-constructionist sense, created—the category of "feeblemindedness"; and second, in the sense that the visual and rhetorical representations of "feebleminded" persons then set the terms for public policy. One cannot plausibly narrate a comprehensive history of ideas and practices of national citizenship in the post-Civil War United States without examining public policy regarding disability, **especially mental disability,** all the more especially when mental disability was then mapped onto certain immigrant populations who scored poorly on intelligence tests and were thereby pseudo-scientifically linked to criminality. And what of reproductive rights? By 1927, the spurious but powerful linkages among disability, immigration, poverty, and criminality provided the Supreme Court with sufficient justification for declaring involuntary sterilization legal under the Constitution. THERE IS AN obvious reason why disability rights are so rarely thought of in terms of civil rights: disability was not covered in the Civil Rights Act of 1964. And as Anita Silvers points out, over the next twenty-five years, groups covered by civil rights law sometimes saw disability rights as a dilution of civil rights, on the grounds that people with disabilities were constitutively incompetent, whereas women and minorities faced discrimination merely on the basis of social prejudice. Silvers writes, "[t]o make disability a category that activates a heightened legal shield against exclusion, it was objected, would alter the purpose of legal protection for civil rights by transforming the goal from protecting opportunity for socially exploited people to providing assistance for naturally unfit people." The passage of the Americans with Disabilities Act (ADA) in 1990 did add disability to the list of stigmatized identities covered by antidiscrimination law, but thus far the ADA has been interpreted so narrowly, and by such a business-friendly judiciary, that employers have won over 95 percent of the suits brought under the act. Perhaps if plaintiffs with disabilities had won a greater number of cases over the past thirteen years, the conservative backlash against the ADA-currently confined to a few cranks complaining about handicapped parking spaces and a wheelchair ramp at a Florida nude beach-would be sufficiently strong as to spark a movement to repeal the law altogether. But then again, perhaps if the law were read more broadly, more Americans would realize their potential stake in it**.** In 1999, for instance, the Supreme Court ruled on three lower-court cases in which people with "easily correctable" disabilities—high blood pressure, nearsightedness—were denied employment. In three identical 7-2 decisions, the Court found that the plaintiffs had no basis for a suit under the ADA precisely because their disabilities were easily correctable. As disability activists and legal analysts quickly pointed out, this decision left these plaintiffs in the ridiculous situation of being too disabled to be hired but somehow not disabled enough to be covered by the ADA; or, to put this another way, plaintiffs' "easily correctable" disabilities were not so easily correctable as to allow them access to employment. One case involved twin sisters who were denied the opportunity to test as pilots for United Airlines on the grounds that their eyesight did not meet United's minimum vision requirement (uncorrected visual acuity of 20/100 or better without glasses or contacts) even though each sister had 20/20 vision with corrective lenses (Sutton v. United Airlines, Inc.); another involved a driver/mechanic with high blood pressure (Murphy v. United Parcel Service); the third involved a truck driver with monocular vision (20/200 in one eye) who in 1992 had received a Department of Transportation waiver of the requirement that truck drivers have distant visual acuity of 20/40 in each eye as well as distant binocular acuity of 20/40 (Albertson's, Inc. v. Kirkingburg). Because, as Silvers argues, "litigation under the ADA commonly turns on questions of classification rather than access," all three plaintiffs were determined to have no standing under the law. The question of whether any of them was justly denied employment was simply not addressed by the Court. Indeed, in writing her opinion for the majority, Justice Sandra Day O'Connor explicitly refused to consider the wider question of "access," noting that 160 million Americans would be covered by the ADA if it were construed to include people with "easily correctible" disabilities (under a "health conditions approach"), and since Congress had cited the number 43 million in enacting the law, Congress clearly could not have intended the law to be applied more widely. "Had Congress intended to include all persons with corrected physical limitations among those covered by the Act, it undoubtedly would have cited a much higher number of disabled persons in the findings," wrote O'Connor. "That it did not is evidence that the ADA's coverage is restricted to only those whose impairments are not mitigated by corrective measures." It is possible to object that O'Connor's decision was excessively literalist, and that the potential number of Americans covered by the ADA is, in any case, quite irrelevant to the question of whether a woman can fly a plane when she's got her glasses on. But I've since come to believe that the literalism of the decision is an indirect acknowledgment of how broad the issues at stake here really are. If the ADA were understood as a broad civil rights law, and if it were understood as a law that potentially pertains to the entire population of the country, then maybe disability law would be understood not as a fringe addition to civil rights law but as its very fulfillment. Rights can be created, reinterpreted, extended, and revoked. The passage of the ADA should therefore be seen as an extension of the promise of democracy, but only as a promise: any realization of the potential of the law depends on its continual reinterpretation. For the meaning of the word, just as Wittgenstein wanted us to believe (in order that we might be undeceived about how our words work), lies in its use in the language. Similarly, the Individuals with Disabilities Education Act of 1975 (originally the Education for All Handicapped Children Act) was not some kind of breakthrough discovery whereby children with disabilities were found to be rights-bearing citizens of the United States after all, and who knew that we'd had it all wrong for 199 years? On the contrary, the IDEA invented a new right for children with disabilities, the right to a "free and appropriate public education in the least restrictive environment." And yet the IDEA did not wish that right into being overnight; the key terms "appropriate" and "least restrictive" had to be interpreted time and again, over the course of fifteen years, before they were understood to authorize "full inclusion" of children with disabilities in "regular" classrooms. Nothing about the law is set in stone. The only philosophical "foundation" underlying the IDEA and its various realizations is our own collective political will, a will that is tested and tested again every time the Act comes up for reauthorization. Jamie Bérubé currently has a right to an inclusive public education, but that right is neither intrinsic nor innate. Rather, Jamie's rights were invented, and implemented slowly and with great difficulty. The recognition of his human dignity, enshrined in those rights, was invented. And by the same token, those rights, and that recognition, can be taken away. While I live, I promise myself that I will not let that happen, but I live with the knowledge that it may: to live any other way, to live as if Jamie's rights were somehow intrinsic, would be irresponsible. Of course, many of us would prefer to believe that our children have intrinsic human rights and human dignity no matter what; irrespective of any form of human social organization; regardless of whether they were born in twentieth-century Illinois or second-century Rome or seventh-century central Asia. But this is just a parent's—or a philosophical foundationalist's-wishful thinking. For what would it mean for Jamie to "possess" rights that no one on earth recognized? A fat lot of good it would do him. My argument may sound either monstrous or all too obvious: if, in fact, no one on earth recognized Jamie's human dignity, then there would in fact be no human perspective from which he would be understood to possess "intrinsic" human dignity. And then he wouldn't have it, and so much the worse for the human race. In one respect, the promise of the IDEA, like the promise of the ADA, is clear: greater inclusion of people with disabilities in the social worlds of school and work. But in another sense the promise is unspecifiable; its content is something we actually cannot know in advance. For the IDEA does not merely guarantee all children with disabilities a free appropriate public education in the least restrictive environment. Even more than this, it grants the right to education in order that persons with disabilities might make the greatest possible use of their other rights-the ones having to do with voting, or employment discrimination, or with life, liberty, and the pursuit of happiness. IDEA is thus designed to enhance the capabilities of all American children with disabilities regardless of their actual abilities-and this is why it is so profound a democratic idea. Here again I'm drawing on Nancy Fraser, whose theory of democracy involves the idea of "participatory parity," and the imperative that a democratic state should actively foster the abilities of its citizens to participate in the life of the polity as equals. Fraser's work to date has not addressed disability, but as I noted above, it should be easy to see how disability is relevant to Fraser's account of the politics of recognition and the politics of redistribution. This time, however, I want to press the point a bit harder. Fraser writes as if the promise of democracy entails the promise to enhance participatory parity among citizens, which it does, and she writes as if we knew what "participatory parity" itself means, which we don't. (This is why the promise of disability rights is unspecifiable.) LET ME EXPLAIN. First, the idea of participatory parity does double duty in Fraser's work, in the sense that it names both the state we would like to achieve and the device by which we can gauge whether we're getting there. For in order to maintain a meaningful democracy in which all citizens participate as legal and moral equals, the state needs to judge whether its policies enhance equal participation in democratic processes. Yet at the same time, the state needs to enhance equal participation among its citizens simply in order to determine what its democratic processes will be. This is not a meta-theoretical quibble. On the contrary, the point is central to the practical workings of any democratic polity. One of the tasks required of democrats is precisely this: to extend the promise of democracy to previously excluded individuals and groups some of whom might have a substantially different understanding of "participatory parity" than that held by previously dominant groups and individuals. Could anything make this clearer than the politics of disability? Imagine a building in which political philosophers are debating, in the wake of the attacks of September 11, 2001, the value and the purpose of participatory parity over against forms of authoritarianism or theocracy. Now imagine that this building has no access ramps, no Braille or large-print publications, no American Sign Language interpreters, no elevators, no special-needs paraprofessionals, no in-class aides. Contradictory as such a state of affairs may sound, it's a reasonably accurate picture of what contemporary debate over the meaning of democracy actually looks like. How can we remedy this? Only when we have fostered equal participation in debates over the ends and means of democracy can we have a truly participatory debate over what "participatory parity" itself means. That debate will be interminable in principle, since our understandings of democracy and parity are infinitely revisable, but lest we think of deliberative democracy as a forensic society dedicated to empyreal reaches of abstraction, we should remember that debates over the meaning of participatory parity set the terms for more specific debates about the varieties of human embodiment. These include debates about prenatal screening, genetic discrimination, stem-cell research, euthanasia, and, with regard to physical access, ramps, curb cuts, kneeling buses, and buildings employing what is now known as universal design. Leftists and liberals, particularly those associated with university humanities departments, are commonly charged with being moral relativists, unable or unwilling to say (even after September 11) why one society might be "better" than another. So let me be especially clear on this final point. I think there's a very good reason to extend the franchise, to widen the conversation, to democratize our debates, and to make disability central to our theories of egalitarian social justice. The reason is this: a capacious and supple sense of what it is to be human is better than a narrow and partial sense of what it is to be human, and the more participants we as a society can incorporate into the deliberation of what it means to be human, the greater the chances that that deliberation will in fact be transformative in such a way as to enhance our collective capacities to recognize each other as humans entitled to human dignity. As Jamie reminds me daily, both deliberately and unwittingly, most Americans had no idea what people with Down syndrome could achieve until we'd passed and implemented and interpreted and reinterpreted a law entitling them all to a free appropriate public education in the least restrictive environment. I can say all this without appealing to any innate justification for human dignity and human rights, and I can also say this: Without a sufficient theoretical and practical account of disability, we can have no account of democracy worthy of the name. Perhaps some of our fellow citizens with developmental disabilities would not put the argument quite this way; even though Jamie has led me to think this way, he doesn't talk the way I do. But those of us who do participate in political debates, whether about school funding in a specific district or about the theory and practice of democracy at its most abstract, have the obligation to enhance the abilities of our children and our fellow citizens with disabilities to participate in the life of the United States as political and moral equals with their nondisabled peers-both for their own good, and for the good of democracy, which is to say, for the good of all of us.

