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Ruralism

by

Debra Lyn Bassett

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Ruralism

Debra Lyn Bassett*

Our society has a "love-hate" relationship with its rural communities. While revering rural areas as embodying the ultimate in "quality of life," rural citizens are simultaneously denigrated as uneducated, backward, and unsophisticated. In this Article, Professor Bassett notes that our society's focus, its programs, its culture, and its standards are based on an urban assumption. This urban focus both overshadows and marginalizes rural dwellers. Professor Bassett argues that "ruralism" is a pervasive form of discrimination—largely unrecognized, unacknowledged, and unexamined—and one often impacting most harshly those individuals who already are subject to other forms of discrimination based on gender, class, and race.

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* Associate Professor of Law, Michigan State University-DGL College of Law. J.D. 1987, UC Davis School of Law; M.S. 1982, San Diego State University; B.A. 1977, University of Vermont. The author grew up in rural northeastern Vermont near the Canadian border, in an area known as the Northeast Kingdom. This Article is dedicated to my parents and to my grandmother, who still live there. See generally A.E. Luloff & Mark Nord, *The Forgotten of Northern New England*, in FORGOTTEN PLACES: UNEVEN DEVELOPMENT IN RURAL AMERICA 126 (Thomas A. Lyson & William W. Falk eds., 1993) [hereinafter FORGOTTEN PLACES] ("[The forgotten poor] for the most part remain invisible to the majority. They tend not to be noticed because they are dispersed over an expansive and sparsely settled area."); *id.* at 133 (classifying as "forgotten" all of Vermont except Chittenden County); Terry Carter, *Road Warrior*, A.B.A. J., Dec. 1998, at 46-47 (explaining that the Northeast Kingdom is "the unofficial geographical description of the most rural area of this rural state [of Vermont]"). Many thanks to Rex R. Perschbacher for his comments on an earlier draft; to Brenna Daugherty and Stacy Don, Classes of 2002 and 2003 respectively, UC Davis School of Law, for their excellent research assistance; and to the Michigan State law librarians, especially Kathy Prince and Jane Edwards.

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INTRODUCTION

Our society has a “love-hate” relationship with its rural¹ communities.² On the one hand, rural areas often are idealized as safe, bucolic, quiet havens from the stress of city living.³ On the other hand, those who live in rural areas often are stereotyped as uneducated and unsophisticated at best,⁴ with stereotypes then degenerating to include such descriptors as backward, unattractive, lazy, stupid, and dirty.⁵

1. As explained in Part I, this Article uses the word “rural” to refer to communities of 2,500 or fewer people that are located at least fifty miles from a community of 20,000 or more people. See *infra* notes 37–59 and accompanying text (discussing considerations—and difficulties—in defining “rural”).

2. See RURAL SOC. SOC’Y TASK FORCE ON PERSISTENT RURAL POVERTY, PERSISTENT POVERTY IN RURAL AMERICA 232 (1993) [hereinafter PERSISTENT POVERTY] (“[C]ertain paradoxes are specific to rural areas. Traditionally, a rural life style has been associated with self-reliance, neighborliness, conservative values, and respect for tradition. Phrased less positively, rural residents are regarded as noseey, behind the times, and resistant to change.”); see also James B. Wadley & Pamela Falk, Lucas and *Environmental Land Use Controls in Rural Areas: Whose Land Is it Anyway?*, 19 WM. MITCHELL L. REV. 331, 337 (1993) (“It is difficult to determine which of two competing attitudes better describes the typical urban view of what is rural—nostalgia or condescension.”).

3. See Raymond T. Coward & William M. Smith, Jr., *Families in Rural Society*, in RURAL SOCIETY IN THE U.S.: ISSUES FOR THE 1980S 77 (Don A. Dillman & Daryl J. Hobbs eds., 1982) [hereinafter RURAL SOCIETY] (“Many Americans continue to hold a largely nostalgic and romantic image of rural living. The myth that is perpetuated portrays country living and family life as simple, pure, and wholesome; slower paced; free from pressures and tensions; and surrounded by pastoral beauty and serenity.”); J. Dennis Murray & Peter A. Keller, *Psychology and Rural America: Current Status and Future Directions*, 46 AM. PSYCHOL. 220, 222 (Mar. 1991) (“For many years an American myth has persisted that rural areas are idyllic, healthy settings in which people experience few significant stresses or problems.”); see also Wadley & Falk, *supra* note 2, at 337–38:

The nostalgic view of what is rural . . . conjures up images straight out of a Norman Rockwell or Andrew Wyeth painting[,] . . . comprised of unpaved dusty lanes and cane-bottom rocking chairs, of purple-flowering wisteria and white magnolias, clear-water swimming holes and Sunday chicken dinners around a large kitchen table, long puffed rows of summer cotton, roasting ears and cane-pole catfishing in pine-shadowed ponds, lightning bug nights and barefoot days.

4. See Wadley & Falk, *supra* note 2, at 338–39 (“Rural people are considered to be less adept at dealing with the intricacies of modern life. Rural people are simple, uncultured, redneck, but certainly not urbane, or sophisticated. Rural people are also viewed as low key, laid back, and unmotivated. The rural community, in this sense, is a place from which one escapes.”).

5. See, e.g., Karl Marx & Friedrich Engels, *The Communist Manifesto*, in ESSENTIAL WORKS OF MARXISM 17 (Arthur P. Mendel ed., 1961) (“[The bourgeoisie] has created enormous cities, greatly increased the urban population as compared with the rural, and thus rescued a considerable part of the population from the idiocy of rural life.”). One extreme reaction to rural areas occurred during the sentencing of Sheik Omar Abdel-Rahman. See RALPH A. WEISHEIT ET AL., CRIME AND POLICING IN RURAL AND SMALL-TOWN AMERICA 12 (2d ed. 1999):

The sheik was convicted in federal court of conspiring to blow up the United Nations Building, the Lincoln and Holland Tunnels, the George Washington

Beneath these images, however, there is a grim socioeconomic and legal reality—a reality that relegates rural dwellers to a decidedly second-class status under the law, under government benefits and policies, and, indeed, under all things that truly matter. Our society's bias is decidedly urban.⁶ Our

Bridge, and FBI headquarters in New York. Upon learning the sheik would be sent to the federal prison in Springfield, Missouri (in a county with a population of 240,000), the sheik and his lawyers were outraged. One lawyer complained that her client was being sent . . . to "Noplaceville" and "a particularly inaccessible part of the world." Another of the sheik's attorneys described the decision as a form of harassment, and the sheik himself viewed the selection of this "rural" site as an effort to break his spirit.

Another extreme example involved Matthew Shepard's murder in Wyoming. *See* Donna Minkowitz, *Love and Hate in Laramie*, THE NATION, July 12, 1991, at 18 ("Most media coverage has attributed [Matthew] Shepard's murder to the supposed backwardness and endemic homophobia of rural people, inflaming the bitterness Laramieans have felt for years over the fact that the rest of the country sees them as dumb yokels."). *See generally* Anne Shelby, *The "R" Word: What's So Funny (and Not So Funny) About Redneck Jokes*, in BACK TALK FROM APPALACHIA: CONFRONTING STEREOTYPES 153, 155 (Dwight B. Billings et al. eds., 1995) [hereinafter CONFRONTING STEREOTYPES]:

Stop me if you've heard these. Please. Stop me. How to tell you're a redneck: You go to a family reunion to pick up dates. Your family tree doesn't fork. Your daddy walked you to school because he was in the same grade. You refer to fifth grade as 'my senior year.' When the photographer says 'cheese' you form a line. Your truck has nicer curtains than your trailer. Your two-year-old has more teeth than you. Your favorite car color is primer red. A trip to the bathroom in the middle of the night involves shoes and a flashlight.

Recent events have further expanded rural stereotypes to include dysfunctional and violent. *See* KNOWING YOUR PLACE: RURAL IDENTITY AND CULTURAL HIERARCHY 2 (Barbara Ching & Gerald W. Creed eds., 1997) [hereinafter KNOWING YOUR PLACE] ("In 1995, urban America took a new look at the 'heartland' through the ruins of the Oklahoma City bombing and found it more threatening than threatened—the home of desperate rural militia with expansionist agenda.").

6. *See* OSHA GRAY DAVIDSON, BROKEN HEARTLAND: THE RISE OF AMERICA'S RURAL GHETTO 71 (1996):

To most Americans, rural communities are just dim blurs alongside the gleaming superhighway that carries us into what we tell ourselves is an ever-brighter future. If we notice those blurs at all, it is usually to laugh at their quaintness, . . . or to shake our heads at the backwardness of our unfortunate rural cousins. . . . This kind of ignorance about the problems of rural America is astonishing, especially in an era referred to, reverentially, as the 'information age.' . . . This ignorance amid an ocean of information tells us something about ourselves . . . [and] about our view of rurality.

The invisibility described by Davidson has long been recognized as a product of discrimination and bias. *See, e.g.*, *Woods v. Midwest Conveyor Co.*, 648 P.2d 234, 247 (Kan. 1982) (Herd, J., dissenting) ("Segregation became worse than during slavery. The states passed voter qualification statutes which successfully eliminated the black man's vote. He had no power. He had no hope for economic betterment. His schools were inferior. He was truly an 'invisible man.'"); RALPH ELLISON, *INVISIBLE MAN* (1952) (describing the racism, poverty, segregation, and violence experienced by a black man in America); *id.* at 1 ("I am an invisible man. . . . I am invisible, understand, simply because people refuse to see me."); Alfred L. Brophy, *Foreword: Ralph Ellison and the Law*, 26 OKLA. CITY U. L. REV. 823, 827–28 (2001) (noting that in *Brown v.*

society's focus,⁷ its programs,⁸ and its culture⁹ are based on an urban, rather

Board of Education, 347 U.S. 483 (1954), “[a]t long last, the [Supreme] Court awoke to the realities of segregation and allowed African Americans to have a legal status other than that of invisible people”); Juan F. Perea, *Los Olvidados: On the Making of Invisible People*, 70 N.Y.U. L. REV. 965 (1995) (stating that prejudice is evidenced through invisibility); see also JOEL DYER, *HARVEST OF RAGE: WHY OKLAHOMA CITY IS ONLY THE BEGINNING* 105 (1997):

As if to underscore rural America's second-class status and Washington's lack of understanding of the people who live there, President Clinton—during his 1997 State of the Union address—used the word “urban” no fewer than a dozen times. The word “rural” came up only once and only then as a symbolic gesture. The president proposed idea after idea on how to fight the problems of urban America. Not once did he even acknowledge that problems exist in rural places, let alone offer a suggestion on how to fix them.

7. See CORNELIA BUTLER FLORA ET AL., *RURAL COMMUNITIES: LEGACY & CHANGE* 23 (1992) (“Our society has become so deeply urbanized that we almost assume urbanization to be a natural law.”); see also KNOWING YOUR PLACE, *supra* note 5, at 3–4 (noting that “the urban has come to be the assumed reference when terms are used that could in theory refer to both rural and urban subjects”); Craig A. Arnold, *Ignoring the Rural Underclass: The Biases of Federal Housing Policy*, 2 STAN. L. & POL'Y REV. 191, 194 (1990) (“[A] recent *New York Times* article characterized homelessness as the symbol of poverty in the United States. Although homelessness is a serious problem, the number of rural poor is much greater than the number of homeless.”).

8. See, e.g., JANET M. FITCHEN, *ENDANGERED SPACES, ENDURING PLACES: CHANGE, IDENTITY, AND SURVIVAL IN RURAL AMERICA* 158–59 (1991):

Services in rural areas are increasingly shaped by urban-based models. . . . New patterns and trends in service delivery that work well in urban and suburban areas often become the standards and patterns throughout the nation, emulated widely because they work in areas of large populations. But when they are extended to rural areas, they may be less appropriate and less effective.

(citation omitted); RURAL COURTS: THE EFFECT OF SPACE AND DISTANCE ON THE ADMINISTRATION OF JUSTICE xv (Nat'l Ctr. for State Courts ed., 1977) (“[W]hen difficulties in the operation of rural courts were encountered, urban models were offered as solutions.”); FORGOTTEN PLACES, *supra* note *, at 248:

Rural programs too often are small versions of urban programs not specially suited to rural needs. Because of the low density and small scale of rural efforts, programs often fail when they are not specially attentive to rural needs. Urban administrative rules often result in high costs for rural programs.

9. See, e.g., WEISHEIT ET AL., *supra* note 5, at 2:

[C]ontemporary American culture is considered not only homogen[e]ous, but an urban culture. Since most people have a television and a telephone, and most have access to some form of transportation, it is assumed that urban culture has permeated all parts of America, even those areas where the population is relatively sparse.

Id.; Arnold, *supra* note 7, at 195 (“American cultural bias toward that which is urban . . . is created by a pervasive belief in the rightness and inevitability of urbanization.”); see also KNOWING YOUR PLACE, *supra* note 5, at 4:

The fact that we must make a point of clearly marking the rural reveals the cultural hierarchies that make place such a politically and personally charged category. As with other dimensions of identity, it is the marked/marginalized group that experiences the distinction more intimately and for whom it becomes a more

than rural, assumption. Our society's urban focus both overshadows and marginalizes rural dwellers.¹⁰ Indeed, the very notion of "success" purveys an urban image.¹¹

significant element of identity. In this case, the urban-identified can confidently assume the cultural value of their situation while the rural-identified must struggle to gain recognition. Ironically, the rural-identified may experience their marginalization as both invisibility and as a spectacularly exaggerated denigration.

This perspective is not new; the urban model has existed for some time:

In their efforts to reform rural life, promoters viewed four supposedly urbanizing technologies—the telephone, the automobile, radio, and electricity, all of which had been initially marketed as urban luxury goods—as self-evident symbols of modernity and powerful agents of social change. They—and many farmers—inscribed each technology with a largely unquestioned power to transform an old-fashioned rural society into an agrarian version of middle-class, urban consumer culture, just as each technology was thought to have revolutionized the city. During their (largely successful) campaigns to transform rural America in the twentieth century, . . . [t]hey pushed new communication, transportation, and household technologies as the means to "modernize" rural life. Paradoxically, many reformers wanted to save the family farm by "urbanizing" it, by bringing "city conveniences" to the farmstead and connecting it more closely to town. . . .

A wide range of social groups shared these views. Manufacturers, advertisers, rural reformers, government agencies, agricultural professionals, educators, and farm leaders saw the telephone and the automobile, in the early part of the century, then radio and electricity, after World War I, as the latest technology that could solve the long-standing problems of rural life. They predicted that telephones and automobiles would improve the marketing of agricultural products and the purchasing of consumer goods, induce farm families to attend cultural events in the city and town, and turn isolated farm neighborhoods into vibrant rural communities.

RONALD R. KLINE, *CONSUMERS IN THE COUNTRY: TECHNOLOGY AND SOCIAL CHANGE IN RURAL AMERICA* 2 (2000); see *PERSISTENT POVERTY*, *supra* note 2, at 232 ("[A]n urban-oriented mass media certainly makes the rural poor realize that they are different. What it means to grow up poor and rural in the age of Nintendo and MTV is a paradox worthy of study."); see also *CONFRONTING STEREOTYPES*, *supra* note 5, at 5 ("Popular media are not the only culprits . . . when it comes to disparaging Appalachians. Academia and the arts follow right in tow."); *id.* at 5–7 (providing examples from books, art, and plays perpetuating rural stereotypes); *infra* Part II (discussing portrayals of rural America in television, literature, and film).

10. *KNOWING YOUR PLACE*, *supra* note 5, at 21 (noting that any profit for rural dwellers can be made "only on terms defined by urban consumers. [Rural dwellers] lack the power to define what is attractive or valuable about the places where they live [Indeed,] the urbane believe[] rustics incapable of appreciating nature."); see also *DYER*, *supra* note 6, at 40:

Victims of the rural crisis have largely been ignored. If their precarious situation has been discussed at all, the emphasis has been on the economic causes, with no attention paid to the consequences—the suicides and heart attacks, the mental health problems, the shift to radical politics. We can easily ignore people we don't know in places we've never been, so long as their problems remain internal.

11. See *KNOWING YOUR PLACE*, *supra* note 5, at 26–27 ("[T]he cultural devaluation of rural people often reflects their economic marginality. . . . Even economic 'success' seems limited in a rural context. . . . [N]othing is more discordant in the Western cultural imagination than rustics striking it rich.").

Over the past thirty-eight years, we as a society have acknowledged various forms of invidious discrimination, which have expanded to include such bases as race, national origin, gender, color, religion, age, and disability.¹² "Ruralism," however, remains unacknowledged, indeed unrecognized, as a form of discrimination.

Ruralism involves discrimination on the basis of factors stemming from living in a rural area.¹³ As is true of many other forms of discrimination, ruralism entails the projection of stereotyped attributes by a more powerful majority group onto a less powerful minority group.¹⁴ About eighty percent of the population of the United States lives in metropolitan areas,¹⁵ leaving only approximately twenty percent of the country's population in rural areas. Our society, through its portrayals in television, literature, and film, perpetuates various stereotypes of rural dwellers, ranging from the "country bumpkin," embarrassingly ignorant of basic social conventions, to the dirty, slow-thinking, slow-speaking "mountain men" with low intelligence quotients attributed snickeringly to family inbreeding.¹⁶

The harm to rural dwellers goes beyond stereotyping; discrimination against rural areas is seen in federal spending. The federal government

12. See Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 (2000) (covering age discrimination); Title VII of the Civil Rights Act of 1964, Pub. L. No. 88-352, §§ 701-716, 78 Stat. 253 (codified as amended at 42 U.S.C. §§ 2000e to 2000e-17 (2000)) (covering race, national origin, religion, color, and sex); Americans with Disabilities Act, 42 U.S.C. § 12101 (2000) (covering discrimination on the basis of disability).

13. Although a few have contended that modern urban life has impacted rural areas to a degree rendering "rural" practically meaningless, this view has been largely discredited by others who have documented factors distinguishing rural regions from urban ones. See Fern K. Willits et al., *Persistence of Rural/Urban Differences*, in RURAL SOCIETY, *supra* note 3, at 69-70; see also WEISHEIT ET AL., *supra* note 5, at 3 (noting practical distinctions between crime and justice in urban versus rural areas).

14. See, e.g., Kathryn Abrams, *Title VII and the Complex Female Subject*, 92 MICH. L. REV. 2479, 2540 n.149 (1994) (describing one form of discrimination as involving the causing of harm to an individual "by treating members of his minority group in a different and less favorable manner than similarly situated members of the majority group"); see also Kenneth L. Karst, *Why Equality Matters*, 17 GA. L. REV. 245, 285 n.180 (1983) (noting that the chief harms of discrimination "lie in the imposition of stigma and the creation of stereotype," and further noting that "the very concepts of stigma and stereotype are inseparable from the stigmatized or stereotyped individuals' group membership; the victims are dehumanized precisely because they are denied their individuality and treated according to race, sex, etc.").

15. See THE POPULATION AND ECONOMY OF EACH U.S. STATE 3 (Courtney M. Slater & Martha G. Davis eds., 1st ed. 1999) ("About 80 percent of the U.S. population lived in metropolitan areas in 1997, and this proportion has changed little since 1990.").

16. See KNOWING YOUR PLACE, *supra* note 5, at 23 ("[T]he incest implied in countless hillbilly jokes not only reflects the logistical difficulties of finding unrelated women in remote hamlets but also suggests an actual preference for kin: 'You know you're a redneck,' explains comedian Jeff Foxworthy, 'if you go to family reunions to meet girls.'"); WEISHEIT ET AL., *supra* note 5, at 25 ("Stereotypes portray white trash as slow witted and inbreeding, with high illegitimacy rates and frequent involvement in crime."); see also *infra* Part II (describing portrayals of rural dwellers in television, literature, and film).

spends more money on urban citizens than rural citizens—\$5,369 per urban citizen, contrasted with \$4,725 per rural citizen.¹⁷ Rural dwellers not only receive a low degree of governmental protection,¹⁸ but some federal policies create or increase problems in rural areas.¹⁹ As a minority group, rural dwellers receive little attention from the legislatures and courts, despite suffering discrimination in virtually every area.²⁰ Farm subsidies are widely cast as the federal government's efforts at rural policy, when in fact, farm subsidies today largely benefit large agribusiness—only approximately six percent of all rural dwellers are farmers.²¹

17. See Charles W. Fluharty, *Refrain or Reality: A United States Rural Policy?*, 23 J. LEGAL MED. 57, 57 (2002).

18. See FITCHEN, *supra* note 8, at 266–67:

The diversity among rural places and the nondefinition of "rural" makes it difficult to build a national constituency for rural issues or a national rural policy, and hard to defend federal spending for rural programs. . . . The federal government has generally failed to perceive rural problems in their broader sense, beyond agriculture and beyond economic problems. . . . Even those federal policies and programs that do address the non-agricultural aspects of rural America . . . quite often fail to address the special needs of small places. For example, although the Regulatory Flexibility Act of 1980 requires federal agencies to fit regulatory requirements to the scale of affected small government units, inappropriate regulations continue to pose a problem.

Other commentators have noted the same problem. See PERSISTENT POVERTY, *supra* note 2, at 292:

The national government has done little that really matters in eliminating the causes of rural poverty. At most, U.S. policymakers create marginal relief, disguised behind a thin veneer of political rhetoric. . . . We see a near-total inability on the part of U.S. governing institutions to deal successfully with the wide range of rural needs.

See generally Debra Lyn Bassett, *The Politics of the Rural Vote* (Jan. 1, 2003) (unpublished manuscript, on file with author) [hereinafter Bassett, *Rural Vote*].

19. See *infra* Part III.C (discussing lack of access to programs and services in rural areas).

20. See Arnold, *supra* note 7, at 194–95 (noting the "political[] weak[ness]" of rural dwellers, and observing that rural dwellers "lack the organization, financial resources, and concentrated voting strength necessary to influence public policy. Moreover, the President depends more on urban-based electoral votes. Therefore, his administration is less likely to place as high a value on rural issues or enthusiastically to administer programs that benefit the rural poor"); Murray & Keller, *supra* note 3, at 229 ("Rural people, by virtue of their geographic dispersion and frequent lack of cohesive governmental representation, remain a de facto 'silent minority' whose needs have not received adequate attention."); see also Wadley & Falk, *supra* note 2, at 333:

The rural landowner's ability to meaningfully control the use of land is inextricably related to the landowner's social and psychological mindset, a mindset that, in many ways, differs markedly from its urban counterpart. As a result of the legal system's failure to recognize and to be sensitive to the farmers' and ranchers' viewpoint, many [rural] landowners feel threatened by policies and regulations adopted in recent years that address environmental concerns.

21. More than ninety-three percent of rural American workers have non-farm jobs. Bureau

Econ. Analysis, <http://www.bea.gov>. Only 6.3 percent of rural Americans live on farms. *Id.* See PERSISTENT POVERTY, *supra* note 2, at 292–93:

[R]ural policy issues have always been defined in agricultural terms, to be solved through modifications of farm programs or supplements to those programs. . . . As an agricultural establishment (USDA, congressional agriculture committees, land-grant agricultural research and extension institutions, general farm and commodity groups) emerged, farm and rural policies became increasingly incompatible. The U.S. was left with no distinct rural vision to guide its politics of places. Institutions could not handle farm and rural policies as separate entities having different purposes.

Janet Fitchen has also noted the use of “rural” and “agriculture” as synonymous. FITCHEN, *supra* note 8, at 267:

The federal relationship to rural America is driven largely by the interests of production agriculture, as is indicated by the failure to establish a major governmental agency parallel to but outside of the U.S. Department of Agriculture (USDA) that would address rural community development issues and needs. In the absence of any other sense of what rural America is, it is widely assumed that rural and agriculture are synonymous and that, therefore, agricultural policy can stand in for rural policy. “Fixing the farm problem” is thought sufficient to take care of “the rural America problem.”

Other examples abound. *See id.* at 269 (“Compared to urban problems, rural problems look so small that they attract neither public attention nor governmental commitment.”); FLORA ET AL., *supra* note 7, at 197 (noting that federal support to rural areas “remains highly focused on agriculture, to the exclusion of more broad-based support”); *id.* (“If farm programs and entitlements are excluded, less than 10 percent of the remainder of federal funding goes to rural areas of less than 20,000 population.”); RURAL POLICIES FOR THE 1990s 2–3 (Cornelia B. Flora & James A. Christenson eds., 1991) [hereinafter RURAL POLICIES] (“To date, there has been little attempt to address problems of rural areas beyond implementing agricultural policy. . . . The equation of ‘rural’ with ‘farm’ allowed expensive agricultural programs to mask inattention to rural people and their heterogeneous economic base.”); NEIL WEBSDALE, RURAL WOMAN BATTERING AND THE JUSTICE SYSTEM 37 (1998) (“The traditional notion that rural areas have primarily agricultural economies is still popular today, even though it is now no longer accurate.”); Arnold, *supra* note 7, at 194 (“To the extent that the public agenda has focused on rural problems, it has focused on the farm crisis, despite the fact that most rural poor are not farmers.”); Alan J. DeYoung & Barbara Kent Lawrence, *On Hoosiers, Yankees, and Mountaineers: Dilemmas in Rural Education*, 77 PHI DELTA KAPPAN 104, 106 (Oct. 1995) (“[F]ewer than 3% of American workers today are primarily engaged in farming or other occupations that deal directly with natural resources.”); Donald E. Voth, *A Brief History and Assessment of Federal Rural Development Programs and Policies*, 25 U. MEM. L. REV. 1265, 1288 (1995) (“This original federal commitment to rural America has . . . been progressively co-opted into a narrower focus upon commercial and production agriculture.”); Nicholas D. Kristof, *America’s Failed Frontier*, N.Y. TIMES, Sept. 3, 2002, at D2. Kristof observes that the most recent rural subsidy program

will actually aggravate rural distress. Subsidies do nothing to help hard-working ranchers [in Nebraska], because the money overwhelmingly goes to crop farmers rather than livestock owners. Worse, much of the money goes to the most prosperous families (47 percent of commodity payments go to farmers whose household income is more than \$135,000), who use the cash to buy up more land. Subsidies thus accelerate the consolidation of farms that is already depopulating rural areas.

