The (Un)Just City: San Antonio, Texas and Geographically Situating the Struggle for Opportunity

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I. INTRODUCTION

Policy makers and the general public consistently charge schools with the job of securing equal opportunity in the city. Such an approach operates at a level of abstraction, obscuring the interrelated manifolds of racist practices that make up the social milieu of a city as well as the neoliberal context in which public education currently operates. It also ignores how space and place play integral roles to equal opportunity. A more realistic approach to addressing education policy would recognize these connections, disallowing us to see the settings of unjust schooling practices as simple neutral backgrounds.[1] Instead, we are forced to recognize how the "spatiality of (in)justice . . . affects society and social life just as much as social processes shape the spatiality or specific geography of (in)justice" and how these processes "intertwine to produce oppressive as well as enabling geographies."[2] Until we recognize this dialectic, we will be caught in the loop of addressing education policy in neoliberal individualistic approaches.

Place influences many things, including quality of schools, access to public transportation or highways, employment opportunities, and social networks.[3] Thus, "[w]here we live makes a big difference in the quality of our lives, and how the places in which we live [or] function has a big impact on the quality of our society. The evidence shows that places are becoming more unequal."[4] Indeed, places across the United States, where neighborhood schooling remains the primary system of education, are becoming more separate and unequal because of where you live.[5] Economic and racial enclaves across metropolitan

1. *See* JEAN ANYON, RADICAL POSSIBILITIES: PUBLIC POLICY, URBAN EDUCATION, AND A NEW SOCIAL MOVEMENT 127–29 (2d ed. 2014).

2. EDWARD W. SOJA, SEEKING SPATIAL JUSTICE 5, 193 (2010).

3. *See* john powell, *Race, Place, and Opportunity*, THE AM. PROSPECT (Sep. 21, 2008), https://prospect.org/special-report/race-place-opportunity/.

4. PETER DREIER, JOHN MOLLENKOPF & TODD SWANSTROM, PLACE MATTERS: METROPOLITICS FOR THE TWENTY-FIRST CENTURY 1 (3d ed. 2014).

5. *See id.*

areas have emerged, affecting segregation in public schools.[6] Further, racially and economically segregated schools and housing markets "contribute to segregated labor markets, reinforcing the existing economic and racial segregation that is now embedded into many metropolitan regions."[7] This further exemplifies how "spatial segregation is opportunity segregation."[8]

Spatial arrangements of opportunity are deeply intertwined with race. Systems were historically created and institutionalized by public policies that intentionally favored white individuals, restricting opportunities for people of color. In San Antonio, Texas, considered to be one of the most economically segregated cities in the United States, economic segregation is deeply linked with racial segregation, such as when original deed restrictions and racial covenants prevented Black and Mexican Americans from occupying certain spaces and neighborhoods in the city.[9] Despite discriminatory practices being outlawed in the city, little has been done to undo the inequities they created, and they continue to impact San Antonio's communities and public education systems.[10]

The formation of school districts in San Antonio shows how school district boundary lines contribute to spatial inequality, allowing privileged communities to wall themselves off from issues occurring elsewhere in the city.[11] This spatial inequality is worsened by an unequal funding system that relies on local school district property

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6. *See* Sarah Diem, Erica Frankenberg, Colleen Cleary & Nazneen Ali, *The Politics of Maintaining Diversity Policies in Demographically Changing Urban-Suburban School Districts*, 120 AM. J. EDUC. 351, 355 (2014).

7. Powell, *supra* note 3.

8. *Id.*

9. *See generally* Sarah Acosta, *City Leaders Address Economic Segregation in San Antonio; Some Residents Think It May Be Too Late*, KSAT 12 NEWS (Aug. 2, 2019, 9:30 AM), https://www.ksat.com/news/2019/08/03/city-leaders-address-economic-segregation-in-san-antonio-some-residents-think-it-may-be-too-late/ (explaining the economic segregation situation in San Antonio and surrounding neighborhoods).

10. *See* ANN BADDOUR ET AL., INSIGHTS, ASPIRATIONS, AND ACTIONS: INVESTING IN ASSET BUILDING FOR SAN ANTONIO FAMILIES 5 (France A. Gonzalez & Annika Little eds., 2019).

11. *See* Christine M. Drennon, *Social Relations Spatially Fixed: Construction and Maintenance of School Districts in San Antonio, Texas*, 96 GEOGRAPHICAL REV. 567, 568 (2006).

taxes to finance its public schools.[12] In San Antonio, it is evident that "each school district, whether property rich or property poor, is understood as the source of its own identity, its own problems, and its own solutions; they are absolute spaces and as such exist separate from one another and apart from that which they contain."[13] Texas, like most states in the United States, relies on local school district property taxes to fund its public schools. In neighborhoods with higher housing values, property tax bases are higher, providing districts in these neighborhoods greater access to resources compared to neighborhoods with lower housing values.[14]

The Texas education system, originally created in the late 1800s, permitted municipalities or neighborhoods to create their own school districts and subsequently elect school boards to oversee the district.[15] Those school boards were able to make decisions with taxes and property values in mind without being subject to decisions made by county commissioners.[16] As the population grew in the San Antonio metropolitan area, residents continued to develop racially restricted neighborhoods outside the city limits, contributing to the already existing racial and economic segregation.[17] Not surprisingly, these racially segregated neighborhoods led to racial and economic segregation in schools and school districts.

Over time, the proliferation of school districts in the San Antonio metropolitan area created spaces where funding became localized at the expense of addressing needs throughout the wider county context.[18] The school districts "were produced from specific social relations that spatialized and polarized city residents

12. *See id.* at 567–68.

13. *See id.* at 568.

14. *See* C. Kirabo Jackson, Rucker C. Johnson, & Claudia Persico, *The Effects of School Spending on Educational and Economic Outcomes: Evidence from School Finance Reforms*, 131 Q. J. ECON. 157, 161–62 (2016).

15. *See* Drennon, *supra* note 11, at 583–84.

16. *See id.* at 583 (noting that "[p]roperty-tax dollars received after independence flowed to local coffers rather than to shared, countywide needs.").

17. *See id.* at 580.

18. *See id.* (highlighting the patterns of residential segregation by class that provided the background for independent school districts and consolidation of others).

economically and racially. In turn, these spaces now work to reinforce the same social relations that produced them."[19]

This article grounds its argument in the realities of San Antonio in order to show that the solution to inequitable schools is dependent on an internalization of a spatial perspective on the "just city."[20] Specifically, this article employs the work of critical geographers to bring focus to the right to change ourselves by collectively changing the city and thus our schooling approaches.[21] In order to address these desires we have structured the article in four parts. In the first section, we discuss how we arrived at this current neoliberal policy context writ large but more specifically in San Antonio, Texas, providing an analysis of how leaders offered the privatization of public education as a response to inequality. In order to show how these neoliberal approaches are seemingly ahistorical, we then provide a historical narrative that speaks to the politics of spatial inequality in San Antonio to illustrate the deep-seated issues existent in a city designed to grow increasingly segregated. We then describe the legal context of education in the city to help consider the work of activists who have long pushed for equal educational opportunity. Next, we discuss a critical geography of opportunity theoretical framework to illustrate the importance of recognizing the relationship between the sociopolitical, historic, and geographic construction of inequality as people work toward a more just system. We conclude with a description of nascent collective organizing that sprung up in response to the privatization of many of the public schools in the city in 2019 and relate this to the need for a spatial perspective. We argue that a solution to educational inequality will require collective action with a spatialized consciousness to reaffirm a commitment to the public right to the city and the schools, especially within heavily neoliberal policy environments.

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19. *Id.* at 591.

20. *See* SUSAN FAINSTEIN, THE JUST CITY 3 (2010).

21. *See* DAVID HARVEY, *The Right to the City in* THE CITY READER 270–78 (Richard T. LeGates & Frederic Stout eds., 2008); Soja, *supra* note 2 (explaining the consequential spatiality of our lives and how they intertwine with social and spatial processes "to produce oppressive as well as enabling geographies"). If you are looking for a source explaining the work of critical geographers bringing focus to collective change to cities, see HENRI LEFEBVRE, THE URBAN REVOLUTION (2003).

II. NEOLIBERALISM, CORPORATE REFORM, AND SCHOOL CHOICE IN SAN ANTONIO

The collective "right to the city" is a political position, that states that it is citizens' right, as a group and as individuals, to be involved in the spatialization of opportunity across the city.[22] The invocation of this collective right to the city is critical to the project of reducing educational inequity in the city. However, the potential realization of this right will occur among the dominant form of city governance: neoliberalism. Given that neoliberal governance rarely recognizes collective rights we must be clear about just how pervasive neoliberal governance theory and practice is in the current context.[23]

A. Neoliberalism and the City

Neoliberalism did not become the dominant form of governance in cities across the United States until the late 1990s.[24] Before neoliberalism was a theory of governance known as *egalitarian liberalism*, which had grown in response to the Great Depression.[25] Throughout most of the twentieth century, the government's role in egalitarian liberalism was to protect the individual's rights to freedom *and* welfare.[26] This led to a balance of justifiable interventions including "public housing, corporate antitrust laws, food stamps, and basic income redistribution,"[27] and these interventions focused on the "maintenance of effective demand" in the economy.[28] In metropolitan areas, these interventions led to policies such as "Euclidean zoning, property taxes, and building codes . . . (federally funded, locally

22. *See* FAINSTEIN, *supra* note 20, at 3.

23. *See generally* Karen Bakker, *The "Commons" Versus the "Commodity": Alter-globalization, Anti-privatization and the Human Right to Water in the Global South,* 39 ANTIPODE 430–55 (2007).

24. *See* FAINSTEIN, *supra* note 20, at 167; JASON HACKWORTH, THE NEOLIBERAL CITY: GOVERNANCE, IDEOLOGY, AND DEVELOPMENT IN AMERICAN URBANISM 6–11 (2007).

25. *See* HACKWORTH, *supra* note 24, at 7–9.

26. *See id* at 6–7.

27. *Id.* at 7.

28. *Id.*

managed) redistributions such as public housing, unemployment insurance and food stamps."[29]

By the 1990s, many of these interventions were no longer seen as justifiable. Writers such as Hayek and Friedman critiqued the contradictions represented by an activist state that simultaneously guaranteed negative rights and welfare.[30] By the 1980s, these academic arguments had incarnated into political think tanks funded by the political right.[31] The motto from the growing neoliberal dogma maintained that any market failures (the inability to provide low income housing or medical care) were "eclipsed by the inefficiency, inequity and corruption of governments that try to regulate outside of a market mechanism."[32]

In practice, this meant the destruction or hollowing out of egalitarian liberalism programs and policies. For example, there was a removal or diminishment of "Keynesian artifacts (public housing, public space), policies (redistributive welfare, food stamps), institutions (labor unions, U.S. Department of Housing and Urban Development), and agreements (Fordist labor arrangements, federal government redistribution to states and cities)."[33] In their place was the development of government-business partnerships, voucher systems, workfare policies, and school accountability systems.[34] In addition to the policy changes, the responsibility for the funding and deployment of welfare systems moved to the localities.[35] In many cities, this new funding responsibility coincided with the flight of production capital to non-U.S. locations, culminating in cities having to borrow more money to meet the program needs that had previously been covered by federal funding. The removal of the federal government as a buffer to local market fluctuations in funding meant that cities could not guarantee welfare in times of recession when need was highest.

