All of these dynamics created conditions of vulnerability among urban poor minorities that rendered them less-equipped to gain from globalization. Part II below describes globalization, and Part III describes the impact of globalization on urban poor minorities.

II. GLOBALIZATION

Part II begins by describing the economic characteristics of globalization in terms of the increase in international flows in trade, investment and finance. Part II.B. describes federal law and policy facilitating globalization. Part II.C. describes the particular ramifications of globalization for the United States economy. This will provide the basis for determining what the implications are of a "globalized" U.S. economy for relatively vulnerable populations in the U.S., including inner-city racial minorities.

A. *The Nature of Globalization*

Globalization might preliminarily be defined as the increasingly international nature of production and consumption.[122] Although international production and consumption is as old as the nation-state, the new era of globalization differs from previous eras in the scale and complexity of international flows involved.[123] These differences in turn shape the impact of globalization on the composition of the U.S. economy.

Scale. In the past few decades, international flows of both the "current account" (trade in goods and services) and "capital account" (investment and finance) types have multiplied exponentially.[124] In the area of capital flows, cross-border transactions have increased exponentially in the past few decades. International bank lending increased almost sixteen-fold between 1970 and

[122] *See* IMF Survey, *supra* note 1, at 45 ("Globalization refers to the growing economic interdependence of countries worldwide through the increasing volume and variety of cross-border transactions in goods and services and of international capital flows, and also through the more rapid and widespread diffusion of technology.").

[123] *See id.* ("Economic integration among nations is not a new phenomenon. . . . [H]owever, the recent process of global integration is qualitatively different from that of the earlier period.").

[124] These terms are used to categorize international transactions in a country's "balance of payments." The term "balance of payments" refers to a "statement showing all of a nation's transactions with the rest of the world for a given period. It includes purchases and sales of goods and services, gifts, government transactions, and capital movements." PAUL A. SAMUELSON & WILLIAM D. NORDHAUS, MACROECONOMICS 420 (15th ed. 1995).

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1995.[125] Worldwide foreign direct investment in the late 1990s achieved "seven times the level in real terms in the 1970s."[126] "Indirect" investment — the securities markets — grew even more remarkably. Worldwide annual short-term capital flows "now total more than $2 trillion in gross terms, almost three times those in the 1980s."[127] Finally, trading in foreign currency has skyrocketed: the "daily turnover in foreign exchange markets increased from around $10-20 billion in the 1970s to $1.5 trillion in 1998," an increase of approximately one hundred-fold.[128]

The United States has heavily participated in these aspects of globalization. An IMF Survey entitled "Globalization: Opportunities and Challenges" ("IMF Globalization Survey") reports that United States foreign direct investment "more than tripled between the first half of the 1980s and the first half of the 1990s."[129] Total United States capital flows grew over fifty-fold between 1970 and 1996, from 2.8% of gross domestic product to 151.5%.[130]

On the current-account side, world trade grew at a rate twice as fast as the overall world economy in the postwar era.[131] In the United States, trade volume multiplied nearly twenty-fold between 1970 and 1998.[132] In 1970, the combined value of exports and imports was less than fifteen percent of total gross national product; by 1997 that figure had more than doubled.[133]

Exports have grown, but imports have grown by more: hence another distinct trait of the late twentieth-century U.S. economy is its

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[125] Human Development Report, *supra* note 1, at 25.

[126] *Id.*

[127] *Id.*

[128] *Id.*

[129] IMF Survey, *supra* note 1, at 60. This figure is for both "inward and outward" foreign direct investment. *See id.* at 60 tbl.14 n.1. Compared to overall GDP, however, the value of foreign direct investment is still low. Since it began at 1% of gross domestic product, the final percentage was still a relatively low 3.3% of GDP. *See id.* at 60.

[130] *Id.* at 60, tbl.13. "Gross domestic product can be defined as the money value of the goods and services produced by a given economy in a given period of time. GDP measures an economy's current account and excludes capital account flows, whose money value can and does exceed that of the current account." *Id.*

[131] JOHN H. JACKSON ET AL., LEGAL PROBLEMS OF INTERNATIONAL ECONOMIC RELATIONS 6 (3d ed. 1995).

[132] This figure represents exports and imports of goods and services, and earnings and payments on foreign investment. *See* 1999 Trade Policy Agenda and 1998 Annual Report of the President of the United States on the Trade Agreements Program, at 19 [hereinafter President's Trade Report].

[133] *Id.* at 19 fig.1.

persistent trade deficit.[134] The increase in imported goods that has caused the trade deficit has been partially offset by a healthy surplus in trade in services.[135] Important export services include information services, telecommunications services, financial services, and professional services such as lawyering and accounting. Saskia Sassen has dubbed these "producer services,"[136] to distinguish them from "consumer services." However, trade in services, though increasingly important, still only accounts for a fraction (around one-fourth) of total U.S. trade.[137]

Complexity. The trade and finance vectors of globalization described above regularly combine in multiple ways. For example, domestic production might come from a U.S. subsidiary of a foreign company, financed by a syndicate of domestic and foreign banks or private investors. Imported products might come into the United States from a foreign subsidiary that is owned by a U.S. company financed by capital raised on world markets. Lan Cao has documented in detail the increasingly global nature of production.[138] This globalization has often been manifested in the very industrial sectors dominated by U.S. producers in the early postwar era. In the automobile industry, for example, Cao observed that:

> A Chevy may be built in Mexico from imported parts and then re-imported into the United States; a Ford built in German plants by Turkish workers and sold in Hong Kong and Nigeria; a Toyota Camry designed by an American designer at Toyota's Newport Beach California Calty Design Research Center, assembled at the Georgetown, Kentucky plant from American-made parts (except

[134] From 1980 to 1997, exports increased from 271.8 to 937.4 billion dollars, and imports increased from 290.7 billion dollars to 1,043.5 billion dollars. WORLD BANK, WORLD DEVELOPMENT INDICATORS 1999, at 250 (1999).

[135] In 1998, exports in services were 259.9 versus 181.1 in imports, in billions of U.S. dollars. President's Trade Report, *supra* note 132, at 28.

[136] SASSEN, *supra* note 19, at 90. Saasen has noted: "Central components of the producer services category are a range of industries with mixed business and consumer markets [such as] insurance, banking, financial services, real estate, legal services, accounting, and professional associations." *Id.* More generally Sassen commented: "Producer services cover financial, legal and general management matters, innovation, development, design, administration, personnel, production technology, maintenance, transport, communications, wholesale distribution, advertising, cleaning services for firms, security and storage." *Id.*

[137] *See id.*

[138] *See* Lan Cao, Money, Power, and Culture in the Global Economy: Towards a New Sensibility for International Economic Development 15-27 (unpublished manuscript, on file with author).

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> that the engine and drive trains are still Japanese) and then test driven at Toyota's Arizona proving ground.[139]

This growing complexity in production is so widespread that it accounts for a significant portion of the postwar increase in international trade. As "the volume of world trade has grown, the traditional role of national markets is increasingly eclipsed by an alternative system: trade generated within multinational companies themselves as they export and import among their own . . . subsidiaries."[140] Within the U.S. economy, over forty percent of exports and almost fifty percent of imports are "actually goods that travel not in the open marketplace, but through these intrafirm channels."[141] The IMF Globalization Survey admitted that the "structure of foreign trade has increasingly become intra-industry and intrafirm."[142]

B. Law and Policy Creating Globalization

Accounts of globalization tend to portray it as autonomous — a self-powered juggernaut whose appearance on the horizon has caught governments off-guard.[143] Yet globalization does not natu-

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[139] *See id.* at 21 n.80 (citing BENJAMIN R. BARBER, JIHAD VS. MCWORLD 24 & n.7 (1995)).