Id.; Dick Lugar, *The Farm Bill Charade*, N.Y. TIMES, Jan. 21, 2002, at A15 (noting that our ineffective agricultural policy “exacerbates the consolidation of farm ownership, with the

Rural dwellers also suffer from the erroneous, but popular, perception that communication technologies have eliminated any real rural isolation.²² The notion that the Internet and other forms of technology serve to connect all Americans is nothing but a cruel myth to many rural dwellers, literally millions of whom lack telephone service, much less Internet access.²³ In reality, the geographical isolation of, and discrimination against, rural dwellers increases the difficulty of, among other things, obtaining jobs,²⁴

concentration of benefits going to a minority of farmers in a handful of states. The majority of payments in most states go to the top tenth of farmers”).

22. This popular perception can be found even in resources with a rural focus. See FLORA ET AL., *supra* note 7, at 8 (implying that communication technologies have eliminated any real rural isolation); see also Jane Gross, *Different Lives, One Goal: Finding the Key to College*, N.Y. TIMES, May 5, 2002, at A1, A30 (stating that the “[college] game is open to all comers,” thanks in part to “democratic access to information on the Internet”). The reality, however, is that many rural dwellers lack even adequate telephone access, which, of course, is a prerequisite to Internet access. See U.S. DEP’T OF COMMERCE, FALLING THROUGH THE NET: DEFINING THE DIGITAL DIVIDE xv, xvi (1999), available at <http://ntia.doc.gov/ntiahome/fttn99/contents.html> (last visited Dec. 19, 2002) (on file with the Iowa Law Review) (finding that in 1998, forty percent of U.S. households owned computers and twenty-five percent had Internet access, but that a growing “digital divide”—the gap between those with access to the Internet and those without—meant that affluent, highly educated, white, urban, and suburban households were far more likely to have access than the poor, those with lower educational levels, rural dwellers, and minorities); see also *infra* note 144 and accompanying text (discussing the lack of communication technologies for many isolated rural dwellers).

23. See Cheryl R. Lee, *Cyberbanking: A New Frontier for Discrimination?*, 26 RUTGERS COMPUTER & TECH. L.J. 277, 287 (2000) (noting that “as of 1995, 6.2 million homes were without telephone service” and that “households with incomes over \$75,000 were over twenty times more likely to have home Internet access than were the lowest income level rural households”); see also WEISHEIT ET AL., *supra* note 5, at 9–11. The authors note that in Kentucky, of the 108 nonmetropolitan counties,

the percentage of houses without telephone service ranges from 2.5 percent to 29.3 percent, with 22 counties having more than 20 percent of the homes without telephone service In urban areas those without a phone often can find one next door or down the block when emergencies arise. In rural areas the nearest telephone may be some distance away. Similarly, in many parts of rural America there are no carriers of service for mobile telephones.

Id.; Don A. Dillman, *Telematics and Rural Development*, in RURAL POLICIES, *supra* note 21, at 299 (observing that in some rural counties, as many as half of the residents have party lines, digital switching is unavailable, cellular telephone service is unavailable, voice mail and video conferencing are unavailable).

24. See PERSISTENT POVERTY, *supra* note 2, at 233 (“Travel is problematic. Distances are great, public transportation is limited, and back roads are in poor repair. A reliable automobile is virtually a necessity, almost a precondition for obtaining the job that would pay for the car.”); Sharla Nichols Fasko & Daniel Fasko, Jr., *A Systems Approach to Self-Efficacy and Achievement in Rural Schools*, 119 EDUCATION 292, 293 (Winter 1998) (noting that “there is no public transportation in rural communities, making it more difficult for the rural poor to acquire training for jobs”); see also *infra* note 192 and accompanying text (discussing lack of access to public transportation).

attending educational institutions,²⁵ and accessing basic needs, goods, and services.²⁶

25. See PERSISTENT POVERTY, *supra* note 2, at 52 (“[R]ural youth typically lack access to community or junior colleges that ease the transition to post-secondary schooling.”); Leonard L. Baird, *Relationships Between Ability, College Attendance, and Family Income*, 21 RES. HIGHER EDUC. 373, 373 (1984) (“Despite efforts over many years, high school students from low socioeconomic status families less frequently plan to attend college, less frequently do attend college, and when they do, less frequently attend four-year colleges and more prestigious colleges.”); Don Thompson, *Rural Students Face Rough Road to College*, S.F. CHRON., Apr. 14, 2002, at A21 (noting that rural students’ college choices are often limited by distance, cost, and isolation); see also *infra* notes 166–80 and accompanying text (discussing lack of access to post-secondary education).

26. See *infra* Part III.C (discussing rural dwellers’ lack of access in the provision of basic needs, goods, and services); see also RURAL POLICIES, *supra* note 21, at 3 (“[A] dispersed [rural] population makes service delivery difficult and economies of scale in production problematic.”); FITCHEN, *supra* note 8, at 156–57 (noting that one impact of the “cost-effectiveness model is sometimes referred to by local human service planners as ‘the tyranny of numbers,’” and that this “operates with a particularly strong bias against rural areas with small populations. Rural areas do not have ‘the economies of scale,’ and in the economic model, economies of scale become directives for funding”); *id.* at 157–58:

The “cost-effectiveness” model and “efficiency” emphasis in human service delivery has had an increasingly negative impact on distribution of services for low-income residents in rural areas. It is simply more costly to serve small, dispersed populations of poor people than large, concentrated ones, not only in terms of the obvious higher cost of transportation but also in that when the service is actually taken out to the more remote areas of the county, there are fewer people there to be served. Because of the higher per-person cost and the smaller number of persons to be served, decisions are made at federal, state, and local levels that “we simply cannot afford to serve those rural areas.”

Within any rural area, poor people residing in the most remote areas are likely to be the least-served population, a situation that results from the interaction of two trends: the peripheralization of poverty, in which people forced out of the county’s larger population centers by higher housing costs move to the further reaches of the county, and the centralization of services, in which most services are available only in the county seat or some other central place. The effect of these interacting trends is recognized by many local human service practitioners: Caseworkers, schoolteachers, visiting public health workers, and probation workers express real concern about the underserved peripheries, but they work for agencies and programs that are so strapped for operating funds and so dominated by the cost-effectiveness model that they have withdrawn funding and programming from these rural areas. Following the federal and state model, service to remote sections is withdrawn or reduced or never extended in the first place and is concentrated in regions where the greatest number of people can benefit from the least amount of expenditure.

These problems also exist with respect to police and emergency services. See WEISHEIT ET AL., *supra* note 5, at 8–9 (explaining that the geographical isolation of rural areas slows the response time of rural police officers and the speed with which support services can be provided); *id.* at 8 (noting that geographical isolation may increase “the lethality of both accidents and violence by slowing the response of emergency medical services”) (emphasis omitted); Fluharty, *supra* note 17, at 64 (“Rural residents tend to have poorer health care access, lower health insurance coverage, and little or no managed care availability.”).

The burdens imposed by ruralism carry the same devastating consequences as other, more widely-recognized, forms of discrimination. Victims of sex and race discrimination, for example, encounter discrimination in college admissions, in employment opportunities, and in a lack of mentoring.²⁷ These same consequences attach to ruralism. Indeed, ruralism serves to exacerbate the impact of other forms of discrimination.²⁸

This Article takes an interdisciplinary approach to illustrate the discrimination against those with rural backgrounds.²⁹ Most important, the Article examines the exceptional difficulties in overcoming ruralism, due to the numerous and pervasive life components affected by such discrimination. Part I provides the necessary background orientation and terminology.³⁰ Part II examines the messages about rural dwellers reflected

27. See, e.g., LANI GUINIER ET AL., BECOMING GENTLEMEN: WOMEN, LAW SCHOOL, AND INSTITUTIONAL CHANGE 29, 62–66, 74–75, 85–97 (1997) (noting the lack of mentoring for female faculty and encouraging faculty mentoring as a way to end the alienation of women in legal academia); William C. Kidder, *Does the LSAT Mirror or Magnify Racial and Ethnic Differences in Educational Attainment?: A Study of Equally Achieving “Elite” College Students*, 89 CAL. L. REV. 1055 (2001) (concluding that the LSAT systematically disadvantages minority law school applicants); Patricia Werner Lamar, *The Expansion of Constitutional and Statutory Regimes for Sex Segregation in Education: The Fourteenth Amendment and Title IX of the Education Amendments of 1972*, 32 EMORY L.J. 1111, 1146 (1983) (noting the existence of “uncontroverted data reflecting pervasive discrimination against women in college admissions [and] hiring,” among other areas); Roger Pilon, *Discrimination, Affirmative Action, and Freedom: Sorting Out the Issues*, 45 AM. U. L. REV. 775, 788 (1996) (noting that “[s]tandardized college admissions tests are well-known for discriminating against members of protected classes”).

28. See *infra* notes 240–42 and accompanying text (discussing ruralism’s exacerbating effect upon other forms of discrimination). As is true of other forms of discrimination, most individuals do not overtly express discriminatory animus toward rural dwellers. Rather, discrimination results from the difference in resources and opportunities available to rural dwellers, as contrasted with the resources and opportunities available to urban dwellers, which in turn results in a difference in the “qualifications” of rural versus urban dwellers. See *infra* notes 251–52 and accompanying text (discussing difficulties in recognizing discrimination against rural dwellers).

29. As is true of all forms of discrimination against particular identified groups, some individuals within the group will experience discrimination more directly, more frequently, or more egregiously than others. For example, the impact of ruralism, like sexism and racism, often is lessened for those fortunate enough to possess generous financial resources, which enables them to buy access to services, education, and amenities unavailable to those without such financial resources. The power of money, however, does not eliminate the existence of ruralism, just as money does not eliminate the existence of sexism or racism. See Derrick A. Bell, Jr., *Racial Realism*, in CRITICAL RACE THEORY 302, 306 (Kimberlé Crenshaw et al. eds., 1995) (noting that no African-American, “no matter our prestige or position—is more than a few steps away from a racially motivated exclusion, restriction, or affront”). Similarly, particular regions of the country may experience ruralism to a greater degree than other regions, but this does not transmute ruralism into regionalism—ruralism exists across America in all rural areas. See *infra* notes 54, 59 (describing the heterogeneity of rural America).

30. See *infra* Part I (discussing considerations in defining “rural” and our country’s shift from rural to urban).

in our culture's media—television, literature, and film.³¹ Part III analyzes the presence of ruralism in social spheres through the use of statistics and other government data.³² Part IV examines the presence of ruralism in the legal sphere.³³ Finally, Part V explains the impacts of, and proposes remedies for, ruralism.³⁴

I. DEFINITIONAL AND HISTORICAL GROUNDING

This Part discusses the variety of ways in which “rural” has been defined, the difficulties in defining “rural” due to the heterogeneity of the rural population, and the historical background regarding our country's shift from a largely rural nation to an urban/suburban one.

A. DEFINING “RURAL”

Our preference for the urban, and disdain for the rural, is evident from a linguistic standpoint:

[W]hile cities may include . . . “city slickers” *among* their inhabitants, it is linguistically difficult to denigrate urbanites *as a group*, whereas the opportunities for criticizing the rustic are vast: crackers, rubes, hayseeds, hicks, hillbillies, bumpkins, peasants, rednecks, yokels and white trash. If we turn to the cultural adjectives derived from the two places the difference is even more obvious: “rustic” is predominantly pejorative, while “urbane” is decidedly positive.³⁵

The twentieth century saw a burgeoning growth of urban areas in this country³⁶—and a corresponding discrimination against rural dwellers. This discrimination is notable from the very manner in which our government defines “urban” and “rural.”

Our government defines “rural” by exclusion—that which is not “urban” is remaindered as “rural.” The United States Census Bureau necessarily provides definitions of “urban” and “rural” in connection with its decennial censuses. The Census Bureau employs a dichotomous urban-rural distinction, in which the defining factor is population. Moreover, the Census Bureau's definitions focus primarily on “urban,” with the result that

31. See *infra* Part II (discussing themes in portrayals of rural dwellers in television, literature, and film).

32. See *infra* Part III (discussing rural poverty, education, and difficulties in the access and availability of basic needs, goods, and services).

33. See *infra* Part IV (discussing ruralism in the law).

34. See *infra* Part V (discussing ruralism's impact and proposing potential remedies).

35. KNOWING YOUR PLACE, *supra* note 5, at 17 (emphasis in original) (citation omitted).

36. See *infra* notes 60–63 and accompanying text (describing industrialization of the United States).

anything not urban is “rural.”³⁷ For the 1990 census, the Census Bureau defined “urban” as

territory, persons, and housing units in: (1) Places of 2,500 or more persons³⁸ incorporated as cities, villages, boroughs (except in Alaska and New York), and towns (except in the six New England states, New York, and Wisconsin), but excluding the rural portions of “extended cities” (2) Census designated places of 2,500 or more persons (3) Other territory, incorporated or unincorporated, included in urbanized areas.³⁹

The definition of “rural” was “[t]erritory, population, and housing units not classified as urban.”⁴⁰

For the 2000 census, the Census Bureau employed revised criteria in defining “urban” and “rural,” with little, if any, improvement. For the 2000 census, “urban” included all territory, population, and housing units located within an “urbanized area” or an “urban cluster.” This definition delineated the boundaries of “urbanized areas” and “urban clusters” to encompass densely settled territory, which consists of: (1) “core census block groups or blocks that have a population density of at least 1,000 people per square mile, and (2) surrounding census blocks that have an overall density of at least 500 people per square mile.”⁴¹ “Rural,” on the other hand, consisted of all territory, population, and housing units located outside of urbanized areas and urban clusters with a population of 2,500 or less.⁴² The Census Bureau anticipated the revised criteria might “classify as much as three percent (five million) more people as urban than the previous criteria did.”⁴³

37. See FITCHEN, *supra* note 8, at 246 (“The official definition assigned to rural America is a definition by exclusion: Essentially, that which is not metropolitan America is rural America.”); see also WEISHEIT ET AL., *supra* note 5, at 183–84 (“A negative definition of rural defines it implicitly by the absence of certain conditions or community attributes that are viewed as distinctively urban. In these terms, rural is defined by default as not-urban—i.e., whatever remains after urban areas have been designated.”) (emphasis omitted).

38. Interestingly, no one knows why the threshold population of 2,500 was selected. Even more interestingly, the 2,500 figure was first used in a supplementary census report in 1906 with no explanation, and the Census Bureau has used it ever since. See Leon E. Truesdell, *The Development of the Urban-Rural Classification in the United States: 1874 to 1949*, Current Population Reports, Population Characteristics, Series P-23, no.1 (U.S. Bureau of the Census, 1949).

39. U.S. Census Bureau, *Urban and Rural Definitions*, at <http://www.census.gov/population/censusdata/urdef.txt> (last visited Oct. 29, 2002) (on file with the Iowa Law Review).

40. *Id.*; see also 23 U.S.C. § 101(a)(29) (2000) (defining “rural areas,” for purposes of federal aid to highways, as “all areas of a State not included in urban areas”).

41. U.S. Census Bureau, *Census 2000 Urban and Rural Classification*, at http://www.census.gov/geo/www/ua/ua_2k.html (last visited Oct. 29, 2002) (on file with the Iowa Law Review).

42. *Id.*

43. Urban Area Criteria for Census 2000—Proposed Criteria, 66 Fed. Reg. 17,021 (Mar. 28, 2001).

Although some government programs and agencies use the Census Bureau's definition of "rural,"⁴⁴ others use widely different population thresholds to define "rural" communities.⁴⁵ For example, community development block grant programs define "rural" (or nonurban) as 50,000 or fewer people;⁴⁶ the Farmers Home Administration uses a standard of 10,000 or fewer people;⁴⁷ and the Rural Electrification Act considers communities of 1,500 or fewer people to be rural.⁴⁸

The terms "urban" and "rural" have imprecise and potentially overlapping definitions depending upon one's perspective and orientation.⁴⁹ Some may view a population of 25,000 as rural, whereas others may view the same population as urban.⁵⁰ In addition to population,

44. See, e.g., 7 U.S.C. § 913 (2000) (rural electricity and telephone service); 23 U.S.C. § 101(a)(29) (2000) (federal aid to highways); 42 U.S.C. § 1395ww (2000) (payments to hospitals for inpatient hospital services under the Social Security Act).

45. See FITCHEN, *supra* note 8, at 247:

The lack of clarity in the official definition of rural is further compounded by the currency of still other, slightly differing official definitions, such as those used by the Office of Management and Budget, the Farmers' Home Administration, and the Department of Housing and Urban Development, several of which define rural somewhat differently from the U.S. Department of Agriculture. Then, too, states delineate their own rural areas and count their rural populations according to their own definitions.

46. See 42 U.S.C. § 11501(a)(2)(B)(i) (2000) (defining the minimum designation in rural areas as requiring a population of less than 50,000); see also 7 U.S.C. § 2009 (2000) (using population of less than 50,000 to define rural in connection with the Rural Business-Cooperative Service and community facilities programs administered by the Rural Housing Service).

47. See 7 U.S.C. § 1926(a)(7) (2000) ("[T]he terms 'rural' and 'rural area' mean a city, town, or unincorporated area that has a population of no more than 10,000 inhabitants."); see also 7 U.S.C. § 1926a(e)(1)(A) (2000) (using the same definition for emergency community water assistance grant programs); 7 U.S.C. § 6612(3)(A) (2000) (defining a rural community as a "population of not more than 10,000 individuals for rural revitalization through forestry program").

48. See Rural Electrification Act of 1936, Pub. L. No. 74-605, 49 Stat. 1363 (1936); WEISHEIT ET AL., *supra* note 5, at 189 (noting that "the Rural Electrification Act excludes places with more than 1,500 population from its rural category, while the community development block grants program counts cities as rural (nonurban) with populations up to 50,000").

49. See Willits et al., *supra* note 13, at 70 ("[R]ural and urban do not form entirely distinct or separate subpopulations. There are many overlapping characteristics."); see also FITCHEN, *supra* note 8, at 247 ("Rural America . . . is officially just a residual from urban or metropolitan, leaving it less than clear what rural really is."); WEISHEIT ET AL., *supra* note 5, at 4 ("One of the most difficult challenges in undertaking this study was defining the concept rural. While the term is very familiar, there are no definitions which are simultaneously precise, measurable, and widely agreed upon."); KENNETH P. WILKINSON, *THE COMMUNITY IN RURAL AMERICA* 55-58 (1991) (discussing difficulties in defining "rural").

50. John Fraser Hart, "Rural" and "Farm" No Longer Mean the Same, in *THE CHANGING AMERICAN COUNTRYSIDE* 71 (Emery N. Castle ed., 1995) ("[O]ne's inherent sense of what is 'rural' varies from region to region. In North Dakota, for instance, a place of 1,500 can seem

proximity to a more populous area impacts upon the urban-rural distinction. A community of 25,000 may seem “rural” if in a geographically isolated location, but may seem “urban” (or at least “suburban”) if located in close proximity to a city with a population of a half-million or more. Accordingly, a community’s population, standing alone, will not sufficiently differentiate a “rural” area from an “urban” or “suburban” one.⁵¹

Other commentators have noted the difficulties in defining “rural”:⁵²

The most obvious sense of what rural means is the demographic dimension, referring simply to how many people are concentrated in an area . . . Rural means areas of sparse populations . . . [R]ural places are also geographically isolated, physically removed from other population areas and from major urban centers. . . .

. . . Defining rural in demographic terms depicts it as a numerical, physical attribute of a place or a population, referring only to where people live and how many of them live there—not to who they are or what they do. While this has the virtue of being objective, concrete, and quantitative, strictly demographic definitions are often criticized for missing the true meanings of rural and urban.⁵³

Indeed, virtually all attempts to address rural concerns have observed, correctly, the tremendous variety encompassed within that which is called

like a veritable metropolis, whereas a place of the same size in New Jersey may seem little more than a crossroads hamlet.”).

51. See FITCHEN, *supra* note 8, at 247:

Defining rural only in demographic terms and only as a residual category has real drawbacks for knowing what rural really is and has real consequences for rural people. The population designed as rural can be made to shrink just by choosing or inventing a different definition, or just by allowing more smaller urbanized areas to join the expanded definition of metropolitan statistical areas.

52. See WEISHEIT ET AL., *supra* note 5, at 4 (noting that while the term “rural” is “very familiar, there are no definitions which are simultaneously precise, measurable, and widely agreed upon”); *id.* at 179–80 (“Despite its apparent simplicity in commonsense terms, there is nothing mechanical or straightforward about developing a systematic working definition of rural. Indeed, rural sociologists have struggled for decades (without much resolution) with how to define rural adequately in social scientific terms.”); see also FLORA ET AL., *supra* note 7, at 7 (“There simply is no single definition of what makes a community rural.”); Robert C. Bealer et al., *The Meaning of “Rurality” in American Society: Some Implications of Alternative Definitions*, 30 RURAL SOC. 255–66 (1965) (noting the multidimensional nature of “rural,” including demographic, economic, social, and cultural meanings); Elizabeth Beeson & Marty Strange, *Why Rural Matters: The Need for Every State to Take Action on Rural Education* (Aug. 2000), at <http://www.ruraledu.org/streport/summary.html> (last visited Oct. 29, 2002) (on file with the Iowa Law Review) (“[The] frustration over the lack of a precise demographic definition of ‘rural’ . . . obscures a more fundamental cultural dilemma. We are an urban society now, one that is pretty sure we know what ‘urban’ is, but not at all sure we know what ‘rural’ is.”).

53. WEISHEIT ET AL., *supra* note 5, at 180–81.

“rural.”⁵⁴ Despite this variety, however, rural dwellers are tied together by virtue of the common factor of their rural living, just as women, despite their vast individual physical, racial, political, religious, intellectual, income, and other differences, are tied together by virtue of their gender.

Given the focus of this Article, “rural” needs its own independent definition.⁵⁵ “Rural” also deserves a positive definition, rather than a negative one focusing on the absence of urban attributes.⁵⁶ Accordingly, this

54. Social science research has noted the diversity of rural America:

The people of rural America are a heterogeneous group with great diversity in cultures, occupations, wealth, lifestyles, and physical geography. For example, rural New England is quite different from the more sparsely populated rural areas of the Southwest, where large open areas further separate people. Rural areas also contain significant numbers of minority populations that are often physically isolated and have unique social service needs. Such groups range from predominantly poor Appalachian Whites, isolated Native Americans, poor southern Blacks, and linguistically isolated Hispanics in the Southwest. Many rural areas of North America also contain culturally isolated communities settled by a single immigrant group.

Murray & Keller, *supra* note 3, at 222; see also Rhodes Cook, *America's Heartland: Neither One Mind Nor One Heart*, 55 CONG. Q. WKLY. REP. 2243, 2243 (1997) (observing that rural America “is hardly monolithic.”); Fluharty, *supra* note 17, at 58 (“One of the greatest challenges that rural America faces in the public policy arena is its tremendous diversity—across space, circumstance, culture, and demography.”).

55. Difficulties in definition also exist with respect to other protected categories. “Race” is one example. See, e.g., Taunya Lovell Banks, *Colorism: A Darker Shade of Pale*, 47 UCLA L. REV. 1705, 1707 n.9 (2000) (“[R]ace has no meaning except that ascribed to it.”); Leslie Espinoza & Angela P. Harris, *Afterword: Embracing the Tar-Baby—LatCrit Theory and the Sticky Mess of Race*, 85 CAL. L. REV. 1585, 1609–10 (1997):

This is the problem of race. It is both easily knowable and an illusion. It is obviously about color and yet not about color. It is about ancestry and bloodlines and not about ancestry and bloodlines. It is about cultural histories and not about cultural histories. . . . We strive to have a knowable, systematic explanation for race. We struggle with its elusivity. We name our categories, we refine our categories, and then inevitably we find too many exceptions to the categories, too many people who just do not fit.

Race has even been described as simply a “social construct.” See Tom Morganthau, *What Color Is Black?*, NEWSWEEK, Feb. 13, 1995, at 64 (“[R]ace is a mere ‘social construct’—a gamey mixture of prejudice, superstition and myth.”). National origin is another example. Banks, *supra*, at 1726 n.93 (noting that ethnicity is often confused with national origin, and explaining that “[n]ational origin usually refers to the country of recent origin, whereas ethnicity is often used to denote ancestry, the cultural identity or origin of one’s ancestors.”); *id.* at 1725 (noting that some courts have “used ethnicity as a synonym for race if the plaintiff’s racial identity was unclear. These courts linked skin tone with ethnicity in recognizing a race claim.”).