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29. *Id.* at 8–9.
30. *See id.* at 7.
31. *See id.* at 10.
32. *Id.*
33. *Id.* at 11.
34. *See id.*
35. *See id* at 12.

In particular, government-supplied housing became an investment cities could not maintain.[36] As public housing deteriorated, private-public partnership projects sprouted in its place.[37] As a result of the neoliberal dogma, cities implemented voucher programs, believing that market forces would sort housing.[38] Yet, instead of cutting costs, the housing provisions increased as the public entities now had to account for the profit of the landlords.[39] Many of the people who participated in these new programs relocated to less favorable locations within the city.[40] This led to "massive evictions and displacements of households and communities," and these destructions were "seldom accompanied by adequate housing alternatives for those affected."[41] This is indicative of a common consequence of neoliberal policies: the marginalized must overcome the inequitable geography of the city. While desire to provide access to welfare might still be a goal of cities, they are not necessarily positioned to do so. The activists who work to demand a reduction of inequality and an increase in opportunity for the citizens of their city must work through this current neoliberal governance model.

B. Neoliberalism and Education in the City

The neoliberal education agenda, which has been ongoing for the last four decades, pushes for the privatization of education and views education as an investment that individuals make in their children in order to compete in the marketplace.[42] It is not viewed as a public good that will benefit all children and the larger society.[43]

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36. *See* SARAH GLYNN, WHERE THE OTHER HALF LIVES: LOWER INCOME HOUSING IN A NEOLIBERAL WORLD 17–31 (2009) (explaining the history and problems with state-subsidized working-class housing versus the opportunity for home ownership).

37. *See id.* at 82, 85.

38. *See id.* at 32.

39. *See id.*

40. *See id.* at 86.

41. Raquel Rolnik, *Late Neoliberalism: The Financialization of Homeownership and Housing Rights*, 37 INT'L. J. URB. REGIONAL RES. 1058, 1064 (2013).

42. PAULINE LIPMAN, THE NEW POLITICAL ECONOMY OF URBAN EDUCATION: NEOLIBERALISM, RACE, AND THE RIGHT TO THE CITY 6, 14–15 (2011).

43. *See id* at 15.

Proponents of neoliberal education policies claim the policies will provide more opportunities for students of color as well as low-income students, and these policies are largely implemented in urban school districts and communities.[44] However, neoliberal education policies are not concerned with investing in communities of color, addressing racial equity, or restructuring an educational system that has always been racialized. Instead, these policies advocate for standards, high stakes accountability, and market-driven policies.[45] Indeed, under neoliberalism, race-conscious policies such as affirmative action and school desegregation have faded from the education policy agenda with choice being touted as the star ingredient to equitable educational opportunity.[46] While market-driven policies such as school choice are increasingly becoming part of the educational landscape, research shows that such policies tend to increase racial and socioeconomic inequality.[47] Moreover, charter schools, a popular form of school choice, are not linked to better academic outcomes as compared to traditional public schools; in many cases, charter schools are found to be more racially segregated.[48]

The basic assumption underlying neoliberal approaches to education is that creating a marketplace of schooling options will lead to better schools as everyone will be competing with each other to attract students. Yet, these approaches are redefining public education's very purpose: to prepare an informed democratic citizenry and develop individuals and society as a whole.[49] Indeed, when public education funds leave the public schools and follow students to charter schools or voucher programs inaccessible to some students, education

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44. *Id.* at 12–13; Janelle T. Scott, *Market-Driven Education Reform and the Racial Politics of Advocacy*, 86 PEABODY J. EDUC. 580, 585 (2011).

45. *See* LIPMAN, *supra* note 42, at 13, 15; AMY STUART WELLS, SEEING PAST THE "COLORBLIND" MYTH OF EDUCATION POLICY: ADDRESSING RACIAL AND ETHNIC INEQUALITY AND SUPPORT CULTURALLY DIVERSE SCHOOLS 1 (2014).

46. *See* LIPMAN, *supra* note 42, at 12–13; Scott, *supra* note 44, at 582.

47. *See* David E. Marcotte & Kari Dalane, *Socioeconomic Segregation and School Choice in American Public Schools*, 48 EDUC. RESEARCHER 493, 494–95 (2019); WELLS, *supra* note 45, at 11.

48. *See* Erica Frankenberg, Genevieve Siegel-Hawley & Jia Wang, *Choice Without Equity: Charter School Segregation*, 19 EDUC. POL'Y ANALYSIS ARCHIVES 1, 6–13 (2011) (explaining the impact of charter schools on segregation and results pertaining to achievement and attainment).

49. *See* LIPMAN, *supra* note 42, at 14–15.

becomes more of a consumer good rather than a public good.[50] This change in public education has drastic effects of its own, but when private education fails, where does that leave those who are affected by such a failure?

Failures in privatizing education, such as when a charter school cannot compete in the marketplace or meet guidelines of its contract, directly harm children, families, and communities. In any marketplace, there are "winners" and "losers." In market-driven education systems promoting school choice, those least likely to benefit are low-income students of color, which is why such systems are linked with growing inequality.[51] When schools close or lose their funding, a more likely event in urban school districts comprised of minoritized and low-income students, the ramifications are much different than the bankruptcy of a private company.[52]

Neoliberal educational solutions also fail to take into consideration the role of neighborhoods and geography. Whether it be implied or explicit, these solutions ask students to overcome spatial issues through choice assumptions. For example, when a neighborhood undergoes gentrification, "a central agent in the production of spatial inequality," there is a significant cost for the most marginalized.[53] Gentrification is driven by neoliberal policies that seek capital accumulation through redevelopment of urban cores, shifting the demographics of neighborhoods. Additionally, these shifts can change school demographics with benefits accruing more heavily to gentrifying families—typically the white middle-class—than to current residents.[54] In some cases, school districts in gentrifying cities use school choice policies to attract gentrifiers by permitting transfers to

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50. *See* Chris Lubienski, *Redefining "Public" Education: Charter Schools, Common Schools, and the Rhetoric of Reform*, 103 TCHRS. C. REC. 634 (2001).

51. *See* Gary Orfield, *Choice Theories and the Schools*, in EDUCATIONAL DELUSIONS?: WHY CHOICE CAN DEEPEN INEQUALITY AND HOW TO MAKE SCHOOLS FAIR 37, 44–55 (Gary Orfield & Erica Frankenberg eds., 2013).

52. *See* SARAH DIEM & ANJALÉ D. WELTON, ANTI-RACIST EDUCATIONAL LEADERSHIP AND POLICY: ADDRESSING RACISM IN PUBLIC EDUCATION (forthcoming 2020).

53. *See* LIPMAN, *supra* note 42, at 32.

54. *See* ERIC TANG & BISOLA FALOLA, THOSE WHO STAYED: THE IMPACT OF GENTRIFICATION ON LONGSTANDING RESIDENTS OF EAST AUSTIN 1–2 (2018).

sought-after schools.[55] Thus, while market-driven reforms offer choice, these choices are not necessarily connected to a student's neighborhood.

C. School Choice in San Antonio

After the landmark ruling in *Brown v. Board of Education*, the state of Texas, like many southern states, engaged in efforts to avoid desegregation. The governor at the time, Allan Shivers, appointed the Texas Advisory Committee on Segregation in the Public Schools.[56] The governor asked the committee to examine three problems and provide recommendations as to how to solve them: "(1) [t]he prevention of forced integration; (2) [t]he achievement of maximum decentralization of school authority; (3) [t]he ways in which the State government may best assist the local school districts in solving their problems."[57] In their report to the governor, the committee called out the *Brown* decision as "wrong and judicially unsound."[58] The support from this argument came from the numerous reaffirmations of the *Plessy v. Ferguson* holding in the Court of Appeals, District Courts, and State Supreme Courts, making it the law of the land.[59] They went on reiterate their "firm conviction that if [*Brown*] is left unchallenged in our law books, the beginning of the end of our liberty is upon us."[60]

One of the committee's recommendations to maintain segregated schools was that "any child may be exempted from compulsory attendance at integrated schools provided however that compulsory educational requirements are otherwise complied with."[61] The proposal went on to say:

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55. *See* Leanne Serbulo, *Closing Schools Is Like "Taking Away Part of My Body": The Impact of Gentrification on Neighborhood, Public Schools in Inner Northeast Portland*, 2-3 BELGEO, 1, 12 (2017); Erika K. Wilson, *Gentrification and Urban Public School Reforms: The Interest Divergence Dilemma*, 118 W. VA. L. REV. 677, 700 (2015).

56. *See* TEX. ADVISORY COMM. ON SEGREGATION IN THE PUB. SCH., REPORT OF THE LEGAL AND LEGISLATIVE SUBCOMMITTEE ON THE TEXAS ADVISORY COMMITTEE ON SEGREGATION IN THE PUBLIC SCHOOLS 1 (1956).

57. *Id.*

58. *Id.* at 2.

59. *See id.* at 3.

60. *Id.* at 8.

61. *Id.* at 29.

> The abolition of compulsory education in such situation gives the parent a choice, the choice of integrated education for his children or no education. We do not believe that this is a satisfactory choice, and accordingly we recommend that the Legislature give serious consideration to some sort of tuition grant plan, whereby a parent who does not wish to place his child in an integrated school may receive State funds to have the child educated in a segregated, non-sectarian private school. Such aid should be given only upon affidavit that the child was being withdrawn from the public schools due to the parents' dislike of integration.[62]

This voucher proposal became part of a larger set of failed legislative bills seeking to avoid desegregation.[63] However, the pursuit of vouchers in Texas continues to the present day, and since the 1990s, lawmakers continue trying to institute a voucher program.[64]

Indeed, during the 1990s, a number of cities across the United States provided school choice options through voucher and scholarship programs. In 1992, the Children's Educational Opportunity ("CEO") Foundation provided partial scholarships to low-income students in San Antonio so they could attend private or public schools outside of their district; the majority of scholarship recipients were Latinx.[65] About 900 students participated in the program in 1992.[66] In 1998, the CEO Foundation provided $50 million to enhance the voucher program and provide full scholarships to low-income students in the relatively poor Edgewood Independent School District. These scholarships helped students attend private and parochial schools.[67]

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62. *Id.*

63. *See* Kate McGee, *60 Years Ago, Resistance to Integration in Texas Led to School Voucher Plan*, KUT, (Mar. 16, 2017), https://www.kut.org/post/60-years-ago-resistance-integration-texas-led-school-voucher-plan.

64. *See id.*

65. *See* Valerie J. Martinez, R. Kenneth Godwin, Frank R. Kemerer & Laura Perna, *The Consequences of School Choice: Who Leaves and Who Stays in the Inner City*, 76 SOC. SCI. Q. 485, 489 (1995); Paul E. Peterson, *School Choice: Report Card*, 6 VA. J. SOC. POL. & L. 47, 61–62 (1998).

66. *See* Martinez et al., *supra* note 65, at 489.

