

The myth of race-neutral policy

By [Adewale A. Maye](#) • June 15, 2022

Summary: Race-neutral policies are harmful for achieving true racial equity and justice. We must acknowledge and tackle the barriers posed by systemic racism with race-conscious policies that target the intersection of race, class, and gender. Following are key reasons *why* we need to combat the harms of race-neutral policy with race-conscious policies to build a racially just economy and *how* those policies should be structured:

- The persistent and in some cases widening gaps between economic outcomes for Black and white Americans are largely due to structural racism; racism that is entrenched within the very fabric of our customs, laws, systems, and institutions.
- Race-neutral policies—such as equal protection civil rights laws—fail to reverse the gaps and barriers that exist because of structural racism.
- Only race-conscious policies—policies that may disproportionately help communities of color—can dismantle the structural barriers to prosperity, safety, and equity for Black Americans.
- Equitable policymaking must not only be race conscious but also target the intersection of race and class—particularly regarding criminal justice policy and combatting mass incarceration.
- Race-neutral policy such as the drive to eliminate affirmative action threatens racial equity in the states.
- The acute gaps between the economic well-being of Black women and white men demonstrate the need for race-conscious policies that target the intersection of race and gender.

Introduction: Racial disparities persist despite civil rights laws

Over 50 years ago, the civil rights era ushered in numerous transformative policies that sought to give people of color equal access to various social and democratic institutions free from explicit discrimination based on race. This includes voting, education, employment, and much more. Although the civil rights legislation and the anti-discriminatory laws that followed had put an end to legally sanctioned discrimination and segregation, it continued, and racial economic disparities not only persisted, but many grew worse over time (Jones, Schmitt, and Wilson 2018; Kuhn, Schularick, and Steins 2019). The persistent and in some cases widening gaps between economic outcomes for Black and white Americans are largely due to structural racism; racism that is entrenched within the very fabric of our customs, systems, and institutions—even as rules and laws that once denied rights and opportunities to people of color have been repealed (Solomon, Maxwell, and Castro 2019).

Race-neutral policies neglect reality and history

The premise that civil rights laws can eradicate racism within institutions founded on the doctrine of racism is not only a common fallacy, but harmful in achieving true racial equity and justice. It leads to the myth of race-neutral policy—the notion that if all groups are seen as equal under the law all will share equitably in social and economic benefits. This notion dismisses centuries of racist policies that have created and reinforced structural barriers to prosperity, safety, and equity for these groups.

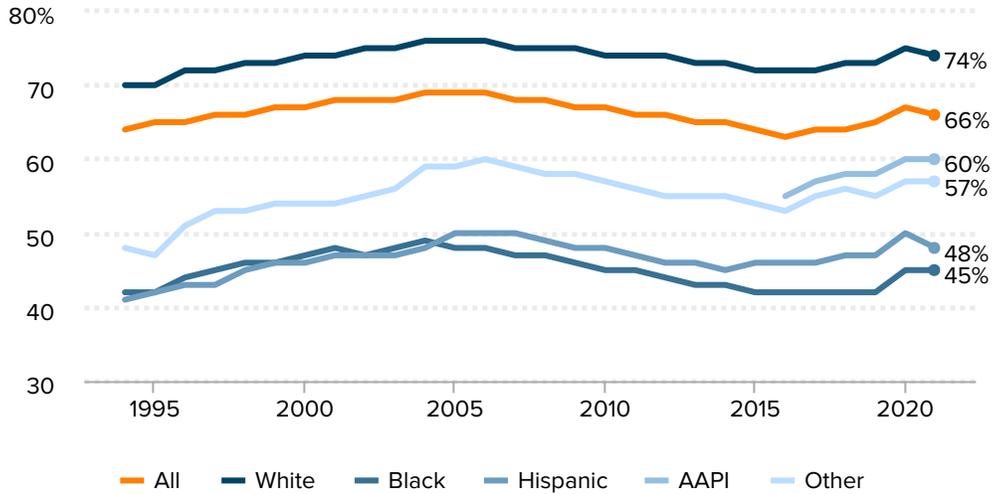
For example, while the Fair Housing Act—Title VIII of the Civil Rights Act of 1968—outlaws housing discrimination based on race, color, religion, national origin, sex, disability, or familial status,¹ it “has never fully delivered on its promise to promote and further integration” (Adams 2018). As just one example of the gap between the promises of the act and the reality, decades later African Americans still face disparately low rates of homeownership, as shown in **Figure A**.