56. See WEISHEIT ET AL., *supra* note 5, at 183–84:

A positive definition of rural defines it by the *presence* of certain characteristics or conditions that are viewed as distinctively rural, such as farming as a major economic activity or low population density. Positive definitions require that we specify the essential features of what counts as rural, providing for some specific variations within the category. A negative definition of rural defines it implicitly by

Article uses “rural” to refer to communities of 2,500 or fewer people, which are located at least fifty miles from a community of 20,000 or more people.⁵⁷ This definition, while imperfect,⁵⁸ avoids the inclusion of “suburban” communities and highlights the peculiar difficulties encountered by those who reside in especially small, isolated, rural communities.⁵⁹

B. THE HISTORICAL SHIFT TO AN URBAN FOCUS

Our nation has rural-agrarian roots, but the industrialization of our country began with the Civil War.⁶⁰ Although industrialization proceeded slowly, our population began shifting toward urban living early in the 1900s, followed, after World War II, by an increase in suburban living.⁶¹

Since the nation had not completely opened the western frontier until well into the twentieth century, the United States’ transition to an entirely industrialized nation proceeded slowly. Moreover, ideologies and philosophical traditions invariably cause changes in producing and living to lag behind financial and technological

the *absence* of certain conditions or community attributes that are viewed as distinctively urban. In these terms, rural is defined by default as not-urban—i.e., whatever remains after urban areas have been designated. Negative definitions, because they define rural implicitly and diffusely (as merely the miscellaneous remainder of urban classification), inherently provide for little differentiation among the diversity of rural places.

(emphasis in original).

57. See WILKINSON, *supra* note 49, at 85 (“As ruralness increases, average distance between population units also tends to increase.”); see also Willits et al., *supra* note 13, at 70 (“[R]ural areas have low population density, settlements of small absolute size, and communities that are relatively isolated from other segments of society.”).

58. This definition focuses on demographics and does not include references to the economic, social, and cultural dimensions of ruralness. See WEISHEIT ET AL., *supra* note 5, at 180 (noting that there are “at least four basic dimensions of meaning [to the word ‘rural’]: (1) demographic, (2) economic (or occupational), (3) social structural, and (4) cultural”). Commentators and researchers have struggled, without success, to integrate all of these dimensions into a single workable definition of “rural.” *Id.* at 179–80; see also *id.* at 183 (noting that “there is no one correct definition of rural”).

59. The issues examined in this Article are necessarily generalized; the difficulties, disadvantages, and discrimination affecting rural dwellers will not be experienced uniformly. In addition, individual perceptions will vary. Rural dwellers—like any other minority group—do not possess one single mindset. See generally Madhavi Sunder, *Cultural Dissent*, 54 STAN. L. REV. 495, 496 (2001) (noting that internal diversity exists within cultures and urging the recognition of “dissent within culture”).

60. See, e.g., W. MILLER, A NEW HISTORY OF THE UNITED STATES 269 (1958) (“[L]eading entrepreneurs and speculators promoted the huge expansion of American industry after the Civil War”); 1 R. MORRIS & W. GREENLEAF, U.S.A.—THE HISTORY OF A NATION 654 (1969) (“[T]he Civil War represented a triumph of the industrial North over the agricultural South and forecast, if it did not promote, the enormously rapid industrialization of the nation which followed in its wake.”).

61. See Cook, *supra* note 54, at 2244 (noting the “two transformations” that changed our country from an agrarian one to an urban and suburban one).

modifications. Thus, traditional rural-agrarian thought patterns persisted through not only the early years of the 1900s, but into the years following World War I as well.⁶²

These trends continued until, in 1990, more than half of the nation's population resided in cities with a population of more than one million.⁶³

The political power of rural Americans declined correspondingly.⁶⁴ Because congressional and state legislatures drew districts according to population, "rural areas subsequently lost electoral (voting) power to urban and, later, to suburban areas."⁶⁵ Major elections thus attached primary importance to larger urban states:

While the [Electoral College's] allocation formula favors small states, the winner-take-all feature . . . gives the large urban states the most influence.

. . .

. . . Presidential aspirants focus their campaigns on the larger urban states where they can bag large blocks of electoral votes.

. . . The real constituency of the Electoral College—and the presidents it elects—consists of 12 or 15 of the larger urban states.⁶⁶

As recently as 1966, forty-two percent of the congressional districts had a rural majority population.⁶⁷ Following the United States Supreme Court's "one-person, one vote" decisions in the 1960s, however, the political power of rural dwellers declined below their actual percentage of the population. Today, only thirteen percent of the congressional districts qualify as rural.⁶⁸ Moreover, no rural congressional district ranks in the top 100 in terms of median family income; most rural districts rank among the bottom 100 in median family income.⁶⁹

Rural people are so widely dispersed that they are politically invisible. They are a demographic and political majority in only five states (Maine, Mississippi, South Dakota, Vermont, and West Virginia) and a handful of congressional districts. Even in states

62. Harold F. Breimyer, *The New Deal and Its Legacy: Agricultural Philosophies and Policies in the New Deal*, 68 MINN. L. REV. 333, 334 (1983).

63. See Fluharty, *supra* note 17, at 65.

64. See generally Bassett, *Rural Vote*, *supra* note 18.

65. FLORA ET AL., *supra* note 7, at 199.

66. Lloyd Omdahl, *Many Facets Involved in Electoral College Debate*, BISMARCK TRIB., Nov. 26, 2000, at 5C. See generally Bassett, *Rural Vote*, *supra* note 18.

67. See Cook, *supra* note 54, at 2244.

68. *Id.* at 2245 (using "Congressional Quarterly's traditional definition, which classifies a district as rural only when its non-metro population reaches 60 percent").

69. *Id.* at 2254 ("Economically, rural America is comparatively poor.").

with a numerically large rural population, rural people are often a particularly small demographic minority. California has 2.2 million rural people—more than all but seven states—but they constitute less than eight percent of California's population.⁷⁰

Consequently, rural dwellers both occupy a minority position in our society and have less political power.

It's difficult to influence the political system when you are a member of a minority—in this case, the rural minority. As we have democratized the country, we have taken this lack of political clout into consideration for the protection of minorities made up of various ethnic groups and even for women. But no such protection has been contemplated for the rural minority, whose values and traditions are now being voted into oblivion by the larger, urban population.

Laws that now govern the rural culture—which covers 90 percent of the nation's landmass—are, in effect, being dictated by an urban majority that lives in the other 10 percent of the United States, a majority that is often ignorant of the ways of the people whose lives they are controlling. Rural people feel powerless and disenfranchised because they *are* powerless and disenfranchised.⁷¹

In short, because rural dwellers are fewer in number, they wield less political power. Rural dwellers' minority status has also helped perpetuate the popular stereotypes of rural dwellers, which ascribe a lack of intelligence and lack of sophistication to people living in rural areas. As Part II demonstrates, these stereotypes are inaccurate, disrespectful, and discriminatory—yet these stereotypes not only persist, but are pervasive.

II. POPULAR PERCEPTIONS OF RURAL DWELLERS

As suggested at the outset of this Article, most people regard rural *areas* with a mixture of awe and disdain.⁷² With respect to rural *dwellers*, however,

70. Fluharty, *supra* note 17, at 65.

71. DYER, *supra* note 6, at 165–66.

72. Sometimes the initial awe is replaced by disdain when newly-relocated urban dwellers, seeking the romanticism of rural living, discover the lack of amenities in rural areas as compared to urban areas in the U.S.:

[One realtor in a rural area] advises prospective buyers to talk to all the . . . neighbors to find out about the water situation. In some areas, in times of a drought, much to the horror of city-slickers who believe water to be an unlimited resource, you can't flush the toilet never mind use the jacuzzi. Also, in some areas water has a strange taste or bad smell People should also seriously consider the distance from shops, services and entertainment. Other adjustments may be the school bus, rural mail delivery and lack of garbage collection.

there is no such dichotomy:⁷³

The ideal country is the place urbanites visit, not the place where poor people eke out a living. Urban dwellers who are free from the stigma of rusticity can wax eloquently about the countryside or embrace it as a retreat without undermining their own cultural superiority—*going to* the country with a fully formed urban identity is not the same as *being from* the country. The very concept of a “country” home, for example, reinforces the fact that its owner is urban(e) and has an unqualified/unmarked home in the city.⁷⁴

These perceptions are illustrated in the rural stereotypes found in popular culture, particularly in television, literature, and film.

A. RURAL STEREOTYPING IN TELEVISION

Popular television series, such as *Green Acres* and *The Beverly Hillbillies*, while admittedly intended as comedic caricatures, nevertheless have reflected societal stereotypes of rural dwellers.⁷⁵

Donna Jean MacKinnon, *Country Properties a Challenge, Realtors Advise*, TORONTO STAR, July 3, 1988, at E1.

73. See WEISHEIT ET AL., *supra* note 5, at 25 (“[S]tereotypes about [poor rural whites] abound in popular culture. Terms such as white trash, rednecks, hillbillies, and trailer trash are much used in everyday language.”); see also Joshua Mooney, *Tuning Into Rural Roots*, SACRAMENTO BEE, July 8, 2001, at Encore 9 (“[T]he urban world . . . has trivialized and belittled [rural dwellers] with such stereotypical portraits as ‘The Beverly Hillbillies.’”).

74. KNOWING YOUR PLACE, *supra* note 5, at 20 (italics in original); see also Dan Miller, *Profile: Roger Welsch—A Story Teller Gives Rural Folks a Place to Live*, PROGRESSIVE FARMER, Nov. 1992, at 16 (“America has a great secret. It’s called rural America. In popular American culture, this vast, forgotten expanse is the home of hayseeds, hicks, and rednecks—a place to be from, not a place to live.”).

75. See, e.g., James Branscome, *Annihilating the Hillbilly: The Appalachians’ Struggle with America’s Institutions*, KATALLAGETE, Winter 1971, at 3, 25 (noting that CBS’s early 1970s programming of *The Beverly Hillbillies*, *Green Acres*, and *Hee-Haw*—all shown on the same evening—was “the most intensive effort ever exerted by a nation to belittle, demean, and otherwise destroy a minority people within its boundaries”). The same article also compared the derision of rural dwellers to that of other minorities:

If similar programs even approaching the maliciousness of these were broadcast today on Blacks, Indians or Chicanos, there would be an immediate public outcry from every liberal organization and politician in the country. . . . But . . . America is allowed to continue laughing at this minority group because on this, America agrees: hillbilly ain’t beautiful.

Id.; see also Horace Newcomb, *Appalachia on Television: Region as Symbol in American Popular Culture*, 7 APPALACHIAN J. 155, 160 (1979–80) (“The real viciousness of [television shows such as *The Andy Griffith Show*, *The Beverly Hillbillies*, and *Hee-Haw*] is not that hillbillies and Southerners are made fun of. It is that mountain people and Southerners are not considered part of the adult population of the country or of the culture.”). Similar television series during the 1970s included *Petticoat Junction* (CBS television broadcast, 1963–70) and *Mayberry R.F.D.* (CBS television broadcast, 1968–71).

In *Green Acres*,⁷⁶ Oliver Douglas, a New York City lawyer, and his wife Lisa relocated to the country and bought a farm outside Hooterville. The couple's interactions with the other residents of their new community consistently portrayed these other rural residents as dimwitted and stupid.⁷⁷

Going back to the land was anything but bland when Oliver (Eddie Albert) and Lisa (Eva Gabor) moved from a Manhattan penthouse to a Hooterville hen house. . . . Oliver had his own spin on being one with the earth. . . . [C]ity slicker Oliver was given to spontaneous romanticized orations about Yankee farmer self-reliance . . . and found himself surrounded by comic manifestations of what Marx termed rural idiocy.⁷⁸

The Beverly Hillbillies portrayed the reverse situation: the Clampett family, newly-made millionaires due to oil found on their property, relocated from their rural home in Arkansas to a mansion in Beverly Hills, California.⁷⁹ Despite their relocation to urban Southern California and newfound wealth, the Clampetts remained stereotypical country bumpkins, referring to the swimming pool as the "cement pond" and treating the billiard table as a dining room table and the billiard cues as "pot passers." In case any viewer missed the point, the family repeatedly bragged about the intelligence of adult nephew Jethro Bodine, who "done graduated" the eighth grade—and who was portrayed as the most stupid member of the entire family.⁸⁰

Although rural areas in the South have borne a disproportionate share of the impact of ruralism and rural stereotyping, ruralism is not confined to that region. *Newhart*, for example, employed a similar theme.⁸¹ Dick and Joanna Loudon left their life in New York City to operate an inn in rural Vermont. Among the regular rural characters were three brothers, one of whom re-introduced the group with each weekly appearance as follows: "I'm

76. *Green Acres* (CBS television broadcast, 1965–71) (starring Eddie Albert and Eva Gabor).

77. The plot of this series has been summarized as follows: "Manhattan lawyer [Oliver] Douglas drags his protesting socialite wife and her finery to the rural backwash of a rundown farm outside Hooterville. They attempt to get the farm fixed up. Farmer Fred Ziffel's pig Arnold watches TV and is in many ways smarter than the Hootervillians." *Plot Summary for Green Acres (1965)*, The Internet Movie Database, at <http://www.us.imdb.com/Plot?0058808> (last visited Oct. 29, 2002) (on file with the Iowa Law Review).

78. Jefferson Reid, *The Revolution Will Be Televised*, UTNE READER, Sept.–Oct. 2002, at 84.

79. *The Beverly Hillbillies* (CBS television broadcast, 1962–71) (starring Buddy Ebsen, Irene Ryan, Donna Douglas, and Max Baer, Jr.).

80. See Horace Newcomb, *Appalachia on Television: Region as Symbol in American Popular Culture*, in *APPALACHIAN IMAGES IN FOLK AND POPULAR CULTURE* 315, 322–23 (2d ed. 1995) ("[Although] the simpler values of the Clampetts win out over the morally deficient swindlers [, *The Beverly Hillbillies* offered] no fully developed adult characters who can be associated with the positive values. . . . [T]heir goodness is the simple goodness of children.").

81. *Newhart* (CBS television broadcast, 1982–90) (starring Bob Newhart and Mary Frann).

Larry. This is my brother Darryl and this is my other brother Darryl."⁸² The message was clear: the former city dwellers (the Loudons) were well-spoken, intelligent, well-dressed, and sophisticated; the rural dwellers (Larry and his brothers) were dimwitted, dirty, unkempt, and socially inept.⁸³

The rural stereotyping found in television exists in other areas as well. Literature, for example, is similarly guilty of rural stereotyping.

B. RURAL STEREOTYPING IN LITERATURE

As one commentator has observed, in literature, the urban again provides the perspective:

[W]e are dependent on city writers to tell us about rural places . . . because the rural cannot be understood independent of the urban. The city provides the perspective from which the rural is viewed and interpreted—and therein lies the danger. Unless one understands the perspective, one may not be able to evaluate the claims of the literature.⁸⁴

American literature abounds with rural stereotypes. The classic *Tobacco Road*,⁸⁵ for example, "leaves no [rural] stereotype unturned in [its] tale of shiftless Jeeter Lester and his hillbilly family eking out a living in a rural backwater."⁸⁶ Although the Lester family is impoverished to the point of near starvation, it is hard to feel sympathy. The Lesters have lost their land and their ability to farm due to their ignorance of business practices and

82. Although Larry, Darryl, and Darryl made regular appearances on *Newhart*, they introduced themselves to the Loudons in this fashion in every episode in which they appeared. In addition to being poorly dressed and dimwitted, only Larry spoke. Neither Darryl spoke until the final episode. See *Plot Summary for Newhart (1982)*, The Internet Movie Data Base, at <http://www.imdb.com/Plot?0083455> (last visited Oct. 29, 2002) (on file with the Iowa Law Review).

83. Other television series also have promoted stereotypes of rural dwellers. See *CONFRONTING STEREOTYPES*, *supra* note 5, at 5 ("Television networks recycle endless repeats of *The Beverly Hillbillies* and *Dukes of Hazzard* on cable, and not long ago one added a new and especially offensive series to prime time, *Christy*, the story of a famous missionary's efforts on behalf of the benighted people of Appalachian Tennessee."); see also Shelby, *supra* note 5, at 153 ("The down-and-out neighbors on *The Drew Carey Show* ask him to give them a fake job reference by saying they were his interior decorators. 'Right,' he says. 'And I'll hire an Appalachian family to do my garden.'). HBO's original series *Sex and the City* provides another example of urban bias. See <http://carriebradshaw.freesevers.com/custom.html> (last visited May 6, 2002) (on file with the Iowa Law Review) (when Carrie's boyfriend Aidan insisted that she spend a weekend in the country, Carrie told her friends: "If by 'going,' you mean being taken against my will and kidnapped, then yes I'm going. So, enjoy me now, ladies, because this weekend I am Patty Hearst in a mud puddly. I'm a hick town hostage.").

84. THE CHANGING AMERICAN COUNTRYSIDE: RURAL PEOPLE AND PLACES 12 (Emery N. Castle ed., 1995).

85. ERSKINE CALDWELL, *TOBACCO ROAD* (1941).

86. Scott Bowles, *The South Rises, and Falls, at the Movies*, USA TODAY, Feb. 8, 2002, at 9B.

gullibility.⁸⁷ Most of Jeeter's seventeen children abandoned the family for the city and never looked back.⁸⁸ Moreover, every member of the Lester family is completely self-absorbed, concerned only about his or her hunger or wants—Jeeter willingly consents to marrying off his twelve-year-old daughter in exchange for some quilts, a gallon of cylinder oil, and seven dollars in cash;⁸⁹ each family member feeds him or herself first, sometimes to the complete exclusion of other family members;⁹⁰ and when a car backs over and kills the grandmother, no one cares because it is one less mouth to feed.⁹¹

In addition to the rural stereotypes of abject poverty and stupidity, *Tobacco Road* indulges in physical and sexual stereotypes of rural dwellers. Deformities abound: daughter Ellie May has a harelip,⁹² Preacher Bessie has no bone in her nose,⁹³ wife Ada has no teeth⁹⁴ and suffers from pellagra.⁹⁵ Sexual stereotypes are also prevalent: in addition to the marriage of twelve-year-old daughter Pearl to the much-older Lov,⁹⁶ there is the marriage of Preacher Bessie to the sixteen-year-old son Dude,⁹⁷ who has no clue about, nor any interest in having, a sexual relationship with his new wife,⁹⁸ but instead is content to sit in his new wife's car and blow the horn.⁹⁹ This is consistent with the typical unflattering sexual stereotypes associated with rural men: "The rustic male in American culture . . . works heroically on his farm or in his logging camp, but he is no Lady Chatterley's lover; instead he is often depicted as an almost asexual child more interested in hunting and drinking than women."¹⁰⁰

It is hard to imagine a family with any worse luck than the Lester family. A bag of turnips is a godsend to the starving family.¹⁰¹ Bessie and Dude foolishly spend Bessie's entire savings on a new car and then proceed to crumple a fender beyond repair, crack the windshield, spring the front axle, run out of oil, and run over a black man alongside the road within the first

87. CALDWELL, *supra* note 85, at 64–65.

88. *Id.* at 6, 66–67, 74–77, 156–57.

89. *Id.* at 24–25.

90. *Id.* at 36–37, 41–43, 71.

91. *Id.* at 164–66, 172.

92. CALDWELL, *supra* note 85, at 21.

93. *Id.* at 45.

94. *Id.* at 74.

95. *Id.* at 71.

96. *Id.* at 2.

97. CALDWELL, *supra* note 85, at 94–96.

98. *Id.* at 103–05, 129.

99. *Id.* at 109.

100. KNOWING YOUR PLACE, *supra* note 5, at 22–23 ("Jed and Jethro Clampett in *The Beverly Hillbillies* were comically oblivious to the glamorous gold-digging females who pursued them . . .").

101. CALDWELL, *supra* note 85, at 32.

week.¹⁰² At the end, Jeeter and his wife Ada are killed in a house fire,¹⁰³ and we are reminded that Ada's only wish was to be buried in a stylish dress¹⁰⁴—a wish that will not be realized.

Rural stereotypes persevere in modern writing as well. For example, John Grisham's recent bestseller, *A Painted House*,¹⁰⁵ was described by one reviewer as a "sleepy, meandering collection of rural stereotypes."¹⁰⁶ The story of the Chandlers, a farm family in rural Arkansas, *A Painted House* contains many rural typecasting staples: outhouses,¹⁰⁷ poverty, a pregnant fifteen-year-old, "hill people," and rural sharecroppers who are dirty, perpetually barefoot, and wear raggedy clothes.¹⁰⁸ The story line includes a violent fight between a hillbilly and some sharecroppers—all of whom are portrayed as poor, physically unclean, and dirty fighters to boot.¹⁰⁹ The ultimate goal of the Chandler family is to escape the wretchedness of rural life for urban living.¹¹⁰

The message is clear: rural dwellers are backward, dirty, poor, uncivilized beings, whose goal in life should be to relocate to the more privileged life made possible by urban living. Of course, not all literature (or television shows or films) involving rural characters is negative. Books such as *Little House on the Prairie*,¹¹¹ *At Home in Mitford*,¹¹² and *Lake Wobegon Days*¹¹³ are set in rural locations and have a decidedly positive tone. However, even when a work depicts a more charitable view of rural life, it often tends to engage in romanticism and nostalgia, which, despite a positive outlook, nevertheless undercuts the validity of rural living.¹¹⁴ Romanticism generally

102. *Id.* at 122–23, 131, 139.

103. *Id.* at 178–79.

104. *Id.* at 74, 182–83.

105. JOHN GRISHAM, *A PAINTED HOUSE* (2001).

106. Janet Maslin, *Watching Grass Grow and Men Fight*, N.Y. TIMES, Feb. 8, 2001, at E9 (book review).

107. GRISHAM, *supra* note 105, at 254–57.

108. *Id.* at 102. Grisham describes the sharecroppers' physical appearance:

[T]he Latchers were dirt-poor [sharecroppers]. They had no electricity, no car or truck . . . I had once counted seven Latcher kids, but an accurate total was impossible. It was hard to tell the boys from the girls; all had shaggy hair, narrow faces with the same pale blue eyes, and they all wore raggedy clothes.

109. *Id.* at 73–76.

110. *Id.* at 354 ("We're not gonna farm. We'll find a job in Memphis or Little Rock, and we'll buy us a house with a television and a telephone. We'll have a nice car in the driveway, and you can play baseball on a team with real uniforms.")

111. LAURA INGALLS WILDER, *LITTLE HOUSE ON THE PRAIRIE* (1935).

112. JAN KARON, *AT HOME IN MITFORD* (1994).

113. GARRISON KEILLOR, *LAKE WOBEGON DAYS* (1985).

114. Similarly, the television show *The Waltons* depicted an idyllic view of rural living. *The Waltons* (CBS television broadcast, 1972–81) (starring Richard Thomas, Michael Learned, and Ralph Waite, telling the story of the fictional Walton family and set in the Blue Ridge Mountains of Virginia during the Great Depression).

fails to acknowledge the challenges of rural living—and by not only ignoring, but actively masking and obscuring those difficulties, romanticism diminishes both rural dwellers and their problems.¹¹⁵

C. RURAL STEREOTYPING IN FILM

Film has a long history of portraying rural stereotypes¹¹⁶ which continues today.¹¹⁷ *Deliverance*¹¹⁸ is one example of a popular classic film reflecting stereotypes of poor rural whites.¹¹⁹

In *Deliverance*, four men from the city take a canoeing trip down a river in rural Georgia. Their initial encounter with the area's rural dwellers reflects squalid living conditions with beat-up clapboard housing and

115. In this respect, some of the early arguments regarding discrimination on the basis of gender present an apt analogy. In the sex discrimination context, the purported placing of women "on pedestals" served simultaneously to oppress them. See, e.g., *Frontiero v. Richardson*, 411 U.S. 677, 684 (1973) (plurality opinion) ("Traditionally . . . discrimination [on the basis of sex] was rationalized by an attitude of 'romantic paternalism' which, in practical effect, put women, not on a pedestal, but in a cage."); *Sail'er Inn, Inc. v. Kirby*, 485 P.2d 529, 541 (Cal. 1971) ("The pedestal upon which women have been placed has all too often, upon closer inspection, been revealed as a cage."); Laura Gaston Dooley, *Our Juries, Our Selves: The Power, Perception, and Politics of the Civil Jury*, 80 CORNELL L. REV. 325, 340 (1995) (noting that juries, like women, "are put on pedestals in almost the same rhetorical breath in which they are compromised").

116. See KLINE, *supra* note 9, at 131. Kline describes some early reactions to negative portrayals in film:

The increasing presence of the telephone, the automobile, and nonelectrical household appliances on American farms in the 1920s did not overturn urban opinions about the inferiority of rural life. The media presented, instead, images of antimodern farmers demanding restrictions on immigration and opposing the teaching of Darwinian evolution. The American Farm Bureau Federation was furious and resolved at its 1923 convention "to compel the motion-picture industry promoters to quit caricaturing the agriculturalist on the silver screen."

117. See, e.g., Scott Bowles, *Southern Exposure*, USA TODAY, Feb. 8, 2002, at 8B. Bowles notes the way in which Hollywood continues to portray rural dwellers:

In *Sweet Home Alabama*, due this fall, Reese Witherspoon tries to hide her small-town past to join ranks with New York's social elite. To that end, she must lose her twang, avoid her hick family and dump her redneck husband. She is, after all, from Alabama. Welcome to the Big Screen South, where Hollywood prefers its towns rural, its accents thick and its ideals wedged somewhere between the Civil War and the civil rights movement.

Id.; Chris Jones, "Eye of God" Blurred by Shortcomings, CHI. TRIB., Aug. 30, 1998, at C6 (stating that Tim Blake Nelson's *Eye of God* is a "hackneyed collection of stereotypes about the rural underclass"); Edward Guthmann, *Swarming in Stereotypes: "Locusts" a Corny Take on Rural Life*, S.F. CHRON., Oct. 3, 1997, at C5 (noting that "[e]veryone in 'The Locusts' is a stereotype spun from Faulkner, William Inge, Harper Lee or Tennessee Williams").

118. *DELIVERANCE* (Warner Bros. 1972) (starring Jon Voight, Burt Reynolds, Ned Beatty, and Ronny Cox).