67. *See* Carol Marie Cropper, *Texas Business Foundation to Pay for School Vouchers,* N.Y. TIMES (Apr. 23, 1998),

Alongside the emergence of the school voucher program in the city, the San Antonio Independent School District ("SAISD") ran a popular multilingual-themed program of foreign language instruction.[68] During the 1992–1993 school year, 675 students participated in the program, and an extra 307 missed being admitted due to lack of space.[69] Today, SAISD has a number of open enrollment schools that allow students outside of the district to attend, including the Women's Leadership Academy and Travis Early High School. Both schools received national recognition through their receipt of the National Blue Ribbon School award.[70]

SAISD is currently plagued with a declining student enrollment, yet because of their specialty schools and programs, they are losing fewer students each year.[71] Indeed, SAISD is engaged in efforts to attract new families into the district and compete in the marketplace. These efforts include implementation of specialized programs like dual language, single gender, and Montessori, all of which are open to students outside of the district with placement occurring through a lottery.[72]

Charter schools are another form of school choice gaining popularity in Texas. Since 2013, Texas charter schools have experienced double-digit growth in their student enrollment, and more

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https://www.nytimes.com/1998/04/23/us/texas-business-foundation-to-pay-for-school-vouchers.html; Peterson, *supra* note 65, at 61.

68. *See* Martinez et al., *supra* note 65, at 490.

69. *See id.*

70. Bekah McNeel, *San Antonio Schools Are Still Segregated – By Income as Much as Race*, SAN ANTONIO CURRENT (July 17, 2018), https://www.sacurrent.com/the-daily/.

71. Camille Phillips, *The Charter Effect: San Antonio ISD Embraces School Choice to Attract Families*, TEX. PUB. RADIO (July 2, 2019), https://www.tpr.org/post/charter-effect-san-antonio-isd-embraces-school-choice-attract-families.

72. According the San Antonio Independent School District's website, "[t]he lottery is a blind, randomized computerized process conducted at the district level. The district utilizes a 'Controlled Choice' framework to ensure equity and access for historically disadvantaged students. Applications are placed into appropriate categories, then the online platform conducts the lottery according to the programmed lottery parameters. The Office of Access and Enrollment Services (OAES) determines lottery guidelines for each campus." *FAQ*, SAISD CHOICE SCH. AND MAGNET PROGRAMS, https://saisdchoice.com/faq/.

than 141,000 students are on waiting lists to attend these schools.[73] Approximately 6,000 students transferred from the SAISD to charter schools over the last 10 years.[74] Similarly, Edgewood Independent School District lost many of its students to charter schools.[75] In both districts, over 90% of the student population is low-income, and they have the highest number of students attending charter schools.[76]

D. Efforts to Mitigate Inequality in San Antonio Independent School District: Integration Through Privatization?

SAISD has encouraged and welcomed a large influx of charter schools, which is an integral component to what the leadership sees as their current effort to mitigate the inequality throughout the district. The mix of decline in student population, budget shortfalls, and stubbornly low achievement levels among students places the district in a precarious situation. Recognizing the need to address these challenges, as well as trying to diversify a student population that is predominantly comprised of low-income students of color, new leadership developed an integration plan. Yet, how this plan will meet its goals in a district that is simultaneously handing over decision-making and control to charter operators to run many of its schools represents a conflict of values and practice. SAISD is negotiating the terrain of the neoliberal marketplace by using those neoliberal mechanisms in hopes of addressing social justice and equitable pursuits.

In 2015, SAISD hired Pedro Martinez as superintendent. In one of his first tasks, Martinez sought to address the inequities among schools in the district. With almost all of the SAISD student population classified as low-income (see Table 1), Martinez needed to inform

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73. Chip Haass, *San Antonio Benefits from School Choice*, SAN ANTONIO EXPRESS NEWS (Nov. 12, 2018, 4:43 PM), https://www.mysanantonio.com/opinion/commentary/article/San-Antonio-benefits-from-school-choice-13385520.php.

74. *See* Phillips, *supra* note 71.

75. *See id.*

76. *See id.*; TEX. EDUC. AGENCY, *Snapshot 2017 School District Profiles* (2018), https://tea.texas.gov/Student_Testing_and_Accountability/Accountability/State_Accountability/Performance_Reporting/Snapshot__School_District_Profiles.

himself of the specific gradations of poverty and wealth in the district.[77] He made a map of the district, color coding each neighborhood block in one of four categories.[78] The categories were based on economic data from the United States Census: median income, percentage of single family households, educational attainment by adults, and percentage of homeowners.[79] This approach laid bare the spatial aspects of inequality within the district.[80] However, the subsequent integration plan, contingent upon recruiting whiter, wealthier students, is a manifestation of the neoliberal ideology and does not address the historical creation of the spatial inequality.

77. *See* Beth Hawkins, *78207*: *America's Most Radical School Integration Experiment*, THE74MILLION (Sept. 25, 2018), https://www.the74million.org/article/78207-americas-most-radical-school-integration-experiment/.

78. *See id.*

79. *See id.*

80. *See id.*

Demographic Characteristics of San Antonio, TX Area School Districts (Table 1)[81]

District Name	Number of Students	% Economically Disadvantaged	% English Learner	% Special Education	% Black	% Latinx	% White	% Asian / Pacific Islander	% American Indian	% Two or More Races
Alamo Heights	4,786	20.7	5.5	7.9	2.3	41.1	51.3	3.9	0.4	1
Boerne	8,651	17.4	4.4	8.9	0.8	30.2	65.3	1.2	0.3	2.2
Comal	23,025	29.2	5.7	10.5	2.1	39.2	53.4	1.7	0.3	3.3
East Central	10,201	64.9	10.8	10.6	8.2	74.4	15.2	0.5	0.1	1.5
Edgewood	10,412	93.2	19.7	10	1.5	97.4	0.6	0.3	0	0.1
Ft. Sam Houston	1,608	29.7	1.7	12.4	16.9	31.3	37.5	3.5	0.7	10
Harlandale	14,363	87.3	17.7	9.3	0.3	97.8	1.6	0.1	0	0.1
Judson	23,108	63.4	9.1	10.6	21.4	57.1	15.3	2.4	0.2	3.6
Lackland	1,051	27.2	1.8	10.7	15.9	25.3	43.1	3	0.1	12.6
Medina Valley	5,060	52.3	5.6	9.9	3.5	58.2	34.3	0.8	0.6	2.7
North East	65,805	46.6	12.1	9.6	7.3	59.4	25.7	3.9	0.2	3.4
Northside	106,086	48.1	8.7	11.6	6.4	67.9	19.2	3.6	0.1	2.8
Randolph	1,449	7.9	0.5	7.6	17	22.6	44.5	4.7	0.2	11
San Antonio	50,641	90.7	18.9	10.3	6.4	90.4	2.2	0.3	0.1	0.5
Schertz	15,615	28.4	3.7	9.3	11.5	41.1	38.7	2.3	0.4	6.1
Somerset	4,163	77.3	15.4	9.1	0.5	87.8	10.8	0.2	0.2	0.5
South San Antonio	9,102	86.5	16.3	9.2	1.1	97.2	1.3	0.2	0.1	0.1
Southside	5,651	82.1	18	10.6	1.6	90.8	7	0.2	0	0.4
Southwest	13,843	82.4	16	11.6	3.2	90.5	4.9	0.5	0.2	0.9

81. *See* TEX. EDUC. AGENCY, *Snapshot 2018 School District Profiles* (2018), https://tea.texas.gov/Student_Testing_and_Accountability/Accountability/State_Accountability/Performance_Reporting/Snapshot__School_District_Profiles.

Two years into his tenure and having a firm grasp on the inequities existent in SAISD, in 2017 Superintendent Martinez hired Mohammed Choudhury as the district's Chief Innovation Officer to help him develop Diverse-by-Design, an income integration attendance zone policy. The enrollment system accompanying Diverse-by-Design guarantees a percentage of seats to each of the income blocks in the school of choice, creating a more nuanced diversity within the schools.[82] Attracting affluent families, using programs and schools such as Montessori, dual language, gifted and talented with no screening process, and recruitment of special needs students, is key to the plan's design. And while Choudhury proclaimed "a 'free market' approach will exacerbate segregation and inequities,"[83] it seems he and the SAISD leadership decided to engage in the neoliberal competition as a way to remedy these inequities.

Thus far, SAISD claims the program is working. In an interview with *The 74*, Martinez stated, "student achievement is rebounding."[84] In 2017, the district had its highest graduation rate, and 55% of graduating students planned to attend college.[85] Additionally, the percentage of students attending top tier schools doubled.[86] There has also been a 150% increase in students scoring "college ready" on SATs.[87] In order to achieve these successes, the district relied on philanthropic and private partnerships. Educate 210 funds talent transportation during interviews and relocation support for hired teachers.[88] SAISD also has a partnership with Braination (a Texas

82. *See* Hawkins, *supra* note 77.

83. Alice Opalka & Georgia Heyward, *Integrating Schools in San Antonio: Start with One. An Interview with Mohammed Choudhury*, CTR. ON REINVENTING PUB. EDUC.: THE LENS (Feb. 23, 2018), https://www.crpe.org/thelens/integrating-schools-san-antonio-interview-mohammed-choudhury.

84. *74 Interview: Meet Pedro Martinez, the San Antonio Superintendent Who Spearheaded One of America's Most Unique School Integration Experiments*, THE74MILLION (Sept. 24, 2018), https://www.the74million.org/article/74-interview-meet-pedro-martinez-the-san-antonio-superintendent-who-spearheaded-one-of-americas-most-unique-school-integration-experiments/.

85. *Id.*

86. *Id.*

87. *Id.*

88. If you would like to know more information about Educate 210, see *About*, EDUCATE 210, https://educate210.org/about.

charter school operator) to open a therapeutic day program serving secondary students with social and emotional disorders.[89]

Despite these successes, the SAISD integration plan has faced challenges and criticisms. These challenges include city-wide collaboration, informing and including parents, transforming the SAISD central office to better support schools, and resistance and disapproval.[90] A 2018 report in *The Texas Tribune* criticized the integration plan, claiming some of the schools are getting grants, seeing improvements, and doing very well, while other schools are not being prioritized.[91] Teachers and parents are also frustrated with slow improvements. The urgency of the district's overhaul has been messy and has undoubtedly left some students behind.

In preparation for the 2019-2020 school year, when lotteries were announced for the "specialized" schools in the district, a greater number of students found themselves waitlisted than accepted.[92] Approximately 2,930 seats were allotted out of 9,958 applicants.[93] A report in the *San Antonio Current* indicated no one is given priority in the process—even VIPs like Mayor Ron Nirenberg were treated like all the other parents and families.[94] SAISD views the high demand for the lottery seats as a symbol of their plan's success: students are coming back to SAISD. The seats distributed do not meet the demand, but the lottery is at least a fair and equitable process.

While the integration plan moves forward, in a parallel effort the district decided to continue working with outside entities to help run its schools. Most recently, the district's school board voted to contract out

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89. *See Brewer Academy*, BRAINATION, INC., https://www.braination.net/Brewer-Academy.

90. *See* CTR. ON REINVENTING PUB. EDUC., CITYWIDE EDUCATION PROGRESS REPORT: SAN ANTONIO 1–2 (2018) [hereinafter CITYWIDE REPORT].