## 2NC AT Perm

#### Making the assessment mandatory is key to our disability net benefit—otherwise people will shirk responsibilities

AAPD, 2012 (The American Association of People With Disabilities, “Equity in Transportation for People with Disabilities”, May 23, http://www.infrastructureusa.org/equity-in-transportation-for-people-with-disabilities/)

Lack of enforcement is one of the biggest obstacles to realizing the goals of the ADA. There are no “ADA police,” so transit operators can often shirk responsibilities without repercussions. ADA enforcement is complaint-driven, which is burdensome for people with disabilities, especially in remote rural communities. In 1998, the Federal Transit Administration (FTA) began conducting assessments in cities where the FTA had concerns about ADA compliance. These compliance assessments led to positive results. In a number of cities where assessments occurred, people with disabilities reported significant service improvements. However, in recent years the FTA has stopped doing assessments. To ensure vigorous oversight and compliance with ADA transportation requirements, the FTA must reinstate its compliance assessments.

# \*\*\*Aff\*\*\*

# AT: CP

## CP Impossible / Doesn’t Apply

#### CP only functions in the planning process – means it doesn’t apply to the plan

Duthie et. al '07

[Jennifer Duthie, Research Associate at the Center for Transportation Research and the University of Texas, S. Travis Walker, August 2007, "Incorporating Environmental Justice Measures into Equilibrium-based Transportation Network Design Models", pg. online @ swutc.tamu.edu/publications/technicalreports/167265-1.pdf//]

Equity determinations are three-fold, examining first the equity in public participation, then equity in funding, and lastly the equity in impacts. Since the focus of this research is on technical methods, this section will look primarily at equity in funding and equity in impacts. Giving each population group equal access to the planning process is extremely important; however, unlike funding and impacts, it is not easily measured by quantitative tools. First, it should be noted that equitable funding does not imply equitable impacts. For example, group A and group B could be allocated equal funds, but if A decides to use its funds to run a highway through the center of B’s community, the resulting impacts will likely be inequitable. Distribution of impacts and funding into the future is difficult to measure because metropolitan transportation plans (MTPs) cannot, due to their long time frame, specify projects in great detail. Much of the money allocated in MTPs goes towards programs that act as funding mechanisms for projects to be specified at a later date. Some entries in the MTP such as capacity improvements on a corridor may contain more detail than entries such as a program for funding intelligent transportation systems (ITS). Until projects are selected, there is no accurate way of evaluating the impact that will be felt by each population. Any calculation of program benefits that occurs before projects are selected will be a rough regional estimate, unsuited for group-level analysis. It is similarly difficult to determine years in advance the distribution of funding among population groups as it is not specified as such in the plan.