119. WEISHEIT ET AL., *supra* note 5, at 25 ("[Stereotyped] images are reflected in such popular films as *Deliverance* . . . , in which poor rural whites seem to have been drawn straight from the writings of Lombroso, portrayed as a brutish subspecies of humankind.")

numerous car junkyards. The city dwellers exchange reactions and comments: "This is where everything finishes up," "Talk about genetic deficiencies," and "All these people are related." The rural dwellers themselves are dirty, with a nearly complete lack of social skills, including wary, even hostile, reactions to the newcomers. The most enjoyable scene in the film, in which a rural boy plays "Dueling Banjos" with one of the city dwellers while the boy's father dances, is overshadowed by the boy's dirty face, his empty, vacant facial expression, and, at the end of the duet, his refusal to shake hands.

The city dwellers proceed on their river adventure, and at one stop along the way, they encounter two armed "mountain men" who are dirty, unshaven, toothless, and violent. The "mountain men" sexually assault one of the city dwellers,¹²⁰ and the rest of the film traces the killing of the two perpetrators and the death of one of the four main characters as the city dwellers attempt to return to "civilization."

More recently, in *Fargo*,¹²¹ a Minneapolis man contracts with two bungling rural dwellers from Fargo, North Dakota, to kidnap his own wife in order to obtain ransom money from his wealthy father-in-law. The kidnappers are ugly and violent; they kill five people before one kidnapper finally turns on the other. The kidnappers also are stupid; because they failed to put registration tags on their car, a police officer stops them while the kidnapping victim is still in the back seat. Later, after collecting the ransom money, one of the kidnappers buries the money-filled briefcase along a remote snow fence, ludicrously marking the otherwise indistinguishable location by sticking an ice scraper upright in the snow.

In addition to the stupidity and violence of the rural kidnappers, rural stereotypes apply to the other *Fargo* characters as well. Although the pregnant female police chief from rural Brainerd eventually locates the kidnappers, she and her rural colleagues have a distinctively slow, vacuous speaking style ("Yah?," "Oh yah," "Okey-dokey"), leaving the impression that they solved the triple homicide due to a combination of luck and the even-greater stupidity of the kidnappers.

So what's the big deal—can't rural dwellers take a joke? The problem is that pervasive stereotyping dehumanizes; the impact is the same whether the stereotyping involves African-Americans, women, gays and lesbians, or rural dwellers.¹²² The belittling and typecasting of rural dwellers takes away their legitimacy and perpetuates discrimination against them.¹²³

120. See KNOWING YOUR PLACE, *supra* note 5, at 23 ("The rustic male[] [is associated] . . . with more taboo sexual activities. To judge from popular American movies . . . rustic sexual expression often takes the form of homosexual rape. . . . [A]ccusations of bestiality are common in derogatory jokes about rustic males Interestingly, we have never heard such jokes about urban men").

121. FARGO (Polygram Video 1996) (starring Frances McDormand and William H. Macy).

122. See Judith Olans Brown et al., *Some Thoughts About Social Perception and Employment*

III. RURALISM IN THE SOCIAL SPHERE: POVERTY, EDUCATION, AND ACCESS

The urban assumption plays a key role in virtually every aspect of rural living. It reaches into lifestyle,¹²⁴ education,¹²⁵ technology,¹²⁶ and crime and

Discrimination Law: A Modest Proposal for Reopening the Judicial Dialogue, 46 EMORY L.J. 1487, 1494–95 (1997):

Research has shown that individuals ordinarily process information as quickly and efficiently as possible through shortcuts or “cognitive strategies.” This efficiency sometimes means being less than fully logical, thorough, or accurate. Moreover, people are generally unaware of their own mental processes and are unable to report the true reasons for their behavior.

Dividing up the social world into categories is an example of a cognitive strategy. Most common among these divisions is an “us” versus “them” distinction. In this type of social categorization, sharply contrasting feelings and beliefs are attached to members of each group. Generally, favorable traits are assigned to the individual’s own group, and unfavorable traits are assigned to outgroups or “others.”

This process naturally leads to stereotypes. Stereotyping is a cognitive strategy that allows the mind to interpret information quickly. [For example, r]esearchers have found that white subjects more quickly associate positive traits with members of their own race and negative traits with African Americans. . . .

Because people are “cognitive misers,” most of the time individuals process information in a passive, automatic manner, called “mindlessness.” For example, when meeting someone for the first time, individuals rely on categories and distinctions already at their disposal, rather than actively formulating new ones. Once individuals perceive that the person they are meeting belongs to a specific social group, their reactions may be dominated by this single characteristic; and they may fail to notice other important facts about the person.

123. See Shelby, *supra* note 5, at 158:

Acknowledging the dignity, the full humanity, of another person or group means not telling belittling stories about them. . . . Jokes about blacks and women and Jews, about immigrants and gays, did more than provide a good laugh at somebody else’s expense. . . . By dehumanizing and reducing their subjects, they also served to dismiss legitimate complaints about discrimination and to deflect potentially disturbing questions about who has money and power, who doesn’t, and why. Jokes about rednecks work the same way. . . . If [rednecks] live in trailers, have bad teeth, and only go to the fifth grade, it’s because they choose it, because they are ignorant and stupid, ridiculous somehow. They are, in any case, not to be taken seriously.

124. See PERSISTENT POVERTY, *supra* note 2, at 232 (“[A]n urban-oriented mass media certainly make [sic] the rural poor realize that they are different. What it means to grow up poor and rural in the age of Nintendo and MTV is a paradox worthy of study.”); see also Wadley & Falk, *supra* note 2, at 338–39 (noting that for most people, rural areas are “only attractive if one wants to be a tourist. . . . The rural community . . . is a place from which one escapes.”).

125. See *infra* note 161 and accompanying text (noting that the model for schools is an urban one).

126. See Mark Watson, *Speedier Net Access Goes Rural*, THE COMMERCIAL APPEAL, Mar. 29, 2001, at C1 (“People in rural, poor areas of the state often do not have access to the Internet

justice.¹²⁷ Indeed, it has been suggested that even our legal system has an urban orientation.¹²⁸ This Part discusses ruralism as it appears within the social sphere; Part IV addresses ruralism in the legal system.

A. RURALISM EXACERBATES POVERTY IN RURAL AREAS

One of the most poignant facts about many rural areas is the level of poverty—an issue often overlooked due to a preoccupation with urban, rather than rural, poverty.¹²⁹ For instance, the Rural Sociological Society

because telecommunications companies generally profit from high volume in more urban areas.”); *see also* WEISHEIT ET AL., *supra* note 5, at 9, 11 (noting that “even when technology can be of help it is not evenly distributed throughout society” and further noting that “[w]hile 27 percent of classrooms nationwide have the infrastructure to support computers, only 4 percent of rural schools have such an infrastructure in place”).

127. WEISHEIT ET AL., *supra* note 5, at 16–17 (“High rates of poverty have long been associated with high rates of crime, but studies of the link between poverty and crime are almost always conducted in urban areas. . . . Curiously, crime is less frequent in rural areas, although poverty is a common problem in rural America.”); *id.* at 2–3:

The focus on America as an urban society with a common set of problems seems particularly true in most current thinking about crime. In the minds of many, the crime problem is, by definition, an urban problem. It is assumed that rural crime is rare or nonexistent—that when it does occur, it is only a “small” version of the urban crime problem. The urban setting is seen as the true laboratory for studying crime problems that are universal to American society. . . . [T]he strategies suggested for dealing with rural crime are often those developed and implemented in urban areas. It is assumed that urban models can be used to teach rural citizens how best to deal with crime. Conversely, it is assumed that what goes on in rural areas is irrelevant and unimportant to those dealing with urban crime problems. Our findings directly challenge the assumption that crime and culture are identical in urban and rural areas. Rural crime and rural justice are not simply scaled-down versions of urban crime and justice. Rural crime and justice take place in a context that colors the process by which crime arises and by which justice is carried out.

128. *See* Wadley & Falk, *supra* note 2, at 336–37:

[T]here is a growing concern among farm and ranch landowners that their relationship with the urban majority is becoming custodial rather than cooperative. In one sense, the majority interest appears to be pursuing an urban-oriented agenda, an agenda designed to shape rural land use activity to fit an urban vision of the countryside.

The concern that the relationship is custodial has persuaded many farm and ranch owners to believe that our legal system has assumed a discernible urban orientation that is insensitive to their interests and needs. In the areas of land use and environmental law, this orientation seems to result in a significant shift of control over individual land use decisions and practices away from the farm and ranch landowner toward urban-dominated or public-controlled decision-making bodies.

Part IV discusses urban bias in the law.

129. *See* DYER, *supra* note 6, at 14–15:

What’s left in the 90 percent of the landmass that is designated “rural” is massive

Task Force on Persistent Rural Poverty notes that “rural poverty seldom attracts much notice.”¹³⁰ The invisibility of rural poverty persists despite the fact that “poverty rates are consistently higher in rural areas, regardless of race.”¹³¹ Our society’s urban focus contributes directly to the invisibility of rural poverty:

Because we live in an increasingly urban society, public perceptions of the social and economic problems of people burdened by poverty understandably have a clear urban orientation. Unfortunately, our reliance on national statistics, heavily weighted in favor of urban areas, often masks the extent of economic hardship in America’s nonmetropolitan and rural areas.¹³²

The romanticism associated with rural areas fails to acknowledge the increasing levels of poverty:¹³³

poverty and despair. For decades, men, women, and children in our small towns and farms have cried out for help. But their pleas for assistance have gone unanswered, as if they couldn’t be heard over the noise of the city.

This urban bias has been noted by others. See PERSISTENT POVERTY, *supra* note 2, at 1:

Because we live in an increasingly urban society, public perceptions of the social and economic problems of people burdened by poverty understandably have a clear urban orientation. Unfortunately, our reliance on national statistics, heavily weighted in favor of urban areas, often masks the extent of economic hardship in America’s nonmetropolitan and rural areas.

Indeed, the preoccupation with urban poverty has been noted by many commentators. See *id.* at 175 (“Considering the amount of attention devoted to the problem of urban poverty, it is perplexing that rural poverty seldom attracts much notice. Official poverty rates are consistently higher in rural areas, regardless of race.”); Kenneth L. Deavers & Robert A. Hoppe, *The Rural Poor: The Past as Prologue, in RURAL POLICIES*, *supra* note 21, at 88 (“The American public generally perceives poverty as an urban problem. . . . However, the incidence of poverty is actually higher in nonmetro areas.”); Arnold, *supra* note 7, at 194 (“The public and most policymakers neither understand rural housing problems nor view them as legitimate parts of the public agenda. With few exceptions, the American media does not publicize rural poverty, much less rural housing conditions. The public images of poverty have a distinctively urban slant.”); Ann R. Tickamyer & Cynthia M. Duncan, *Poverty and Opportunity Structure in Rural America*, 16 ANN. REV. SOC. 67, 69 (1990) (noting that the “[p]reoccupation with urban poverty follows a long tradition in American social science”). This has not always been true. For a brief time in the 1960s, our nation focused its attention on the poverty in Appalachia and instituted the War on Poverty, largely as the result of the research and efforts of Michael Harrington. MICHAEL HARRINGTON, *THE OTHER AMERICA: POVERTY IN THE UNITED STATES* (1962); see *id.* at front and back covers (noting that Harrington’s book “sparked the War on Poverty” and “contributed to [President] Johnson’s new drive”).

130. PERSISTENT POVERTY, *supra* note 2, at 175.

131. *Id.*

132. *Id.* at 1.

133. See, e.g., FITCHEN, *supra* note 8, at 115 (“Rural poverty has been increasing nationwide through the 1980s. At mid-decade, rural poverty was growing faster than urban poverty and was becoming more entrenched.”); *supra* notes 2–3 (discussing the romanticism typically associated with rural areas); see also WEISHEIT ET AL., *supra* note 5, at 18 (“[T]he highest poverty levels are in rural nonmetropolitan areas (distant from urban centers), while the lowest poverty levels are in

The general public's image of rural America does not even include poverty; conversely, the public image of poverty does not include rural places. And so poverty, as real a feature of many rural landscapes as the hills, fields, and barns, goes quite unnoticed by the predominantly urban national population and inadequately addressed by federal and state governments.¹³⁴

Our society's urban focus magnifies the invisibility that enshrouds the problem of poverty in rural areas, and therefore ruralism exacerbates poverty in rural areas. Indeed, rural areas have a disproportionately large portion of the poor.¹³⁵ Not only is the level of poverty striking in rural areas—of the 250 poorest counties in America, 244 are rural¹³⁶—but poverty becomes more acute in more remote rural areas.¹³⁷

Rural dwellers tend to have lower incomes than individuals living in urban areas.¹³⁸ Moreover, for many rural dwellers, low wages trap even full-

rural locations within (or immediately adjacent to) metropolitan areas.”) (emphasis in original).

134. FITCHEN, *supra* note 8, at 115; see also CYNTHIA M. DUNCAN, *WORLDS APART: WHY POVERTY PERSISTS IN RURAL AMERICA* 201 (1999) (“Alleviating poverty is not a high priority for today’s policymakers. Rather we focus our attention on ways to end welfare dependency and move people into the workforce, with surprisingly little discussion about the need to widen opportunities so that those born into poor families can someday leave poverty behind.”); HARRINGTON, *supra* note 129, at 11 (“Poverty is often off the beaten track. It always has been. . . . [B]eauty and myths are perennial masks of poverty.”); *id.* at 14 (“That the poor are invisible is one of the most important things about them. They are not simply neglected and forgotten . . . they are not seen.”).

135. Murray & Keller, *supra* note 3, at 222 (“A disproportionate number of the nation’s poor are in rural areas . . . and the poorest counties in the United States are rural.”); Tickamyer & Duncan, *supra* note 129, at 68 (“Rural America has long had a disproportionate share of the nation’s poverty population. Currently communities located outside metropolitan statistical areas have one fifth of the nation’s population but one third of the poor.”); see also Marlon H. Wijnberg & Kathleen M. Reding, *Reclaiming a Stress Focus: The Hassles of Rural, Poor Single Mothers*, 80 *FAMILIES IN SOC’Y: J. CONTEMP. SOC.* 506 (1999) (“Rural poverty remains invisible to much of society as it exists in places where few Americans live or travel, and it is overshadowed by the very visible urban pockets of poverty.”).

136. Beeson & Strange, *supra* note 52; see also DAVIDSON, *supra* note 6, at 77 (noting that of the 150 worst “Hunger Counties” in the United States, 97 percent are in rural areas).

137. See WEISHEIT ET AL., *supra* note 5, at 18 (noting the positive correlation between poverty and distance from a metropolitan area) (italics in original).

138. See 2001 COUNTY & CITY EXTRA: ANNUAL METRO, CITY & COUNTY DATA BOOK 6 (10th ed. 2001) (noting that “counties with low median household income in 1997 were virtually all nonmetropolitan”). This was also true of counties with the highest poverty rates. *Id.* (“Large city poverty rates are typically lower than those in these extremely poor rural counties.”); see also Arnold, *supra* note 7, at 204 n.9 (“Rural residents receive only 80 percent as much income as urban residents.”); *Rural Nonfarm Earnings Increase in 1997, but Lag Urban Earnings Growth*, 11 *RURAL CONDITIONS AND TRENDS*, No. 2 (Dec. 2000), at 51 [hereinafter *RURAL CONDITIONS*]:

Rural real earnings per nonfarm job rose by 1.3 percent during 1997, from \$22,473 in 1996 to \$22,985 in 1997. Urban real earnings per nonfarm job increased at a faster pace (2.1 percent), rising from \$30,955 in 1996 to \$32,825 in 1997. . . . The rural-urban earnings gap persisted and widened during the 1990’s. In 1989, rural

time workers into poverty.¹³⁹ Although low-wage positions constitute a significant portion of rural employment, some rural counties essentially have a low-wage local economy due to the prevalence of these low-wage positions and the lesser availability of higher-paying positions.¹⁴⁰ The 465 rural counties with the highest proportion of workers in low-wage positions have some features in common. These counties have fewer job opportunities in industries that tend to pay higher wages, such as manufacturing.¹⁴¹ They also tend to have lower wage scales across all types of employment.¹⁴² And, again, they tend to be located in the most isolated rural areas—less populated and more remote from urban centers.¹⁴³

Rural poverty is especially devastating, because many of the services and subsidies available in urban areas do not exist in rural areas,¹⁴⁴ and because the rural poor often are ineligible for those forms of assistance that do exist.¹⁴⁵ Moreover, poverty uniquely impacts rural employment opportunities. Rural poverty is different from urban poverty.¹⁴⁶ In particular,

earnings per nonfarm job were 73.8 percent of urban earnings. By 1997, that ratio had fallen to 70 percent.

139. DAVIDSON, *supra* note 6, at 74:

The rural poor differ from the urban poor in an even more important facet of unemployment: their ranks contain a far higher percentage of workers. Even when working full-time, year-round, the residents of rural ghettos are far more likely to remain trapped in poverty than are urban workers, due to low wages.

“The rural low-wage rate of 27.2 percent in 1999 far exceeded the urban rate of 19.3 percent.” RURAL CONDITIONS, *supra* note 138, at 11.

140. See RURAL CONDITIONS, *supra* note 138, at 18.

141. *Id.* at 18, 21 (“[F]ew low-wage counties depend on mining or manufacturing, which usually pay above-average wages in rural counties.”).

142. *Id.* at 18, 22 (“Without exception among the top 25 industries, average wages are lower in low-wage counties.”).

143. *Id.* at 18–19 (noting that “[t]wo-thirds have no urban population, meaning no towns with at least 2,500 people”); see also *id.* at 25 (noting that “[s]mall populations and remoteness remain the most salient features of low-wage counties”).

144. See Janet L. Bokemeier & Lorraine E. Garkovich, *Meeting Rural Family Needs*, in RURAL POLICIES, *supra* note 21, at 117 (“[R]ural communities do not offer the range of specialized social and family services found in urban areas.”); see also *infra* note 189 and accompanying text (noting differences in accessibility between urban and rural areas).

145. Leif Jensen notes that “surprisingly few” poor rural families receive public assistance as contrasted with poor urban dwellers. Leif Jensen, *The Doubly Jeopardized: Nonmetropolitan Blacks and Mexicans*, in RURAL POLICIES, *supra* note 21, 183–84:

Nonmetro poor are less likely to receive welfare support because they are less likely to be eligible for AFDC. For example, compared with their counterparts in central cities, poor nonmetro families are more likely to have a working family head, more likely to be headed by a married couple, less likely to have children present, and less likely to live in states that offer welfare benefits to married couples when the breadwinner is unemployed.

146. FITCHEN, *supra* note 8, at 115 (“[P]overty in rural places is different from poverty in urban areas. It takes different forms and has different expressions from urban poverty because

rates of unemployment and underemployment among rural workers exceed those of urban workers, even at similar levels of education.¹⁴⁷ Rural areas, as contrasted with urban areas, have more jobs requiring low or medium levels of education and training.¹⁴⁸ Despite the fact that “[n]ationwide, the rural poor show a strong commitment to work . . . in many rural areas, . . . available employment simply does not yield adequate income.”¹⁴⁹

The analysis of rural labor markets is hampered by an urban bias, and rural areas often struggle to attract industry. “New work on rural labor markets has had to overcome an urban bias, partly because most economic development theories emphasize the centrality of urban markets even for rural areas”¹⁵⁰ In rural areas, a single industry often dominates the economic sector. The economic homogeneity not only limits job opportunities, but also leaves workers susceptible to fluctuations in the workforce:

[R]ural economies of particular areas are commonly based on or dominated by a single industry or occupational activity (such as farming, mining, logging, tourism) and lacking in economic diversity and depth. While there is wide diversity across rural areas, there is very little diversity within rural areas—a pattern which is the reverse of urban economies. This means that rural communities, even those currently undergoing economic growth, are more susceptible to boom-and-bust fluctuations, because they lack the buffer that economic diversity provides.¹⁵¹

In short, rural dwellers receive fewer economic benefits from their education and job skills than their urban counterparts.¹⁵²

In addition, women and minority groups are disproportionately

it is embedded within the context of rural places, rural economic systems, and rural sociocultural institutions.”); PERSISTENT POVERTY, *supra* note 2, at 64 (“Poverty in rural America is different—different from the past and from urban poverty.”); *id.* at 175 (“Considering the amount of attention devoted to the problem of urban poverty, it is perplexing that rural poverty seldom attracts much notice. Official poverty rates are consistently higher in rural areas.”).

147. PERSISTENT POVERTY, *supra* note 2, at 64.

148. RURAL CONDITIONS, *supra* note 138, at 22–23 (noting that “[r]ural low-wage counties have lower wages across all industries compared with other rural counties; they also have a higher share of workers in the top low-wage industries, such as eating and drinking establishments, grocery stores, hotels and motels, and gas stations”); *see also id.* at 22 (“Corporate headquarters and research and development facilities are less likely to locate in rural areas, and thus skill requirements differ.”).

149. FITCHEN, *supra* note 8, at 131.

150. *See* Tickamyer & Duncan, *supra* note 129, at 79 (discussing factors that limit analysis of rural labor markets).

151. WEISHEIT ET AL., *supra* note 5, at 21.

152. PERSISTENT POVERTY, *supra* note 2, at 48 (“Recent studies . . . indicate that job skills and education are poorly rewarded in rural areas.”).

impacted by persistent rural poverty.¹⁵³ Women constitute the majority of those living in rural poverty,¹⁵⁴ and minorities suffer a greater degree of rural poverty. “Persistent rural poverty is a problem that afflicts some groups more than others. Historically, Hispanic, African-American, and American Indian communities have endured the most intense forms of economic deprivation and its consequences”¹⁵⁵ Thus, ruralism’s impact on rural poverty harms not only rural dwellers generally, but serves to further disadvantage those already disenfranchised.

B. RURALISM IN EDUCATION AND POST-COLLEGE EMPLOYMENT

Rural education and post-college employment also suffer as a result of our society’s urban focus.¹⁵⁶ The impact of ruralism upon education is found at all levels—elementary education through post-secondary education—as well as in subsequent post-college employment opportunities.

1. Ruralism and Education

Ruralism impacts education in several ways. One prominent impact stems, of course, from rural poverty.¹⁵⁷ Indeed, it can be tempting to blame

153. See *id.* at 173; see also *id.* at 175 (“[A] breakdown of poverty rates by race shows that without exception racial and ethnic minorities bear the brunt of economic hardship in rural areas. Rural African- and Mexican-Americans and American Indians consistently rank among the poorest of this nation.”); see also DAVIDSON, *supra* note 6, at 74 (“[T]he composition of the rural poor is very similar to that of the urban poor. For example, the groups most vulnerable to poverty in the nation’s cities—the elderly, minorities, single mothers—are just as much at risk when they live in rural ghettos.”); WEISHEIT ET AL., *supra* note 5, at 21–22 (noting that although the population in rural areas is 89 percent white, “there are seven states in which minorities are more represented in rural areas than in urban areas: Alaska, Arizona, Idaho, Montana, New Mexico, North Dakota, and South Dakota”).

154. PERSISTENT POVERTY, *supra* note 2, at 200.

155. *Id.* at 173.

156. See RURAL PSYCHOLOGY 207–08 (Alan W. Childs & Gary B. Melton eds., 1983):

Compulsory education guarantees the presence of a certain minimum of educational facilities throughout the United States. Nevertheless, the standards of these facilities appear to be lower in rural America. For example, in 1968 the average expenditure per child in rural public school systems was three-fourths the amount spent in urban schools. In addition, rural education shows deficiencies in both the rate of school enrollment of age groups outside the compulsory years and the overall level of educational attainment.

(citation omitted); see also Bernice Lott, *Cognitive and Behavioral Distancing from the Poor*, 57 AM. PSYCHOLOGIST 100, 104 (2002):

The system of public education in the United States, financed primarily by community property taxes, has resulted in a two-tiered institution: One tier is well-equipped and maintained and serves mostly suburban, middle-class children, and another contains run-down and decaying schools in which there is generally a lack of everything but problems.

157. See *supra* Part III.A (discussing ruralism and rural poverty).

poverty for all problems in rural education. However, although poverty is certainly a contributing factor, it does not provide a full explanation. If poverty alone rendered schools inadequate, all “quality” schools would be schools with strong financial resources—yet this is not the case. For example, of the 264 schools selected as “Blue Ribbon Schools” in 2001, only five percent were rural schools, rendering rural schools grossly underrepresented in proportion to their numbers—yet forty-six percent of those schools selected as “Blue Ribbon Schools” were low-income schools.¹⁵⁸

The indirect impact of rural poverty upon rural education is overshadowed by the direct impact that results from how rural education is funded—and it is in this area that ruralism plays a central role. Most states rely on local property taxes as the source of funding for education. But using local property taxes as the sole educational funding source will inherently and necessarily discriminate against rural areas, which have a lower tax base due to fewer residences and commercial properties. Adding to this problem, most school funding formulas are based on average daily enrollment.¹⁵⁹ Rural schools, which by definition enroll fewer students, have little choice but to cut programs and staff, or alternatively, to consolidate with one or more other schools.¹⁶⁰

Thus, the common methods for funding public education inherently benefit urban schools and discriminate against rural schools. The combination of rural poverty and the reduced tax base in rural areas results in a double whammy against rural education. Moreover, rural schools tend to be modeled after urban schools.¹⁶¹ This model dooms rural schools to inferiority, because rural schools typically are unable to provide the educational resources available in urban areas:

Schools in such rural locales often have difficulty providing educational resources equal to those offered by more affluent cities

158. Office of Educational Research and Improvement, 2000–2001 Elementary School Awards, at <http://www.ed.gov/offices/OERI/BlueRibbonSchools/2000-2001brsstatistics.html> (last visited Oct. 29, 2002) (on file with the Iowa Law Review).