91. *See* Alexa Ura & Aliyya Swaby, *San Antonio ISD Is Innovating to Integrate Its Schools. Is It Leaving Some Behind in the Process?* THE TEX. TRIB. (Dec. 4, 2018, 12:00 AM), https://www.texastribune.org/2018/12/04/san-antonio-isd-school-integration/.

92. *See* Bekah McNeel, *Waiting It Out: Even San Antonio Politicos and VIPs are Subject to the Cruel Realities of SAISD's Lottery System*, SAN ANTONIO CURRENT (Feb. 27, 2019, 1:23 PM), https://www.sacurrent.com/the-daily/archives/2019/02/27/waiting-it-out-even-san-antonio-politicos-and-vips-are-subject-to-the-cruel-realities-of-saisds-lottery-system.

93. *See id.*

94. *See id.*

eighteen of its schools to outside entities.[95] The reaction to the board's decision was mixed as over half of the district's schools are already outsourced (some of the new schools slated to be contracted out are specialty schools). Moreover, legislation in Texas, SB 1882, encourages districts to partner with outside charter school operators by incentivizing them—they receive about $1,000 more per student.[96]

SAISD and Waco Independent School District are currently tied with the highest number of such partnerships across the state.[97] The Texas Education Agency ("TEA") has further plans to lure charter schools into the state. The TEA created a new scoring system to help "the highest performing" charter schools expand quicker, while the lower-rated charter schools will be prevented from expanding.[98] Critics of these policies are concerned with money being funneled out of the public schools to charter schools. Moreover, the high-performing metric of scoring charter schools inevitably will leave behind students in special education and English language learning programs.[99] Highlighting these parallel efforts shows how the future of the SAISD integration plan may be in jeopardy; more schools are run by charter organizations and therefore may not be included in the plan.

Importantly, the plan ignores any collective right to the city and focuses on the development of individual capacities. Conditions of the neighborhoods and an equitable distribution of opportunity across neighborhoods are not considered as feasible goals. The focus on development of individual capacities seemingly ignores the historical construction of the inequality of opportunity across San Antonio.

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95. Camille Phillips, *San Antonio ISD Contracts with Outside Organizations to Run 18 Schools*, TEX. PUB. RADIO (March 26, 2019), https://www.tpr.org/post/san-antonio-isd-contracts-outside-organizations-run-18-schools.

96. *See* S.B. 1882, 2017 Leg., 85th Sess. (Tx. 2017).

97. Phillips, *supra* note 95.

98. Aliyya Swaby, *Texas Education Officials Weigh New Rules to Fast-Track Charter School Expansion,* TEX. TRIB. (Jan. 14, 2020, 12:00 PM), https://www.texastribune.org/2020/01/14/texas-education-officials-weigh-rules-speed-charter-school-expansion/.

99. *See id.*

III. GEOGRAPHIC CRYSTALLIZATION OF RACIST AND CLASSIST CITY POLITICS IN 20TH CENTURY SAN ANTONIO

Historical and current day injustices and inequalities preserve a racially and economically segregated city in which one's zip code is strongly linked with one's opportunities, including educational access. A Sunbelt city, San Antonio's growth within the past century is remarkable. As it expanded, its once diverse urban core became predominantly Mexican American.[100] In the early twentieth century, racist practices like red-lining and restrictive deeds geographically isolated Latinx and Black populations.[101] Through the middle of the twentieth century, the Good Government League ("GGL"), a predominantly white coalition of city officials and policy-makers comprised of the city's socioeconomic elite, perpetuated socioeconomic inequities by prioritizing the expansion of the city's north side at the detriment of its urban core.[102] A continued political and economic focus on the city's north side and the racist and classist way Texas drew its school district boundaries maintains racially and economically segregated neighborhoods and, in turn, school districts.[103] As we will describe below, over a time span of approximately a century this pattern of spatial inequality politics was only briefly interrupted by geographically-minded community organizers. However, as the century wore on the spatial pattern of inequality became crystalized through city political districts and independent school districts.

Early in the twentieth century, bankers and developers carved out San Antonio neighborhoods and preserved the best land, for example, land that was not located in flood zones, for the wealthy

100. *See* Drennon, *supra* note 11, at 575, 579; RODOLFO ROSALES, THE ILLUSION OF INCLUSION: THE UNTOLD POLITICAL STORY OF SAN ANTONIO 5 (2000) (explaining San Antonio's Chicano population and how it developed).

101. *See* Drennon, *supra* note 11, at 575, 580.

102. Richard A. Gambitta, Robert A. Milne, & Carol R. Davis, *The Politics of Unequal Educational Opportunity in* THE POLITICS OF SAN ANTONIO: COMMUNITY, PROGRESS, AND POWER 133, 138–42 (David R. Johnson, John A. Booth & Richard J. Harris eds., 1983).

103. *See id.*

White population.[104] Socioeconomically rich areas like Alamo Heights, Olmos Park, and Terrell Hills used racially and financially restrictive deeds to exclude people of color and poor white populations.[105] Areas in flood zones with poor drainage, like Edgewood on the city's west side, had a low number of racially restrictive deeds and smaller, cheaper lots so that Mexican Americans, who had access to less well-paying jobs, were pushed into these areas.[106] Restrictive deeds severely limited the settlement of San Antonio's Mexican American and Black communities, confining them to specific areas of the city.[107]

San Antonio's westside, southside, and urban core are predominantly Mexican American, while the east side is predominantly Black.[108] Throughout the first half of the twentieth century, limited residential options and apathetic city planning led to the overpopulation of poorer areas, leading to high rates of infant mortality and diseases like tuberculosis.[109] Even today, the life expectancy for those living in the city's poorest zip codes on the west side is five to nineteen years lower than the city's wealthier northside.[110]

A. City Politics, Subsidized Expansion, and School District Inequality

The city politics of the 20th century continually subsidized the expansion of the wealthier north side at the expense of the poorer areas of the city. Part of this process was the development of independent school districts which exacerbated the inequality. As will be explained below, much of this occurred under the oligarchical rule of the GGL.

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104. *See* Drennon, *supra* note 11, at 575–79 (explaining the unequal distribution of land and how that affects school finance and public education); Richard C. Jones, *San Antonio's Spatial Economic Structure in* THE POLITICS OF SAN ANTONIO: COMMUNITY, PROGRESS, AND POWER 29, 36 (David R. Johnson, John A. Booth & Richard J. Harris eds., 1983).

105. *See id.* at 580.

106. *See id.* at 583–84.

107. *See id.* at 575, 580; ROSALES, *supra* note 100, at 5.

108. Drennon, *supra* note 11, at 575, 579–80.

109. *See* ROSALES, *supra* note 100, at 5.

110. *See* THE HEALTH COLLABORATIVE, 2016 BEXAR COUNTY COMMUNITY HEALTH NEEDS ASSESSMENT REPORT 85 (2016).

Many of the same bankers and developers who sectioned out areas of the city to control access and resources also formed school districts. In the late nineteenth century, the state legislature used neutral language to privilege local control, opening the door for residents to establish racially and economically segregated school districts. For example, the 1884 School Law empowered local school boards and county commissioners to draw the boundaries of county common school districts ("CSD"), leaving district boundaries vulnerable to racial and class prejudices.[111] Furthermore, Texas law permitted CSD residents to form their own independent school districts and determine a tax rate for their care.[112] Any proposed changes to an independent school district's boundary required approval by voters within that district.[113] Not surprisingly, this meant wealthier areas created and maintained their own districts, excluding poorer areas and people of color.[114] Socioeconomically disadvantaged areas used the CSDs, as they lacked the appropriate amount of funds to form their own independent districts. For example, Edgewood, one of the poorest areas of the city, remained in the county system while areas around it broke off to form their own independent school districts, like SAISD.[115] Thus, through the creation of school districts, as well as city politics, the city and surrounding county were geographically sectioned to reflect and maintain the inequalities of the early twentieth century.

The inequities created by this system brought about the 1949 Gilmer-Aikin educational funding bill. This bill established a funding baseline by guaranteeing a minimum amount of state funding for all common and independent school districts.[116] While the additional funds helped the poorer CSDs, like Edgewood, it did little to change an inequitable system. School districts could continue to tax for additional funds so that wealthier independent school districts continued to outpace their neighboring CSDs.[117] Concomitantly with the Gilmer-Aikin funding bill, the state pushed for districts to consolidate. In 1949, Bexar County had a total of 49 school districts: 43 common school

111. *See* GAMBITTA, *supra* note 102, at 138–42.
112. *See* Drennon, *supra* note 11, at 583–84.
113. *See id.* at 574.
114. *See* GAMBITTA, *supra* note 102, at 138–42.
115. *See id.* at 142–47.
116. *See id.*
117. *See id.* at 143–44.

districts and eight independent school districts.[118] By 1951, there were 14 school districts in Bexar County.[119] Two of the wealthiest districts were on the northern side of San Antonio and founded during this consolidation: Northside ISD was founded in 1949 and North East ISD was founded in 1951. These districts were created at the beginning of the GGL's reign, just as city politicians began to invest in and expand the city's far north side.

The GGL was an oligarchy that controlled San Antonio politics from 1951 to 1976.[120] Before its demise, it consisted of 2,000 members and a 36-member executive committee.[121] It was funded through membership dues and donations from local business leaders.[122] This coalition of the city's socioeconomic elite controlled mayoral and city council elections along with board appointees to influential policy-making agencies like the San Antonio River Authority and the Edwards Aquifer Underground Water District.[123] They secretly vetted political candidates to make sure they fit their agenda before appointing them for election.[124]

Despite San Antonio's predominantly Latinx population, 78% of the GGL's members were white. They worked as developers, bankers, lawyers, real-estate brokers, retailers, and doctors.[125] They used their power and influence to maintain and advance their own

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118. *See id.*

119. *See id.* at 144.

120. *See* Robert Brischetto, Charles L. Cotrell & R. Michael Stevens, *Conflict and Change in the Political Culture of San Antonio in the 1970s, in* THE POLITICS OF SAN ANTONIO: COMMUNITY, PROGRESS, AND POWER 75, 78–79 (David R. Johnson, John A. Booth & Richard J. Harris eds., 1983).

121. *See id.*

122. *See* Arnold Fleischmann, *Sunbelt Boosterism: The Politics of Postwar Growth and Annexation in San Antonio, in* THE RISE OF THE SUNBELT CITIES 151, 167 (David C. Perry & Alfred J. Watkins eds., 1977).

123. *See* John A. Booth, *Political Change in San Antonio, 1970-82: Toward Decay or Democracy? in* THE POLITICS OF SAN ANTONIO: COMMUNITY, PROGRESS, AND POWER 193, 194 (David R. Johnson, John A. Booth & Richard J. Harris eds., 1983).