As of 2021, the homeownership rate for Black people is approximately 45%—nearly 30 percentage points lower than the white U.S. homeownership rate of approximately 74% (U.S. Census Bureau 2022). While there are many factors that may play a role in the low Black homeownership rate, one key factor is the racist history of redlining—the practice in which lenders deny mortgage loans or other services to communities of color. Despite the intention of prohibiting discrimination by outlawing redlining (and other practices, such as real estate agents steering Black buyers away from white neighborhoods), the Fair Housing Act only mitigated the harm inflicted on communities of color by outlawing future racist policies. The act did not tackle the residential patterns—such as the segregation into neighborhoods with lower price appreciation and less investment—that resulted from the

Figure A

Black homeownership rate still lags nearly 30 percentage points behind white homeownership rate

Homeownership rates by race and ethnicity, 1994–2021



Notes: AAPI refers to Asian Americans and Pacific Islanders. Race/ethnicity categories are mutually exclusive (i.e., white non-Hispanic, Black non-Hispanic, AAPI non-Hispanic, and Hispanic any race). “Other” includes AAPI in years in which AAPI data are not available.

Source: Economic Policy Institute analysis of Current Population Survey Housing Vacancy Survey.

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past policies (Rothstein 2017).

Consequently, disparities in wealth and numerous other indicators connected to homeownership and residential patterns continue to grow while the economy leaves communities of color further behind. These race-neutral policies neglect the reality and history of race and the role it has played in stripping communities of color from opportunity.

Policies that may disproportionately help communities of color are critical to building a more racially just society and economy because historically communities of color have been socially, economically, and politically disempowered. Our country isn’t race-neutral despite efforts to push race-neutral policy. Without targeted policies to address the structural barriers in access and equity, lawmakers will struggle to advance restorative policies that can truly combat racial disparities.

Policy must target the intersection of race and class

A crucial component to equitable policymaking is using the intersection of race and class as a policy target. Throughout U.S. political history, there have been a plethora of policy

initiatives that were designed to lift only members of a disadvantaged socioeconomic group without acknowledging the racial component, thus failing to address long-standing inequity—or vice versa. Criminal justice reform policies have been prime examples of legislation that fails to address both race and class while also reifying the inequities present at the intersection of race, class, gender, and criminality (Hankivsky and Cormier 2011).

For most of the 20th century, the criminal justice system has magnified and reinforced the growing racial divide in America. Over the last 40 years, the incarcerated population has increased by 500%, with 2 million people in prison and jail today (The Sentencing Project 2021). The steep increase in the prison population can be largely attributed to many of the policies passed in the 1970s—including the war on drugs legislation—and maintained over the subsequent decades that disproportionately hurt Black and brown people and established what we know today as mass incarceration (Taifa 2021).

Currently, within state prisons alone, Black people are incarcerated at nearly five times the rate of white Americans and hold a state average incarceration rate of 1,240 per 100,000 residents (Nellis 2021). Clearly the link between race and mass incarceration is evident. However, research suggests that while racial discrimination is explicit within the criminal justice system, the class composition of each racial group is strongly correlated with the big overall gap in Black and white incarceration rates (Lewis 2018). In reviewing rates of incarceration by race and income quintiles, the analysis indicates that 42% of observed incarcerated Black men were in the lowest class group versus just 15% of white men (Lewis 2018). This analysis indicates that these disparities are largely due to a racialized class system. For policymakers to craft meaningful criminal justice reform, legislation must address the systemic racial legacy of mass incarceration *and* the root causes of race and class divide through economic empowerment.

Policies must embrace both race and class as policy targets to achieve race-conscious efforts and policy solutions. Advancing race-conscious policies is critical to restoring equity and dismantling structural injustice for people of color.