## CP Impossible

#### CP is impossible—there’s no definition of what counts as equitable

TRANSPORTATION RESEARCH BOARD 2011 ("Equity of Evolving Transportation Finance Mechanisms” http://onlinepubs.trb.org/onlinepubs/sr/sr303.pdf, October 2012)

A transportation finance mechanism levies money from various groups¶ to pay (in full or in part) for transportation facilities and services.¶ There is, however, no single way of defining what constitutes an equitable¶ outcome—that is, an acceptable balance of costs and benefits—¶ resulting from a finance mechanism. Whether an outcome is perceived as¶ equitable varies across different contexts (for example, in different geographic¶ locations) and depends on the perspectives—and experiences—¶ of different individuals and groups. Thus, there are many different¶ dimensions of equity, as noted earlier in this chapter and discussed in¶ more detail in Chapter 3.

## No Enforcement

CP is impossible and won’t result in the plan—courts won’t enforce and haven’t set a clear precedent—means there’s no way to determine what meets Title VI
Johnson, ’11 [Olatunde C.A Johnson., Associate Professor of Law, Columbia Law School, January 2011, 111 Colum. L. Rev. 154, lexis nexis]

Enforcement of Title VI, however, faces important practical constraints. For one, Title VI has operated most clearly as a prohibition on intentional discrimination. Title VI's disparate impact regulations have not provided a consistently effective mechanism for ensuring that federally funded programs are attentive to racial impacts in program design and implementation. n182 In part this is because courts have often declined to enforce capacious understandings of Title VI that might move [\*192] federal agencies and grantees to broadly evaluate the effects of their spending programs. n183 And, more recently, the Supreme Court's 2001 decision in Alexander v. Sandoval n184 cut off the use of an implied private right of action to enforce Title VI's effect regulations. n185 Second, agency enforcement of Title VI has produced mixed results in promoting a robust requirement that agencies and their grantees take affirmative steps to assess racial impacts and to avoid harmful racial effects. Since courts have not clearly defined a particular norm, agencies feel no compunction to advance one. n186 In the absence of strong judicial enforcement of Title VI's disparate impact regulations, most federal agencies have not adopted meaningful elaborations of the disparate impact requirement. While federal agencies adopted the Title VI effects test, few have done much work to elaborate what sorts of disparate impacts are unjustified in federal spending programs, much less to advance the larger notion that grantees affirmatively consider or correct racial impacts. n187

#### Lack of court enforcement independently takes out the net benefit

Sanchez et al, ’03 [2003, The Civil Rights Project at Harvard University. Thomas W. Sanchez is an associate professor of Urban Affairs and Planning and research fellow in the Metropolitan Institute at Virginia Tech in Alexandria, Virginia. Rich Stolz is Senior Policy Analyst at Center for Community Change. Jacinta S. Ma is a Legal and Policy Advocacy Associate at The Civil Rights Project at Harvard., “MOVING TO EQUITY: Addressing Inequitable Effects of Transportation Policies on Minorities”, http://civilrightsproject.ucla.edu/research/metro-and-regional-inequalities/transportation/moving-to-equity-addressing-inequitable-effects-of-transportation-policies-on-minorities/sanchez-moving-to-equity-transportation-policies.pdf]

As this report—particularly the section on enforcement of civil rights and environmental laws—has underscored, a vital step is the development of measures or standards of whether the burdens and benefits of transportation polices and decisions are equitable to minority and low income communities. These communities have suffered many of the burdens of transportation policies, and it is unclear how many of the benefits they have gained. Once measures are established, individuals and government officials must be able to easily enforce such measures, including in the courts if necessary; otherwise, equity cannot be ensured.

## Doesn’t Solve Race

#### CP doesn’t solve the net benefit—doesn’t change the composition of transportation planning boards—that’s key

Sanchez et al, ’03 [2003, The Civil Rights Project at Harvard University. Thomas W. Sanchez is an associate professor of Urban Affairs and Planning and research fellow in the Metropolitan Institute at Virginia Tech in Alexandria, Virginia. Rich Stolz is Senior Policy Analyst at Center for Community Change. Jacinta S. Ma is a Legal and Policy Advocacy Associate at The Civil Rights Project at Harvard., “MOVING TO EQUITY: Addressing Inequitable Effects of Transportation Policies on Minorities”, http://civilrightsproject.ucla.edu/research/metro-and-regional-inequalities/transportation/moving-to-equity-addressing-inequitable-effects-of-transportation-policies-on-minorities/sanchez-moving-to-equity-transportation-policies.pdf]

The regulations that implemented TEA-21’s public involvement provision require that state departments of transportation and MPOs “seek out and consider the needs of those traditionally underserved by existing transportation systems including but not limited to lowincome and minority households.”214 Yet, greater efforts need to be made to increase participation levels of historically underrepresented populations. There are no procedures for reviewing whether state departments of transportation and MPOs are adequately implementing this requirement and, although the Federal Highway Administrator may withhold payment of funds to enforce this regulation, we are unaware of any situations in which this has happened.215 Increasing participation of minority and low-income communities in the state department of transportation planning process is particularly important because of the large scale of their projects and the amount of transportation funding they control. It is also more difficult for the same reasons. An FHWA report evaluating statewide long-range transportation plans examined the public involvement efforts described in 48 statewide plans. The report indicated that states varied widely in the points at which public participation was sought. Some states only sought input prior to the planning process and others sought input at multiple stages. Also, the methods employed by states to gain public input varied dramatically, with public meetings the most relied-upon means (44%) for obtaining public input. According to the report, New Mexico officials felt that public meetings only attract those already familiar with the transportation planning process, and thus that state relied on focus groups of randomly selected citizens to help inform its planning process. The report did not indicate any specific efforts states made to ensure that they were obtaining input from minority or low-income households. One challenge facing MPOs is that many of their boards are overrepresented by suburban interests by virtue of a “one-area, one-vote” system. When district boundaries for MPO board representatives and planning units are drawn that result in approximately equal-sized geographic areas, urban core areas that have denser populations end up being underrepresented compared with suburban zones that have lower population densities.217 This system influences the level of public involvement and participation of persons based on residential location—and negatively so in the case of low-income, neighborhoods of color in urban core areas. Recent research suggests that MPO board and voting structures have a significant effect on the outcomes of transportation investment decisions—especially those related to public transit.218 Although specific information about the racial and ethnic composition of MPO boards has not been collected formally and comprehensively, it is likely that minorities are not appropriately represented on MPO boards. For example, the MPO for Montgomery, Alabama has no minorities on its board even though African Americans make up 40 percent of the local population. During the FHWA and FTA investigation of a challenge to the MPO certification, it was discovered that the MPO had a Citizen’s Advisory Committee in name only that had never been convened.219 In the Philadelphia area, there are 18 voting members and 22 alternates on the MPO board; only five are minorities, and of the 15 nonvoting members and their alternates, only three are minorities. Atlanta’s MPO has five minority members among 39 total board members. Detroit, with a population that is approximately 71 percent African American, has an MPO board whose main policies are set by a 46-member executive committee that is approximately 11 percent African American. Comprehensive collection of data on the composition of MPO boards would be useful in assessing levels of representation by race and ethnicity.