124. *See id.*

125. *See* John A. Booth & David R. Johnson, *Power and Progress in San Antonio Politics, 1836–1970, in* THE POLITICS OF SAN ANTONIO: COMMUNITY, PROGRESS, AND POWER 3, 23 (David R. Johnson, John A. Booth, & Richard J. Harris eds., 1983).

business interests. For example, they discouraged companies with unions from locating in San Antonio, fearing it may drive up wages and competition for employees.[126] This limited the career and employment opportunities of San Antonio residents, especially those working in low paying, non-unionized jobs, many of whom were living in the city's west and east sides.[127]

Through use of an at-large city council election system, the GGL secured elections in their favor with candidates overwhelmingly from and focused on the city's north side, an area with the highest voter turnout.[128] Voting locations in the city's west side were tactically placed to discourage voter turnout and the city used a poll tax up until 1966.[129] During the GGL's rein, only 13 of the city's 117 city council members resided in the city's Mexican American west side.[130] Sixty-five percent of its members lived on the city's north side.[131] Of the six major policy-making boards, only 10% of appointees lived on the west side and only 3% lived on the east side.[132]

The GGL's interests, not surprisingly, concerned only the areas in which their members lived. Their interests focused on the expansion of school districts, medical facilities, and businesses in the city's north side, especially in expanding suburban development northward.[133] Former San Antonio Mayor Nelson Wolff recalled the GGL's persuasive techniques used on the Texas legislature to place a University of Texas Medical School on the city's north side, creating "the foundation of [the] third most important industry, health care" in San Antonio; this placement directed economic and population growth

126. *See id.* at 27; Joseph D. Sekul, *Communities Organized for Public Service: Citizen Power and Public Policy in San Antonio, in* THE POLITICS OF SAN ANTONIO: COMMUNITY, PROGRESS, AND POWER 175, 187–88 (David R. Johnson, John A. Booth, & Richard J. Harris eds., 1983).

127. *See* Sekul, *supra* note 126, at 187–88.

128. *See* Booth, *supra* note 123.

129. *See* ROSALES, *supra* note 100, at 28.

130. *See* Brischetto et al., *supra* note 120, at 77.

131. *See* Booth & Johnson, *supra* note 125, at 23.

132. *See* Charles L. Cotrell, Municipal Services Equalization in San Antonio, Texas: Exploration in "Chinatown" 25 (Apr. 26 1975) (dissertation) (on file with St. Mary's University: San Antonio Library).

133. *See* Booth & Johnson, *supra* note 125, at 23–25; Sekul, *supra* note 126, at 178–80.

northward.[134] Additionally, The University of Texas Board of Regents, investors, and Bexar County landowners decided to place The University of Texas at San Antonio north of the city, with a subsequent annexation plan incorporating that land into San Antonio.[135]

Texas law also allows cities to annex adjoining land or land within a specific extraterritorial jurisdiction without approval from the land's residents.[136] This law, when combined with San Antonio's unique setting that lacked surrounding autonomous municipalities, paved the way for the GGL to annex large areas north of the city between 1955–1975.[137] During this time, property taxes and utility revenues from the older parts of the city, which were predominantly Mexican American, went disproportionately toward developing the property wealthy north side all while their own areas went ignored.[138] Utilities and social services like street paving, lighting, drainage, and libraries were disproportionately focused on the north side.[139]

An infrared photographic survey from 1972 demonstrates how streets in the worst condition were overwhelmingly located on the city's west and east sides.[140] In fact, in both the master plans of 1945 and 1951, city planners recommended improved drainage to address flash flooding on the west side.[141] Both times the city leaders ignored the recommendations and the money was never spent which ended up costing many lives lost to floods.[142] For example, over 50 people in 1921 were killed, 6 people in 1927 died, and 3 people died in 1951.[143] The GGL claimed that the city's at-large city council election process meant that politicians were accountable to all of the city. But the reality

134. NELSON W. WOLFF, MAYOR: AN INSIDE VIEW OF SAN ANTONIO POLITICS 1981–1995 5 (1997).

135. *See* Gambitta, *supra* note 102, at 144; WOLFF, *supra* note 134, at 53.

136. *See* Fleischmann, *supra* note 122, at 159.

137. *See id.* at 159–60.

138. Brischetto et al., *supra* note 120, at 76.

139. *See id.*

140. *See* Cotrell, *supra* note 132, at 38.

141. *See* Char Miller, *Streetscape Environmentalism: Floods, Social Justice, and Political Power, in San Antonio, 1921–1974*, 118 SW. HIST. Q. 158, 170, 173 (2014).

142. *See id.* at 166–68 (describing the political arena where the "local power elite chose instead to ignore for half a century the legendary (and interlocking) problems on the west side.").

143. *See id.* at 165.

was they were accountable to the areas in which they lived: the expanding north side.

Between 1967 and 1970, 55% of the city's annexed land was the result of requests from five of the city's major developers.[144] Developers took advantage of their knowledge of and connections with city policy and policy makers, timing their annexation requests to guarantee they would never pay city taxes on their developments.[145] This ability to avoid city taxes meant the remainder of the city was subsidizing north side growth. Importantly, the combination of this subsidized growth and formation of independent school districts consolidated public and private investment in the city's north side.

B. Geographically Organized Resistance

This pattern continued into the 1970s until the power of the GGL was challenged by a few private north side developers and community organizers from the west side.[146] In 1970, City Manager Henckel created an incomplete annexation plan with the backing of the GGL's traditional power base that would have annexed 155.8 square miles, most of which was on the city's north side, in eight years.[147] The plan represented a more metered approach to expansion. It had the effect of fracturing the GGL so that the older elite with less of a vested interest in far northward expansion were pitted against newer, pro-growth development leaders. Builders like Ray Ellison and Cliff Morton preferred the previous approach in which developers steered much of the city's annexation.[148] In order to begin to challenge the GGL's power, these developers and others created the North San Antonio Chamber of Commerce.[149]

Second, and most important, were community organizations comprised of frustrated citizens living in older, neglected parts of the city, especially the city's west side.[150] This frustration with the inequitable treatment of the city's different areas drove Ernie Cortes to

144. *See* Fleischmann, *supra* note 122, at 160.
145. *See id.* at 160–62.
146. *See* Brischetto et al., *supra* note 120, at 84–86.
147. *See* Fleischmann, *supra* note 122, at 162.
148. *See id.* at 162–63.
149. *See* WOLFF, *supra* note 134, at 6.
150. *See* Sekul, *supra* note 126, at 178–80.

found Communities Organized for Public Service (COPS).[151] Cortes, trained by the Alinksy group, Industrial Areas Foundation in Chicago, understood that COPS must be geographically grounded. Through one-on-one meetings he recruited mostly women leaders who had been active in local Catholic parishes and Parent Teacher Associations and who had direct connections to their neighborhoods.[152] These leaders represented the interests of their specific neighborhoods on the city's west side. Due to years of neglect, many concerns centered on issues like street repair, drainage, park development, quality fire protection, and utility costs.[153] Ultimately, the families who organized in these communities wanted access to good-paying jobs and good schools, but first they focused on healthy and safe neighborhood environments within which to raise their children.[154]

A devastating event brought the city inequities into relief on August 7, 1974. In a flash flood common to San Antonio summers, large sections of the west side were drowned by the runoff from the northwestern, white neighborhoods.[155] This tragedy galvanized westsiders and through COPS they confronted city officials. A week after the flood, the City Manager agreed to meet with organizers. COPS brought over 500 people to the meeting, and they demanded storm sewers.[156] The result was a bond in November that actually implemented the drainage plan "that had mildewed on the shelf since 1945."[157]

The GGL worked to manage the growing power of the north-side developers and organized west-side families. However, the introduction of a GGL supported *Alternative Growth Report* in 1975 would bring continued conflict. The report described the fiscal impacts of different metropolitan growth patterns. The report pointed out that growth in the far north that "promised the highest profits to real estate developers also carried the highest capital and operating costs for water

151. *See id.*

152. *See id.*

153. *See id.*

154. *See* CARL ABBOTT, THE NEW URBAN AMERICA: GROWTH AND POLITICS IN SUNBELT CITIES 234 (2d ed. 1981); Sekul, *supra* note 126, at 177.

155. *See* Abbott, *supra* note 154, at 232.

156. *See id.*

157. *Id.* at 233.

supply, bus service, sewage, drainage, gas and electricity."[158] Three council members that were sympathetic to the views of the North San Antonio Chamber of Commerce pushed the City Manager to fire the report's author.[159]

A pocket of GGL support for more managed growth that the report advocated for came from the Aquifer Protection Association. In November of 1975, they, with the help of COPS, fought the zoning for a large shopping mall over the groundwater recharge zone on the north side.[160] Although it was a temporary victory, the coalition of west siders and environmentalists had worked to momentarily curtail northern growth.[161]

In 1976, the Mexican American Legal Defense and Education Fund ("MALDEF") involved the U.S. Department of Justice, which determined the city's annexation plan coupled with its city-wide election system violated the 1975 Voting Rights Act by diluting the Mexican American community's vote.[162] In response, San Antonio ended its city-wide election system in favor of a district council system in which each city council representative represents a specific geographic region.[163] Disfranchised areas of the city now selected their own city council representative, making them more accountable to the needs of their constituents, bringing an end to the GGL's twenty-five-year reign. Those living in older parts of the city, who were disproportionately funding northward expansion while their own utilities and infrastructure suffered from neglect, had more power to create the change needed in their area. In 1977, through the establishment of a district council system, there was a formal recognition "that the locus of power in San Antonio had shifted from a business establishment which claimed to speak for the city as a whole to individual sections and neighborhoods within the city."[164] Power in San Antonio was geographic power. To be mayor one had to win multiple geographic regions.

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158. *Id.* at 234.
159. *See id.*
160. *See id.* at 236.
161. *See id*.
162. *See* ROSALES, *supra* note 100, at 143–44.
163. *See id.*
164. Abbott, *supra* note 154, at 235.

C. Coalitions and Continued Northward Expansion

On April 4, 1981, Henry Cisneros became the first Latinx mayor of a city larger than 500,000.[165] He had run on a platform of continued economic development for all. In fact, he had launched his campaign for mayor on the north side and was supported by businessmen from the north side like home builder Cliff Morton and automobile dealer Red McCombs.[166] Cisneros had won the Latinx vote on the west side by over 90%.[167] He also had won over 40% of the north side white vote.[168]

Once in office, Cisneros developed a commission called *Target 90*. The charge of this commission was to develop a comprehensive plan for city spending projects.[169] As mayor he desired improved infrastructure across the city. He wanted to address streets, drainage, public buildings, the airport, the water supply, sewage treatment, and the electric utilities system.[170] For this commission to be effective it needed to represent a broad coalition. Former Mayor Wolff explained, "Henry's coalition was the first one in modern San Antonio history that established a true sharing of power among Anglos, Hispanics and Blacks, and between the wealthy and the poor."[171]

Through this coalition Cisneros passed large city bonds and defeated a public spending cap that had been put on the ballot by the Homeowner-Taxpayer Association of Bexar County.[172] Despite this coalition, the growth continued to be centered on the north side, and business interests were brokered through city politics.[173] In addition, due to the fact that the city was divided into nineteen different independent school districts Cisneros could not push through any comprehensive education policy. As the 1980s closed, political campaigns for city council also "galvanized North Side neighborhood

165. *See* WOLFF, *supra* note 134, at 19.
166. *See id.*
167. *See id.*
168. *See id.*
169. *See id.* at 32.
170. *See id.*
171. *Id.*
172. *See id.*
173. *See* ROSALES, *supra* note 100, at 184.

organizations," making them "a power to be reckoned with."[174] Wolff explained how his run for a north side district organized the voters: "when we started there were 30 organized neighborhoods in District 8. By the end of the term there were 120."[175] District 8 became a center of wealth and growth compared to other districts in the city. By 1987 it was the city's largest with a population of 140,000 people of which 81 percent were white, and it was "twice the size of inner-city districts."[176] It also contained over one quarter of all of the real estate wealth. Almost all of District 8 overlaps with a single independent school district, Northside ISD.