159. Sarah Dewees, *Improving Rural School Facilities for Teaching and Learning*, ERIC CLEARINGHOUSE ON RURAL EDUC. AND SMALL SCHS. (Dec. 1999), available at <http://www.ael.org/eric/digests/edorc998.htm> (noting that funding is frequently tied to enrollment, and that rural districts usually serve fewer children and tend to have lower property value assessments) (last visited Oct. 29, 2002) (on file with the Iowa Law Review).

160. *Id.* Consolidation, however, results in lengthy bus rides for students—and high transportation costs for school districts. *Id.* An estimated seventy-five percent of the 3.8 billion miles covered by school bus routes reflect the transportation of rural students. See Belle Zars, *Long Rides, Tough Hides: Enduring Long School Bus Rides*, RURAL SCH. AND COMMUNITY TRUST POLY PROGRAM (1998), at http://ruraledu.org/zars_busing.html (last visited Oct. 29, 2002) (on file with the Iowa Law Review).

161. SUSTAINABLE SMALL SCHOOLS: A HANDBOOK FOR RURAL COMMUNITIES 4 (Craig B. Howley & John M. Eckman eds., 1997) (“Cities have been the model of the good life; and while cities can be good places to live, it doesn’t necessarily follow that cities should be the model for how to live (or run schools) in rural places.”).

and towns. And communities surrounding such schools frequently lack active parents and community groups to support the goals of schooling. The Children's Defense Fund (CDF) summarized a number of data-based studies related to rural children "at risk." The CDF argued that, compared with schools in much of metropolitan America, rural schools suffer from weaknesses that critically affect their students. For example, the CDF notes that most rural states have minimal cost-equalization formulas based on population density. This means that poor and rural districts must rely on local taxes to equalize expenditures, which leads to significant funding inequities. These inequities typically translate into fewer mathematics and/or advanced placement courses in rural high schools, fewer programs for gifted and talented children, fewer alternative school programs, fewer programs for pregnant teenagers, and sometimes even the failure to provide transportation to and from school.¹⁶²

In addition to the impact of economic factors in rural education, small rural population bases tend to result in geographic and cultural isolation.¹⁶³ Rural teachers, principals, and administrators are paid less than those in urban areas, and rural areas often have greater difficulty recruiting teachers.¹⁶⁴ The geographical isolation inherent in the most remote rural locations results in professional isolation as well. In addition, due to decreased financial resources, teachers often are expected to teach outside of their areas of certification,¹⁶⁵ resulting in depleted human resources and, ultimately, substandard education.

The impact of these problems reaches beyond high school graduation. Individuals living in rural areas tend to have a lower educational attainment.¹⁶⁶ Although rural students actually have significantly higher high school graduation rates than urban students,¹⁶⁷ rural students often do not enroll in college preparatory courses, and they apply to college less often

162. DeYoung & Lawrence, *supra* note 21, at 106.

163. See Barbara L. McCombs & Bill Bansberg, *Meeting Student Diversity Needs in Poor Rural Schools: Ideals Practices and Political Realities*, in IMPLEMENTING SCHOOL REFORM: PRACTICE AND POLICY IMPERATIVES 162 (Margaret C. Wang & Kenneth K. Wong eds., 1997) ("The physical isolation of rural settings results in a lack of quality staff and specialized resources that may be needed to adequately serve specific types of diversity needs . . .").

164. Cf. PERSISTENT POVERTY, *supra* note 2, at 323-24 (noting, in the context of providing social services in rural areas, the "[e]ffects of distance, lack of economies of scale, and lack of attractiveness to professionals have an impact").

165. See Beeson & Strange, *supra* note 52.

166. See Murray & Keller, *supra* note 3, at 222 (noting that "[r]ural areas have . . . traditionally shown a lower median educational attainment").

167. See DeYoung & Lawrence, *supra* note 21, at 111 (noting that "rural students have significantly higher graduation rates" than urban students).

than their urban counterparts.¹⁶⁸ Indeed, the American College Board's 2001 profile of college-bound seniors reflected that of nearly 1.3 million students taking the SAT, only ten percent were from a rural high school.¹⁶⁹ Thus, rural dwellers are underrepresented in the college admissions process from the outset.

This underrepresentation of rural dwellers stems from several sources. Some parents with lower educational attainment do not place the same value on education as parents with higher attainment.¹⁷⁰ Even for those parents who value education, their own lack of knowledge can prevent them from effectively mentoring their children. And unfortunately, in rural locations there sometimes is no one else from whom to obtain the necessary information and mentoring.¹⁷¹ Unlike many urban schools, where information regarding the college admissions process is generally available and the subject of numerous workshops, there is often a startling lack of information available to children from the most rural areas.¹⁷²

168. See *id.* (noting that rural students “enroll more frequently in courses that are not college preparatory, and they apply for colleges less frequently than their suburban counterparts”); see also Baird, *supra* note 25, at 373.

169. The College Board, *College-Bound Seniors: A Profile of SAT Program Test Takers*, at <http://www.ecs.org/html/issuesection.asp?issueid=12&cs=other> (last visited Oct. 29, 2002) (on file with the Iowa Law Review) [hereinafter *College-Bound Seniors*].

170. See Fasko & Fasko, *supra* note 24, at 295 (“Parents from disadvantaged areas are less involved with their children and schools . . . , and are often intimidated by them. Also, these parents have a sense of low self-efficacy regarding their ability to influence their children’s learning in school.”); see also PERSISTENT POVERTY, *supra* note 2, at 180 (noting that “ambition and the encouragement of others” are background factors responsible for educational attainments); DeYoung & Lawrence, *supra* note 21, at 104:

[R]ural parents in very poor districts reject local tax increases for ‘better’ schooling because they have rarely witnessed the utility of such schooling in their own occupational histories. More affluent rural communities may support the education of their children through high school, but even they are less enthusiastic about postsecondary schooling.

171. See Valerie E. Lee & Ruth B. Ekstrom, *Student Access to Guidance Counseling in High School*, 24 AM. EDUC. RES. J. 287, 306–08 (1987) (noting that students in rural areas are less likely to have access to adequate guidance counseling).

172. See Stephen Burd, *Rift Grows over What Keeps Low-Income Students out of College*, CHRON. HIGHER EDUC., Jan. 25, 2002, at A18 [hereinafter Burd, *Rift Grows*]:

Students from low-income families are much less likely to go to college than students from wealthier families.

Is that because low-income students abandon hope at an early age of ever being able to afford college? Or is it because they attend lousy schools and receive less encouragement to focus on their studies?

Both factors are no doubt at work. But the question of which is the primary obstacle—money or preparation—has created a deep rift among researchers who have been studying federal higher-education policy for decades.

Bokemeier & Garkovich note that “rural youth have limited vocational or pre-employment

The problems of poverty and inadequate schooling create a double bind for rural youth with respect to post-secondary schooling:

The problems of inadequate rural education are . . . acute at the post-secondary level. . . . Rural youth may suffer doubly. Not only are they disproportionately poor, but the direct and indirect education costs may be higher because rural youth typically lack access to community or junior colleges that ease the transition to post-secondary schooling. This is compounded by the fact that economic incentives for additional schooling are arguably lower for these youth, especially if they plan to return to economically-depressed rural areas Can rural youth be expected to invest in additional schooling if jobs, especially high-skill jobs requiring many years of schooling, are unavailable in rural areas?¹⁷³

Financial resources play a large role in college attendance.¹⁷⁴ Despite the availability of financial aid, many rural dwellers are unfamiliar with the forms, the prerequisites, and the alternatives.¹⁷⁵ Simply reviewing a college catalog indicating a bottom line of \$20,000 or more for tuition, fees, and room and board can convince a student's parents that college is an impossible dream.¹⁷⁶

Although ruralism does not preclude rural students from attending

training opportunities and minimal career counseling." Bokemeier & Garkovich, *supra* note 144, at 117 ("[R]ural youth have limited vocational or pre-employment training opportunities and minimal career counseling.").

173. PERSISTENT POVERTY, *supra* note 2, at 52 (citation omitted).

174. See generally Stephen Burd, *Report on College Access Angers Private Institutions*, CHRON. HIGHER EDUC., Jan. 18, 2002, at A27 (noting that fewer than 100 of about 1,200 private colleges examined by the Lumina Foundation for Education "are affordable for needy students."); see also Burd, *Rift Grows*, *supra* note 172, at A18 (noting that the Advisory Committee on Student Financial Assistance is "trying to persuade policy makers that the Pell Grant program, the major source of federal aid for low-income college students, needs a large infusion of dollars now to avoid 'an access crisis' in the future"). Burd notes that the high cost of college can deter poor students from even applying:

80,000 to 140,000 qualified students from the poorest families do not pursue college degrees each year because they believe they cannot afford to do so, even at a community college. In addition, . . . needy students are much less likely to graduate from college because they must work long hours or enroll part time to pay their tuition bills.

175. See Burd, *Rift Grows*, *supra* note 172, at A18 (noting many of the poorest families do not believe they can afford to attend college, despite the existence of financial aid programs).

176. See Jacques Steinberg, *More Family Income Committed to College*, N.Y. TIMES, May 2, 2002, at E1 (noting a study that found, "on average, poor families spend 25 percent of their annual income for their children to attend public four-year colleges"); *id.* (discussing another study which found that the "percentage of high-achieving students who do not enroll in college is five times higher among those who are poor than those who are rich"); Thompson, *supra* note 25, at A22 (noting "[t]he perception that college is financially out of reach despite financial aid"); see also *id.* (noting that the "annual cost of attending a top university with no financial assistance" is \$21,000).

college or obtaining employment altogether, it precludes most from attending elite colleges and obtaining the most desirable employment.¹⁷⁷ Similar to other forms of discrimination, the effect of ruralism is compounded through the college and employment processes. Rural schools typically are considered inferior to urban schools.¹⁷⁸ Rural schools often are unable to offer a variety of foreign language, mathematics, and science courses. Rural schools are often unable to offer “tracked” or Advanced Placement courses, which would enhance students’ ability to compete with urban students for college admission. When applying to college, rural students are at a disadvantage as urban students’ standardized test scores are higher and their course listings are more comprehensive.¹⁷⁹ Rural students

177. “Affirmative action” is a concept now largely treated with disrespect when applied to afford more equal access for African-Americans and other minority groups. See Martha S. West, *The Historical Roots of Affirmative Action*, 10 LA RAZA L.J. 607, 607 (1998):

Affirmative action is a politically-loaded word in California. People, particularly politicians, use the term as if everyone understands what it means. In fact, people use affirmative action as a label for a wide variety of alleged deeds and misdeeds, some correctly termed affirmative action, but others far off the legal or historical mark.

However, affirmative action still exists in the form that was always its most common—to provide an “in” for the children of college alumni who otherwise would not possess the necessary “qualifications” for admission. Despite the outcry against, and criticisms of, affirmative action, the most common form of affirmative action has never been prohibited—affirmative action based upon connections and relationships. For example, many educational institutions accord special consideration to children of alumni (sometimes called “legacies”) in their admissions process, thereby circumventing the “qualifications” required of the general population if a particular applicant has “connections.” See, e.g., MILES CORWIN, AND STILL WE RISE: THE TRIALS AND TRIUMPHS OF TWELVE GIFTED INNER-CITY HIGH SCHOOL STUDENTS 132 (2000) (noting that elite colleges and universities adjust their standards downward to admit the children of alumni at a far higher rate than the general populace, and that in 1988, more than one in six Harvard freshmen had fathers who had attended Harvard); *id.* (“If legacies had been admitted to the 1988 freshman class at Harvard at the same rate as other applicants, the number of alumni children would have dropped by almost 200—a figure that exceeded the total number of blacks, Latinos, Puerto Ricans, and Native Americans entering through affirmative action.”); see also Bill Maxwell, *The Path to a Level Playing Field*, ST. PETERSBURG TIMES, Dec. 17, 1997, at 17A (“How many whites worry . . . about ‘legacies,’ universities’ practice of automatically admitting the children of wealthy alumni? This is affirmative action in its strictest sense. How many . . . got your job because a relative or a friend made a telephone call? Is this not affirmative action? Absolutely—white folks style.”). In addition to the indefensible nature of such practices—permitting such circumvention of admission “qualifications” when affirmative action on the basis of race is no longer permitted—it must be noted that the alumni of the most prestigious universities do not tend to reside in the most isolated, poor, rural areas of our country. Thus, to the degree that affirmative action continues to exist for children of alumni of prestigious universities, this also disproportionately benefits urban dwellers.

178. See Coward & Smith, Jr., *supra* note 3, at 77 (noting that “[r]ural schools are judged to be less adequate than their urban or suburban counterparts”).

179. In 2001, the national mean SAT/SAT I scores were 506 on the verbal portion and 514 on the math portion; rural students fell short of these means, with a mean of 496 on both. See *College-Bound Seniors*, *supra* note 169, at Table A and Table 8.

often do not have access to preparatory classes for standardized achievement tests, such as the Scholastic Aptitude Test, in which urban students routinely enroll. In addition, rural students often cannot compete with the experiences available to urban students, particularly wealthy urban students, who have traveled or engaged in specialized activities that serve as the foundation for the personal statement of their college applications.¹⁸⁰

In a significant way, rural schools embody today's "separate but equal" problem: educational facilities are provided to rural children, but the opportunities do not approximate those provided to urban children. Thus, the notion of "separate but equal" continues to exist today in segregating our most rural students from urban ones—and just as the separate facilities for African-Americans were never truly "equal," but only "separate," the same is true of the segregation of rural dwellers. Moreover, even for those students who persevere and obtain a college education, problems stemming from ruralism continue past college graduation.

2. Ruralism and Post-College Employment

In attempting to obtain the most desirable jobs, it is not always enough that a rural dweller overcame the odds by receiving a college degree. Overcoming these odds usually still places the rural dweller at the bottom of the heap when competing for the most competitive and desirable jobs,

180. See Gross, *supra* note 22, at A1, A30 (describing the college application experience of an upper-middle class male student from "the exclusive Collegiate [High] School in Manhattan": The guidance counselor discussed how best to highlight the boy's resume: "A semester in Normandy as an exchange student and another at an alternative school in Vermont? These 'play nicely' as a demonstration of adventurous spirit. A childhood on Roosevelt Island? Proof the [boy's family] had avoided Manhattan 'provincialism.'"); see also *id.* at A30 (noting the "ubiquitous" nature of "private SAT tutor[s]" for students from upper-middle class families). In addition to the difference in life experiences, money and mentoring again play a substantial role in college admissions essays. See Andrew Brownstein, *Duke Asks Applicants if They Got Help on Essays, and Most Say They Did*, CHRON. HIGHER EDUC., Mar. 1, 2002, at A35 ("Are students' essays their own? The issue has been around for at least a decade, as wealthy students started paying admissions consultants as much as \$5,000 to massage their applications."); *id.* at A37 ("Many students . . . had their work read by three or four people—from the high-school guidance counselor to a server at the local coffee shop—who helped with copy editing, editorial advice, and even strategy on how to woo the admissions board."); *id.* (noting that students from poorer schools "often had less counseling available to them."). See generally JAMES L. SHULMAN & WILLIAM G. BOWEN, *THE GAME OF LIFE: COLLEGE SPORTS AND EDUCATIONAL VALUES* (2002) (concluding that superior intellectual performance is rare and not valued among college student athletes and questioning the legitimacy of giving athletes preference in college admissions); JACQUES STEINBERG, *THE GATEKEEPERS: INSIDE THE ADMISSIONS PROCESS* (2002) (observing the college admissions process at Wesleyan University and suggesting that financial aid is increasingly used to lure the "top" prospects, who may not need the money, thus leaving less financial aid available for needy students who are not the "top" prospects); REBECCA ZWICK, *FAIR GAME? THE USE OF STANDARDIZED ADMISSIONS TESTS IN HIGHER EDUCATION* ix-x (2002) (concluding that standardized tests are neither the "census of human abilities" originally believed, nor a "racist scourge").

because the “qualifications” of rural dwellers typically will include degrees from less prestigious state-supported institutions.¹⁸¹ And employers tend to regard applicants who graduated from elite institutions as more “qualified” than those who graduated from non-elite, state-supported institutions.¹⁸²

Thus, those from rural areas suffer a “triple-bind” when attempting to compete for jobs requiring a college education. First, they must have overcome the poverty and inferior education of their rural roots and persevered into the completion of post-secondary education. Second, if the educational institutions from which they graduated were not “elite” institutions, they likely will suffer bias in seeking the most competitive and desirable employment. And third, they will not share the cultural background common to many urban dwellers, from which social conversations flow and from which perceptions are formed. Thus, even those rural dwellers who overcome the initial obstacles of poverty, inferior schools, and lack of access often have difficulty “fitting in” with individuals from urban backgrounds.¹⁸³ This latter disadvantage goes to the notion of “cultural capital”:

181. This observation is in no way intended to denigrate the quality and caliber of state-supported colleges and universities, many of which are among the country’s highest ranked institutions of higher education. The comment is only intended to make the obvious point that graduating from a so-called “Ivy League” school, such as Harvard, evokes a stronger, more positive reaction from most prospective employers than graduating from any “University-of-a-Particular-State.”

182. One obvious example is in the law teaching area. See Robert J. Borthwick & Jordan R. Schau, *Gatekeepers of the Profession: An Empirical Profile of the Nation’s Law Professors*, 25 U. MICH. J.L. REFORM 191, 226 (1991):

A handful of the most established and prestigious law schools dominate the production of the nation’s law teachers. Approximately one-third of all professors in our sample . . . received their J.D. degree from one of only five law schools. Together, the nation’s twenty top-ranked law schools produced nearly 60% of all sampled professors.

Indeed, “graduation from an elite school may be the most important criteria used in law school hiring.” *Id.* at 230.

[E]lite schools continue to dominate the composition of the professoriate. . . . Perhaps the most remarkable finding is that the expansion of the legal teaching profession has not weakened the dominance of elite schools in the production of law professors. . . . [T]he passageway to a career as a law professor remains quite narrow. With few exceptions, that passageway leads through one of the nation’s top-ranked schools.

Id. at 236–37.

183. See Roland Merullo, *The Challenge of First-Generation College Students*, CHRON. HIGHER EDUC., June 14, 2002, at B10 (discussing the experience of a first-generation Mexican-American college student):

Miguel’s excitement had a shadow over it. No one he had ever been close to had lived in a college-dormitory room, paid for textbooks, been left on his own with a schedule of classes and a campus map, been thrown together so intimately with thousands of strangers.

“Cultural capital” . . . is another, more difficult to quantify human resource that enhances, or impedes access to labor markets. “Cultural capital” includes certain kinds of behavior, tastes, and attitudes that are markers of social class. Upper class parents, for example, imbue their children with attitudes and behaviors valued by other members of the same social class, and in doing so, provide their children with a resource that will help them gain entry and acceptance in upper class circles. Access to these social networks also means access to school and job opportunities as well as other kinds of economic advantages.¹⁸⁴

Moreover, when seeking the most highly competitive and desirable positions, those from rural backgrounds suffer still an additional hurdle—the stereotype of rural dweller as not only unsophisticated, but as actually

He made friends quickly, as many freshmen do, but none of those friends came from a world quite like his. In many ways, purely by virtue of his age and intellectual interests, he had much in common with them. But there were other, subtler ways in which he felt completely alone in his new environment, a smart refugee washed up on the shore of a luxurious island. Short and stocky, with a protuberant Mayan brow and dark skin, he did not look like any of his classmates. Their ironic humor and casual references to travel and inherited wealth, their taste in food, the upper-middle-class values by which they'd been raised, their choice of words, their speech patterns and posture—Miguel had some acquaintance with those things, naturally. It wasn't, after all, as if he'd been brought up on Mars. And yet there was a way in which the behavior of his new acquaintances seemed alien, and gave rise, within him, to a painful friction.

Id. Miguel failed five courses during his freshman year and did not return. *Id.*

184. PERSISTENT POVERTY, *supra* note 2, at 180–81; see also ROXANNE DUNBAR-ORTIZ, RED DIRT: GROWING UP OKIE 186 (1997) (setting forth the author's discussion with her father regarding her intention to attend Oklahoma University):

“You know that place [Oklahoma University] isn't for people like us.” He looked as if he might break out crying. “What do you mean?” I asked. “Poor people, country folk don't go there. It's the rich kids' school. You won't fit in there, you'll be a stranger,” he said. I shrugged and he left. I intended to prove him wrong. But Daddy was right.

Rural dwellers often exhibit different behaviors and attitudes and may not share experiences in common with urban dwellers. These differences can be wide-ranging. Some examples include: a regional accent in one's speech (whether a Southern “drawl,” a Midwestern “nasal twang,” or a New England “a-yuh”); the use of different words, phrases, analogies, or slang; differences in attire or hairstyle; lack of exposure to art and other forms of culture; and limited (or nonexistent) national and international travel experience. These differences will rarely benefit rural dwellers, who, unlike urban dwellers, are unlikely to be perceived as “cool” or as trend-setters. “Indeed, people live the rural/urban distinction through mundane cultural activities such as their selection of music (country versus rap) and their choice of clothing (cowboy boots versus wing tips)—means through which identity is commonly expressed.” KNOWING YOUR PLACE, *supra* note 5, at 3. Such a lack of shared background can render social conversations—including job interviews—more difficult. After all, who among us has not been asked, “Where are you from?” in social conversation? See *id.* (noting “markers of place” such as “regional accents and hometown origins”).

lacking intelligence, and therefore as antithetical to the very notion of reflective intellectual thought. Brilliance is associated with urban, not rural, dwellers.

Reinforcing the urban bias of postmodern theory is another barrier that shields places from academic sight: the identity politics of being and becoming an intellectual. In the West, few intellectuals have deep rural roots, and for those who do, education often severs these connections. The traditional pedagogical agenda, with its emphasis on enlightenment through the liberal arts, has long been opposed to the supposed essence of rusticity—lack of cultural sophistication and a preference for practical know-how over erudition. Indeed in Soja's variation on the Marxist distaste for rural idiocy, knowledge itself is urban. It is not surprising, then, that writers on the rural situation, from academics to essayists, have described education as tantamount to an urbanization of the mind.¹⁸⁵

The exclusion of rural dwellers as being inconsistent with our notions of superior intellectual ability is also reflected in the distribution of the MacArthur grants, the so-called "genius" awards.¹⁸⁶ The reality that we simply do not associate rural dwellers with the adjective "genius" was illustrated in

185. KNOWING YOUR PLACE, *supra* note 5, at 10; see also Graham C. Lilly, *Law Schools Without Lawyers? Winds of Change in Legal Education*, 81 VA. L. REV. 1421, 1464 (1995) ("[Law schools] provide a barrier to easy entry by the socially underprivileged. A profession requires 'educated' people."). See generally John Lukacs, *The Obsolescence of the American Intellectual*, CHRON. HIGHER EDUC., Oct. 4, 2002, at B8:

[T]he emergence and the rise of an American intellectual class was inseparable from the rise of American cities, from the gradual transformation of a largely rural people to a largely urban one

Intellectual activities and places, the pleasing relief and recognition of meeting and finding people whose interests and inclinations and opinions were similar to one's own—the opportunity and the frequency of that depended not only on the atmosphere but also on the very existence of cities.

186. See David Plotz, *The MacArthur Geniuses: How to Become One of Them* (July 7, 2000), available at <http://www.slate.msn.com/?id=85794>:

Since 1981, the John D. and Catherine T. MacArthur Foundation has awarded 588 "fellowships" worth nearly \$200 million to Americans "who show exceptional merit and promise for continued and enhanced creative work." . . . The fellowship is a no-strings-attached grant: Each 2000 winner will get \$100,000 a year for five years. MacArthur calls the cash a gift of time, because it frees winners from financial constraints on their art, science, or activism.

The MacArthur has become the United States' most famous philanthropy project not because it rewards stellar people—though it does—but because it's mysterious. Several hundred talent scouts, whose identities are secret, suggest nominees to the selection committee.

(last visited Oct. 29, 2002) (on file with the Iowa Law Review).

one recent article concluding that one's chances of receiving a MacArthur grant increased when one was from an urban area.¹⁸⁷ Similarly, the MacArthur grants also reflect a bias in favor of elite institutions of higher education.¹⁸⁸

Accordingly, ruralism impacts primary, secondary, and post-secondary education, as well as opportunities for post-college employment. Still another broad area impacted by ruralism is the fundamental lack of access experienced by rural dwellers.

C. *LACK OF ACCESS AND AVAILABILITY IN THE PROVISION
OF BASIC NEEDS, GOODS, AND SERVICES*

As a general matter, lack of access and availability is a key problem in rural areas.

Quality of life depends not only on economic well-being but also on the availability of facilities and services for meeting everyday needs (e.g., medical, educational, cultural, recreational, and shopping). It is an obvious fact that the presence of many types of services and facilities depends upon an adequate population base to support these services. This is clearly illustrated in a series of computations reported by Keyes . . . , which showed how large a place needed to be before it was virtually certain (95%) to have different types of facilities. For example, a book store, hospital, and Elk's Club were only guaranteed to be features of communities with a population of at least 100,000. In terms of the availability of these different features, rural America is clearly at a disadvantage.¹⁸⁹

The lack of communication technologies intensifies rural dwellers' lack of access. "[T]he new technology [does not] help much when it comes to

187. *See id.* (providing a tongue-in-cheek "how-to guide for becoming a certifiable genius. Rule No. 1: Live in New York or San Francisco. . . . No matter what, don't live in the South. . . . The Great Plains and Rockies are equally inhospitable to genius Stick to the Northeast and the West Coast.").