[140] WILLIAM GREIDER, ONE WORLD, READY OR NOT: THE MANIC LOGIC OF GLOBAL CAPITALISM 22 (1997).

[141] *See id.*

[142] *Id.* at 46. The reality of intrafirm trade contrasts markedly with the *ideal* that drives international trade liberalization — that of a market in which "normal" trade is open and at arm's length. *See* David Kennedy, *Receiving the International*, 10 CONN. J. INT'L L. 10, 10-11 (1994) ("Broadly conceived, the international trade regime divides traders and trade relations into the normal and the deviant. Normal trade is open, structured solely by comparative costs and pursued by private actors without government intervention. . . . As it turns out, of course, the . . . image of "normal" traders remains largely a fantasy."); *cf.* Daniel K. Tarullo, *Beyond Normalcy in the Regulation of International Trade*, 100 HARV. L. REV. 546, 550 (1987) ("Implicitly or explicitly, [tradelaws] posit certain norms of economic behavior by government, both foreign and domestic. The usual, 'normal' condition is assumed to be nonintervention.").

[143] *See, e.g.*, GREIDER, *supra* note 140 (discussing this view of globalization). In the first chapter, entitled "The Storm Upon Us," Greider described globalism with these words:

> Imagine a wondrous new machine, strong and supple, a machine that reaps as it destroys. . . . Think of this awesome machine running over open terrain and ignoring familiar boundaries. It plows across fields and fencerows with fierce momentum that is exhilarating to behold and also frightening. As it goes, the machine throws off enormous mows of wealth and bounty while it leaves behind great furrows of wreckage.
>
> Now imagine that there are skillful hands on board, but no one is at the wheel. In fact, this machine has no wheel or any internal governor to control the speed

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rally or inevitably result from market-driven developments in technology. Certainly, stunning improvements in market-driven technology over the past few decades have played an undeniable role in driving globalization. Communications and information technology advances have made it easier to move money and know-how internationally and to coordinate production internationally.[144]

At the same time, however, law and policy have played an important role in spurring globalization forward. International trade agreements have probably been the most important instruments the federal government has used to catalyze globalization. The General Agreement on Tariffs and Trade, established in 1948, provided for six rounds of trade-liberalizing negotiations between 1948 and 1979 that reduced the average level of tariffs imposed by its member states by more than half.[145]

The United States federal government has also lowered barriers to trade in goods and services in bilateral agreements and regional agreements. In the 1990s two highly visible such steps were the North American Free Trade Agreement with Canada and Mexico,[146] and the agreements establishing the hundred-plus member World Trade Organization in 1995.[147] Each event marked far-reaching liberalizing reforms in both trade and investment.

These reduced trade barriers have allowed not only for greater competition in the U.S. by foreign producers, but also for the off-

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> and direction. It is sustained by its own forward motion, guided mainly by its own appetites. And it is accelerating.

Id. at 11. Greider concluded: "To describe the power structure of the global system does not imply that anyone is in charge of the revolution. The revolution runs itself." *Id.* at 26.

[144] IMF Survey, *supra* note 2, at 50.

[145] These six negotiation rounds occurred in: Annecy, France, in 1948; Torquay, England in 1950; and thereafter in Geneva in 1956, 1960-61 (the "Dillon Round"), 1964-67 (the "Kennedy Round"), and 1973-79 (the "Tokyo Round"). *See* JACKSON, *supra* note 131, at 314. The ratio of duties collected to dutiable imports in the United States, for example, was 12.1 in 1961 and 5.1 in 1981, after the Tokyo Round. *See id.* at 6. For GATT members more generally, the end of the Kennedy round produced tariff reductions on 70% of total imports, with the majority of the reductions 50% or greater. *See* JOHN H. JACKSON, WORLD TRADE AND THE LAW OF GATT 228 (1969). The Tokyo Round effected a further reduction of about 35% in "the industrial tariffs of the major industrial participants." JOHN. H. JACKSON ET AL., IMPLEMENTING THE TOKYO ROUND 13 (1984).

[146] *See* North American Free Trade Agreement Implementation Act, Pub. L. No. 103-182, 107 Stat. 2057 (1993) (codified at 19 U.S.C. § 3311 (1994)) (implementing North American Free Trade Agreement, Dec. 8, 1992, Can.- Mex.-U.S., 32 I.L.M. 289).

[147] *See* Uruguay Round Agreements Act, Pub. L. 103-465, 108 Stat. 4809 (1994) (codified at 19 U.S.C. § 3501 (1994)) (implementing Final Act Embodying the Results of the Uruguay Round of Trade Negotiations, Apr.15, 1994, 33 I.L.M. 1125 (1994)).

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shore relocation of production facilities by U.S. manufacturers who seek the production-cost advantages offered elsewhere. This consequence of trade liberalization agreements was memorably characterized in 1992 by Presidential candidate Ross Perot as a "giant sucking sound."[148] Whatever the accuracy of Perot's characterization, and whatever the ultimate desirability of the trend, it seems indisputable that the reduction in trade barriers has enabled both foreign competition and U.S. relocation, thereby reducing U.S. manufacturing and accelerating U.S. deindustrialization.

In finance, the federal government created a number of regulatory devices that helped globalize securities markets.[149] Thus, while some of the fuel driving globalization came from technological innovation, a good portion of it also arose from deliberately pursued policies by governmental actors. In the United States, the executive and legislative branches implemented into law a host of liberalizing measures in trade, investment and finance that facilitated the internationalization of the U.S. economy.[150] To point this out is not to compel a conclusion that globalization is desirable or undesirable; it is only to compel the conclusion that globalization cannot be viewed as a natural or inevitable phenomenon. Rather, the dynamics that the term "globalization" encompasses result at least in part from governmental practices, and governmental actors must therefore be held at least partially accountable for their ill effects.

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[148] *See* George F. Will, *Free Trade, Faster Change*, WASH. POST, Oct. 11, 1992, at C7 (commenting that "Ross Perot, the timidest Texan, quakes about the menace of Mexico, saying NAFTA would apply 'a giant sucking-sound vacuum on what used to be industrial America'").

[149] These included the creation of American Depositary Receipts and Rule 144A, which encouraged foreign issuers to issue into the U.S. This helped stimulate a trend by which capital offerings would be made in at least two securities markets at once (so-called "global" offerings).

[150] For example, the United States Bilateral Treaty ("BIT") Program played an important role in internationalizing investment. The BIT Program was "formally inaugurated" in 1977 with a treaty-negotiating initiative of the State Department. *See* Kenneth J. Vandevelde, *U.S. Bilateral Investment Treaties: The Second Wave*, 14 MICH. J. INT'L J. 621, 621 (1993).

> [I]n a remarkably short period of time, BITs have become an important part of the foreign investment landscape. . . . In the 1990s, the pace of BIT signings increased dramatically and by mid 1996, over one thousand BITs had been signed, with almost every country on the globe a party to at least one such treaty.

Andre T. Guzman, *Why LDCs Sign Treaties That Hurt Them: Explaining the Popularity of Bilateral Investment Treaties*, 38 VA. J. INT'L L. 639, 652 (1998).

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Of course, these liberalizing measures were pursued in the belief that they would generate positive effects. Classical economic philosophy holds that the liberalization of market activity will increase both national and international efficiency. Because efficiency maximizes wealth creation, such policies could also be said to maximize social welfare.