There are many ways annexation and growth can benefit a city and its citizens. Annexation and development increase tax revenue, which can fund more public works projects. It requires those previously living just outside the city's boundary, but who use its utilities and infrastructure regularly, to contribute to their development and maintenance. But with regard to education in San Antonio, newly annexed areas never provided increased funding for school districts used by families living in older parts of the city. If San Antonio had had just one school district that all annexed areas fell into, perhaps these older areas could have seen a return on their development investments in the north side as their school district reaped more property taxes to be shared among all of San Antonio's schools. Instead, there are nineteen school districts in the San Antonio metro area (see Figure 1). Northside ISD and North East ISD formed just prior to the GGL's expansion northward. The city's economically poorer west and east sides with financially poorer school districts never did see a return on their investments through annexation as north side property owners' property taxes continued to fund the previously formed independent school districts.

174. WOLFF, *supra* note 134, at 56.

175. *Id.* at 63.

176. *Id.* at 50.

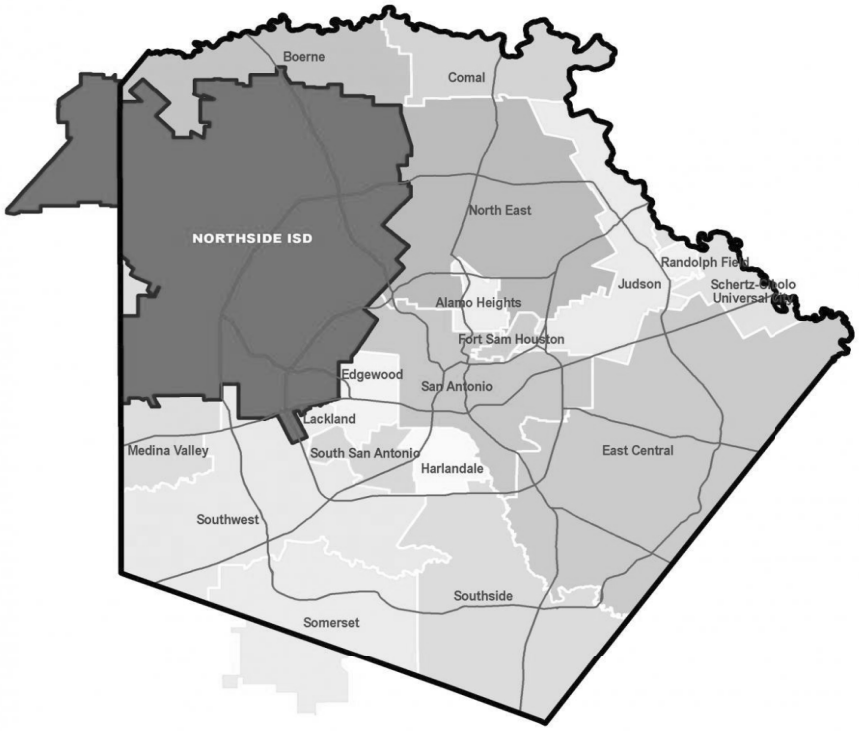

Figure 1. School Districts in the San Antonio Metropolitan Area, Bexar County.[177]

Through the aforementioned historical perspective on the second half of the twentieth century, we can see that inequality in San Antonio is a crystallization of the politics of simultaneous expansion and exclusion. Although there have been attempts to build coalitions that span geographic boundaries, these crystallizations continue to function in ways that explain the inequalities of today. Any attempt to solve the educational inequality in the city of San Antonio must have a geographic strategy in place. As discussed in the next section, the legal battle for adequate and equitable education has been fought between the neighborhoods of San Antonio.

177. *School Districts in Bexar County*, MAPS SAN ANTONIO, https://maps-san-antonio.com/san-antonio-school-districts-map.

IV. LEGAL CONTEXT OF EDUCATION IN SAN ANTONIO

In the legal context, San Antonio has a long and sordid history with inequality and educational opportunity. Over 50 years ago, the city was at the center of a national debate around school funding. The 1973 Supreme Court case *SAISD v. Rodriguez* ruled education an unprotected right under the Constitution.[178] The decision continues to reverberate in San Antonio and across the United States as educators, families, and activists still find themselves fighting for children's right to education in the city, albeit in a different sociopolitical context. San Antonio is a unique context, as the fight for what it means to offer an adequate or equitable education in the city has shaped a national conversation on school finance reform. As such, we felt it was important to provide a brief overview of the school finance cases in Texas to help contextualize the current educational landscape in San Antonio.[179]

A. San Antonio Independent School District v. Rodriguez

More than a century after Texas public schools came into being, a group of families in the Edgewood Independent School District filed a lawsuit, which along with subsequent suits, would become a cornerstone in educational policy and judicial precedent.[180] The primary complaint questioned equal opportunity to education in property-poor school districts compared to nearby property-wealthy school districts in the city of San Antonio.[181] For example, even though Edgewood had raised property taxes to $1.05 for every $100 valuation

178. San Antonio Indep. Sch. Dist. v. Rodriguez, 411 U.S. 1, 4 (1973).

179. For a contextual overview on classroom equity in Texas, see Erin Atwood & Jennifer Caudle, *Broken Windows and Catching Frogs: Exploring Concepts of Historic and Contemporary Parental and Community Involvement*, 14 J. of Latinos Educ. 465 (2019), https://doi.org/10.1080/15348431.2019.1612399. Although class––not race—became the central legal argument in the ensuing cases, the lack of racial consideration in the decision(s) as well as the centering of the Latinx voices in the subsequent literature positions this case importantly in legal history and in the legacy of racism intertwined with the public schools of the United States. *See generally* PETER H. IRONS, THE COURAGE OF THEIR CONVICTIONS (2016).

180. *See generally* 95 DAVID B. TYACK, THE ONE BEST SYSTEM: A HISTORY OF AMERICAN URBAN EDUCATION (1974).

181. *See Rodriguez*, 411 U.S. at 4–6.

(which was higher than nearby, wealthier Alamo Heights Independent School District, at $0.85 per $100 valuation), it still had a lower per-pupil expenditure.[182] The school district functioned with persistently lower funding due to a lower property valuation in the district compared to wealthier property districts,[183] and the families argued this violated the children's right to education.[184] Along with Edgewood Independent School District, six other school districts joined the suit as defendants: Harlandale, Northside, North East, Alamo Heights, San Antonio, and South San Antonio, with SAISD becoming the titled defendant.[185] As the court case moved through the lower courts, the school districts were eventually dropped from the case leaving just the State of Texas as the lone defendant.

Over the next four years, the *Rodriguez* lawsuit played out in both the courts and the legislature. The wealthier districts resisted reform and touted the value of local control, while arguing that the plaintiffs were making education "socialized."[186] The arguments presented by the wealthier districts and their supporters showed that public education was not valued as a public good and that local control would continue as the counterargument, as it had in Texas since the inception of public education. The value was, and continues to be, integral to the public and politicians in Texas (and more broadly across the country).

Two years after the filing in *Rodriguez*, the Texas legislature failed to change the Texas school finance system. In 1971, the Fifth Circuit Court of Appeals ruled in favor of *Rodriguez*, holding that the policy governing educational funds was unconstitutional as it caused unequal access to educational opportunity.[187] The state was given two more years to fix the finance system. In response, a few groups formed

182. *See* Stephen W. Gard, *San Antonio Independent School District v. Rodriguez: On Our Way to Where?*, 8 VAL. U. L. REV. 1, 24 n.100 (1973).

183. *See* PETER H. IRONS, THE COURAGE OF THEIR CONVICTIONS 283 (2016).

184. *See Rodriguez*, 411 U.S. at 32–36.

185. *See* PAUL A. SRACIC, SAN ANTONIO V. RODRIGUEZ AND THE PURSUIT OF EQUAL EDUCATION: THE DEBATE OVER DISCRIMINATION AND SCHOOL FUNDING 36 (2006).

186. Gard, *supra* note 182, at 24 n.103.

187. SRACIC *supra* note 185, at 61; Mark G. Yudof & Daniel C. Morgan, *Rodriguez v. San Antonio Independent School District: Gathering the Ayes of Texas—the Politics of School Finance Reform*, 38 L. CONTEMP. PROBS. 383, 393 (1974).

to consider solutions, but these were not serious efforts, as the legislature appeared to stall until the highest court handled the issue on appeal.[188] The inability of the legislature to achieve this goal garnered criticism by some who saw it as evidence of their inability or unwillingness to redress the larger social inequities. Yudof and Morgan also expressed disapproval of the educational communities' response to the original decision and their apparent political motivations preventing them from supporting reform in sincerity. Across the political spectrum in Texas, there was a failure to comply with the Fifth Circuit's ruling to create a better solution to the broad inequities of the educational funding system.[189]

Interestingly, at this time SAISD filed an amicus brief to side with the plaintiffs—even though it was originally named as a defendant—because the school district realized it stood to benefit from reform as well.[190] Given that SAISD is an urban school district, they were keenly aware of the ways in which funding was channeled to school districts on the north side. Thus, more districts, leaders, and citizens began to position themselves with the plaintiffs. This change would precipitate the shift in the wider public as more became educated about the issue.

While school funding developments remained stagnant in Texas, the Supreme Court reversed the Fifth Circuit's ruling in a split 5-4 decision.[191] The majority declared the Texas finance system did not discriminate against students living in property-poor districts.[192] The Court did not agree that low-income individuals were a suspect class, and they stated that Edgewood provided adequate educational opportunities because the plaintiff's argument failed to prove otherwise.[193] Most astonishingly, the majority concluded education an unprotected right under the Constitution.[194] This decision left property-poor districts with few options and opportunities to raise funds for their schools, while true "local control" was exclusively guaranteed to

188. *See* Yudof & Morgan, *supra* note 187, at 395–96.

189. *See id.*

190. *See* IRONS, *supra* note 183, at 290; Yudof & Morgan, *supra* note 187, at 399.

191. *See* San Antonio Indep. Sch. Dist. v. Rodriguez, 411 U.S. 1, 4–6 *(*1973).

192. *Rodriguez*, 411 U.S. at 28–29.

193. *See id.* at 25–26, 28–29.

194. *See id.* at 50–55.

wealthy districts.[195] The Court delegated education finance to the state legislative process.[196] As a consequence to the ruling, education finance was "eliminated from the federal docket and is argued and debated in each state's unique context."[197] Today, education equality is not standardized across the nation by the courts; rather, it is handled piecemeal by states through multiple state-level school finance lawsuits.