Race-neutral policy threatens racial equity in the states

Race-conscious policies are just as important on state and local levels as on a federal level. For years, states have been the battleground on whether to advance race-neutral and race-conscious policies. Recent debates over race-neutral policy have concerned affirmative action in higher education. Affirmative action is a set of policies and practices within government or an organization that seeks to boost participation of underrepresented groups (based on their race, gender, sexuality, or nationality) in specific areas such as college admissions or managerial ranks. Affirmative action decision-making in employment and education is a useful way to implement race-conscious practices that address inequities springing from historical barriers for marginalized people. However, over the past several years, affirmative action has been under attack in the higher

education space as some believe race shouldn't be a factor for admission into a school or program.

Within the past few years, Harvard University has been under legal attack to ban affirmative action in its admission process despite the literature available indicating that schools that rely on race-neutral policies and abandon affirmative action decision-making are less accessible and less diverse to underrepresented students of color (Burgess 2020). Beyond higher education school boards, state and local policymakers and voters have also been apprehensive about enforcing race-conscious decision-making in schools. For example, voters in California recently rejected a ballot measure that would have restored the state's affirmative action policy, suggesting broad public unease with race-conscious decision-making (Cineas 2020).

In systems and institutions like higher education with a history of long-entrenched racial segregation and discrimination, race-conscious policies are pivotal in enhancing the representativeness, diversity, and educational outcomes of people of color. State and local policymakers play a large role in advancing these policies and ensuring equitable and comprehensive pathways for people of color to fully participate in historically inaccessible institutions.

Policies must also look at the intersection of race and gender

Across measures of income, wealth, employment, and health, Black women face some of the most acute disparities with white men. For example, on an average hourly basis, Black women are paid just 66 cents on the dollar relative to non-Hispanic white men with the same level of education and age (Wilson and Kassa 2020). These disparities are especially problematic given that, with an increasing share of women also being the sole breadwinners for their households, Black women carry a significant amount of the economic cost (Glynn 2019). Black women are also more likely to face occupational segregation that limits their access to higher-paying jobs (Wilson, Miller, and Kassa 2021). Despite these specific barriers, Black women also endure the costs of caregiving, child care, and student loan debt, which also constrain women's prosperity.

Due to the combination of many of these factors, Black women constitute one of the most vulnerable groups in our economy and society. Policies to protect and uplift women may not always address the intersectional needs of Black women nor combat the structural racist and patriarchal impediments they face. Intersectionality and disaggregation within race-conscious policies is integral in identifying and addressing the barriers that exist within subpopulations of racial groups including gender. We need disaggregated race data to truly aid in identifying the inequities, documenting the harm, and advancing equitable and comprehensive policies to address the inequities.

Conclusion

After centuries of systemic exclusion of Black Americans from full participation in our society and economy, targeted, intersectional, race-conscious policies to ensure full participation are long overdue. Without these policies, laws will only mitigate—but not dismantle—the barriers that racist and discriminatory laws and policies have reinforced. The inclusion of race, class, and disaggregated gender disparities as policy targets are critical in advancing race-conscious policies on both federal and state levels. The true myth of race-neutral policy is the unwillingness to acknowledge or address the racist history within our country, our economy, and our society as well as the long-standing effects that systemic racism has on communities of color.

Additional reading and resources

Readers interested in delving deeper into the issues touched on in this chapter are encouraged to explore the following resources suggested by the author.

Articles & Reports

Gale, William G. 2021. *Reflections on What Makes a Policy Racist*. Tax Policy Center, November 2021.

Jones, Tiffany, and Andrew Howard Nichols. 2020. *Hard Truths: Why Only Race-Conscious Policies Can Fix Racism in Higher Education*. The Education Trust, January 2020.

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Book

Satio, Leland T. 2009. *The Politics of Exclusion: The Failure of Race-Neutral*

Policies in Urban America. Stanford, Calif.: Stanford University Press.

Video

Race & Reconciliation Initiative at Texas Christian University. 2021. “[Race Neutral Policies as Barriers to Reconciliation](#).” YouTube video, 59:21. Published March 22, 2021.

Podcast

Hanauer, Nick, and Jessyn Farrell. 2021. “[There’s No Such Thing as Race-Neutral Policy \(with Valerie Wilson\)](#).” *Pitchfork Economics* (podcast), April 20, 2021, 24 min.

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Endnote

1. In addition to discriminatory home sales practices such as redlining, the act outlaws discriminatory practices in a range of rental and housing-financing activities. See National Fair Housing Alliance 2021.

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