To equate social welfare with aggregate social wealth, however, is to adopt only one of a number of potential measures of social welfare. Even if one ignores measures of welfare not related to wealth, the equation of social welfare with national wealth overlooks distributive concerns. Indeed, efficiency-increasing measures such as economic liberalization may exacerbate preexisting distributive inequalities. Classical economic measures of efficiency and welfare are simply "indifferent to the distribution of income and wealth."[151]

In the United States among the groups that bear the brunt of this distributive inequality and therefore potentially of the costs of liberalization are racial minorities in the inner city. Part II.C. will articulate the specific effect of globalization on inner cities. Part III will indicate how these specific economic effects exacerbate a preexisting socioeconomic hierarchy of race, income and geography.

C. *Transformations Resulting from Globalization*

The dynamics discussed in Part II.A. above describe two deeply significant macroeconomic transformations in industrialized countries: the global dispersion of goods production, and the shift from goods export to goods import and services export.

One of the most visible aspects of globalization is the degree to which geographically diverse economies are participating in types of production that had previously been concentrated in the West. "Manufacturing employment as a share of total employment has declined continuously in most advanced economies since the beginning of the 1970s."[152] The U.S. trade deficit in goods[153] has re-

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[151] *See* Letter from Chris Scott, Reader in Economics, London School of Economics, Apr. 25, 2000 (on file with author). That is, in any given market, there may be equilibria that have different distributional consequences, but that are equally "efficient" in the economic sense that "all of the probable trades have been made." HAL R. VARIAN, INDUSTRIALIST MICROECONOMICS 17 (5th ed., 1999) (discerning Pareto optimality).

[152] IMF Survey, *supra* note 1, at 47. The *IMF Survey* further reported that:

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sulted in part from increasing competition with non-U.S. manufacturers and in part from the offshore relocation of U.S. manufacturing. Whether due to western-company relocation or the growth of nonwestern competitors, manufacturing is now much less economically significant in the West and much more significant in medium and low income countries in Asia and Latin America.

At the same time, as noted above, the West is increasingly specializing in services.[154] Among the industrialized world, according to the IMF, "the share of employment in services in the United States is highest, at about seventy-three percent currently."[155] These dynamics reinforce each other: as manufacturing disperses globally, an increasing array of intermediary services becomes necessary to coordinate global production, and the emergence of such service production in turn facilitates further manufacturing dispersal.[156]

This shift from goods to services production has been called "deindustrialization" and it has "coincided with the growing global integration of economies."[157] The transformation of the U.S. econ-

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> For the industrial countries as a whole, the share of manufacturing employment declined from about 28 percent in 1970 to about 18 percent in 1994. . . . Deindustrialization began as early as the mid-1960s in the United States, and the trend there has been one of the most pronounced, with the share of manufacturing employment began declining steeply from about 28 percent in 1965 to 16 percent in 1994.

Id. at 47.

[153] The increase in imports leading to the trade deficit has been especially strong in consumer goods but also increasingly capital goods. In 1998 capital goods were 216.8 and consumer goods were 271.9 in imports, as compared to 301.6 and 79.6 in exports. *See* President's Trade Report, *supra* note 132, at 22, 25.

[154] The IMF Globalization Survey reported that "[t]he other side of [the decline of manufacturing] has been a continuous increase in the share of employment in services." IMF Survey, *supra* note 1, at 48.

[155] *Id.*

[156] In *The Global City*, SASSEN observed that:

> [P]roducer services have become central components in the work process of both goods- and service-producing firms. . . . The expansion in the use of such services as intermediate inputs is linked with the broader technical and spatial reorganization of the economy. . . . [P]articipation in a world market has created a need for a range of specialized services, and these have in turn facilitated the development of a world market. In brief what is characteristic in the contemporary phase is the ascendance of such services as intermediate inputs and the evolution of a market where they can be bought by foreign or domestic firms and governments.

SASSEN, *supra* note 19, at 124.

[157] IMF Survey, *supra* note 1. The *IMF Survey* attributes deindustrialization both to a decline in expenditure in manufacturing and a relatively greater increase in productivity of

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omy — from an economy with major goods exports and negligible services activity circa 1970, to a major goods-importer and services-exporter circa 1990 — has played a major role in the impact of globalization on the inner city. Connecting deindustrialization with the urban deterioration described in Part I, several adverse trends for inner cities emerge.

Because city centers harbored most traditional manufacturing, "deindustrialization" has affected them most acutely. In the 1970s and 1980s, Philadelphia, Chicago, New York and Detroit respectively lost 64% (resulting in the elimination of 160,000 jobs), 60 percent (326,000 jobs), 58% (520,000 jobs), and 51% (108,000 jobs) of their manufacturing sectors.[158] This was also true more generally for the "ten largest old metropolitan areas of the Northeast and north central states."[159]

Although the traditional industrial sector left cities, cities developed a new niche in the increasingly important provision of producer services.[160] These financial, telecommunications and professional intermediary services are necessary to any large-scale enterprise, whether manufacturing or service-sector. They are distinct from in-house management services of corporations, many of which have moved to the suburbs.[161]

Producer service-providers have consolidated in urban areas.[162] Accordingly, producer services have become a much higher per-

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manufacturing (meaning that technological advances have required less labor to produce the same amount of manufactures). *See id.* at 48-49.

[158] *See* Clarence Lusane, *Persisting Disparities: Globalization and the Economic Status of African Americans*, 42 HOW. L.J. 431, 437 (1999). This is also supported by Sassen's data for U.S. and N.Y.C. 1977-1985. Decline in manufacturing in city very steep as compared to rest of country (22% vs. 1%). "[T]he share of producer services jobs in New York, London and Tokyo is at least a third higher and often twice as large as the share of these industries in total national employment." SASSEN, *supra* note 19, at 131.

[159] SASSEN, *supra* note 19, at 202 (stating that "growing international competition, inadequate investments for modernization of plants, leading to lower productivity, the development of technologies that made possible locating production and assembly facilities in low-wage countries or low-wage regions of the United States" all played a role here).

[160] *See supra* Part II for definition.

[161] *See supra* Part I.

[162] For example, the telecommunication services often necessary to support "producer services" tend to be concentrated in urban areas. "Telecommunications facilities have not been widely dispersed; while the technology has made possible the geographic dispersal of many activities, the distinct conditions under which such facilities are available have promoted centralization of the most advanced users in the most advanced telecommunications centers." SASSEN, *supra* note 19, at 109.

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centage of employment in these areas.[163] Various cities may have specialties in one or another area of services, but in the U.S. producer services are overrepresented in all the major cities.[164]

Thus, cities now "command and [are] at the heart of a globally dispersed production system."[165] One consequence is that cities have become more connected internationally and less generative of growth for the national economy. Although conventional wisdom dictates that cities function as "seedbeds" that "promote the diffusion of growth across the national territory,"[166] this traditional dynamic may be obsolete "[n]ow that manufacturing has declined significantly as a share of employment in major cities and . . . producer services have . . .become a leading sector."[167] The new role of the city may be determined by a global economy that diverts economic flows away from lower strata around the city. Saskia Sassen has interpreted the changes in production flows to indicate that "growth predicated on a global market orientation induces discontinuity in the urban hierarchy."[168] As Part III shows, this discontinuity may disproportionately harm racial minorities in American inner cities.