# AT: Racial Equity Net Benefit

## Minorities Unaffected

#### Aff Thesis is wrong – poor people/minorities live at the heart of cites – transportation infrastructure doesnothing

Harvey 2k (David, professor of geography and Johns Hopkins university, MEGACITIES LECTURE 4, <http://www.megacities.nl/lecture_4/possible.pdf>, JG)

In some of the advanced capitalist countries, that dystopian vision has been strongly associated with the long-cultivated habit on the part of those with power and privilege of running as far from the city centers as possible. Fuelled by a permissive car culture, the urge to get some money and get out has taken command. Liverpool’s population fell by 40 percent between 1961 and 1991, for example, and Baltimore City’s fell from close to a million to under 700,000 in the same three decades. But the upshot has been not only to create endless suburbanization, so-called “edge cities”, and sprawling megalopoli, but also to make every village and every rural retreat in the advanced capitalist world part of a complex web of urbanization that defies any simple categorization of populations into “urban” and “rural” in that sense which once upon a time could reasonably be accorded to those terms. The haemorrhaging of wealth, population and power from central cities has left many of them languishing in limbo. Needy populations have been left behind as the rich and influential have moved out. Add to this the devastating loss of jobs (particularly in manufacturing) in recent years and the parlous state of the older cities becomes all too clear. Nearly 250,000 manufacturing jobs lost in Manchester in two decades while 40,000 disappeared from Sheffield’s steel industry alone in just three short catastrophic years in the mid 1980s. Baltimore likewise lost nearly 200,000 manufacturing jobs from the late 1960s onwards and there is hardly a single city in the United States that has not been the scene of similar devastation through deindustrialization.

#### **Poverty is the root of marginalization, not transportation**

Blumenberg and Manville 4 (Evelyn, associate professor of urban planning in the School of Public Policy and Social Research at the UCLA, Michael, Ph.D. student in the Department of Urban Planning at the UCLA, “Beyond the Spatial Mismatch: Welfare Recipients and Transportation Policy,” Journal of Planning Literature, Vol. 19, No. 2 (November 2004), pg. 33)

One of the reasons transit has difficulty overcoming spatial barriers to employment is that spatial barriers to employment are a mass transit problem almost as much as they are a poverty problem. The same forces that have dispersed employment—suburbanization and deindustrialization—have also created serious chal- lenges for transit agencies, which have had to contend with expanded service areas, decreasing ridership (Pucher and Renne 2003), and an emerging work/resi- dence pattern in which the dominant commute is now from suburb to suburb (Pisarski 1996). Mismatch also confounds transit because most public transportation systems have been designed for middle-class suburban riders heading inbound to downtown areas and not for those traveling within the suburbs or heading outbound from the central city.

#### Claims of “Environmental Racism” are based on nominally peer reviewed studies with critical errors

**Friedman 98** [David Friedman Ph.D, economist, physicist, legal scholar, Harvard University, B.A., 1965 (Chemistry and Physics) University of Chicago, M.S., 1967 (Physics), PhD., 1971 (Physics) Employment Santa Clara University Professor of Law University of Chicago Law School John M. Olin Faculty Fellow Cornell Law School Visiting Professor Olin Scholar Tulane University , A. B. Freeman School of Business Associate Professor UCLA, Dept of Economics Assistant Professor UC Irvine Visiting Assistant Professor of Economics Virginia Polytechnic Institute Assistant Professor of Economics University of Pennsylvania School of Public and Urban Policy Post Doctoral fellow and Lecturer Columbia University Research Associate, Physics, “The "environmental racism" hoax”, <http://yyy.rsmas.miami.edu/groups/ambient/teacher/env_justice/module%20segments/ib%20The%20environmental%20racism%20hoax.pdf>, 1998] SV

When the U.S. Environmental Protection Agency (EPA) unveiled its heavily criticized environmental justice "guidance" earlier this year, it crowned years of maneuvering to redress an "outrage" that doesn't exist. The agency claims that state and local policies deliberately cluster hazardous economic activities in politically powerless "communities of color." The reality is that the EPA, by exploiting every possible legal ambiguity, skillfully limiting debate, and ignoring even its own science, has enshrined some of the worst excesses of racialist rhetoric and environmental advocacy into federal law. "Environmental justice" entered the activist playbook after a failed 1982 effort to block a hazardous waste landfill in a predominantly black North Carolina county. One of the protesters was the District of Columbia's congressional representative, who returned to Washington and prodded the General Accounting Office (GAO) to investigate whether noxious environmental risks were disproportionately sited in minority communities. A year later, the GAO said that they were. Superfund and similar toxic dumps, it appeared, were disproportionately located in non-white neighborhoods. The well-heeled, overwhelmingly white environmentalist lobby christened this alleged phenomenon "environmental racism," and ethnic advocates like Ben Chavis and Robert Bullard built a grievance over the next decade. Few of the relevant studies were peer-reviewed; all made critical errors. Properly analyzed, the data revealed that waste sites are just as likely to be located in white neighborhoods, or in areas where minorities moved only after permits were granted. Despite sensational charges of racial "genocide" in industrial districts and ghastly "cancer alleys," health data don't show minorities being poisoned by toxic sites. "Though activists have a hard time accepting it," notes Brookings fellow Christopher H. Foreman, Jr., a self-described black liberal Democrat, "racism simply doesn't appear to be a significant factor in our national environmental decision-making."