188. *See id.* ("Rule No. 2: Be a Professor. Specifically, be a professor at Harvard or Stanford, where they hand out MacArthurs like candy.").

189. RURAL PSYCHOLOGY, *supra* note 156, at 207; *see* Willits et al., *supra* note 13, at 71:

Historically, rural people have been disadvantaged in regard to the quality and quantity of many public services that contribute to their well-being or a full life: fire and police protection; educational, religious, and transportation facilities; welfare activities; health care; water, refuse, and sewage systems; organized recreational activities; and shopping outlets.

Weisheir et al. note that "rural areas are characterized by a lack of social resources commonly associated with large population centers—e.g., mass transportation, central markets or exchanges, specialized medical facilities, newspapers, airports, television stations, museums, zoos, social services." WEISHEIR ET AL., *supra* note 5, at 182.

reaching the rural poor. While the Internet generally has tremendous potential for overcoming limitations of distance and time, the rural poor are often disadvantaged electronically as well as economically.”¹⁹⁰

By definition, the most rural populations are located in geographically isolated areas,¹⁹¹ and it naturally follows that geographical isolation would contribute to a generalized lack of access in such areas.¹⁹² However, this lack of access is not limited to the common-sense notion that rural dwellers must travel a longer distance in order to arrive at an urban location, where the larger urban population base will economically support a greater variety of

190. Judith I. Boyce & Bert R. Boyce, *Far From the Library, A Special Set of Challenges*, 31 AM. LIBR. 50 (May 2000); see *id.* (noting that for the rural poor, “transportation is a major problem, telephone service is limited, and Internet connection is unlikely”); Lee, *supra* note 23, at 303 (“[C]yberbanking requires Internet access, which is itself dependent upon a computer terminal, telephone or cable access and a service provider. Not surprisingly, lower income individuals and households, as well as rural dwellers, face significant obstacles in acquiring the tools needed for Internet access.”); Anu Manchikanti, *Report Says Lives of Kids Getting Better*, THE OREGONIAN, June 20, 2000, at B12 (“Data reveal that 5 percent of children in Oregon live in households without telephones, 44 percent without computers, and 70 percent have no access to the Internet.”); see also PERSISTENT POVERTY, *supra* note 2, at 174 (noting that “telephone service and other utilities are often costly or unavailable in rural areas [sic]”); WEBSDALE, *supra* note 21, at xvi (noting that telephone subscription rates are “much lower than they are in cities”); WEISHEIT ET AL., *supra* note 5, at 9–11. The authors note that in Kentucky, of the 108 nonmetropolitan counties,

the percentage of houses without telephone service ranges from 2.5 percent to 29.3 percent, with 22 counties having more than 20 percent of the homes without telephone service In urban areas those without a phone often can find one next door or down the block when emergencies arise. In rural areas the nearest telephone may be some distance away. Similarly, in many parts of rural America there are no carriers of service for mobile telephones.

Id.; *supra* notes 22–23 and accompanying text (discussing lack of access to communication technologies).

191. See WILKINSON, *supra* note 49, at 101 (“Ruralness seems likely to continue to be a source of disadvantage in access to jobs, income, services, and many other goals in the future as it has been in the past, notwithstanding periods of rural growth and notwithstanding developments in technology”); see also Murray & Keller, *supra* note 3, at 224:

One of the most significant barriers to the delivery of all forms of social services in rural settings is geography. Although there is considerable variation in different regions of the country, people in rural settings tend to be distributed across wide expanses of land, making it difficult to organize community development or efficient service delivery.

192. See Ronald C. Wimberley, *Rural Transportation*, in RURAL POLICIES, *supra* note 21, at 215 (“[P]ublic transportation [is] available to fewer than 1 percent of the work force in rural areas.”); see also PERSISTENT POVERTY, *supra* note 2, at 174 (noting that transportation costs are high in rural areas); *id.* at 233 (“Transportation is a serious limiting factor for all aspects of rural life, especially employment, training, child care, and service utilization.”); Murray & Keller, *supra* note 3, at 225 (noting that “geographic dispersion, coupled with a substantial lack of the public transportation that many urban dwellers take for granted, interferes with social interchange and accessibility of human services”).

businesses.¹⁹³ Instead, ruralism exacerbates this generalized lack of access by discriminating against rural dwellers across all areas in the provision of basic needs, as well as goods and services.¹⁹⁴ Some of the better-documented access difficulties include inadequacies with respect to medical care, housing, and social services.

1. Health Care

Health care is one area affected by lack of access. With respect to health care, the issue is not only its geographical availability,¹⁹⁵ but also its quality and affordability.¹⁹⁶ Thus, the issue is one of lack of adequate access to quality medical care.

Medical services in rural America are weak from the standpoint of the number of health professionals, the quality of the medical facilities, and the level of usage of these facilities. In 1970, there were twice as many physicians per capita in urban America than in rural America. In particularly short supply in rural areas are medical specialists (e.g., dentists, cardiologists, and surgeons). Rural hospitals generally provide a numerical capacity (beds per capita) equal to that of metropolitan areas; however, the rural hospitals are often inadequately staffed, nonaccredited, and lacking in advanced medical technology. The utilization of medical facilities—specifically contacts with physicians—is less in rural than

193. See, e.g., Susan A. Schneider, *Financing the Agricultural Operation: Recent Developments and Current Trends*, 4 *DRAKE J. AGRIC. L.* 215, 223 (1999) (“In 1994, twenty-seven percent of rural counties were served by two or fewer banks. Forty percent of urban counties were served by ten or more banks. . . . [Thus, a] borrower whose loan is denied at one rural bank may have few other alternative sources of credit.”); see also Gary P. Green, *Rural Banking*, in *RURAL POLICIES*, *supra* note 21, at 42 (“Banking deregulation has had a more profound effect on rural banks than on urban banks. . . . Increased integration of rural banks into the financial system has contributed to the volatility of interest rates and the higher costs of credit for rural borrowers.”).

194. Cornelia B. Flora & James A. Christienson, *Critical Times for Rural America: The Challenge for Rural Policy in the 1990s*, in *RURAL POLICIES*, *supra* note 21, at 3 (“Public policy on the federal level, including monetary and fiscal policy, has direct consequences for rural areas, putting them at a disadvantage to urban areas.”).

195. See, e.g., *PERSISTENT POVERTY*, *supra* note 2, at 174 (“[A]ccess to basic services such as health care often is limited or nonexistent.”); *id.* at 247 (noting that “[t]he time and expense of traveling to facilities [for rural residents] also limits their utilization, especially for preventive care”); *WEBSDALE*, *supra* note 21, at 200 (“[T]he delivery of health care to rural women is inadequate to the point of being pathetic.”).

196. See, e.g., *PERSISTENT POVERTY*, *supra* note 2, at 246 (noting the “limited availability, affordability, and accessibility of health care in rural areas”); Bokemeier & Garkovich, *supra* note 144, at 117 (“Rural health services are seriously deficient with respect to advances in medical and therapeutic treatment.”); see also *FITCHEN*, *supra* note 8, at 155 (“[I]t has been increasingly difficult for small hospitals to keep up with state-of-the-art medical technology, and this has compounded the problem rural areas have long had in attracting and holding good doctors.”).

in urban areas. Rural residents make fewer trips to the doctor each year and have a frequency of contact with specialists that is less than half of the urban rate. These figures are especially striking in light of the higher incidence of serious health problems in rural America.¹⁹⁷

Access to health insurance is similarly restricted.

Health insurance is less available to minorities and rural residents The kinds of firms that predominate in rural areas—like small retail operations, locally owned mills and manufacturers, and self-employed farmers—generally offer no health insurance.¹⁹⁸

Access to quality medical care is not merely the result of geographical isolation, but also is attributable, at least in part, to discriminatory federal policies. “The vast majority of areas with health personnel shortages are rural. This is partially a consequence of public policy. Medicare and Medicaid reimbursements to physicians and hospitals are half those in urban areas.”¹⁹⁹ Accordingly, federal policies create an additional—and discriminatory—burden for rural health care.

2. Housing

Another area involving basic needs is that of housing, which again is a problem involving the lack of access to and availability of affordable quality housing. “Housing quality in rural America is actually worse than in urban America, . . . and is worst of all among rental rural housing.”²⁰⁰ Moreover, this substandard housing is not affordable for many rural dwellers. “Even though the federal government considers spending 30 percent of household income on housing to be ‘affordable,’ 65 percent of non-metropolitan homeowners and 79 percent of non-metropolitan renters spend more than that amount.”²⁰¹

One of the less expensive alternatives to conventional housing is to live

197. RURAL PSYCHOLOGY, *supra* note 156, at 207 (citations omitted).

198. See PERSISTENT POVERTY, *supra* note 2, at 246.

199. *Id.* at 246; see also FITCHEN, *supra* note 8, at 156 (“Some federal health care policies create a penalty for rural hospitals that is significant and increasing. In particular, medicare and medicaid reimbursement rates average 37 percent lower for rural hospitals than for urban hospitals.”); Lisa Rapaport, *HMO Refugees: Seniors Abandon Dreams of Country Living as Affordable Plans Leave Rural Areas*, SACRAMENTO BEE, Sept. 9, 2001, at A1, A12 (noting that “thousands of seniors statewide have lost Medicare HMO coverage as plans pulled out of rural counties,” and further quoting an administrator of the federal Centers for Medicare and Medicaid Services as saying, “[I]t makes sense to shift money away from rural areas.”).

200. FITCHEN, *supra* note 8, at 135–36.

201. Arnold, *supra* note 7, at 204 n.14; *id.* at 193 (noting that, in fact, “[a]n alarming 32 percent of poor non-metropolitan renters and 22 percent of poor non-metropolitan homeowners spend more than 70 percent of their income for housing”); Murray & Keller, *supra* note 3, at 222 (“[R]ural people in the United States are three times as likely to live in substandard housing as are their urban counterparts.”).

in a trailer, either in a mobile home park or an informal trailer cluster.²⁰² Even trailers, however,

are not necessarily cheap in proportion to the income of their occupants. In most regions even the cheaper parks charge a trailer owner \$100 to \$150 a month just for the lot with its sewer and water service and electrical hookup [E]ven a small trailer . . . may cost \$10,000 to \$20,000.²⁰³

This attempt to obtain affordable housing is often met with resistance—some courts have upheld discrimination against this mobile home option through zoning ordinances.²⁰⁴ Moreover, mobile home owners are subject to ridicule and derogation.²⁰⁵

Federal policies exacerbate rural housing problems due to an urban focus.

Our intuitive images of national housing problems—homelessness, urban ghettos, and the affordability of rental housing in American cities—are reflections of the urban bias of the policy agenda. While federal housing policies are universally inadequate, they are geared toward urban conditions and completely ignore the housing problems of the rural poor. In 1982, only 18 percent of poverty-level renters in non-metropolitan areas received federal housing assistance, as compared to 27 percent of poverty-level renters in metropolitan areas. Finally, the bureaucracy that implements federal housing policy is structured in a way that prevents a considerable portion of housing aid from reaching rural residents.²⁰⁶

Moreover, “[t]he anti-rural bias of federal housing policy goes far beyond the disproportionately low share of resources allocated to rural areas and the inattention given to rural housing conditions. It goes to the very

202. Janet M. Fitchen, *Rural Poverty in the Northeast: The Case of Upstate New York*, in RURAL POVERTY IN AMERICA 177, 182 (Cynthia M. Duncan ed., 1992) [hereinafter Fitchen, *Rural Poverty*].

203. *Id.*

204. *See, e.g.,* *Vickers v. Township Comm.*, 181 A.2d 129 (N.J. 1962) (upholding prohibition against mobile home communities as a “valid exercise of [the] zoning power,” and reasoning that “trailer camps, because of their particular nature and relation to the public health, safety, morals and general welfare, present a municipality with a host of problems, and these problems persist wherever such camps are located”); *see id.* at 134 (neglecting to discuss availability of housing for the poor, and noting instead that “a municipality need not provide a place for every use”).

205. *See* Ellen Barry, *Counting on Mobile Homes: Trailer Owners Leery of New Housing Status*, BOSTON GLOBE, July 15, 2001, at A1 (noting “the tone in their neighbors’ voice when they say ‘trailer park’”); *see also* WEISHEIT ET AL., *supra* note 5, at 25 (noting the use of the term “trailer trash” in our “everyday language”).

206. Arnold, *supra* note 7, at 192.

design and operation of federal housing programs.”²⁰⁷ Indeed:

[T]he growing emphasis on private market solutions to housing problems is based on the urban-biased assumption that America’s housing crisis stems only from an undersupply of affordable housing. . . . This policy, with its clear urban bias, ignores the persistence of substandard housing in rural areas, the limits to rural housing markets such as segregation and lack of financial and economic resources, and the high level of rural homeownership.²⁰⁸

Thus, existing difficulties with respect to the affordability of quality rural housing are exacerbated by the urban focus of federal policies.

3. Social Services

Lack of access is also an issue with respect to the provision of social services to rural dwellers. “In rural areas, social service resources are very limited. . . . Research has verified that rural residents are less likely to receive benefits from welfare programs and transfer payments than are urban residents.”²⁰⁹ Moreover, “[i]n rural areas it is often difficult to obtain information about, and access to, existing social services. Important limiting factors include illiteracy, lack of information and outreach, lack of public transportation and expense of private transportation.”²¹⁰ Some of the social services taken for granted in urban areas, such as counseling centers, alcohol and substance abuse treatment programs, and shelters for battered women, do not exist at all in many rural areas.²¹¹

An urban model frequently is employed in providing social services to rural dwellers—a model that often is inappropriate in a rural context. For example, in providing mental health services:

207. *Id.* at 195.

208. *Id.* at 198.

209. PERSISTENT POVERTY, *supra* note 2, at 244.

210. *Id.* at 245.

211. See DAVIDSON, *supra* note 6, at 98:

Shelters for battered women are extremely rare in rural areas. So are counseling centers. Few of the rural clergy are trained to deal with domestic abuse. . . . [R]ural women are often forced to travel great distances for help. Because of the difficulties in making such a trip, many rural women simply try to “tough it out,” leaving their lives in jeopardy.

Rural communities simply lack adequate social service agencies and programs. See FITCHEN *supra* note 8, at 153 (“In many rural communities, the entire spectrum of community or human services appears to be operating under growing stress. . . . Even where services are growing, need constantly outpaces capacity.”); J.N. REID & E. WHITEHEAD, FEDERAL FUNDS IN NONMETRO AREAS: PATTERNS AND TRENDS (SRS-678) (1982); Rosemarie Bogal-Allbritten, M.S.W., Ph.D. & Lillian Rogers Daughaday, Ph.D., *Spouse Abuse Program Services: A Rural-Urban Comparison*, in 14(2) HUMAN SERVICES IN THE RURAL ENVIRONMENT 6–10 (1990); Bokemeier & Garkovich, *supra* note 144, at 117 (“Treatment programs for families with alcohol or abuse problems or for juveniles in trouble are simply nonexistent in most rural communities.”).

Since the initiation of the Community Mental Health Centers Act in 1963, free-standing community mental health centers (CMHCs) based on population-oriented catchment areas have been the typical public model of service delivery in the United States. This model has worked best in urban settings in which catchment areas of 70,000 to 250,000 people could aggregate enough clients within a limited geographic area to warrant free-standing mental health programs. Although rural programs have attempted to follow this model, there has been a consensus in the literature that this urban model of mental health service delivery is inappropriate to meet the special needs of rural communities.²¹²

[R]ural areas remain[] underserved [with respect to the provision of psychological services] in comparison with metropolitan areas, and . . . this [is] true in all regions of the country. . . . A typical rural mental health service delivery area is 5,000 square miles, and the largest such area covers more than 60,000 square miles with the population dispersed in isolated communities.²¹³

These inadequacies in providing mental health services are especially troubling in light of the increased incidence of mental illness among rural dwellers:

The restructuring of rural America has exacted a tremendous human toll. Studies have shown that adults and adolescents in rural communities have significantly higher rates of mental disorder than those in urban areas. Other studies have shown moderate to large increases in the numbers of dysfunctional adults; exceptionally large increases in the incidence of child abuse, spouse abuse, and substance abuse; and as well an increase in cognitive impairment, depression, and anxiety disorders.²¹⁴

“Access to mental health services of all kinds is extremely limited throughout rural America, and as is so often the case in rural areas, those who need these services the most have access to them the least.”²¹⁵

212. HARRINGTON, *supra* note 129, at 225.

213. Murray & Keller, *supra* note 3, at 221, 224; *see also* Task Panel on Rural Mental Health, Report to the President, in President's Commission on Mental Health, vol. 3, at 15 (Wash. D.C., U.S. Gov't Printing Office) (noting the difficulty in recruiting and maintaining mental health care providers in rural areas).

214. DYER, *supra* note 6, at 16–17; *see also* HARRINGTON, *supra* note 129, at 119–20 (“The poor are subject to more mental illness than anyone else in the society, and their disturbances tend to be more serious than those of any other class.”).

215. DAVIDSON, *supra* note 6, at 98; *see also* WILKINSON, *supra* note 49, at 83:

[T]he weight of the evidence shows the opposite of what is widely assumed. That is, it shows a tendency for mental problems to increase in more rural settings. . . . [T]here is a persuasive amount of evidence in recent research on community

Again, the problems in providing social services to rural dwellers are exacerbated by federal policies that discriminate against rural areas.²¹⁶ Ruralism exists both in the “[i]nappropriate assessment of the costs of providing services in rural areas,” and “[t]he change from formula funding to competitive grants[, which] channeled money to urban areas.”²¹⁷

D. CONCLUSION

Rural dwellers inhabit a social sphere of opportunity that is unequal to that enjoyed by urban dwellers. The odds are stacked against many rural dwellers from the outset due to poverty, substandard education, and lack of access. Added to these problems is the discrimination faced by rural dwellers as the result of stereotypes held by urban dwellers. Despite facing these multiple facets of discrimination, rural dwellers receive little relief from our legal system. As the next section demonstrates, the U.S. legal system itself perpetuates ruralism in society.

IV. RURALISM IN THE LEGAL SPHERE

In addition to ruralism’s harsh impact upon rural dwellers as individuals, ruralism as a more generalized concept is promoted through government action and our legal system. Examples of ruralism in the law are wide-ranging.

The first-year law school curriculum exposes students to ruralism through the notion of “local bias” studied in connection with diversity jurisdiction.²¹⁸ Local bias is ascribed primarily to rural courts, not urban

mental health ‘that the halcyon picture of country life is, if not manifestly incorrect, at least open to some serious challenges.’ Recent studies of suicide for the United States show a higher rural than urban rate Moreover, multiple regression evidence for counties in the Northeast shows a strong positive association between the suicide rate and rural population dispersion, with other correlates of suicide controlled

(citation omitted).

216. See Murray & Keller, *supra* note 3, at 226 (“Current policies at the federal and state levels may further restrict rural practitioners’ ability to provide broad, community based, generalist [mental health] services.”).

217. RURAL POLICIES, *supra* note 21, at 3–4.

218. See JOHN J. COUND ET AL., CIVIL PROCEDURE CASES AND MATERIALS 260 (8th ed. 2001) (setting out the assumption that “diversity jurisdiction was created to protect out-of-state litigants against local prejudice”); *id.* at 261 (“The most common explanation for the creation of diversity jurisdiction was a fear that state courts would be prejudiced against out-of-state parties.”); DAVID CRUMP ET AL., CASES AND MATERIALS ON CIVIL PROCEDURE 164 (4th ed. 2001) (“Many legal scholars . . . have concluded that [diversity jurisdiction] was based on a fear that State courts would be biased or prejudiced against those from out of State.” (quoting *Abolition of Diversity of Citizenship Jurisdiction*, H.R. Rep. No. 95-893, at 2 (1978))); Kristin Bumiller, *Choice of Forum in Diversity Cases: Analysis of a Survey and Implications for Reform*, 15 L. & SOC’Y REV. 749, 754 (1980–81) (noting that the “theoretical basis for diversity jurisdiction, as envisioned by the drafters of the Judiciary Act of 1789, was the protection of out-of-state residents from hostile state courts”). See generally Debra Lyn Bassett, *The Hidden Bias in Diversity Jurisdiction*, 81 WASH.

ones, and generally is considered a problem stemming from the provincialism of rural areas and the concomitant bias by rural dwellers against out-of-staters.²¹⁹ Ruralism again arises within the same diversity jurisdiction concept in going to the preference for urban, rather than rural, judges, because rural judges are seen as intellectually inferior to urban judges.²²⁰

The concept of local bias also arises in venue.²²¹ Attorneys seek a transfer of venue due to assumptions regarding recovery in rural versus urban areas. The “general rule” is that one should

add 10 percent to the average [damage award] if the trial takes place on the East or West coast; add another 10 percent if it is conducted in a large metropolitan city; subtract 10 percent if it is conducted in the South or the Midwest; and [subtract] another 10 percent if it takes place in a rural area.²²²

Thus, venue provides another opening for ruralism, both with regard to the frequency with which a transfer of venue is sought and with regard to assumptions regarding recovery.²²³ In a related vein, ruralism can arise in addressing voir dire issues with respect to jury selection.²²⁴

U. L. Q. (forthcoming 2003) [hereinafter Bassett, *Hidden Bias*].

219. See Bumiller, *supra* note 218, at 761 (“The incidence of fear of bias supports a theory that out-of-state residents seek protection from the ‘provincialism’ of rural areas.”); *id.* at 762 (“The frequency of lawyers mentioning local bias is directly related to the *rural* nature of the district Where the alternative to the federal forum is a rural county court, attorneys often fear local favoritism.”) (italics in original); see also *id.* at 760 (noting that the survey reflected a higher degree of perceived local bias in rural, than urban, jurisdictions); Jerry Goldman & Kenneth S. Sparks, *Diversity Jurisdiction and Local Bias: A Preliminary Empirical Inquiry*, 9 J. LEGAL STUD. 93, 104 (1980) (noting that “urban lawyers perceive more local bias when litigation occurs in a rural area”). See generally Bassett, *Hidden Bias*, *supra* note 218.

220. See Bumiller, *supra* note 218, at 760 (noting, from its survey’s descriptive comments, the observation that “rural state judges were unpredictable”); *id.* at 768–69 (reporting that survey reflected concerns regarding the caliber of judges, and concluding that “[t]he high ranking of the quality of justice factor appears to be a function of the *ruralness* of the court environment, as with local bias”) (italics in original); see also *id.* at 752 (“The more rural the geographical area of the court the more likely attorneys will prefer federal courts to protect their clients from perceived local bias and poorer quality of judges.”).

221. See Jacqueline S. Anderson, *Changing Venue to Obtain a Fair and Impartial Trial: Trial Court Discretion or Subjective Evaluation? Is This the End of Trials in Rural North Dakota Counties?*, 70 N.D. L. REV. 675, 679 (1994) (“There are many statutory bases for seeking a change of venue, such as local prejudice, bias, and inability to obtain a fair and impartial trial in the particular county.”).

222. See COUND ET AL., *supra* note 218, at 342 (quoting Hans Zeisel, *Social Research on the Law: The Ideal and the Practical*, in LAW AND SOCIOLOGY 130–32 (William M. Evan ed., 1962)).

223. See Marvin Zalman & Maurisa Gates, *Rethinking Venue in Light of the “Rodney King” Case: An Interest Analysis*, 41 CLEV. ST. L. REV. 215, 231–32 (1993) (finding that “venue is more likely to be changed in [small] counties”).

224. See Anderson, *supra* note 221, at 686. The article discusses a recent North Dakota Supreme Court decision and concludes that

Ruralism similarly impacts tort law. As one commentator has observed:

Tort law in action may . . . be termed inequitable. It is responsive to a wide variety of influences that are not defined as legitimate by common standards of equity. . . . [T]he negotiated settlement rewards the sophisticated claimant and penalizes the inexperienced, the naive, the simple, and the indifferent. Translating these terms into social statutes, . . . the settlement produces relatively more for the affluent, the educated, the white, and the city-dweller. It penalizes the poor, the uneducated, the African-American, and the rural dweller.²²⁵

Ruralism also surfaces in the environmental law arena. The sites selected for undesirable land uses have tended to be locations where the residents are least likely to protest effectively.²²⁶ Proponents of the environmental justice movement argue that racism exists in the siting of such undesirable land uses, in promulgating and enforcing environmental laws, and in cleaning polluted areas.²²⁷ A similar channeling of undesirable land uses occurs in rural areas:

Equity issues remain major concerns for those who are asked to host waste facilities. Because of safety issues it is technically preferable to store such wastes in less populated areas which, in turn, tends to lead to the siting of such facilities in rural areas. Rural residents are in effect being asked to host a facility that stores wastes produced primarily in businesses and populations from larger urban areas. As a result, hosting areas' residents often believe that siting such projects in their areas is unfair; that it is

the decision leaves the impression that in less populated counties, jurors may not be trusted to lay aside any biases, impressions, or opinions and render a verdict based on the evidence presented at trial. The North Dakota bar can only wait and see how this decision impacts jury trials in the smaller rural counties.

Id.

225. Jeffrey O'Connell et al., *The Costs of Consumer Choice for Auto Insurance in States Without No-Fault Insurance*, 54 MD. L. REV. 281, 293 (1995) (brackets and internal quotation marks omitted).

226. See Vicki Been, *What's Fairness Got to Do With It? Environmental Justice and the Siting of Locally Undesirable Land Uses*, 78 CORNELL L. REV. 1001, 1002 (1993) ("Because local protest can be costly, time-consuming, and politically damaging, siting decision makers often take the path of least resistance—choosing sites in neighborhoods that are least likely to protest effectively.").