In sum, the economic base of city centers over the last few decades has shifted from manufacturing and associated management to producer services such as finance, telecommunications and lawyering.[169] These changes were not solely driven by technological innovations. Rather, the federal government took deliberate measures liberalizing trade, investment and finance.[170] These steps were taken in furtherance of a classic economic policy approach that predicted that liberalization would increase aggregate national

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[163] At the same time, national growth in producer services is outpacing city growth. Even though a few cities have become centers for concentrated provision of producer services, "[t]he evidence clearly shows that in all three countries the growth of producer services were higher at the national level than in those cities." *Id.* at 129.

[164] *See id.* at 148-49.

[165] *Id.* at 110.

[166] *Id.* at 127.

[167] *Id.* at 129.

[168] *Id.* at 165.

[169] *See id.* at 127. "The decline in manufacturing and the shift to service-dominated employment, the rapid growth of producer services, and the further service-intensification of the economy, are trends evident in . . . cities." *Id.*

[170] One might ask why the government is being portrayed as an autonomous force since this is a democracy. This raises the question of the extent to which government decision-makers are "captured" by particular interests — in this case, interests favoring economic liberalization — in such a way that they antagonize majority will. For a discussion of this question, see Thomas, *supra* note 2.

wealth and therefore welfare. The theory behind this policy, however, does not adequately take into account the distribution of wealth. The theory therefore does not address the possibility that entrenched socioeconomic forces antagonizing "discrete and insular" groups — such as racial minorities in the inner city — might prevent those groups from benefiting proportionately in the gains of globalization. Rather, the theory assumes a relatively mobile population, and whatever the truth of the proposition generally, mobility does not characterize the bottom of the U.S. socioeconomic hierarchy, which is instead rigidly constructed. The costs of globalization may therefore concentrate at this rigidly constructed bottom.

Economists invariably leave it to the political process to address such distributive concerns; social justice demands that government do precisely that. This imperative is all the stronger given the government's role in constructing this hierarchy of race, income and geography to begin with. Part III examines the particular ramifications of contemporary economic trends for minority populations concentrated in the inner cities.

III. Effect of Globalization on the Inner City

Before continuing, it may be useful to provide some description of the racial minority groups that disproportionately inhabit the inner city. While the cultural, linguistic and historical heterogeneity of these groups is extensive, for purposes of the analysis of this Article, racial minority groups living in impoverished urban areas can be broken down into two categories: those who were born in the United States and those who were not. Both groups are racially diverse within themselves. Those not born here include immigrants from Africa, Asia, the Caribbean, Latin America and the Middle East. Those born here include African Americans, most of whom migrated from the rural South in the first half of the century; Mexican Americans that are descended from communities living in the South and West when those communities became part of the United States; and descendants of Latina/o, African, Arab, Asian, and Caribbean immigrants.

Of course, individuals within each of these racial categories exist at every income level and in widespread geographical ranges, and the extent to which individuals in these racial categories are poor

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varies depending on the particular category.[171] Along those lines, it is important to stress that this paper argues that globalization will have an adverse effect on populations characterized not only by racial minority status, but also by economic status and geographical location.[172]

The trends of suburbanization and deindustrialization have been accompanied by the emergence of a "global city" whose specialty is the provision of "producer services" that coordinate a global production system, and whose links to the local economy are more attenuated than those of traditional manufacturing production had been. The transformation of the city from a manufacturing base to a globalized nexus of producer services has had several adverse consequences for the urban poor, who are disproportionately racial minorities. Among the potential ramifications of such a system is the exacerbation of a preexisting socioeconomic hierarchy that has concentrated poor racial minorities in depressed urban areas. This hierarchy manifests in the conditions affecting employment, housing and infrastructure in the inner city.

A. *Employment.*

In the global city, with its focus on highly skilled producer services, one's ability to earn a "living wage" is increasingly tied to one's skill level.[173] Three trends arising out of the transformation

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[171] For a discussion of urban immigration see JOHN HIGHHAM, SEND THESE TO ME: IMMIGRANTS IN URBAN AMERICA (1984) (1975), and JEFFREY G. REITZ, WARMTH OF THE WELCOME: THE SOCIAL CAUSES OF ECONOMICS SUCCESS FOR IMMIGRANTS IN DIFFERENT NATIONS AND CITIES (1998).

[172] People of color that are middle class do not belong to this vulnerable population, and this Article does not necessarily predict that globalization will adversely impact them. Globalization may also benefit people of color that are on the poverty threshold. An expanding economy will provide new work opportunities even at the lowest skill levels, for example in the retail service industries, that will enable families previously living below the poverty threshold to rise above it. *See, e.g.*, U.S. Census Bureau, *Number of African-Americans in Poverty Decline While Income Rises*, Press Release CB98-176, Sept. 24, 1998; U.S. Census Bureau, *Poverty Level of Hispanic Population Drops, Income Improves*, Press Release CB98-178, Sept. 24, 1998. This Article addresses primarily the relative lack of mobility of those living and working just above the poverty threshold.

[173] There is no readily accepted definition of the term "living wage" in the literature. *See* Peter B. Edelman, *Welfare Reform Symposium*, 50 ADMIN. L. REV. 579, 586 (1998). I use the term to mean the wage necessary to allow an individual and his or her dependents to live above the poverty line. The exact quantity of a living wage, therefore, depends on a number of different factors. Obviously, it depends on how one defines the poverty line. As the U.S. Census Bureau defined it in 1998, the poverty threshold for a one-person household was $8,316.00; $10,634 for a two-person household; $13,003 for a three-person household, and; $16,660 for a four-person household. *See* U.S. Census Bureau, Current Population Reports,

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of the city resulting from the globalization of the economy have reinforced impoverishment in many inner-city communities.

Decline of Manufacturing Employment. First, the decline of manufacturing employment has had a significant impact on the urban poor, and therefore on many racial minority groups. While some of this decline has resulted from obsolescence due to technological advances, some of the decline is due to the relocation of manufacturing work.[174] The decline in manufacturing also means a decline in jobs that require relatively little previous training but offer a living wage. The increase in income inequality accompanying the shift to a service economy has been well documented.[175]

Of the population under study, the decline in traditional manufacturing has primarily affected African Americans and Chicanas/os.[176] This is true even though manufacturing sectors in the United States have hardly acted as havens of racial equality. In the first half of the twentieth century, as these groups migrated to northern city centers, they met with hostility and exclusion from labor unions[177] reinforced in places by labor regulations.[178] By the

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Series P60-207, Poverty in the United States: 1998, at A-4 tbl.A-2 (1999) [hereinafter Poverty Report]. There has been some dispute, however, over the Bureau's methodology in measuring both income and need. *See id.* at xiv; U.S. Census Bureau, Current Population Reports, Series P60-205, Experimental Poverty Measures: 1990 to 1997 (1999). Because wage earners often have dependents, the definition of a living wage may also depend on one's conceptualization of the "normal" division of labor within the family. *See* Marion Crain, *Between Feminism and Unionism: Working Class Women, Sex Equality, and Labor Speech*, 82 GEO. L.J. 1903, 1943 (1994) (arguing that some unions "adopted and marketed the family wage ideology, which defined women's role as homemakers and caretakers and men's role as waged workers, in support of its demand for a 'living wage' — a male wage adequate to support nonworking wives and daughters").

[174] *See infra* note 207.

[175] *See infra* notes 201-09.