## Alt Causes

#### Alt Causes—Litany of barriers that the aff doesn’t solve

**ICF 11** [ICF International, ICF International (NASDAQ:ICFI) partners with government and commercial clients to deliver industry expertise and innovative analytics in the energy, environment, and infrastructure; health, social programs, and consumer/financial; and public safety and defense markets. “Environmental Justice Emerging Trends and Best Practices Guidebook”, <http://www.fhwa.dot.gov/environment/environmental_justice/resources/guidebook/ejguidebook110111.pdf>, November 1, 2011] SV

Effective public participation requires an organized, strategic, and culturally sensitive effort, since members of underrepresented or marginalized communities experience a variety of barriers to participation. For example, based on prior negative experiences working and interacting with public agencies and officials, individuals and communities are sometimes suspicious of an agency's outreach motives. Low income and minority communities also frequently experience language and literacy barriers, as well as differences in cultural mores and preferences in communication. In addition to these cultural barriers, accessibility for persons with disabilities can also pose major challenges to full community participation. Other common barriers include a lack of knowledge about the overall transportation planning process, an incomplete sense of the role and relevance of participation in the planning process, and skepticism that public comments and feedback have an impact on the outcome of planning processes.

#### Tons of alt causes

Downs 99 – senior fellow in the Economic Studies program at the Brookings Institution (Anthony, August 1999, “SOME REALITIES ABOUT SPRAWL AND URBAN DECLINE,” Brookings Institute, http://www.brookings.edu/~/media/research/files/papers/1999/8/cities%20downs/199908.pdf)

It is obvious how sprawl generates the first set of directly growth-related problems. But the American development process also inherently undermines the fiscal strengths of many large cities and inner-ring suburbs in what I believe is a socially unjust and undesirable manner.

Some form of peripheral growth around American metropolitan areas has been – and still is – inevitable because they have grown greatly in population, and will grow more. Purely vertical growth would have been inconsistent with the rising real incomes and transport innovations that have occurred since 1950. Both of those strong trends have caused households to want to live in lower densities with more land area and internal space per unit.

But the particular form which our peripheral growth has taken has resulted in intensive concentration of very poor households -- especially those in minority groups -- in the older, more central portions of our metropolitan areas. This concentration is not an inevitable result of outward expansion, but is caused by several specific policies adopted in America to produce this result, though they are not adopted in most of the rest of the world.

The first such policy has two parts. One is requiring all new housing to meet very high quality standards -- standards too costly for most poor households to occupy. Therefore, most poor households can only afford to live in new housing if their doing so is somehow subsidized. (Such subsidies need not involve public funds, as discussed later.) The second part is that the United States has chosen not to subsidize housing for many poor people in suburban areas. Since new housing naturally is concentrated on the outer edge of each metropolitan area at any moment, this means very poor people are concentrated in older areas closer to the historic center.

The second policy that generates core-area poverty areas combines fragmented control over landuses in many small outlying municipalities, and their adoption of exclusionary zoning and other policies designed to raise local housing costs so as to keep poor people out of their communities. So suburban behavior is partly responsible for the core-area concentration of the poor.

The third policy is tying the fiscal support of local governments to the wealth of their own residents as expressed in property values and sales taxes. When the residents move out, so do many of the resources the government can tap. This means many high-and-middle-income suburbs have much greater tax bases per household than low-income suburbs and most large cities; so the former can provide higher-quality public services such as education than the latter. This policy also creates strong incentives for many localities to minimize the amount of low-cost and multi-family housing within their boundaries. The local government spending generated by such housing is greater than the local tax revenues it produces; so most localities have a fiscal motivation for being exclusionary in addition to the social motivation.

The fourth cause of inner-core poverty concentrations is racial segregation in housing markets. Racial discrimination in housing markets by owners, Realtors, and lenders is still widespread. And the unwillingness of most whites to move into neighborhoods where more than about 25-33 percent blacks already live is a key factor. Reducing residential racial segregation is hard because even if both whites and blacks desire integrated living, the different ways they define it causes almost total segregation to emerge from free choices.iii

The poverty concentrations resulting from these policies contribute to adverse neighbor hood traits in many core areas. These include high rates of crime, drug abuse, broken families, unemployment, gang violence, and non-supportive attitudes towards education. Those negative conditions “push” many middle- and upper-income households of all races – mainly those with children -- and many businesses out of central cities into suburbs.iv When these middle-and- upper-income households and viable business firms leave core areas because of such conditions, they take their fiscal resources with them.

Consequently, many core areas are left with dispro portionate burdens of providing costly services to poor households, because of the poverty concentrations within them. This creates a self-aggravating downward fiscal spiral that weakens the ability of core area governments to provide quality public services. That results in grossly unequal environments in which children are reared across our metropolitan areas.

In theory, sprawl’s specific traits help produce core-area concentrations of poverty. For example, unlimited extension of new development into space removes new jobs from accessibil ity by inner-core residents, and fragmented controls over land uses permit exclusionary policies.

## Alienation Turn

#### Environmental Justice framing of the social inequity means it fails and alienates other populations

**Litman & Brenman 12** [Todd Litman, Victoria Transport Policy Institute, Marc Brenman, Social Justice Consultancy and Senior Policy Advisor to The City Project, “A New Social Equity Agenda For Sustainable Transportation”, <http://www.vtpi.org/equityagenda.pdf>, 8 March 2012] SV

In practice, transportation social equity issues are often addressed using an environmental justice lens, which tends to focus on illegal and measurable harms to certain vulnerable minority groups, as defined in the following box. Political debates, transport agencies, professional organizations (such as TRB), advocacy groups and courts all tend to use this perspective when evaluating social equity issues (Bullard and Johnson 1997; Forkenbrock and Sheeley 2004). This approach is understandable. It addresses what can be considered the worst categories of social inequities (measurable discrimination against vulnerable minorities), and it helps define a reasonable scope of issues that planning organizations can address. For example, to satisfy social equity requirements a planning agency should identify any vulnerable minorities and any impacts that a project will impose on them, and then work with that group to mitigate these impacts. Similarly, social equity advocacy organizations have a reasonably definable constituency with definable concerns and intervention methods, including legal action. However, this approach also has significant limitations:  It is ineffective at representing the interests of unorganized and geographically dispersed groups. For example, transit riders and bicyclists are often more politically organized and influential than the much larger group of people who walk. Minority and low-income people tend to be more influential they live close together than if they are dispersed Mobility for teenagers and young adults is generally overlooked as a social equity issue. It relies on often ambiguous classifications, such as race and age, as surrogates for functional status such as poverty and physical disability. Although African Americans tend to have high poverty rates, it is wrong to assume that all African Americans are poor, and unfair to overlook white population poverty. Similarly, although seniors tend to have high disability rates, it is wrong to assume that all seniors are disabled, and unfair to overlook the needs of younger disabled people. This can alienate people who feel that their interests are undervalued, such as low-income people who lack minority status.  It tends to consider social equity issues in isolation, and so favors special mitigation actions rather than more integrated solutions that may help achieve more total benefits. For example, it is more likely to support special subsidies or transit services intended to help specific groups than to support broader policy and planning reforms that create more diverse transport systems and more accessible land use, which provide economic, environmental and social equity benefits.  It tends to overlook issues important to physically, economically and socially disadvantaged groups not specifically defined as discrimination, such as planning decision impacts on health, affordability, and community livability (Bell and Cohen 2009; CNT 2008; Litman 2007) Environmental justice, as it is currently applied, can therefore be considered a subset of total social equity issues. Environmental justice might be considered to reflect the most extreme and therefore most important issues, but this approach often excludes other impacts and groups.