227. See ROBERT D. BULLARD, *DUMPING IN DIXIE: RACE, CLASS, AND ENVIRONMENTAL QUALITY* 4-5 (1990) (noting the PIBBY—"put it in blacks' backyards"—phenomenon); Robert D. Bullard, *The Threat of Environmental Racism*, 7 NAT. RESOURCES & ENV'T 23 (1993) (arguing that racial minorities are exposed to greater environmental risks); Karl Grossman, *Environmental Justice*, E MAG., May-June 1992, at 31.

inequitable for them to be asked to store waste by-products that are produced in other areas.²²⁸

The siting of toxic chemical dumps,²²⁹ industrial waste,²³⁰ and prisons²³¹

228. See STEVE H. MURDOCK ET AL., *HAZARDOUS WASTES IN RURAL AMERICA* 2 (1999).

229. See *id.* at 125:

Concerns about the instability of economic activities and opportunities are pervasive in many rural areas across the United States. Long-term patterns of decline in agriculture, extractive industries, and other traditional economic sectors have affected many rural areas, and have contributed to high rates of rural poverty, high rates of outmigration, long-term patterns of population decline, deteriorating levels of infrastructure and public services, and a general deterioration in the viability of many rural communities. Under such circumstances, there is a tendency in many rural areas for residents and leaders to support virtually any project perceived to bring with it economic development potential, even if that project might otherwise be considered undesirable in terms of possible effects on environmental quality, traditional land use patterns, or public health and safety In many instances facilities employing even modest numbers of workers at reasonably attractive pay scales are viewed as the potential salvation of communities that have few if any other prospects for meaningful economic development. For these reasons rural areas have frequently been considered prime candidates for the siting of hazardous and noxious facilities, on the assumption that local economic development concerns will result in higher acceptability for projects that may be considered much less desirable in more stable and prosperous areas

Murdoch et al. note that “rural communities have been and will continue to be the likely sites of such [hazardous waste] facilities.” *Id.* at 3; see also Joel Diringer, *Perspective on Health Care*, L.A. TIMES, June 28, 1993, at B7 (noting that “[t]oxic-waste facilities are often sited in rural areas”); Dale Russakoff, *As in the ‘60s, Protesters Rally; but This Time the Foe Is PCB*, WASH. POST, Oct. 11, 1982, at A1 (“The Environmental Protection Agency, which regulates toxic waste, does not require that it be buried in rural areas, but it generally turns out that way.”); *id.* (quoting an EPA official as stating, “It’s obviously a desirable characteristic to have it [toxic waste] in a rural area”).

230. See Federal News Service, *Renew America Press Conference on Environmental Damage in Rural America*, (Aug. 29, 1989), at 4 [hereinafter *Renew America*] (“More and more . . . the movement is for urban and industrial waste to be disposed of in less politically powerful, less heavily populated rural areas, that can be run over in this political process.”); see also MURDOCK ET AL., *supra* note 228, at xv:

Because of concerns about exposing large numbers of persons to the potentially hazardous effects of [technology] wastes, the sites for their storage and/or disposal have generally been located in rural areas of the United States. The problems and controversies surrounding waste developments have thus become disproportionately problems that must be faced by rural communities.

231. See Guillaume Debr, *Town Need Revitalizing? Build a Prison*, CHRISTIAN SCI. MONITOR, April 5, 2000, at 3 (“Most of the penitentiaries built to meet [the] growing demand are in rural areas, where land is cheaper and more widely available. Sixty-nine of the 95 federal detention facilities in the country today are located in towns of fewer than 40,000 inhabitants, for example.”); *Locked Up in the Census Count*, CHI. TRIB., Mar. 29, 2000, at 19 (noting that “the majority of new prisons are now built in rural communities”); Adrian Lomax, *Captive Audience*, IN THESE TIMES, June 14, 1998, at 38 (noting that “[p]risons tend to be located in isolated, rural areas”); Eric Schlosser, *America Busted*, NEW YORKER, Feb. 24 & Mar. 3, 1997, at 49 (noting that

in rural areas are but three examples²³² of ruralism. Ruralism similarly is the reason underlying the lack of adequate federal regulation of air pollution, water pollution, and pesticide contamination in rural areas.²³³

Ruralism appears in a variety of other federal laws enacted by Congress, reflecting the urban focus—and bias—of our federal policies.²³⁴ Ruralism reaches into a broad range of areas, ranging from tax laws,²³⁵ to federal telecommunications subsidies,²³⁶ to deregulation.²³⁷

since 1982 more prisons have been built in rural areas than in the preceding two centuries).

232. See Adam S. Weinberg, *Sustainable Economic Development in Rural America*, 570 ANNALS AM. ACAD. POL. & SOC. SCI. 173, 175 (2000) (“[P]rior patterns of dysfunctional development [in rural communities], including natural resource extraction, industrial waste facilities, low-road industry, tourism, and prisons. These activities often brought economic growth but also social and ecological disruption.”).

233. See Robert B. McNeil, STATES NEWS SERVICE, May 16, 1989, at 1 (noting that “the wide use of pesticides, the location of solid and toxic waste dumps in rural areas and the failure to protect vulnerable open spaces are putting increased pressure on local water systems to protect irreplaceable ground and surface water supplies”); *Renew America*, *supra* note 230, at 1 (discussing impact of environmental stress on rural areas, including water pollution, air pollution, soil erosion, land misuse, pesticide contamination, and waste disposal).

234. RURAL POLICIES, *supra* note 21, at 3 (“Public policy on the federal level, including monetary and fiscal policy, has direct consequences for rural areas, putting them at a disadvantage to urban areas.”); see also *supra* Part III.C (discussing lack of access and discriminatory policies generally).

235. See RURAL POLICIES, *supra* note 21, at 3–4 (noting federal policies having negative impacts on rural dwellers, including “tax laws favoring capital-intensive urban and suburban development and relaxation of antitrust laws,” “[a] stagnant minimum wage as well as tax policies that shifted the tax burden from the rich to lower income workers”); see also FITCHEN, *supra* note 8, at 267:

In locations where land development pressures are especially high, federal tax codes providing advantages for second homes give a bonus to developers and affluent outsiders while causing an artificially inflated pace of land development that leaves some rural places overwhelmed and some rural people “underhoused”—unable to afford a home in their own community.

236. See WEISHEIT ET AL., *supra* note 5, at 11:

In the future the gap between rural and urban telephone subscriptions may widen as a result of changes in federal law. It costs much more to provide basic telephone service to rural areas, partly because of the distances involved and partly due to the diseconomies of scale from providing service to less populated areas. In the past a federal subsidy for rural telephone service kept the consumer’s cost for rural service close to that of the urban dweller. Under the 1997 federal telecommunications law the federal government would shift responsibility for 75 percent of the subsidy to individual states. . . . Whether states will continue the subsidy remains to be seen, but without it the number of rural homes without telephone service will increase dramatically, particularly in economically depressed rural areas.

237. See FITCHEN, *supra* note 8, at 267 (“A number of specific federal policies cause or exacerbate problems in rural America. Federal health care reimbursement policies, deregulation of transportation, especially bus lines, and deregulation of banking all have the potential to erode further the quality of life in rural America.”); see also RURAL POLICIES, *supra* note 21, at 3–4 (noting that deregulation puts rural areas at a disadvantage to urban areas).

In short, due to their minority status, rural dwellers do not receive just and equal treatment.²³⁸ Even those regulations imposed equally with respect to urban and rural areas still neglect the rural impact in favor of an urban focus.²³⁹

V. THE IMPACT OF, AND REMEDIES FOR, RURALISM

A. THE IMPACT OF RURALISM

Ruralism has two equally devastating impacts. First, ruralism exacerbates the impact of discrimination against other protected groups.²⁴⁰ For example, the cumulative discriminatory impact on individuals who are both female and African-American is well documented.²⁴¹ Similarly, an individual who is

238. See MURDOCKET AL., *supra* note 228, at 2:

Equity issues remain major concerns for those who are asked to host waste facilities. Because of safety issues it is technically preferable to store such wastes in less populated areas which, in turn, tends to lead to the siting of such facilities in rural areas. Rural residents are in effect being asked to host a facility that stores wastes produced primarily by businesses and populations from larger urban areas. As a result, hosting areas' residents often believe that siting such projects in their areas is unfair; that it is inequitable for them to be asked to store waste by-products that are produced in other areas.

239. See Fitchen, *Rural Poverty*, *supra* note 202, at 192:

Stricter land-use regulations, building ordinances, and housing codes affecting rural areas now prevent low-income home-owning families from using their traditional strategies to provide cheap makeshift owner-occupied housing for themselves and their extended families. At the state level, for example, a uniform building and fire code prohibits people from occupying a partially completed home and from utilizing used or rough-cut lumber in construction, thus curtailing adaptive strategies poor rural people have traditionally used to build, modify, and extend a house gradually over the years as family needs change and money and materials become available. Tightened local land-use regulations have further circumscribed the strategies open-country people use to provide housing at minimal cash cost. Regulation of trailers on individual lots in the open countryside, for example, restricts poor people's housing options and increases the cost.

240. See KNOWING YOUR PLACE, *supra* note 5, at 3:

Given the pervasiveness of the rural/urban opposition and its related significance in the construction of identity, it is remarkable that the explosion of scholarly interest in identity politics has generally failed to address the rural/urban axis. The resulting representation of social distinctions primarily in terms of race, class, and gender thus masks the extent to which these categories are inflected by place identification. For example, social theorists generally fail to acknowledge that a rural woman's experience of gender inequality may be quite different from that of an urban woman, or that racial oppression in the city can take a different form from that in the countryside.

241. See, e.g., Marilyn V. Yarbrough, *A Sporting Chance: The Intersection of Race and Gender*, 38 S. TEX. L. REV. 1029, 1036 (1997) ("[T]hose of us who are neither white nor male often experience *invisibility* as a result of our dual subordinate status."); Mary Elizabeth Powell, Comment, *The Claims of Women of Color Under Title VII: The Interaction of Race and Gender*, 26

female, African-American, and from a rural area faces a third potential basis for discrimination.²⁴² Second, ruralism itself is a separate and independent basis for discrimination.

Perhaps even more dismaying than the actual disadvantages caused by ruralism is the lack of awareness of the prejudice. In this respect, ruralism shares a problem common with other forms of discrimination. Although it is not my intention to directly equate ruralism with racism or sex discrimination,²⁴³ the use of limited analogies is appropriate.²⁴⁴ For example, it is telling that although a majority of whites believe racial discrimination no longer exists, a majority of African-Americans find discrimination alive and well.²⁴⁵ In light of recent psychological studies demonstrating that

GOLDEN GATE U. L. REV. 413, 413 (1996) ("African-American women by virtue of our race and gender are situated within at least two systems of subordination: racism and sexism."). See generally Adrien Katherine Wing & Mark Richard Johnson, *The Promise of a Post-Genocide Constitution: Healing Rwandan Spirit Injuries*, 7 MICH. J. RACE & L. 247, 293-94 (2002):

Although we recognize each minority group as separate, it is important that the multiplicative nature of the problem is recognized. As a starting point, every human being has multiple identities. For some, such as Anglo-Saxon American males, these identities may secure positions of privilege. On the other hand, when an identity stems from membership in a minority group or a group traditionally disadvantaged, the oppression can be devastating. The problem is further exacerbated and compounded when an individual is simultaneously a member of many minority groups, and consequently, experiences discrimination from identification with each of the groups at the same time.

242. See Jensen, *supra* note 145, at 181 ("Nonmetropolitan . . . blacks and Mexicans suffer a double jeopardy owing to their geographic location and minority group status. . . . [T]he comparative economic disadvantage of rural minorities has been sizable and persistent. . . .") (citations omitted); see also Arnold, *supra* note 7, at 195 ("Biases against the rural poor are compounded by cultural prejudices against the poor and racial and ethnic minorities, especially blacks and Latinos.").

243. See generally Trina Grillo & Stephanie M. Wildman, *Obscuring the Importance of Race: The Implication of Making Comparisons Between Racism and Sexism (Or Other -Isms)*, 1991 DUKE L.J. 397 (discussing the dangers of "false understanding" that can arise when other forms of discrimination are used by analogy).

244. See *id.* at 398:

[A]nalogies are necessary tools to teach and to explain, so that we can better understand each others' experiences and realities. We have no other way to understand each others' lives, except by making analogies to events in our own experience. Thus, the use of analogies provides both the key to greater comprehension and the danger of false understanding.

245. See Lawrence Bobo & James R. Kluegel, *Opposition to Race-Targeting: Self-Interest, Stratification Ideology, or Racial Attitudes?*, 58 AM. SOC. REV. 443, 459 (1993) (noting that "54 percent of blacks see 'a lot' of discrimination in jobs compared to only 24 percent of whites"); see also Teresa M. McAleavy, *Race Colors Views of Job Fairness*, SACRAMENTO BEE, Jan. 21, 2002, at E1 ("Most minorities polled said their employer ignored complaints of being treated unfairly. Fifty-seven percent said their employer did not respond in a prompt or satisfactory manner regarding such complaints as being passed over for promotion, being assigned undesirable tasks or hearing racist remarks."). Researchers have found similar results in surveying perceptions of women in the law. See Deborah L. Rhode, *Myths of Meritocracy*, 65 FORDHAM L. REV. 585, 585-86 (1996):

prejudiced responses are largely unconscious,²⁴⁶ people who claim, and honestly believe, they are not prejudiced often nevertheless harbor unconscious stereotypes and beliefs.²⁴⁷

These same problems are inherent in ruralism. Outside of a few who specialize in rural studies,²⁴⁸ ruralism as a phenomenon is largely unrecognized.²⁴⁹ Because urban dwellers are the dominant group, their bias in favor of other urban dwellers—and discrimination against rural dwellers—is unrecognized, unacknowledged, and unexamined. Urban bias has become an objective norm, hiding within the language, perceptions, and expectations of the dominant discourse. When ruralism as a phenomenon is acknowledged to exist, it is discovered in virtually all aspects of living.²⁵⁰

Over the last quarter century, sensitivity to gender bias has increased dramatically, as has women's representation in the legal profession. But ironically enough, this partial progress has created its own obstacles to further reform. Women's growing opportunities are often taken as evidence that the "woman problem" has been solved. Recent surveys find that only one-quarter to one-third of men report observing gender bias in the profession, although two-thirds to three-quarters of women indicate that they personally have experienced it.

Part of the difference in perception stems from the fact that "the outright discrimination against women that was common 30 years ago has been replaced by more subtle, usually less intentional behavior that can make it more difficult for women to excel." Lisa Singhania, *Boomer Female Execs Still Face Hurdles*, LANSING ST. J., July 22, 2002, at D3.

246. See, e.g., Irene V. Blair & Mahzarin R. Banaji, *Automatic and Controlled Processes in Stereotype Priming*, 70 J. PERSONALITY & SOC. PSYCHOL. 1142, 1142 (1996) (concluding that "stereotypes may be automatically activated"); Patricia G. Devine, *Stereotypes and Prejudice: Their Automatic and Controlled Components*, 56 J. PERSONALITY & SOC. PSYCHOL. 5, 5 (1989) (finding that stereotypes are "automatically activated in the presence of a member (or some symbolic equivalent) of the stereotyped group and that low-prejudice responses require controlled inhibition of the automatically activated stereotype"); John F. Dovidio et al., *On the Nature of Prejudice: Automatic and Controlled Responses*, 33 J. EXPERIMENTAL SOC. PSYCHOL. 510, 512 (1997) ("Aversive racism has been identified as a modern form of prejudice that characterizes the racial attitudes of many Whites who endorse egalitarian values, who regard themselves as nonprejudiced, but who discriminate in subtle, rationalizable ways.") (citations omitted). See generally Debra Lyn Bassett, *Judicial Disqualification in the Federal Appellate Courts*, 87 IOWA L. REV. 1213, 1249–50 nn.179–84 (2002) (describing the phenomenon of unconscious bias).

247. Anthony G. Greenwald & Mahzarin R. Banaji, *Implicit Social Cognition: Attitudes, Self-Esteem, and Stereotypes*, 102 PSYCHOL. REV. 4, 15 (1995); accord Devine, *supra* note 246, at 5–7 (discussing unconscious bias).

248. See, e.g., PERSISTENT POVERTY, *supra* note 2, at 232; DUNCAN, *supra* note 134, at 208; FITCHEN, *supra* note 8, at 247.

249. See KNOWING YOUR PLACE, *supra* note 5, at 3 ("[I]t is remarkable that the explosion of scholarly interest in identity politics has generally failed to address the rural/urban axis.").

250. Urban bias bears some similarities to the more general notion of "privilege," as examined by Stephanie Wildman. Professor Wildman has defined privilege as a "systemic conferral of benefit and advantage," resulting not from merit, but from "affiliation, conscious or not and chosen or not, to the dominant side of a power system." STEPHANIE M. WILDMAN ET AL., PRIVILEGE REVEALED: HOW INVISIBLE PREFERENCE UNDERMINES AMERICA 29 (Richard Delgado & Jean Stefancic eds., 1996). As Professor Wildman has noted, "[a]ffiliation with the dominant side of the power line is often defined as merit and worthiness. The characteristics

The problems in dealing with discrimination are exacerbated by the current perception that “[u]nless an employer expresses outright hostility to a particular group, people explain disparities between groups by looking for *individual*, not *systemic*, reasons. . . . [M]ost Americans fail to recognize discrimination because it does not ‘*look like what we [think] discrimination [should] look[] like.*’”²⁵¹

This notion of failing to recognize discrimination because it does not “look like” discrimination hits ruralism particularly hard. Employers do not see themselves as discriminating against rural dwellers. Instead, they couch their rejections in terms of a lack of “qualifications” or as not “fitting in.” This is consistent with the widely held belief that differences in outcomes are not the result of discrimination or unequal opportunity, but rather are the result of individual differences in talent and effort.²⁵²

and behaviors most shared by those on the dominant side of the power line often delineate the societal norm or standard.” Stephanie M. Wildman, *Privilege in the Workplace: The Missing Element in Antidiscrimination Law*, 4 TEX. J. WOMEN & L. 171, 176 (1995). And, as is true with ruralism, the urban majority simply does not perceive the urban advantage. See *id.* at 177 (“Perhaps most importantly, privilege is not visible to the holder of the privilege; it is merely there, a part of the world, a way of life, simply the way things are.”) (alteration in original) (citation omitted); see also CATHARINE A. MACKINNON, FEMINISM UNMODIFIED 34 (1987) (“There is a politics to [the question of difference in sex discrimination]. Concealed is the substantive way in which man has become the measure of all things. . . . Gender neutrality is thus simply the male standard. . . .”). Professor MacKinnon has noted the “circularity” in the way courts have applied discrimination laws:

When discrimination in one area of society creates inequality in other areas, that has often been seen as just the way it happens to be, as just *facts*, not as discrimination. . . . It just happens that some folks who just happen not to be white don’t happen to make so much money, so they can’t afford this housing, so they don’t live here. Why don’t these folks happen to make enough money to live here? That is not really discrimination, it’s just that the jobs they do just happen to pay a lot less than other jobs because those people don’t happen to have the educational qualifications that would enable them to get the higher-paying jobs. Why don’t they have the educational qualifications? They just didn’t happen to go to such good schools. Why? Because they live in poor communities that tend to have the less good schools. Everything is seen as if it were happenstance, at each step. Nobody discriminates, everybody just takes things as they really are, as they just happen to be.

Id. at 64.

251. Anne Lawton, *The Meritocracy Myth and the Illusion of Equal Employment Opportunity*, 85 MINN. L. REV. 587, 606–07 (2000) (emphasis in original); see also SUSAN D. CLAYTON & FAYE J. CROSBY, JUSTICE, GENDER, AND AFFIRMATIVE ACTION 79 (1992) (“People may also have ideas about what discrimination ‘looks like.’ They may feel, for example, that discrimination only occurs when there is the intention to discriminate, or when a man earns much more than an equally qualified woman.”).

252. See SONIA OSPINA, ILLUSIONS OF OPPORTUNITY: EMPLOYEE EXPECTATIONS AND WORKPLACE INEQUALITY 13–14 (1996) (describing the strong American belief that hard work and ability, not luck or help from other people, lead to success, and thus differences in individual motivation, not differences in opportunity, lead to the differences in economic outcomes); see also Lawton, *supra* note 251, at 593 (noting “the American belief that any person

The impact of ruralism is not unlike the impacts suffered by victims of racial, sexual, or other types of discrimination that now receive protected status under federal and state laws. Against a background of poverty, inferior schools, lack of access, and discrimination in laws and policies, the concepts of justice and equal protection ought to apply to ruralism.

B. JUSTICE AND THE POTENTIAL PROMISE OF THE EQUAL PROTECTION CLAUSE

The concepts of justice and equal protection are intertwined. Ronald Dworkin has expressed the ideal that people are entitled to “equal concern and respect,” both in terms of the “right to equal treatment, that is, to the same distribution of goods or opportunities as anyone else has or is given,” and to “the right to treatment as an equal.”²⁵³ In sum, both concepts—justice and equal opportunity—are intended to promote the notion of a “level playing field” for all Americans, where access is available to all.

In reality, this “level playing field” has never existed. Equality has not historically been a part of our Constitution or policies. For instance, the Constitution counted black slaves as “three fifths” of a person.²⁵⁴ For almost 250 years—from 1619 to 1865—slavery was a “legally-enforced labor system.”²⁵⁵ Even with the abolition of slavery as set forth in the Emancipation Proclamation and the Thirteenth Amendment,²⁵⁶ we did not achieve equality. Instead, until 1954 the courts repeatedly upheld racial

can succeed, regardless of birth or upbringing, so long as he possesses sufficient talent, grit, and determination”); Rhode, *supra* note 245, at 586 (noting that “any lingering disparities” between the achievements of men and women in legal occupations tend to be attributed to “women’s own ‘different’ choices and capabilities”).

253. RONALD DWORKIN, *TAKING RIGHTS SERIOUSLY* 272–73 (1977); see also Ronald Dworkin, *What is Equality? Part 1: Equality of Welfare*, 10 PHIL. & PUB. AFF. 185 (1981); Ronald Dworkin, *What is Equality? Part 2: Equality of Resources*, 10 PHIL. & PUB. AFF. 283 (1981); Ronald Dworkin, *What is Equality? Part 3: The Place of Liberty*, 73 IOWA L. REV. 1 (1987); Ronald Dworkin, *What is Equality? Part 4: Political Equality*, 22 U.S.F. L. REV. 1 (1987).

254. The relevant Constitutional provision originally read:

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, *three fifths of all other persons*.

U.S. CONST. art. I, § 2, cl. 3 (emphasis added). See generally ROBERT B. SHAW, *A LEGAL HISTORY OF SLAVERY IN THE UNITED STATES* 168–69 n.3 (1991) (discussing the three-fifths of a person provision); John Hope Franklin, *Slavery and the Constitution*, in *CIVIL RIGHTS AND EQUALITY* 61–62 (Leonard W. Levy et al. eds., 1989) (discussing the debate at the Constitutional Convention regarding the counting of slaves).

255. West, *supra* note 177, at 608; see also *id.* at 608 n.3 (tracing the history of slavery in the United States).

256. U.S. CONST. amend. XIII, § 1 (“Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.”).

segregation,²⁵⁷ despite the enactment of the Equal Protection Clause in 1868.²⁵⁸ And again, when racial segregation in elementary education officially was outlawed in 1954,²⁵⁹ segregation did not immediately disappear—to say nothing of residual discrimination.²⁶⁰

Accordingly, there was a time in our history when the majority of Americans believed that the educational and employment systems, which disproportionately rewarded Caucasians, were not problematic or discriminatory because they believed African-Americans were, in fact, less qualified. Although the United States Supreme Court ultimately rejected the

257. See *Plessy v. Ferguson*, 163 U.S. 537 (1896) (holding that legally mandating the segregation of black and white passengers on railway cars did not violate the Equal Protection Clause). Justice Harlan's often-quoted dissent in *Plessy* stated that, "[o]ur Constitution is color-blind, and neither knows nor tolerates classes among citizens." *Id.* at 559 (Harlan, J., dissenting). As several commentators have noted, however, the text preceding this popular quote reflected Justice Harlan's own belief in white superiority:

The white race deems itself to be the dominant race in this country. And so it is, in prestige, in achievements, in education, in wealth and in power. So, I doubt not, it will continue to be for all time, if it remains true to its great heritage and holds fast to the principles of constitutional liberty. But in view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law.

Id.; see, e.g., John E. Morrison, *Colorblindness, Individuality, and Merit: An Analysis of the Rhetoric Against Affirmative Action*, 79 IOWA L. REV. 313, 316 (1994) (noting that "[w]hat Justice Harlan meant by colorblind is not clear, however, given the extremely color-conscious language that precedes his statement"); Laurence H. Tribe, *In What Vision of the Constitution Must the Law be Color-blind?*, 20 J. MARSHALL L. REV. 201, 203 (1986) ("[C]olor-blind ideal... was only shorthand for the concept that the Fourteenth Amendment prevents our law from enshrining and perpetuating white supremacy."); West, *supra* note 177, at 609 ("While arguing for a color-blind interpretation of the Constitution, Justice Harlan himself also subscribed to beliefs of white superiority In his view, granting legal equality to African Americans would not undermine the continued and expected dominance of white Americans in all other areas of life.").

258. U.S. CONST. amend. XIV, § 1:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

259. See *Brown v. Bd. of Educ.*, 347 U.S. 483, 495 (1954) (holding that separate educational facilities for black and white children were "inherently unequal").