[176] *See* Lusane, *supra* note 158, at 438 ("For those African Americans who have less than a college education, the loss of manufacturing jobs seriously undermines their opportunities for employment."); *see also* LESTER HENRY, NAFTA AND GATT: WORLD TRADE POLICY IMPACTS ON AFRICAN AMERICANS 11 (1995) ("Plant closings [have been] heaviest in the Northeast and in the old South, the two areas of the country where African Americans are most populous."); WILLIAM JULIUS WILSON, WHEN WORK DISAPPEARS: THE WORLD OF THE NEW URBAN POOR (1996); John Bound & Harry Holzer, *Industrial Shifts, Skills Levels, and the Labor Market for White and Black Men*, REV. ECON. STAT., Aug. 1993, at 395 ("Up to half of the huge employment declines for less-educated blacks might be explained by industrial shifts away from manufacturing toward other sectors."). The term "Chicano" can be defined as a person of Mexican decent living in the United States. *See* Carlos Villareal, *Culture in Lawmaking: A Chicano Perspective*, 24 U.C. DAVIS L. REV. 1193, 1193 & n.2 (1991).

[177] *See* JILL QUADAGNO, POLICY AND PREJUDICE THE COLOR OF WELFARE: HOW RACISM UNDERMINED THE WAR ON POVERTY (1994); David E. Bernstein, *The Law and Economics of Post-Civil War Restrictions on Interstate Migration by African-Americans*, 76 TEX. L. REV. 781, 843

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1970s, these racial barriers to membership had largely dissolved. Even after unions largely relinquished such entry-level barriers, many continued to be criticized for the poor representation of racial minorities in their leadership ranks.[179] Although racial minorities have not been able to achieve completely egalitarian treatment from unions, by the 1970s they had largely succeeded in joining the union rank-and-file in traditional manufacturing sectors, thereby receiving the economic security provided by unions for their members.

This set of dynamics is supported, for example, by Clarence Lusane's study of the impact of NAFTA on minorities. The United States government has argued that NAFTA has been beneficial on the whole for the U.S. economy.[180] However, neither the benefits nor the losses are evenly spread, and Lusane's research suggests that NAFTA has so far had a disproportionately adverse effect on African Americans because of preexisting vulnerabilities in African American communities. Key among these effects has been the loss of low-skilled jobs.[181] NAFTA resulted in a net loss of manufactur-

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n.393 (1998) ("Northern and Midwestern labor unions . . . opposed African-American migration, sometimes violently.").

[178] *See* David Bernstein, *The Shameful, Wasteful History of New York's Prevailing Wage Law*, 7 GEO. MASON U. CIV. RTS. L.J. 1, 1-2 (1997) (arguing that both federal and state "prevailing wage" laws have discriminatory impacts on racial minorities and especially African Americans); Harry Hutchinson, *Toward a Critical Race Reformist Conception of Minimum Wage Regimes*, 34 HARV. J. LEGIS. 93, 124 (1997) (describing how "unions took advantage of the monopoly powers granted to them by the [National Industrial Relations Act] . . . to displace African American workers").

[179] *See* Hutchinson, *supra* note 180, at 124-25.

[180] *See* UNITED STATES TRADE REPRESENTATIVE, STUDY ON THE OPERATION AND EFFECT OF THE NAFTA ii-iii (1997). NAFTA is deemed to have created slightly more jobs than it has eliminated. *See id.* (asserting that NAFTA "has resulted in a modest increase in United States net exports, controlling for other factors" and that it "has boosted jobs associated with Mexico between roughly 90,000 and 160,000"); *Reich Says NAFTA's Net Effect Will Be More Jobs for United States*, Int'l Trade Rep. (BNA) (July 21, 1993). There are also reports that dispute the Trade Representative's findings. *See, e.g.*, ROBERT E. SCOTT, NAFTA'S PAIN DEEPENS (Economic Policy Institute Paper, 1999).

[181] *See* BARTHOLOMEW ARMAH, THE DEMOGRAPHICS OF TRADE-AFFECTED SERVICES AND MANUFACTURING WORKERS (1987-1990) ("Manufacturing industries that experienced a decline in positive net trade-related unemployment were more likely to employ black females and unskilled (i.e., laborers) and less educated (i.e., high school graduates) black and white workers than were other manufacturing industries."). This Article does not address the important issue of how NAFTA affects those living in the agreement's other member states, Mexico and Canada. For a discussion of Latina/o identity both within and outside the United States, see Elizabeth M. Iglesias, *Human Rights in International Economic Law: Locating Latinas/os in the Linkage Debates*, 28 U. MIAMI INTER-AM. L. REV. 361-369-71 (1997), and David Viogt, *The Maquiladoras Problem in the Age of NAFTA: Where Will We Find Solutions?*, 2 MINN. J. GLOBAL TRADE 323 (1993).

ing jobs, which were replaced by jobs in the service sector. Consequently, those who lost their jobs in manufacturing were less likely to find comparable new employment.[182] This situation was "compounded by the fact" that the replacement service-sector jobs "paid less and offered less benefits."[183]

New industrial growth in which relatively "formal" work structures are maintained has been located in the outer ring of metropolitan areas and therefore away from concentrated minority populations, and in regions that tend to have less concentrated minority populations in the inner city.[184] Much new growth manufacturing, however, reflects the organizational trends transforming traditional manufacturing sectors, and tends to be lower-wage and lower-security.[185] This is consistent with the second trend, the "informalization" of employment.

"Informalization" of Employment. The second trend is the informalization or "downgrading" of urban manufacturing sectors.[186] This has occurred at the same time as the percentage of union organization has decreased.[187] Some argue this has increased the

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182 *See* Lusane, *supra* note 158, at 441 (citing Bureau of Labor statistics for proposition that "[o]f the jobs lost as a result of NAFTA, manufacturing workers were the largest share of displaced worker (27%) and the least likely to be re-employed.").

183 *See id.* at 445. "The service industry represented 112 percent of the net new jobs created since NAFTA. Those new service jobs paid, on average, only 77 percent of the manufacturing jobs that had been eliminated." *Id.*

184 *See id.* at 438; *see also* Henry, supra note 178, at 11 ("The pattern of firms, both foreign and domestic, when choosing sites for opening new plants, has been away from predominantly nonwhite areas. . . . The Japanese and other German firms have also shown a similar preference for plant location in suburban and sunbelt areas where few nonwhites reside."); ROBERT CHARLES SMITH, RACISM IN THE POST CIVIL RIGHTS ERA: NOW YOU SEE IT, NOW YOU DON'T 134 (1995) (noting that "[a] study of the location decisions of Japanese firms in the United States and of American auto companies found a fairly consistent pattern of locations in rural and suburban areas about thirty miles from the nearest concentration of blacks, a distance thought to be about the limits of worker commuter time"). Lusane raises the possibility that this is deliberate, but notes that "[e]ven if premeditation is not present, the consequences of these site decisions exacerbate the job search crisis growing among the urban black poor." Lusane, *supra* note 158, at 438.

185 *See* SASSEN, *supra* note 19, at 218 ("[M]ajor new industries, notably electronics, have a high proportion of low-wage jobs in production and assembly, while several of the older industries have underdone a social reorganization of the work process resulting in a growth of nonunion plants and a rapid increase in subcontracting.").

186 *See id.* "The historical forms assumed by [industrial] expansion . . . promoted the generalization of formal labor market relations [such as unionization and Fordism] and acted against the casualisation of work. . . . Many of the patterns today work in the opposite direction, promoting small scales, less standardization, and an increasingly casualised employment relation." *Id.* at 249.