# AT: Disability Net Benefit

## Alt Causes

#### Addressing accessibility to transportation is insufficient – multiple other barriers prove the Aff doesn’t solve

Rosenbloom, 2007 (Sandra, Professor of Planning at the University of Arizona, “Transportation Patterns and Problems of People with Disabilities”, The Future of Disability in America, http://www.ncbi.nlm.nih.gov/books/NBK11420/)

Perhaps **the most intractable issue in current debates** **is the tendency** of those **in** **every** other substantive **field from education to employment or from recreation to health care to assume that transportation deficiencies account for all or most of the underutilization of public and private services considered essential to the well-being of those with disabilities** (see, for example, the work of Kenyon et al. [2003] and Lucas [2004]). **In fact, substantial research shows that most people with disabilities face multiple barriers to both their mobility and their ability to get an education or a job or to access a range of public and private services from grocery stores to medical facilities**. The **causes of and solutions to these problems are complex**; **policy analysts must understand and address them in** sophisticated **ways that extend beyond public transit networks and, indeed, beyond transportation systems alone.**

#### Fixating on transportation alone fails

Rosenbloom, 2007 (Sandra, Professor of Planning at the University of Arizona, “Transportation Patterns and Problems of People with Disabilities”, The Future of Disability in America, http://www.ncbi.nlm.nih.gov/books/NBK11420/)

Finally, **all evidence suggests that transportation is a necessary but not a sufficient condition for the full access and mobility of travelers with disabilities.** **Transportation planners must work in cooperation with** both the public and the private sectors and with professionals in **a variety of disciplines and service delivery systems (doctors and medical facilities; educators and training facilities; employment counselors and job search programs; and a wide variety of human, medical, and social service agencies and providers) to address the access and mobility needs of** a range of **travelers with disabilities.**

## ADA Solves

#### Status-quo solves – accessibility for the disabled is already politicized

CAS, 2010 (Center for an Accessible Society, “The American’s with Disabilities Act”, March, http://www.accessiblesociety.org/topics/ada/index.html)

Ten years after the signing of the Americans with Disabilities Act in 1990, this landmark federal law has proved a remarkable success, defying the gloom and doom predictions of many members of Congress that the law, designed to open up American society to its 54 million citizens with disabilities, would bankrupt the economy. At the same time however, the law has not fully delivered on its keys promises to eliminate discrimination against people with disabilities in the workplace and in public accommodations. The ADA has profoundly changed how society views and accommodates its citizens with disabilities. Universal design -- the practice of designing products, buildings and public spaces and programs to be usable by the greatest number of people -- has helped create a society where curb cuts, ramps, lifts on buses, and other access designs are increasingly common. In the process, we have discovered that an accessible society is good for everyone, not just people with disabilities. Curb cuts designed for wheelchair users are also used by people with baby carriages, delivery people, and people on skateboards and roller blades. With the Baby Boom generation poised to enter the population of seniors, the number of Americans needing access and universal design will grow enormously. The ADA has created a more inclusive climate where companies, institutions, and organizations are reaching out far more often to people with disabilities. Colleges and universities, for example, now accommodate more people with disabilities than they did before ADA, even though they have been obligated by law for nearly 25 years to make their campus and classrooms accessible.

#### ADA Solves – Personal testimony and Improvement Statistics

NCD 7 (National Council on Disability, The Impact of the Americans with Disabilities Act: Assessing the Progress Toward Achieving the Goals of the Americans with Disabilities Act, <http://www.ncd.gov/publications/2007/07262007#toc6>)

In June of 2005, the National Council on Disability issued a comprehensive report, The Current State of Transportation for People with Disabilities in the United States.[21] In addition to the recommendations to federal agencies and transit system operators that NCD included in its transportation report, NCD echoes the sentiments of a frequent traveler with a disability who spoke at the Los Angeles public forum: I have traveled 18,000 miles between Los Angeles and Bakersfield in an externship, and without the ADA and the Department of Transportation's provisions, I would not have managed to remain independent and commute. I've commuted to at least five or six counties on a frequent basis, and it has really increased my independence. And the access and the paratransit systems work for me because I am a very informed person. And that's what [people with disabilities] have to do. Stay informed about the ADA and know and exercise your rights.[22] The 2004 N.O.D./Harris Survey found that 31 percent of people with disabilities reported inadequate access to public transportation and more than half of those people found it to be a major problem.[23] By comparison, the 1986 ICD/Harris Survey of Disabled Americans found that 49 percent reported that lack of access to transportation was an important reason that they did not socialize as much as they wanted.[24] Most individuals submitting comments and testimony indicated that the ADA has had a significant positive effect on public transportation,[25] stating, for example, "My quality of life has been greatly improved since ADA …. I am able to travel and use public transportation with just some or little assistance …. All due to the wonderful law we call ADA."[26] Most noted that much remains to be done and that rural areas lag far behind urban ones.[27] One commenter indicated that states in the South, Northern Midwest, and Central Midwest lag further behind in ADA compliance in transportation than Northeastern and Western states.[28] Another suggested that, in some areas, transportation access has declined since passage of the ADA, because pre-existing paratransit services had larger service areas than are required under the ADA.[29]

#### ADA is providing equal accessibility now

Frieden 5 (Lex, Chairperson of the NCD, NCD and the Americans with Disabilities Act: 15 Years of Progress, www.ncd.gov/publications/2005/06262005)