260. See West, *supra* note 177, at 610 ("It took the mass protests of the civil rights movement from 1954 until the late 1960s to end formal, legal segregation."); see also *Loving v. Virginia*, 388 U.S. 1 (1967) (striking down Virginia's statutes prohibiting interracial marriage—in 1967); *id.* at 11 ("The fact that Virginia prohibits only interracial marriages involving white persons demonstrates that the racial classifications must stand on their own justification, as measures designed to maintain White Supremacy.").

“separate but equal” treatment of educational opportunities for African-American students,²⁶¹ and Congress extended this protection to the employment arena,²⁶² integration is not the same as equality.²⁶³

The Constitution similarly discriminated against women.²⁶⁴ Although Congress in 1870 adopted the Fifteenth Amendment, which accorded citizens the right to vote without regard to race,²⁶⁵ it took another fifty years—until 1920—for Congress to adopt the Nineteenth Amendment, which gave women the right to vote.²⁶⁶ Again, despite progress with respect to voting rights, this progress did not equate with true equality.²⁶⁷ Title VII of the Civil Rights Act of 1964, for example, did not include sex as a prohibited basis for employment discrimination until late in the Congressional process.²⁶⁸ And although legal safeguards now exist to accord women equal status, genuine equality still does not exist.²⁶⁹

261. See *supra* note 259 and accompanying text (discussing the Supreme Court’s decision in *Brown v. Board of Education*).

262. See *supra* note 12 and accompanying text (discussing Title VII, which prohibits discrimination in private employment).

263. See T. Alexander Aleinikoff, *A Case for Race-Consciousness*, 91 COLUM. L. REV. 1060, 1065–66 (1991):

We live in a world of racial inequality. In almost every important category, blacks as a group are worse off than whites. Compared to whites, blacks have higher rates of unemployment, lower family incomes, lower life expectancy, higher rates of infant mortality, higher rates of crime victimization, and higher rates of teenage pregnancies and single-parent households. Blacks are less likely to go to college, and those who matriculate are less likely to graduate. Blacks are underrepresented in the professions, in the academy, and in the national government.

See generally *A COMMON DESTINY: BLACKS & AMERICAN SOCIETY* (Gerald David Jaynes & Robin M. Williams, Jr. eds., 1989) (describing welfare of blacks as contrasted with whites).

264. Catharine A. MacKinnon, *Reflections on Sex Equality Under Law*, 100 YALE L.J. 1281, 1282 (1991) (noting that “[e]quality was not mentioned in the Constitution or the Bill of Rights”).

265. U.S. CONST. amend. XV, § 1 (“The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.”).

266. U.S. CONST. amend. XIX, § 1 (“The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.”); see also Reva B. Siegel, *She the People: The Nineteenth Amendment, Sex Equality, Federalism, and the Family*, 115 HARV. L. REV. 947 (2002) (proposing a synthetic reading of the Fourteenth and Nineteenth Amendments as providing a better grounding for sex discrimination doctrine).

267. See, e.g., *Hoyt v. Florida*, 368 U.S. 57 (1961) (upholding exemption of all women from jury duty, unless woman asked to be placed on jury list, due to their “special responsibilities . . . as the center of home and family life”); *Goesaert v. Cleary*, 335 U.S. 464, 465–66 (1948) (upholding exclusion of women working in bar not owned by her husband or father, reasoning that women bartenders might “give rise to moral and social problems”). Perhaps one of the more obvious instances of resistance to gender equality was the failure of the proposed Equal Rights Amendment to the Constitution. S.J. Res. 689, 92nd Cong. (1972) (“Equality of rights under the law shall not be denied or abridged . . . on account of sex.”); see also Barbara A. Brown et al., *The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women*, 80 YALE L.J. 871 (1971) (endorsing and interpreting the Equal Rights Amendment).

268. Howard Smith, a Southern representative working to defeat the bill, proposed the

Thus, prejudice and discrimination against women, African-Americans, Latino/as, Asian-Americans, and other groups persist to the present day. Far from giving up, however, leaders at both the grass roots and governmental levels have attempted to remedy the problem through various means. These means have included, among other things, the Fourteenth Amendment's Equal Protection Clause,²⁷⁰ various legislative acts including the Civil Rights Act of 1964,²⁷¹ and litigation.²⁷²

In examining these potential remedies with respect to ruralism, the Civil Rights Act is unavailable because Congress has not extended these protections to rural dwellers. However, potential remedies for ruralism might lie in the use of the Equal Protection Clause and litigation.

The language of the Equal Protection Clause is straightforward: "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws."²⁷³ As one commentator has observed, although the language of the Equal Protection Clause appears to provide broad protections, the Supreme Court's decisions have limited its reach:

Read literally, the Equal Protection Clause resonates with political justice: government is admonished to treat all citizens equally; government is not to favor some at the expense of others, or to discriminate against some to the benefit of others. But the promise of the Equal Protection Clause has faded as the Supreme Court has

addition of the word "sex" to Title VII toward the end of the bill's debate. See LEO KANOWITZ, *WOMEN AND THE LAW: THE UNFINISHED REVOLUTION* 103-06 (1969); Caroline Bird, *Ladies Day in the House*, in BORN FEMALE: THE HIGH COST OF KEEPING WOMEN DOWN 1-19 (1968). But see Jo Freeman, *How "Sex" Got Into Title VII: Persistent Opportunism as a Maker of Public Policy*, 9 L. & INEQ. 1 (1990) (arguing that inclusion of "sex" was not an accidental breakthrough, but instead was the result of lobbying by the National Women's Party).

269. See, e.g., Rhode, *supra* note 245, at 587 (summarizing studies regarding the underrepresentation of women in various legal occupations and stating that "[s]uch underrepresentation cannot be explained simply by disparities in the pool of eligible candidates. For example, the *Glass Ceilings* report finds that New York women's rate of becoming partner was five percent and men's seventeen percent during the most recent period under review."); see also *id.* at 588 ("At least part of the reason for such underrepresentation involves lingering, although often unconscious, gender and racial biases."); Reed Abelson, *Study Finds Bias on the Job Is Still Common*, N.Y. TIMES, July 24, 2002, at B3 (reporting results of study finding that "[r]oughly a third of the employers studied appeared to have discriminated against women or minorities in at least one job category").

270. U.S. CONST. amend. XIV, § 1.

271. Pub. L. No. 88-352, §§ 701-716, 78 Stat. 253 (codified as amended at 42 U.S.C. §§ 2000e to 2000e-17 (2000)).

272. See, e.g., *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989) (addressing sex discrimination against female accountant); *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973) (creating a burden-shifting framework which permitted plaintiffs to prove discrimination using circumstantial evidence); *Brown v. Bd. of Educ.*, 347 U.S. 483, 495 (1954) (holding that separate educational facilities for black and white children were "inherently unequal").

273. U.S. CONST. amend. XIV, § 1.

steadily increased the evidentiary hurdles that must be surmounted before a decision maker will be found to have violated the Clause.²⁷⁴

Despite the Equal Protection Clause's facial remedy for unequal treatment, the Supreme Court's interpretation of the prerequisites necessary to establish a violation of the Clause has served to limit its application. Specifically, an equal protection claim must allege either that the challenged law or action is facially discriminatory, or that although facially neutral, the defendant was motivated by discriminatory intent.²⁷⁵ The Supreme Court has identified five factors potentially probative of intentional discrimination: (1) disparate impact, (2) the historical background to the decision, (3) the history of the decisionmaking process, (4) the departures from normal substantive factors or procedures, and (5) the legislative or administrative history of the government action.²⁷⁶ By requiring a showing of discriminatory intent, the Court quashed the emerging tendency of lower courts to find Equal Protection Clause violations based solely on disparate impact.²⁷⁷

The requirement of discriminatory intent in establishing an equal protection claim has limited the usefulness of the Equal Protection Clause as a remedy in environmental justice cases,²⁷⁸ and creates similar difficulties in

274. Alice Kaswan, *Environmental Laws: Grist for the Equal Protection Mill*, 70 U. COLO. L. REV. 387, 407-08 (1999).

275. *Id.* at 408-09:

The current understanding of when a facially neutral decision or action can be considered discriminatory was established in 1975 in *Washington v. Davis*. Stating that the 'central purpose of the Equal Protection Clause . . . is the prevention of official conduct discriminating on the basis of race,' the Court held that a plaintiff must prove that the defendant acted with discriminatory intent.

(quoting *Washington v. Davis*, 426 U.S. 229, 239 (1976)).

276. *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266-68 (1977).

277. See *Washington v. Davis*, 426 U.S. 229, 244-45 (1976); David Kairys, *Unexplainable on Grounds Other Than Race*, 45 AM. U. L. REV. 729, 731 (1996) (arguing that the occasions in which the Supreme Court has found a violation of the Equal Protection Clause since its decision in *Washington v. Davis*, 426 U.S. 229 (1976), "are extremely rare and are based primarily on other, overriding concerns."); Reva Siegel, *Why Equal Protection No Longer Protects: The Evolving Forms of Status-Enforcing State Action*, 49 STAN. L. REV. 1111, 1133-34 (1997) [hereinafter Siegel, *Equal Protection*]. See generally Alan E. Brownstein, *Illicit Legislative Motive in the Municipal Land Use Regulation Process*, 57 U. CIN. L. REV. 1 (1988) (discussing the dichotomy between the motive inquiry in equal protection cases and the absence of motive inquiry in other constitutional contexts and suggesting a more principled framework for determining when a motive inquiry is advisable).

278. See Kaswan, *supra* note 274, at 432-33 (noting that the environmental justice movement has sought to use the Equal Protection Clause as a remedy, but that the four published decisions considering equal protection claims in the environmental justice area have been unsuccessful due to the difficulties in proving intentional discrimination); see also R. Gregory Roberts, Comment, *Environmental Justice and Community Empowerment: Learning from the Civil Rights Movement*, 48 AM. U. L. REV. 229, 235 (1998) (noting that the showing of discriminatory intent necessary to prevail on equal protection grounds has thus far been a

the context of ruralism. Commentators have noted the heavy burden imposed by the Court's requirement of discriminatory intent.²⁷⁹ It is unlikely that a law would discriminate against rural dwellers expressly, and proving an intent to discriminate is challenging as a general matter due to the public's greater awareness of the political incorrectness of discriminatory comments and actions.²⁸⁰

As our nation has become more enlightened, we have made progress against discrimination. Progress has been made step by step—no proclamation, legislation, or court decision has achieved the instant eradication of discrimination against any particular group.²⁸¹ Interestingly, however, one of the achievements of such progress has been to sublimate blatant, articulated discriminatory actions and comments into subtle, *unstated* discriminatory actions and comments.²⁸² This phenomenon has correspondingly increased the difficulties of proving discriminatory intent because evidence of such intent is no longer blatant and courts have been reluctant to infer discrimination from more subtle comments and actions.

Despite the difficulties, the Equal Protection Clause may still offer a

burden "insurmountable for environmental justice plaintiffs"); *id.* at 235–36 (observing that in the four fully litigated cases attempting to use the Equal Protection Clause to block an environmental siting decision, the plaintiffs "were able to show that a particular decision would adversely and disproportionately affect their community, but were unable to show that the decisions at issue constituted intentional discrimination").

279. See, e.g., LAURENCE H. TRIBE, *AMERICAN CONSTITUTIONAL LAW* 1509 (2d ed. 1988) ("[T]he standards for finding [intentional discrimination] are tough indeed."); Kairys, *supra* note 277, at 731 (describing the "purposeful-discrimination rule" as "a near impenetrable brick wall").

280. In *Davis*, the Supreme Court acknowledged that discriminatory intent may not be explicit, and stated that "an invidious discriminatory purpose may often be inferred from the totality of the relevant facts." 426 U.S. at 241–42. Professors Eisenberg and Johnson, in a study of equal protection cases decided between 1976 and 1988, found that although direct evidence of discrimination was particularly persuasive, circumstantial evidence has also been successful in some instances. Theodore Eisenberg & Sheri Lynn Johnson, *The Effects of Intent: Do We Know How Legal Standards Work?*, 76 *CORNELL L. REV.* 1151, 1187 (1991). The circumstantial evidence most likely to be successful were a clear pattern of disparate impact unexplainable on other grounds, the foreseeability of the disparate impact, and the extent to which the action perpetuated the discrimination. *Id.*

281. See *supra* notes 253–72 and accompanying text (tracing steps toward eradicating discrimination on the basis of race and gender).

282. See Lawton, *supra* note 251, at 605–06 ("Discrimination today is more subtle and difficult to identify. Studies show that people often are unable to recognize discrimination on a case-by-case basis."); Siegel, *Equal Protection*, *supra* note 277, at 1135–36, 1141–43 (noting that the judicial prohibition of de jure discrimination has led decisionmakers to employ race-neutral language that may obscure a discriminatory purpose); see also Kaswan, *supra* note 274, at 408, 409 n.69 (stating that "[f]acially discriminatory laws and actions have become rare in today's race-conscious society," and noting that "in practice, the [Supreme] Court's discriminatory intent standard fails to encompass all instances of unfair treatment of minorities. Conscious racism may be difficult to prove because of the likelihood that such racism is hidden behind what appear to be race-neutral justifications.").

potential remedy, at least in some contexts.²⁸³ Given the fact-specific nature of equal protection inquiries,²⁸⁴ it is conceivable that the Equal Protection Clause could serve as a remedy for some forms of ruralism.²⁸⁵ Key to the success of any such action would be a careful compilation of the background, factors, and procedures, as well as a thorough examination of the impact upon rural, as contrasted with nonrural, dwellers.

In light of the undeniable existence of ruralism,²⁸⁶ the next section offers a proposal for addressing the disadvantages it creates for rural dwellers.

283. See Kaswan, *supra* note 274, at 456–82 (arguing that the Equal Protection Clause still provides a viable remedy in the context of environmental justice); see also Arnold, *supra* note 7, at 199:

Why should we take on the difficult task of rethinking and recasting our national rural housing policy? The most compelling reason is that a biased housing policy violates fundamental notions of equity. The federal government provides housing aid to impoverished families and individuals because decent, adequate housing is a basic necessity of life. If our society is to come anywhere close to equality of opportunity, people must not be socially handicapped by a lack of housing or by substandard housing. However, our housing policies demonstrate that we believe in this goal only with regard to urban housing needs, which the great majority of this nation sees. It is fundamentally unfair to deny a whole segment of our population equal access to federal housing aid simply because of where they live. When the stated goal of federal housing policy is to ensure each American a safe, decent, affordable place to live, we are being dishonest if we ignore the needs of the rural poor.

284. See Kaswan, *supra* note 274, at 456 (noting that the inquiry under the Equal Protection Clause is highly fact specific).

285. One study undertaken after the Supreme Court's *Davis* decision, from 1976 through 1988, found that the success rate for equal protection challenges was approximately 40%. Eisenberg & Johnson, *supra* note 280, at 1172–76.

286. In the course of writing this Article, I encountered resistance to the notion of ruralism ranging from mere ignorance to outright hostility. For example, I have received comments such as the following: "Why should we protect a group that is pursuing an outmoded manner of living?," "Readers will likely point out that there is a marked difference between government-imposed segregation and those who segregate themselves by choice," "[Why should] people who choose to live in rural areas . . . be given 'special privileges' based upon their choice to remain living in a rural area[?]," and my personal favorite, "Rural people could move to an urban area and gain eventual integration."

I could not help but note the striking similarity between this latter comment and Gunnar Myrdal's assumption that "it is to the advantage of American Negroes as individuals and as a group to become assimilated into American culture, to acquire the traits held in esteem by the dominant white Americans." Gunnar Myrdal, 2 *AN AMERICAN DILEMMA: THE NEGRO PROBLEM AND MODERN DEMOCRACY* 929 (1962). My response would parallel that of John Calmore: "As many whites experience competitive advantage and relative prosperity over blacks, they are encouraged to believe in an imagined cultural superiority that, in turn, reinforces their conviction—like that of nineteenth-century missionaries—that our blackness is a condition from which we must be liberated." John O. Calmore, *Critical Race Theory, Archie Shepp, and Fire Music: Securing an Authentic Intellectual Life in a Multicultural World*, in *CRITICAL RACE THEORY* 315, 315 (Kimberlé Crenshaw et al. eds., 1995).

Blaming the victim has always been one of the defensive reactions to allegations of discrimination, along with the insistence that discriminatory treatment was justified due to the lesser ability, intelligence, or desirability of the group discriminated against. *See generally* Cass R. Sunstein, *Three Civil Rights Fallacies*, 79 CAL. L. REV. 751, 759–60 (1991):

The beneficiaries of the status quo tend to . . . conclud[e] that the victims deserve their fate, that they are responsible for it, or that the current situation is part of the intractable, given, or natural order. . . .

[P]eople who behave cruelly change their attitudes toward the objects of their cruelty and thus devalue them. Observers of cruelty and violence tend to do the same. The phenomenon of blaming the victim has clear cognitive and motivational foundations. The notion that the world is just, and that existing inequalities are deserved or desired, plays a large role in forming preferences and beliefs. All these phenomena have played an enormous part in the history of racial and sexual discrimination.

Sexism was defended as necessary due to women's more delicate constitutions. *See, e.g.,* *Bradwell v. Illinois*, 83 U.S. 130, 141 (1872) (Bradley, J., concurring) (upholding Illinois state law prohibiting female lawyers from practicing in the state courts because "[t]he natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life," and "the civil law, as well as nature herself, has always recognized a wide difference in the respective spheres and destinies of man and woman. Man is, or should be, woman's protector and defender."). Racism was defended as a legitimate recognition of the so-called "proven" assertion that African-Americans were less intelligent than white persons—an assertion based on tests biased in favor of whites. *See, e.g.,* Adam Miller, *Professors of Hate*, in *THE BELL CURVE DEBATE: HISTORY, DOCUMENTS, OPINIONS* 162–68 (Russell Jacoby & Naomi Glauberman eds., 1995) (profiling Michael Levin, City College of New York professor and Pioneer grant recipient, who concluded that blacks are genetically less intelligent than whites). Classism argues that those in the lower socioeconomic classes are undeserving due to a lack of work ethic or lack of individual merit, rationalizing that anyone can become the next Horatio Alger if she has the general ability and works hard enough. *See, e.g.,* MICHAEL B. KATZ, *THE UNDESERVING POOR: FROM THE WAR ON POVERTY TO THE WAR ON WELFARE* 16–43 (1989) (criticizing the culture of poverty theory, which blames the victims of poverty for their poverty); WILLIAM RYAN, *BLAMING THE VICTIM* 119–20 (2d ed. 1976).

Ruralism is not merely sexism, racism, or classism, although these additional forms of discrimination exacerbate the negative effects of ruralism. Ruralism is a pervasive, everyday event. Indeed, its existence is so widespread, so commonplace, that many rural dwellers themselves engage in ruralism. Just as, years ago, many women believed themselves to be inferior to men, and many African-Americans believed themselves to be inferior to whites, many rural dwellers today view themselves as inferior to urban dwellers. *See, e.g.,* KENNETH B. CLARK, *PREJUDICE AND YOUR CHILD* 23–24 (1963) (describing a study in which African-American children, given the choice between a black doll and a white doll, chose the white doll as being the "prettiest"); Kenneth B. Clark & Mamie P. Clark, *Racial Identification and Preference in Negro Children*, in *READINGS IN SOCIAL PSYCHOLOGY* 169, 169–78 (1946) (discussing same study); Odeana R. Neal, *The Limits of Legal Discourse: Learning from the Civil Rights Movement*, 40 N.Y.L. SCH. L. REV. 679, 686–87 (1997) ("Even in multiracial environments, black children continue to view themselves as inferior."); Richard Ira Scott, *Poverty—Blame, Stigma and Food Stamp Program Participation*, Paper Presented at the Annual Meeting of the Mid-South Sociol. Ass'n (1985) (noting that widespread attitudes blaming the poor for their own poverty are internalized by some low-income household heads, leading to nonparticipation in food-assistance programs).

Rural living is not an evil from which rural dwellers must be rescued. But ruralism is a widespread form of discrimination deserving of recognition, and for which a legal remedy

C. RURALISM: A PROPOSAL

Rural dwellers suffer numerous documented disadvantages,²⁸⁷ and recognition of the burden of these disadvantages is long overdue. As is true of other forms of discrimination, ruralism reflects the disparities in power between urban and rural dwellers.²⁸⁸ The question remains the methodology: How do we appropriately acknowledge and address the phenomenon of ruralism?

The most effective remedies for ruralism are easily identified. As is true for discrimination based on race, gender, or other protected categories, the most effective remedies are the “three R’s”—recognition, role models (or mentoring), and remediation.

Recognition of ruralism as a phenomenon is the first necessary step.²⁸⁹ The available statistics provide powerful evidence of the disadvantages faced by rural dwellers.²⁹⁰ Poverty and lack of access are well-documented.²⁹¹ These disadvantages have prevented rural dwellers from full representation in society generally, and in university attendance and fuller entry into the elite professions in particular.

With respect to ruralism against individuals, mentoring is another important step.²⁹² Just as mentoring helps the poor,²⁹³ women, and

should exist. Ruralism is discrimination based on the dominant (urban) group’s unrealistic, distorted *view* of rural living—not the *fact* of rural living.

287. See WILKINSON, *supra* note 49, at 101 (“Ruralness seems likely to continue to be a source of disadvantage in access to jobs, income, services, and many other goals in the future as it has been in the past, notwithstanding periods of rural growth and notwithstanding developments in technology.”).

288. See Arnold, *supra* note 7, at 194–95:

The urban population, which is both highly concentrated and much larger than the rural population, pressures the federal government to deal with . . . problems [W]hen compared to urban residents, the rural underclass is politically weak. Widely dispersed, they lack the organization, financial resources, and concentrated voting strength necessary to influence public policy.

Other commentators have also noted the power disparities between urban and rural dwellers. See Lott, *supra* note 156, at 101 (“Power, defined as access to resources, enables the group with greatest access to set the rules, frame the discourse, and name and describe those with less power. . . . ‘it is power . . . that enables one to discriminate.’”) (citation omitted); see also KNOWING YOUR PLACE, *supra* note 5, at 2 (“[T]he rural/urban distinction underlies many of the power relations that shape the experiences of people in nearly every culture.”); *id.* at 17 (noting that “the city remains the locus of political, economic and cultural power”); *supra* note 10 and accompanying text (noting the lack of power of rural dwellers).

289. See Kaswan, *supra* note 274, at 481 (“The first step toward eliminating discrimination is recognizing its existence.”).

290. See *supra* Part III (discussing statistics regarding rural dwellers).

291. See *id.*

292. See *Inn Leaders to Convene in Seattle for 2002 National Leadership Conference*, 16 THE BENCHER, Mar./Apr. 2002, at 1 (“Mentoring is at the very core of the American Inns of Court movement.”).

293. See DUNCAN, *supra* note 134, at 208:

minorities,²⁹⁴ it helps the progress of rural dwellers as well. Effective mentoring provides the information, role modeling, and encouragement necessary to overcome disadvantages and to maximize opportunities.

Finally, during these beginning stages in recognizing the existence of ruralism, litigation under the Equal Protection Clause may be appropriate. Without affirmative action, the “qualifications” of rural dwellers will, almost by definition, be overshadowed by those of urban dwellers. Accordingly, recognition of the obstacles facing those from the most isolated rural areas; recognition that overcoming those obstacles to attend *any* post-secondary institution reflects a greater-than-usual degree of determination and perseverance; and recognition that rural dwellers do not have the same access to wealth, contacts, and connections, will help to accord a fairer evaluation of an applicant’s “qualifications.”

With respect to discrimination against rural areas more generally, such as the siting of undesirable land uses, two of these three “Rs” still apply—recognition and remediation. It is imperative that those with power exercise that power equitably with respect to urban and rural dwellers. Suggestions already exist to remedy racism in environmental decisions, and these same suggestions have validity in the ruralism context.²⁹⁵ Accordingly, remedial procedures should be instituted to lessen the impact of ruralism in our laws and regulations.

VI. CONCLUSION

Ruralism is a long-standing, pervasive form of discrimination against rural dwellers. Our society has an urban focus, which has contributed to the disadvantages suffered by rural dwellers in access to virtually every resource imaginable, including health care, education, transportation, housing, communication, and technology. This urban focus—and the reality of a more powerful urban majority—has led to stereotyping and discrimination against the less powerful rural minority in areas ranging from federal spending and programs, to culture, to everyday interactions. When rural dwellers attempt to achieve parity with urban dwellers through access to

Poor people who achieve mobility have been purposefully guided toward graduating from high school and often college, even though that achievement is a huge leap from the everyday context in which they formed their cultural tool kits. Some were prodded and inspired by a mother or father, others by an aunt, grandmother, teacher, nun, coach—anyone who took a personal interest and showed them options beyond their immediate surroundings.

294. See GUINIER ET AL., *supra* note 27, at 29, 62–66 (encouraging faculty mentoring as a way to end the alienation of women in legal academia); Rhode, *supra* note 245, at 589–90 (noting the lack of inclusion of women and minorities into informal networks where mentoring and rainmaking occur in the legal profession).

295. See, e.g., Been, *supra* note 226, at 1027–68 (comprehensively analyzing the theories and bases for fair siting proposals).

post-secondary education and employment, they—like other protected groups—encounter prejudice based upon their differences. This prejudice and lack of equal opportunity unfairly prevents many rural dwellers from achieving their full potential.

In addition to recognizing the existence of ruralism and the power of the prejudice underlying it, which is a crucial first step, this Article calls for mentoring and, where appropriate, litigation to equalize the treatment of rural and urban dwellers. Just as we no longer permit discrimination on the basis of race or gender, we can no longer tolerate widespread social—and legally-sanctioned—discrimination against rural dwellers.