187 *See, e.g.*, Robert J. Lalonde & Bernard D. Meltzer, *Hard Times for Unions: Another Look at he Significance of Employer Illegalities*, 58 U. CHI. L. REV. 953, 953 (1991) ("It is well known

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bargaining power of employers and helped to drive down wages and benefits.[188] The casualization of work has enabled employers to hire more part-time and temporary work. Part-time or temporary work usually involves lower wages and fewer benefits.[189]

An extreme example of this informalization process is the rise of "sweatshop" labor. Whereas the decline in traditional manufacturing most directly impacts racial minorities that were born here, the rise in casual manufacturing most directly impacts racial minorities who were not born here. This labor is provided primarily by immigrants who are also members of racial minority groups in the United States.[190]

One particular type of sweatshop labor is industrial homework. A home worker works "in or from the home for an employer or contractor who supplies the work."[191] Common types of homework include the production of clothing and clothing accessories.[192] These industries are also among the most frequent violators of federal labor protections.[193] "[A]way from the watchful eye of the public and the factory inspector, . . . homework tended to be the least amenable to regulatory enforcement and the most susceptible to

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that the percentage of American workers in the private sector belonging to labor unions. . . has declined sharply in the last four decades."); Paul C. Weiler, *Promises to Keep: Securing Workers' Rights to Self-organization Under the NLRA*, 96 HARV. L. REV. 1769, 1771 (1983) ("No feature of contemporary labor-management relations in the United States is more significant than the diminishing reach of collective bargaining.").

[188] *See* Charles B. Craver, *Mandatory Worker Participation Is Required in a Declining Union Environment to Provide Employees with Meaningful Industrial Democracy*, 66 GEO. WASH. L. REV. 135, 138 (1997) ("As union membership has declined . . . competitive pressures have caused unionized firms to moderate wage increases and decrease fringe benefit protections."); Peter Kuhn & Arther Sweetman, *Wage Loss Following Displacement: The Role of Union Coverage*, 51 INDUS. & LAB. REL. REV. 384, 395-96 (1998) ("Long-tenured union workers who lose their union coverage experience, on average, a massive 30 log point decrease in wages, attributable purely to this change in union coverage and not to any other observable characteristic.").

[189] *See* Mark Berger, *The Contingent Employee Benefits Problem*, 32 IND. L. REV. 301, 304-05 & n.10 (1999).

[190] *See* Laura Ho et al., *(Dis)assembling Rights of Women Workers Along the Global Assembly Line: Human Rights and the Garment Industry*, 31 HARV. C.R.-C.L. L. REV. 383 (1996); Leo L. Lam, *Designer Duty: Extending Liability to Manufacturers for Violations of Labor Standards in Garment Industry Sweatshops*, 141 U. PA. L. REV. 623 (1992).

[191] Laura Helene Gonshorek, Note, *Crisis After Dole: The Plight of Modern Homeworkers*, 8 HOFSTRA LAB. L.J. 1 n.4 (1990).

[192] *See id.* at 167 (listing items commonly produced by homeworker as "women's apparel, 'nonhazardous' jewelry, handkerchiefs, belts and buckles, embroidery, gloves and mittens, and knitted outerwear.").

[193] *See, e.g.*, ILGWU v. Donovan, 722 F.2d 795, 801 (D.C. Cir. 1983), *cert. denied*, 469 U.S. 820 (1984).

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low wages, long hours, unhealthy conditions, and other exploitation."[194] Industrial homework "partly involves the same industries that used to have largely organized plants and reasonably well-paid jobs."[195] The occupants of these positions are often poor, female, minority, and recent immigrants from Africa, Asia and Latin America.[196]

In the early postwar era, the federal government placed a "virtual ban" on industrial homework, ostensibly due to its inability to enforce labor protections in such settings.[197]

This ban was rescinded in 1989, reflecting the deregulatory policies of the Reagan Administration's Department of Labor.[198] Since then, homework and other types of sweatshop labor have become an increasing problem both within the United States and abroad. While the causes of this problem are complex and certainly include the influx of a workforce willing to work at lower wages, many commentators have expressed the concern that the possibility of relocation not just of workers, but also of products created by globalization allows for a "race to the bottom" in which manufacturers and other employers exercise the threat of relocation to gain significant concessions in the terms of employment. As the recent protests in Seattle during the Ministerial Conference of the World Trade Organization indicate, many argue that this race to the bottom is facilitated by the existence of an international legal structure in which the mandate of economic liberalization is not accompanied by a commitment to labor standards or other quality-of-life protections.

There are many reasons cited for why informalization of work relations in low-skill sectors has increased. First, relocation and decline of manufacturing has obviously played a role since many of the relocated jobs were at the core of the traditionally unionized workforce. Service-sector jobs are much less likely to be union-

[194] Bruce Goldstein et al., *Enforcing Fair Labor Standards in the Modern American Sweatshop: Rediscovering the Statutory Definition of Employment*, 46 UCLA L. REV. 983, 1059 (1999) (quotation omitted).

[195] SASSEN, *supra* note 19, at 281, 218

[196] *See* Gonshorek, *supra* note 191, at 167.

[197] *See id.* at 174.

[198] ILGWU v. Dole, 729 F. Supp. 877 (D.D.C. 1989) (upholding Department of Labor regulation rescinding ban on homework). For a discussion of the *Dole* decision and its relation to existing federal labor law on industrial homework, see Gonshorek, *supra* note 191.

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ized.[199] Many have pointed to the influx of immigrant populations as a second cause of unionization's decline. According to this argument, newly arrived immigrants are willing to work for much less favorable terms than people born in the United States, so they encourage a "race to the bottom" in the manufacturing sectors.

Saskia Sassen makes a useful observation about globalization and immigration. "Linking the informalization and casualisation of work to growth trends takes the analysis beyond" the idea that immigrants cause informalization. Such a link "suggests, rather, that the basic traits of advanced capitalism may promote conditions for informalization. The presence of large immigrant communities then can be seen as mediating in the process of informalization rather than directly generating it: the demand side of the process of informalization is therewith brought to the fore."[200]

A brighter account of the decline in "formal" work relations posits that the U.S. economy is adjusting appropriately to the new challenges of globalization, with its increased competition and volatility, by becoming more competitive and more flexible. If this is true, however, it does not change the fact that low-skill jobs are not as well compensated as they once were. Where discrete groups are concentrated in this low-skill work such a skewed impact is unjust.

Stratification of Workforce According to Skill Level. Many "symbolic analyst" jobs associated with service sectors such as investment banking and lawyering are highly compensated. Given that such services are increasingly exported, it is correct to say, as is often said by proponents of globalization, that new jobs associated with trade liberalization are on average higher paying than those they replaced.[201] However, the entry barriers to these high-paying jobs

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[199] *See* Glen Burkins, *Union Membership Fell Further in 1997: Continued Decline Came Despite Huge Outlays Assigned to Recruiting*, WALL ST. J., Mar. 18, 1998, at A2 (noting that one possible cause for declining union membership could be that "many of the jobs remain largely resistant to unionization — for example, high technology and financial services").

[200] SASSEN, *supra* note 19, at 282.

[201] *See, e.g.*, Presidential Proclamation No. 6690, 59 Fed. Reg. 26,407 (1994) ("'U.S. Exports Equal U.S. Jobs,' the theme of World Trade Week [1994], illustrates why the United States must make the push to increase the involvement of American business in international markets."). President Clinton further stated:

> Exports have become a critical engine of our Nation's economic progress. In the past 5 years, exports of goods and services have been responsible for more than 40 percent of U.S. economic growth. Today one in every five manufacturing jobs is linked to exports. Exports of goods and services support some 10.5 million jobs.