In an ironic turn of fate, after the *Rodriguez* decision, politicians and the broader public became more aware of discrepancies in educational finance and began to express a desire to fix the inherent funding problems.[198] The political movement pushed groups like People's Lobby for Equal Education ("PLEE") to march on the Texas capital.[199] Then Texas Governor Briscoe offered a compromise to the group: a small quantity of money to the poorest quartile of districts.[200] The PLEE representatives were offended by the small offer, but the Governor's attempt at a compromise showed a slow change in public perception.[201]

B. Edgewood Independent School District Cases I, II, III, and IV

It was not until 1984, at the same time as Mayor Cisneros's formation of a city-wide coalition to address other issues of inequality in the city, that another suit aimed at school finance reform was filed in Texas state court. In *Edgewood Independent School District v. Kirby* ("*Edgewood I*"), a large coalition of parents, districts, school finance reform advocates, and MALDEF formed and argued that the state

195. *See* Yudof & Morgan, *supra* note 187, at 409–10.

196. IRONS, *supra* note 183, at 290, 292.

197. Drennon, *supra* note 11, at 587.

198. Yudof & Morgan, *supra* note 187, at 403.

199. *See id.*

200. *See id.*

201. *See* Yudof & Morgan, *supra* note 187, at 403. Another bill, written with the support of the Texas State Teachers Association, created a new funding system for equalization purposes. *See id.* at 403–04. In 1973, House Bill 946 passed in the House but failed in the Senate. *See id.* For the next twelve years, only feeble attempts to improve disparities were made in legislative sessions. Meanwhile, within one city, a generation of students still attended independent school districts divided by large funding gaps. *See id.* (explaining the friction between reform chances and the Texas legislature).

deprived an education to more than one million children in property-poor districts.[202] The Texas Supreme Court found the education system violated the state's Constitution as it did not uphold the requirement of an "efficient" distribution of knowledge in the public schools.[203] The standard in Texas is "efficiency," which the Court interpreted as financial equality; however, after *Rodriguez,* the standard at the federal level was—and remains—"adequacy" because education is not guaranteed as a fundamental right under the U.S. Constitution.[204] Thus, because the language, and therefore the standards, are different under the Texas and federal constitutions, the *Edgewood I* decision is unconstitutional at the state level and simultaneously constitutional at the federal level. The Texas Supreme Court required a system that allowed districts' efforts to increase taxes and mirror its access to educational resources.[205] Additionally, the system would require a "substantially equal opportunity to have access to educational funds."[206] *Edgewood I* became the first of many school finance cases argued across the state.

The state replaced the old system in 1990,[207] but the Texas Supreme Court found the school funding system to be unconstitutional a year later in *Edgewood II*.[208] Senate Bill 1, which was passed after *Edgewood I,* did not improve the public school finance in Texas and maintained the two-tiered education finance structure referred to as the Foundation School Program.[209] The Texas Supreme Court went on to say that the bill made "no attempt to equalize access to funds among all districts" and "[t]o be efficient, a funding system that is so dependent on local ad valorem property taxes must draw revenue from all property at a substantially similar rate."[210] As a response to the *Edgewood II* decision, the Texas Senate passed Bill 351 in 1991,

202. *See* Drennon, *supra* note 11, at 589.

203. *See* Edgewood Indep. Sch. Dist. v. Kirby (*Edgewood I*), 777 S.W.2d 391, 393–94 (Tex. 1989).

204. *See* SRACIC, *supra* note 185, at 127–28.

205. *See id.* at 128–29.

206. *See Edgewood I*, 777 S.W.2d at 397.

207. *See* SRACIC, *supra* note 185, at 129.

208. Edgewood Indep. Sch. Dist. v. Kirby (*Edgewood II*), 804 S.W.2d 491, 496 (Tex. 1991).

209. *Id.* at 495.

210. *Id.* at 496.

creating county education districts ("CED").[211] Each CED would raise funds for the schools in their district through a required property tax, and CED's not raising enough funds even at the highest tax rate would have funds subsidized from the state's budget.[212] While this appeased the requirements set forth in *Edgewood I* and *II*, it led to a new problem. In *Carrollton-Farmers Branch Independent School District v. Edgewood Independent School District* ("*Edgewood III*"), the Texas Supreme Court decided the new CED system imposed an unconstitutional state property tax.[213]

In 1993, the Texas legislature enacted a new funding policy, which still used a recapture system and pejoratively known by wealthier districts as the "Robin Hood" redistribution.[214] The bill, Senate Bill 7, addressed the problem of property tax prohibited in *Edgewood III* and the Texas Constitution by setting a voluntary minimum.[215] It also allowed property-wealthy districts to voluntarily transfer funds to property-poor districts.[216] This policy consolidated county property taxes to equalize funding, but the system still allowed for a per-pupil funding gap between districts.[217]

As a result, the state legislature required districts with higher property values to share with the poorer districts.[218] By 1995, the Texas Supreme Court surmised the ratio of taxable property wealth per student between the wealthiest-property and poorest-property districts reduced from 700:1 to 28:1 in just six years, thus ending the *Edgewood* cases.[219] ("*Edgewood IV*").

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211. SRACIC, *supra* note 185, at 129.

212. *See id.*

213. Carrollton-Farmers Branch Indep. Sch. Dist. v. Edgewood Indep. Sch. Dist. (*Edgewood III*), 826 S.W.2d 489, 493–94 (Tex. 1992).

214. SRACIC, *supra* note 185, at 131.

215. *See id.*

216. *See id.*

217. *See* Drennon, *supra* note 11, at 589.

218. *See* SRACIC, *supra* note 185, at 131 (listing the options for districts who exceed the amount of wealth allowed).

219. *See* Edgewood Indep. Sch. Dist. v. Meno (*Edgewood IV*), 917 S.W.2d 717, 730 (Tex. 1995).

C. West Orange-Cove Consolidated Independent School District Cases

By 2004, a $1,100-per-student gap existed between property-wealthy and property-poor districts in Texas.[220] The issue of school finance faced litigious episodes in the courts when four wealthy school districts (not in San Antonio) declared the public school funding system unconstitutional.[221] The recapture system required wealthier districts to tax at the maximum allowable rate to finance their public schools in order to re-distribute funds to nearby poorer-value districts, and the plaintiffs argued this was a state property tax, which is prohibited under the Texas Constitution.[222] By September 2004, a coalition of 280 school districts joined the suit as plaintiffs and intervenors.[223] Both property-wealthy and property-poor districts challenged the constitutionality of the finance system.[224] In September 2004, District Judge John Dietz found the system unconstitutional as it had become a state property tax, and yet it did not provide enough money to meet the requirement for efficient and equitable funding for public schools.[225]

Judge Dietz gave the Texas legislature until October 2005 to remedy the funding formula.[226] Meanwhile, the State appealed the case and partially lost in the Texas Supreme Court, which upheld the lower court's decision.[227] The majority 7-1 opinion classified the funding

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220. *See* Drennon, *supra* note 11, at 589.

221. *See* West Orange-Cove Consol. Indep. Sch. Dist. v. Alanis, 107 S.W.3d 558, 562–63 (Tex. 2003).

222. *See* Drennon, *supra* note 11, at 568–69.

223. Michael. King, *Judge Dietz Finds School Finance System Unconstitutional*, THE AUSTIN CHRON. (Sept. 17, 2004), https://www.austinchronicle.com/news/2004-09-17/229515/. This included three San Antonio area school districts named as plaintiffs (Alamo Heights ISD, Northeast ISD, and Northside ISD) and three San Antonio schools who filed with the intervenors (Edgewood ISD, South San Antonio ISD, and Harlandale ISD).

224. *See id.*

225. *See id.*

226. *See* Neeley v. W. Orange-Cove Consol. Indep. Sch. Dist., 176 S.W.3d 746, 754 (Tex. 2005).

227. *See West Orange-Cove Ruling*, THE INTERCULTURAL DEV. RES. ASS'N, (last visited Apr. 7, 2020), https://www.idra.org/resource-center/west-orange-cove-ruling/.

formula as an unconstitutional statewide property tax.[228] This decision reversed a part of the district court's holding, as it deemed the school funding levels to be adequate while also acknowledging the disparity between the wealthier and poorer-property districts.[229] In a dissenting opinion, Justice Brister suggested consolidating smaller districts would lead to a more efficient and better-funded system.[230] Then-Governor Rick Perry called a series of special sessions to solve the funding problem.[231] By 2006, the legislature had lowered the property tax limit and increased other taxes in order to increase state money for education.[232]

D. Texas Taxpayer and Student Fairness Coalition Cases and Recent Legislative Reform

In June of 2011, the Texas legislature decided to cut $4 billion from the education budget.[233] By late October, three distinct groups filed suits against the state's school finance system, the "Robin Hood" recapture system.[234] The Texas School Coalition, the Texas Taxpayer and Student Fairness Coalition, and the Fort Bend Independent School District (with eighty one other districts including Edgewood ISD and Northside ISD) each filed separate suits challenging the adequacy, efficiency, equity, and constitutionality of the statewide property tax for the public education system.[235] More than 600 property-wealthy and property-poor school districts joined the cases.[236] The District Court again ruled the school finance system unconstitutional.[237] In

228. *See id.*

229. *See Neeley*, 176 S.W.3d at 754.

230. *See id.* at 807 n.48 (Brister, J., dissenting).

231. *See* King, *supra* note 223.

232. *See* Rebekah Allen, *How Much Property Tax Relief Should You Expect from the Texas Legislature's Bills This Year*, THE DALL. MORNING NEWS (May 17, 2019, 4:27 PM), https://www.dallasnews.com/news/politics/2019/05/17/how-much-property-tax-relief-should-you-expect-from-the-texas-legislature-s-bills-this-year/.

233. *See* Richard Whittaker, *School Finance on Trial*, THE AUSTIN CHRON. (Aug. 28, 2015), https://www.austinchronicle.com/news/2015-08-28/school-finance-on-trial/.

234. *See id.*

235. *See id.*

236. *See id.*

237. *See id.*

May 2013, the legislature added $3.6 billion to the education budget in an attempt to appease the ruling.[238] In August 2014, Judge Dietz reaffirmed his ruling that the Texas school finance system is "constitutionally inadequate, unsuitable and financially inefficient."[239]

After the state appealed the cases, the Texas Supreme Court heard the arguments from The Texas Taxpayer and Student Fairness Coalition, the Texas School Coalition, the Fort Bend Independent School District (as well as 81 other districts), and MALDEF, which represented 541 school districts as well as a non-profit organization, the Equity Center.[240] Equity Center Executive Director Wayne Pierce estimated that the top twenty five percent of schools received $50,000 more per 22-student elementary classroom than the lowest funded twenty five percent.[241] The Texas Supreme Court reversed the lower courts, ruling the funding system constitutional, but the Court urged lawmakers to make transformational changes to school finance policy.[242] The Court did not, however, provide specific guidance. Justice Eva Guzman wrote in a concurring opinion, "Good enough now . . . does not mean that the system is *good* or that it will continue to be *enough*."[243] It appears from this decision that the cycle of judicial restraint continues to be the path for the judiciary. *The Texas Tribune* reported quickly after the ruling that many groups were still hoping the legislature would make drastic reforms to the educational funding system.[244]

Since the decision, very little changed on the matter in Texas. Governor Greg Abbott's inaugural address in January 2019, as well as in his State of the State Address in February 2019, emphasized property

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238. *See id.*

239. *See* Texas Taxpayer & Student Fairness Coal. v. Williams, No. D-l-GN-11-003130, 2014 WL 4254969, at *1, *12 (D. Tex. Aug. 28, 2014).