Since the passage of the ADA in 1990, NCD has continually reviewed the implementation of the ADA to determine its effectiveness in advancing the civil rights of Americans with disabilities. NCD’s 1992 report, Wilderness Accessibility for People with Disabilities, examined the ADA’s interplay with the Wilderness Act and other relevant federal policies and regulations. In 1993, NCD issued ADA Watch - Year One and Furthering the Goals of the Americans with Disabilities Act Through Disability Policy Research in the 1990s. In 1995, NCD released The Americans with Disabilities Act: Ensuring Equal Access to the American Dream and Voices of Freedom: Americans Speak Out on the ADA, which provided the perspectives and recommendations from people across the country regarding their experiences with the Act. The reports concluded that five years after the ADA, dramatic improvements in the lives of Americans with disabilities had occurred throughout the country. Five years later, NCD issued Promises to Keep: A Decade of Federal Enforcement of the Americans with Disabilities Act. This report focused on the effectiveness of federal enforcement of the ADA and made recommendations for improvement of federal implementation and enforcement of the law. In 2002, NCD issued Supreme Court Decisions Interpreting the ADA. NCD published in 2003 The Application of the ADA to the Internet and the World Wide Web. In 2003 and 2004, NCD issued a series of policy briefs and final report entitled Righting the ADA, which examined problematic U.S. Supreme Court ADA decisions and proposed the ADA Restoration Act of 2004. In addition, NCD has commented on the ADA in its annual Progress Reports, several amicus briefs, and other position papers. It has been 15 years since the enactment of the ADA, and while it is clear that the legislation has assisted countless people, there are still major obstacles that prevent equal access for people with disabilities. But the question remains: just how much has the ADA impacted the lives of Americans with disabilities?

# Util Cards

## Issac

#### Consequences matter – the tunnel vision of moral absolutism generates evil and political irrelevance

**Issac, 2002** (Jeffery, Professor of Political Science at Indiana University, Dissent, Vol. 49 No. 2, Spring)

Politics, in large part, involves contests over the distribution and use of power. To accomplish anything in the political world one must attend to the means that are necessary to bring it about. And to develop such means is to develop, and to exercise, power. To say this is not to say that power is beyond morality. It is to say that power is not reducible to morality. As writers such as Niccolo Machiavelli, Max Weber, Reinhold Niebuhr, Hannah Arendt have taught, **an unyielding concern with moral goodness undercuts political responsibility**. The concern may be morally laudable, reflecting a kind of personal integrity, but it suffers from three fatal flaws: **(1) It fails to see that the purity of one’s intentions does not ensure the achievement of what one intends.** Abjuring violence or refusing to make common cause with morally comprised parties may seem like the right thing, but **if such tactics entail impotence, then it is hard to view them as serving any moral good beyond the clean conscience of their supporters**; **(2) it fails to see that in a world of real violence and injustice, moral purity** is not simply a form of powerlessness, it **is often a form of complicity in injustice.** This is why, from the standpoint of politics-as opposed to religion-pacifism is always a potentially immoral stand. In categorically repudiating violence, it refuses in principle to oppose certain violent injustices with any effect; and **(3) it fails to see that politics is as much about unintended consequences as it is about intentions; it is the effects of action, rather than the motives** of action, **that is most significant**. Just as the alignment with “good” may engender impotence, **it is often the pursuit of “good” that generates evil.** **This is the lesson of communism in the twentieth century: it is not enough that one’s goals be sincere or idealistic; it is equally important, always, to ask about the effects of pursuing these goals and to judge these effects in pragmatic** and historically contextualized **ways. Moral absolutism inhibits this judgment.** It alienates those who are not true believers. It promotes arrogance. **And it undermines political effectiveness.**

## Others

#### An ethic of foresight is essential to human dignity and survival – we must be willing to shape our present actions in a way that avoids short-term challenges to existence

**Hayward, 2006** (Peter C., Ph.D. from Swinburne University of Technology, From Individual to Social Foresight, The Case for Foresight, November 8, <http://adt.lib.swin.edu.au/uploads/approved/adt-VSWT20061108.153623/public/02whole.pdf>)

The second response is commonly referred to as `TINA', (There Is No Alternative). However, there are alternatives and this is the primary justification for this research. Rather than accepting the `default' future of queue sera, there is the possibility of considering what future(s) we wish to live in; and of taking steps in the present to increase the likelihood of `desired' futures and to reduce the likelihood of the `undesired' ones. To do this is to employ foresight. Foresight is an innate capability of every person, and it operates in us as an adjunct to other human capabilities like experiential learning (Bell 1997). Rather than having to experience a challenge in order to learn how best to manage it, foresight allows us to prepare for a challenge and even to take actions to prevent the challenge occurring. Most importantly through social modelling, the advantages gained from the foresight of one person can be gifted to others, thereby making foresight a social as well as an individual capability. It is an explicit wish of many that we do not want to have to experience dystopia in order to learn how to prevent it. While there is a relationship between foresight and experience it is to be hoped that we do not require the latter in order to engage the former (Slaughter 2002b). If we have to wait until the challenges to our survival are so obvious before we take them seriously, then there will be no way back from the brink. If we want to maintain and realise notions of social justice, humanity and dignity for all, rather than human worth determined through social Darwinism, then it must be through purposeful human action. Foresight that can separate out the retrograde elements from our Western inheritance will play a significant role in such a process (Gaspar & Novaky 2002). Figure 1.1 is a simple representation of the intent of this thesis. The vertical axis represents an increasing scale of challenges over time. To respond to this the horizontal axis represents the expansion of our foresight capacity, both individual and social, over time. As the challenges to existence grow in scale then so to must our foresight capacities. The dotted line represents the belief that expanding foresight capacities will give us the ability to anticipate, perceive and act on our present and future challenges and thereby produce a trajectory of preferable futures for ourselves and future generations. The nature of human existence is that we will continue to face challenges into the future. Existence is precarious, and precious. No matter how good our thinking and technologies are, we will continue to face an increasing scale of challenges to our existence. Our ancestors were aware of localised challenges. We, on the other hand, are aware of planetary challenges. Furthermore as we learn more about our planet and the galactic neighbourhood more challenges will be detected. This research seeks to make a contribution to understanding the expansion of foresight capacities and thereby, in some small way, to the trajectory towards preferable futures.

#### Extinction comes first

**Bok, 1988** (Sissela, Professor of Philosophy at Brandeis, Applied Ethics and Ethical Theory, Rosenthal and Shehadi, Ed.)