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are significant, because they require relatively extensive postsecondary education and training.

The people that used to or would have worked in the manufacturing sector are not easily able to land these new high-paying jobs. Instead, many transfer to low-skill service jobs that pay less than manufacturing jobs requiring the same skill level. Thus, the transformation of highly developed economies into service economies has arguably been accompanied by a reorganization of the work force into a hierarchy in which there are many new high-paying service jobs, but also in which a greater proportion of the total jobs available are "low-wage" jobs than before.[202]

These low-skill, low-paying service jobs come in several varieties. First, not all producer services jobs are highly compensated.[203] The vast armies of customer service and telemarketing representatives manning the contemporary service economy often earn very low wages. Second, producer services directly generate demand for support services such as cleaning and maintenance, delivery, office support (courier services and document production), and so on.[204] Third, producer services indirectly generate low-wage service jobs by producing a new high-income workforce that generates demand for residential and personal support services.[205] The concern about the impact of globalization is not primarily a concern about increased unemployment. To the contrary, lower-skill service-sector jobs are abundant. However, such jobs in service sectors as compared to manufacturing are less stable, less likely to be full-time, and offer fewer benefits.[206] Thus, deindustrialization has occurred at the same time as "marked increases in wage inequality . . . between the more skilled and less skilled."[207]

> And exports lead to better paying jobs. American workers producing for export earn 17 percent more than the national average wage.

Id.

202 SASSEN, *supra* note 19, at 217.

203 *See id.* at 281.

204 *See id.*

205 *See id.*

206 Particularly, "in a range of office occupations, from secretaries, word processors, and file clerks to switchboard operators, average median weekly earnings were lower in the nonmanufacturing industries than in manufacturing." *Id.* at 225. Indeed, low-skill service jobs in manufacturing-sector firms are likely to be better compensated than the same jobs at service-sector firms.

207 IMF Survey, *supra* note 1, at 53. This is the case for the United States that has relatively flexible wages. *See id.* at 55. In countries with less flexible wages, the increases have

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The general instability resulting from globalization may also disproportionately harm racial minorities. A GAO study, for example, found that minority groups experience longer unemployment spells and the largest wage losses in their new jobs.[208] In addition to the "last hired, first fired" issue, the simple persistence of employment discrimination at the upper rungs of firms can make minorities relatively more vulnerable to them.[209]

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been in "rises in unemployment among the less skilled." *Id.* at 56. It should be noted that the *IMF Survey* does not believe the bulk of this inequality arises from increased international trade. The *Survey* concludes that "[r]ather than by competition from low-priced imports, the increase of wage inequality in the 1980s and 1990s appears to have been driven principally by advances in technology that favor skilled labor." *Id.* at 58. The IMF's reasoning for this conclusion, however, is in my view not entirely convincing. The primary support presented for this proposition is evidence that "prices of import-competing, low-skill-labor-intensive goods" have not fallen in real terms. The hypothesis, called the "Stolper-Samuelson Theorem," *see* Wolfgang F. Stolper & Paul A. Samuelson, *Protection and Real Wages*, 9 REV. ECON. STUD. 58 (1941), is that if low-skill labor in developing countries truly poses a threat to low-skill, but better compensated, labor in industrialized countries, then this threat would be evidenced in the following way: imports from developing countries produced with low-skill labor would be cheaper than the counterpart goods produced in industrialized countries; this would require domestic producers of such goods to lower their prices to stay competitive; this would reduce the profitability of such production; this would induce producers to shift out of low-skill production towards relatively more profitable "skill-intensive" goods. *See* IMF Survey, *supra* note 1, at 56. The *Survey* infers that the alleged threat does not exist from the fact that the prices of domestically produced low-skill goods have not declined. There are at least two possible critiques of this hypothesis. First, even if the basic mechanics of the theorem are correct, the cost-competitiveness of foreign goods might not necessarily lead to the lowering of prices, but might merely allow prices to remain constant over a longer period of time by allowing producers to avoid increasing prices to pay for wage increases, since such wage increases can be avoided. If this is true, stable rather than declining prices could coexist with and indeed would result from relocation of production specific to the advent of lower wages. Second, the hypothesis assumes competitive markets. Yet the *IMF Survey* admits, as has been conceded repeatedly elsewhere, that the "structure of foreign trade has increasingly become intra-industry and intrafirm." *Id.* at 46. If this is true, then both domestic and foreign goods in any given sector are likely to be produced by the same or affiliated companies. Consequently, in this less competitive environment, a cost differential in foreign labor would not necessarily be passed on to the consumer through lower prices, but rather would be absorbed by the company as greater profit. Given the ever-increasing centrality of "shareholder value" in the contemporary stock market, it seems entirely likely that companies would be induced to move production offshore precisely because of this low-cost differential, and thereby increase dividends on shareholder equity.

[208] See Lusane, *supra* note 158, at 439 (citing a GAO study "which found that African Americans more than whites or Latinos "experience the longest spells of unemployment among displaced workers who eventually found jobs and showed the largest loss in wages in their new jobs"). While Lusane focused on African Americans, Latinas/os also suffer these effects disproportionately to whites.

[209] Lusane cited a study by the *San Jose Mercury* that stated:

> Blacks who were 17 percent of the executive branch workforce in 1992 were 39 percent of those dismissed. Whites made up 72 percent of the workforce and only

B. Housing and Infrastructure.

The trends described above in employment both affect and are affected by other trends arising from suburbanization, deindustrialization and the emergence of the global city. With respect to housing, the integration of cities into global networks has helped to revitalize cities, but in a way that shuts out poorer urban communities. These communities benefit only tangentially in the high-skill, high-reward aspects of the new "global city." Rather, the global city created a highly compensated class of highly skilled workers together with the class of relatively low-skilled and low-compensated service-sector workers who support both their commercial and residential activity.

The new skilled class has contributed to the renovation of the city, but in ways that are sometimes harmful to poor minority urban communities. Urban gentrification and displacement is a central dynamic to the rise of the global city.[210] The increase in producer-services activity and the associated increased concentration of high-income workers in inner cities has helped to bring about a booming high-price real-estate market. This has led to bidding for space in previously "derelict" or abandoned locations that are centrally located, as well as redevelopment of centrally located properties into high-level office and housing markets.[211] Keith Aoki has observed that this rise in demand among high-income populations for central-city residences was also driven by a shift in tastes that led to a favorable reevaluation of the historical and aesthetic qualities of urban real estate.[212] Aoki has also demonstrated that gentrification and accompanying displacement was facilitated by a rise during the 1980s of a deregulatory approach among government policymakers.[213]

> 48 percent of those fired . . . . It's not that [blacks] have less education, experience, and seniority. The difference has nothing to do with job performance . . . . Blacks are fired more often because of their skin color . . . . Rank didn't help. Black senior managers were out the door as often as black clerks. It gets worse. The deck is stacked against fired minority workers with legitimate grounds for reinstatement, the study shows. They win only one in every 100 appeals.

Id.

210 *See generally* Aoki, *supra* note 3, at 699.

211 *See* SASSEN, *supra* note 19, at 186.

212 *See* Aoki, *supra* note 3, at 796-97.

213 *See* SASSEN, *supra* note 19, at 186.

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Cities provide "large-scale, high-cost luxury office and residential complexes," so that "high-income residential and commercial gentrification" are "[d]istinct socio-spatial forms of the new global city."[214] In New York, for example, there has been a significant increase in high-paying service-sector jobs. But, as Saskia Sassen has observed, Manhattan "also contains areas that have experienced sharp declines in household incomes: northern Manhattan, containing Harlem and East Harlem, has experienced growing unemployment, sharp increases in poverty, and sharp increases in crime and delinquency rates. There is a ring of poverty that runs through northern Manhattan, the South Bronx, and much of northern Brooklyn."[215] In these areas, the "low-rent housing market suffered a massive decline in the 1980s that, along with the stagnation and decline in household incomes at the lower end, created a situation that led to severe overcrowding and homelessness."[216] Sharp inequalities in the distribution of household income in NYC reflect these developments.[217]

Thus, rather than acting to revitalize the city in a relatively evenly-distributed fashion,[218] the rebirth of the city as a global command center operated by highly-skilled service-providers may have further penalized those subsisting at the bottom of a hierarchy defined by race, economic status and geography.

All of these statistics paint a grim portrait of globalization. It is important to explain exactly how this portrait should be understood. Leading institutional advocates of global economic liberalization, such as the International Monetary Fund ("IMF"), have argued that "deindustrialization clearly cannot be regarded as a symptom of the failure of a country's manufacturing sector, or for that matter, of the economy as a whole. On the contrary, deindustrialization is a natural feature of the process of economic devel-

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214 *Id.* at 251.
215 *Id.* at 261.
216 *Id.*
217 *Id.* at 264.
218 *See id.* Sassen wrote:

> In its original and richest formulation, the postindustrial model posits a major transformation, one where the expansion of the highly educated work force and the centrality of knowledge industries will lead to an overall increase in the quality of life and a greater concern with social rather than narrowly economic objectives.

Id. at 247.

opment in advanced economies."[219] Moreover, the IMF asserts that the loss of low-skilled labor should not be of concern because "[l]ow-wage imports are simply not that important for most advanced economies."[220] The implication following from this is that no tears should be shed over the loss of these low-skill jobs to other (poorer) countries.

This proposition is uncontroversial. Low-skill industries are not more inherently valuable than any other sort; nor did urban poor racial minority groups enjoy even remotely ideal conditions prior to globalization. The purpose of this article is to show how, because of existing structural inequalities, preexisting dynamics of socioeconomic hierarchy mean that the adverse impact of globalization-induced economic adjustment is born disproportionately by inner-city minority communities who have been crowded into this low skill work, and who may be crowded into an even less-rewarding replacement.

First, there is disproportionately large underemployment of urban minorities as a result of globalization, because of their disproportionate concentration in low-wage industries. Second, there is the relatively greater difficulty that inner-city minority communities have adjusting to globalization and ultimately benefiting from it. Both difficulties arise in part from the confluence of structural factors explained in Parts I and II. Relatively lower occupational skills mean relatively less ability to transition into higher-skill jobs replacing those lost to globalization. Barriers built on racial, economic and geographical divisions cause low skill levels and hinder minority communities from raising skill levels. There were no "good old days" for these communities; however, the "good new days" that the current Gilded Age has brought to the highly skilled socioeconomic elite are not enjoyed, even proportionately, by those at the bottom of the socioeconomic hierarchy.

The IMF Globalization Survey concedes that "for those workers affected [by deindustrialization], namely, those at the lower end of the income distribution, the effects [of globalization] may . . . be significant."[221] In the United States, inner-city racial minorities are disproportionately concentrated at this lower end.

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[219] IMF Survey, *supra* note 1, at 51.

[220] *Id.* at 58.

[221] *Id.*

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IV. CONCLUSIONS

The theory behind globalization is that everyone benefits from increased efficiency resulting from the removal of government constraints on the market. This theory, however, does not attempt to address the impact of these dynamics on existing inequalities within a society. It is possible that globalization will offer opportunities for some members of previously disadvantaged groups.[222] It is simultaneously possible that globalization will generally entrench existing structural inequalities, and that some of these inequalities will be racial in character. Such inequities may become particularly apparent when the economy enters its cyclical downturn. Consequently, although measures that promote globalization "are not racial in character or construction, that they have a racial dimension should not be ignored."[223] The need for serious empirical inquiry into this area remains critical, and this article offers only some preliminary, and therefore imperfect, observations.

Again, it is important to emphasize that this critique need not compel advocacy for economic protectionism. Let us assume that global economic integration in fact will deliver the gains promised by liberal economic theory. Even if this is true, then a just government must respond to the dilemma described in this Article by taking the difficult steps to eliminate the barriers that prevent minority communities from participating equitably in the gains of globalization. The IMF Survey suggested precisely this approach:

> Rather than attempting to limit globalization, the appropriate policy response is instead *to address the underlying structural rigidities that prevent labor markets from adjusting to technological change or external competition.*[224]

This passage is probably intended to refer to labor "rigidities" such as unionization. Both the text and the underlying logic, however, also encompass the socioeconomic rigidities of race, space and economic place that have pinned inner-city minorities to the bottom of the national socioeconomic hierarchy.

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[222] The most recent U.S. Census contains some indications that some members of minority groups benefited proportionately slightly more from globalization. *See supra* note 172.

[223] Lusane, *supra* note 158, at 439-40 (stating that "multinational trade and investment agreements perpetuate inequalities that already exist within national economies").

[224] IMF Survey, *supra* note 1, at 59.

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While this approach may seem sympathetic to classic economic liberalism in that it does not argue against economic liberalization, in fact it raises an important challenge to classic economic liberalism as practiced. A primary criticism of classic economic liberalism is that it assumes a "level playing field," and thus allows and even justifies the persistence of structural inequalities. This Article advocates demanding that structural inequalities be removed. As the debate over affirmative action has shown, as contentious as affirmative action policies have been, they have ultimately proved more politically acceptable than the sorts of reforms that would change the deep-seated inequalities that create the need for affirmative action in the first place, such as entrenched social, economic and geographical segregation between racial groups.[225]

Law and policy have played a role both in shaping these preexisting inequalities, and in fostering globalization. Adverse effects of globalization on minority communities thus stem in part from conditions created by a complex web of law and policy at the federal, state and local levels. Law and policy makers at all levels bear a responsibility to rectify these conditions, for example, through concerted reforms in housing, education and lending. Without such reform, significant sectors of our society may be left behind in the rush to the end of the rainbow.

Audrey McFarlane has examined and found to be insufficient one tool the federal government recently designed to redress the plight of inner-city communities — the Empowerment Zone and Enterprise Cities Demonstration Program ("Enterprise Zones" Program). The Empowerment Zones Program is designed to revitalize inner-city economies by "providing tax incentives and social service funds within the zone to stimulate business creation and expansion."[226] McFarlane concludes that the limited incentives offered by the program fail "to address the underlying structural reasons for the depressed economic and social conditions existing in the inner-city neighborhoods."[227] McFarlane cites both aspects of the law and policy creating preexisting conditions of vulnerability addressed in Part I, and aspects of the law and policy facilitating

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225 *See* Audrey G. McFarlane, *Race, Space, and Place: The Geography of Economic Development*, 36 SAN DIEGO L. REV. 304, 352 (1999).

226 IMF Survey, *supra* note 1, at 296.

227 McFarlane, *supra* note 225, at 352.

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globalization addressed in Part II, as sources of this underlying structural disparity.

The solutions to such deep-rooted structural problems, of course, are not likely to be popular causes among politicians. Advocates for the urban poor must insist, however, on a continuing focus on these difficulties and on real redress for them. Items on this agenda include imperatives that government resources be redistributed and legal processes reshaped to correct the disadvantages in capital formation, infrastructure, and education and other public services that currently operate to reinforce existing hierarchies.

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