The same argument can be made for Kant’s other formulations of the Categorical Imperative: “So act as to use humanity, both in your own person and in the person of every other, always at the same time as an end, never simply as a means”; and “So act as if you were always through your actions a law-making member in a universal Kingdom of Ends.” No one with a concern for humanity could consistently will to risk eliminating humanity in the person of himself and every other or to risk the death of all members in a universal Kingdom of Ends for the sake of justice. To risk their collective death for the sake of following one’s conscience would be, as Rawls said, “irrational, crazy.” And to say that one did not intend such a catastrophe, but that one merely failed to stop other persons from bringing it about would be beside the point when the end of the world was at stake. For although it is true that we cannot be held responsible for most of the wrongs that others commit, the Latin maxim presents a case where we would have to take such responsibility seriously – perhaps to the point of deceiving, bribing, even killing an innocent person, in order that the world not perish. To avoid self-contradiction, the Categorical Imperative would, therefore, have to rule against the Latin maxim on account of its cavalier attitude toward the survival of mankind. But the ruling would then produce a rift in the application of the Categorical Imperative. Most often the Imperative would ask us to disregard all unintended but foreseeable consequences, such as the death of innocent persons, whenever concern for such consequences conflicts with concern for acting according to duty. But, in the extreme case, we might have to go against even the strictest moral duty precisely because of the consequences. Acknowledging such a rift would post a strong challenge to the unity and simplicity of Kant’s moral theory.

#### Maximizing life allows people to decide their own values – the alternative is totalitarianism

**Szacki, 1996** (Jerzy, Professor of Sociology at Warsaw University, Liberalism After Communism, p. 197)

Liberalism does not say which of these different moralities is better than others. It is neutral on this question and regards it neutrality as a virture. Liberalism as a political doctrine assumes that – as Joseph Raz wrote – **‘there are many** worthwhile and **valuable** relationships, commitments and **plans of life which are mutually incompatible’**. It recognizes that – as John Rawls put it – ‘a modern democratic society is characterized not simply by a pluralism of comprehensive religious, philosophical and moral doctrines but by a pluralism of incompatible yet reasonable comprehensive doctrines’. What is more, for a liberal this is not only a fact to take not of; he or she is ready to acknowledge that ‘now **this variety** of conceptions of the good **is itself a good thing,** that is, it is rational for members of a well-ordered society to want their plans to be different’. Thus, **the task of politics cannot and should not be to resolve the dispute among different conceptions of life. This is** completely unattainable or **attainable only by a totalitarian enslavement of society in the name of some one conception.** This being the case, according to Dworkin, **‘political decisions must be as far as possible independent of conceptions of** the good life, or **what gives value to life.** Since citizens of a society differ in these conceptions, the government does not treat them as equals if it prefers one conception to another’.

#### Debates about foresight and prevention of catastrophes avert extinction and enable positive social change

**Kurasawa, 2004** (Fuyuki, Assistant Professor of Sociology at York University, “Cautionary Tales: The Global Culture of Prevention and the Work of Foresight,” Constellations, 11:4, p. 455-456)

This brings us to the transnational character of preventive foresight, which is most explicit in the now commonplace observation that we live in an interdependent world because of the globalization of the perils that humankind faces (nuclear annihilation, global warming, terrorism, genocide, AIDS and SARS epidemics, and so on); individuals and groups from far-flung parts of the planet are being brought together into “risk communities” that transcend geographical borders.5 Moreover, due to dense media and information flows, knowledge of impeding catastrophes can instantaneously reach the four corners of the earth – sometimes well before individuals in one place experience the actual consequences of a crisis originating in another. My contention is that civic associations are engaging in dialogical, public, and transnational forms of ethico-political action that contribute to the creation of a fledgling global civil society existing ‘below’ the official and institutionalized architecture of international relations.6 The work of preventive foresight consists of forging ties between citizens; participating in the circulation of flows of claims, images, and information across borders; promoting an ethos of farsighted cosmopolitanism; and forming and mobilizing weak publics that debate and struggle against possible catastrophes**.** Over the past few decades, states and international organizations have frequently been content to follow the lead of globally- minded civil society actors, who have been instrumental in placing on the public agenda a host of pivotal issues (such as nuclear war, ecological pollution, species extinction, genetic engineering, and mass human rights violations). To my mind, this strongly indicates that if prevention of global crises is to eventually rival the assertion of short-term and narrowly defined rationales (national interest, profit, bureaucratic self-preservation, etc.), weak publics must begin by convincing or compelling official representatives and multilateral organizations to act differently; only then will farsightedness be in a position to ‘move up’ and become institutionalized via strong publics. Since the global culture of prevention remains a work in progress, the argument presented in this paper is poised between empirical and normative dimensions of analysis. It proposes a theory of the practice of preventive foresight based upon already existing struggles and discourses, at the same time as it advocates the adoption of certain principles that would substantively thicken and assist in the realization of a sense of responsibility for the future of humankind. I will thereby proceed in four steps, beginning with a consideration of the shifting socio-political and cultural climate that is giving rise to farsightedness today (I). I will then contend that the development of a public aptitude for early warning about global cataclysms can overcome flawed conceptions of the future’s essential inscrutability (II). From this will follow the claim that an ethos of farsighted cosmopolitanism – of solidarity that extends to future generations – can supplant the preeminence of ‘short-termism’ with the help of appeals to the public’s moral imagination and use of reason (III). In the final section of the paper, I will argue that the commitment of global civil society actors to norms of precaution and transnational justice can hone citizens’ faculty of critical judgment against abuses of the dystopian imaginary, thereby opening the way to public deliberation about the construction of an alternative world order (IV).

#### Despite all the flaws associated with calculating risk, we are still right – you must weigh survival as an a priori question and sculpt deliberate policies to protect humanity

**Matheny, 2007** (Jason, Department of Health Policy and Management, Bloomberg School of Public Health, Johns Hopkins University, “Reudcing the Risk of Human Extinction”, Risk Analysis, Vol. 27 No. 5, http://www.upmc-biosecurity.org/website/resources/publications/2007\_orig-articles/2007-10-15-reducingrisk.html)

9. Conclusion We may be poorly equipped to recognize or plan for extinction risks (Yudkowsky, 2007). We may not be good at grasping the significance of very large numbers (catastrophic outcomes) or very small numbers (probabilities) over large timeframes. We struggle with estimating the probabilities of rare or unprecedented events (Kunreuther et al., 2001). Policymakers may not plan far beyond current political administrations and rarely do risk assessments value the existence of future generations.18 We may unjustifiably discount the value of future lives. Finally, extinction risks are market failures where an individual enjoys no perceptible benefit from his or her investment in risk reduction. Human survival may thus be a good requiring deliberate policies to protect. It might be feared that consideration of extinction risks would lead to a reductio ad absurdum: we ought to invest all our resources in asteroid defense or nuclear disarmament, instead of AIDS, pollution, world hunger, or other problems we face today. On the contrary, programs that create a healthy and content global population are likely to reduce the probability of global war or catastrophic terrorism. They should thus be seen as an essential part of a portfolio of risk-reducing projects.