240. *See* Whittaker, *supra* note 233.

241. *See id.*

242. *See* Marialena D. Rivera & Sonia Rey Lopez, *Some Pennies are More Equal than Others: Inequitable School Facilities Investment in San Antonio, Texas*, 27 EDUC. POL. ANALYSIS ARCHIVES 1, 4 (2019).

243. Kiah Collier, *Texas Supreme Court Rules School Funding System is Constitutional*, THE TEX. TRIB. (May 13, 2016), https://www.texastribune.org/2016/05/13/texas-supreme-court-issues-school-finance-ruling/.

244. *See id.*

tax and school finance reform as legislative priorities.[245] He claimed it was time to untangle the mess of the Texas school finance problems.[246] With over 50 years of lawsuits and minimal changes in school funding, a pattern of weak judicial findings and legislative inaction sacrificed millions of students to an inequitable and inadequate education in San Antonio and throughout the state of Texas.

At the end of May 2019, the Texas State Legislature passed House Bill 3 ("HB 3"), costing the state $11.6 billion.[247] The state's share of public education funding will go from 38% to 45%.[248] This will lower the cumulative recapture payments by $3.6 billion for high-value property schools over 2 years, diminishing the "Robin Hood" redistribution system by subsidizing more from the state budget.[249] More than half of the dollars budgeted in HB 3 are earmarked for education, while the remaining $5.1 billion are for tax cuts.[250] HB 3 will increase the base funding per student across the state from $5,140 to $6,160, while also increasing the benefits and salaries for teachers.[251] The extra funding must be spent on raises and benefits for teachers, librarians, nurses, and counselors with an emphasis on teachers with 5 or more years of experience.[252] Districts also have the option to disseminate teacher bonuses based on the controversial merit system.[253] For SAISD, this means the district will not have to pay $400,000 to recapture in 2021 as projected; rather the bill will give $36.5 million to

245. *See* Emma Platoff, *Gov. Gregg Abbott Names School Finance, Property Tax Form Emergency Items*, THE TEX. TRIB. (Feb. 5, 2019), https://www.texastribune.org/2019/02/05/texas-greg-abbott-emergency-items-texas-legislature/.

246. *See id.*

247. H.B. 3 86th Leg., (Tex. 2019); Patrick Svitek, *Gov. Greg Abbot Signs $11.6 Billion School Finance Measure into Law,* THE TEX. TRIB. (June 11, 2019), https://www.texastribune.org/2019/06/11/texas-gov-greg-abbott-signs-116-billion-school-finance-measure-law/.

248. Aliyya Swaby, *Teacher Raises and All-Day Pre-K: Here's What's in the Texas Legislature's Landmark School Finance Bill,* THE TEX. TRIB. (May 24, 2019), https://www.texastribune.org/2019/05/24/texas-school-finance-bill-here-are-details/.

249. *See id.*

250. Donaldson, *supra* note 95.

251. *See id.*

252. *See id.*

253. *Id.*

districts like SAISD in 2020.[254] However, this will have to cover the new costs the state is requiring of the public schools. The second part of the budget for HB 3 will lower the personal property tax rates by an average of $0.08 per $100 valuation by 2020 and $0.13 by 2021.[255] While several area education leaders called HB 3 "transformational" and viewed it as an "investment" in teachers,[256] the neoliberal forces guiding programs such as the merit-based pay are counter to the aims of equity needed in the state finance system.

The sociopolitical historical and legal narrative around educational inequality in San Antonio discussed above illustrates the deep-seated issues existent in a city growing increasingly segregated. Additionally, in a context that values neoliberal approaches to addressing these educational issues, the very idea of public education is at risk. Therefore, we argue for truly transformational change to occur, spatial justice must be centered. Specifically, we are interested in how neoliberal policies and resistance to them are geographically situated. As others have noted, reformers target high-poverty central city neighborhoods for the implementation of neoliberal strategies based on the assumption that these areas are disasters, making them ripe for reform.[257]

Spatial segregation and inequality regularly constituted the hallmark of city governance throughout the twentieth century in San Antonio. The white economic elites used city funds to subsidize the expansion of the northern part of the city while simultaneously walling off the educational benefits of subsidization through the creation of independent school districts. In the 1960s and 1970s, people began to stand up as citizens to this unjust distribution of resources. They did so at the city level and through the federal and state judicial systems. Importantly, citizens stood up and demanded more equal funding for their schools and their neighborhoods. They collectively organized to demand change for their space in the city. Currently, in an environment rife with neoliberal individualist solutions, it is imperative for people to resist those neoliberal tendencies and imagine a collective response.

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254. *Id.*

255. *See* Swaby, *supra* note 248.

256. Donaldson, *supra* note 250.

257. Scott, *supra* note 44, at 582.

We argue that critical geographers' notion of the right to the city can provide the philosophical bedrock for such collective movement.

V. A CRITICAL THEORY OF GEOGRAPHIC OPPORTUNITY

Critical geographers and others assert that the success of social justice movements actually depends on the internalization of a spatial perspective. In Los Angeles, following the uprising of 1992, there was a "realization among the most disadvantaged populations that appeals to government were not likely to be effective . . . ."[258] Any effort to achieve change depends on organizing efforts creating "new kinds of inclusive regional coalitions or confederations of activist groups that cut across alliances based on class, ethnicity, gender, and geographical location."[259] Soja specifically documented the ways in which labor, community organizations and transportation activists worked together to make claims that had political and legal traction. He concluded that "mobilizing community- and labor-based regional coalitions and alliances around the right to the city must be kept radically open to multiple constituencies and to what in the past might have been considered strange bedfellows."[260] A just future must be brokered on an understanding that "[a]ny overall strategy for dealing with urban systems must contain and reconcile policies designed to change the spatial form of the city . . . with policies concerned to affect the social processes which go on in the city . . . ."[261] A "just city" is a city "in which public investment and regulation would produce equitable outcomes rather than support those already well off."[262]

This also applies to the demand for more equitable schooling practices. The historical and present day geographic segregation of students by race and income is related to geographies of housing and jobs. Researchers note the "unjust geographies of public schools continue to result in racialized educational inequities into the present

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258. SOJA, *supra* note 2, at 144.

259. *Id.*

260. *Id.* at 199.

261. 1 DAVID HARVEY, SOCIAL JUSTICE AND THE CITY 50 (Nik Heynen, Andrew Herod & Melissa W. Wright eds., 2009).

262. FAINSTEIN, *supra* note 20, at 3.

day."[263] To improve educational opportunities the spatial form of educational opportunities must change. There is a need to understand the degree to which those who are advocating for school children operate from a spatial perspective. Indeed, "[t]he linkages among place, race and privilege are shaped by three dominant social forces—sprawl, concentrated poverty, and segregation—all of which play out in large part in response to public policy decisions and practices of powerful private institutional actors."[264] Moreover, "[a]ny general theory of the city must somehow relate the social processes in the city to the spatial form which the city assumes,"[265] and "[t]he sociological imagination enables us to grasp history and biography and the relations between the two in society."[266] Whereas "spatial consciousness" or "geographical imagination" allows "the individual to recognize the role of space and place in his own biography, to relate to the spaces he sees around him, and to recognize how transactions between individuals and between organizations are affected by the space that separates them."[267] As such, we need to better understand not only educational inequity in a city, but it is imperative to familiarize ourselves with a description of people working to adopt a critical spatial perspective, pushing back at those actors seeking to hoard their opportunity and protect certain spaces.

In addition, there needs to be a focus on how groups build civic capacity and forge alliances with a spatial perspective facilitating said alliances. Indeed, how groups mobilize around education issues is context specific, and they can look very different from city to city.[268] Moreover, how individuals and groups view education can be greatly impacted by its city's educational history and (in)actions when it comes to educational opportunity, which in turn may influence the creation of

263. CRITICAL RACE SPATIAL ANALYSIS: MAPPING TO UNDERSTAND AND ADDRESS EDUCATIONAL INEQUITY 4 (Deb Morrison, Subini Ancy Annamma & Darrell D. Jackson eds., 2017).

264. Gregory D. Squires & Charis E. Kubrin, *Privilege Places: Race, Uneven Development and the Geography of Opportunity in Urban America*, 42 URB. STUD. 47, 48 (2005).

265. HARVEY, *supra* note 261, at 23.

266. *Id.* (internal quotations omitted).

267. *Id.*

268. *See* Clarence N. Stone, *Civic Capacity and Urban Education*, 36 URB. AFFAIRS REV. 595, 596 (2001).

coalitions and their sustained involvement in education reform efforts. In Stone and colleagues' eleven-city study of civic capacity, they found some cities have high levels of civic capacity where community-wide collaboration concerned with educational improvement truly galvanized a group effort as all sectors of the community were involved, yet other cities face consistent challenges when bringing together important sectors of the community to address educational improvement.[269] Key to the difference between cities was a strong civic capacity aimed at bringing together diverse stakeholders—elites and ordinary citizens—in sustained efforts. Strong support, including "formal and fully staffed collaboration," is needed to withstand the ebb and flow coalitions may encounter on the road to meeting their intended goals.[270]

Looking at what coalitions exist in a metropolitan area may shed light onto why equity has *not* been part of the conversation.[271] And while Soja pushes for the formation of regional coalitions in the city, as previously discussed, others argue that these regional coalitions, and educational policy specifically, need to extend beyond the city and include entire regions.[272] A regional equity lens helps bring to light "the way in which competitive dynamics between cities and suburbs contribute to what continues to be constructed as 'urban' problems."[273] While persistent educational inequities are due in large part to inequitable school funding and residential segregation, we must also take into account the larger structures that maintain an unequal system making it difficult for everyone to benefit.[274] We need to think more about how our everyday actions not just impact our immediate surroundings, but the surroundings of those in which we share community and space.

We agree with Harvey who writes:

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269. *See id.* at 597–610.

270. *Id.* at 614.

271. JENNIFER JELLISON HOLME & KARA S. FINNIGAN, STRIVING IN COMMON: A REGIONAL EQUITY FRAMEWORK FOR URBAN SCHOOLS (2018). This takes into account the cities that do not have such a coalition.

272. SOJA, *supra* note 2, at 187; HOLME & FINNIGAN, *supra* note 271, at 175.

273. HOLME & FINNIGAN, *supra* note 271, at 10.

274. *Id.* at 11.

> The right to the city is far more than the individual liberty to access urban resources: it is a right to change ourselves by changing the city. It is, moreover, a common rather than individual right since this transformation inevitably depends upon the exercise of collective power to reshape the processes of urbanization.[275]

Thus, we pay particular attention to how activists operate, where they operate, how they conceptualize the spaces they operate in, and the alliances that are formed. Attention to these elements demands that we understand the right to the city as a common right, a right that is realized spatially.

VI. CONCLUSION: COLLECTIVE ORGANIZING TO RESIST THE COMMODIFICATION OF THE URBAN

Resistance to neoliberal reforms in education is also resistance to the commodification of the urban.[276] The commodification of the urban refers to the fact that not only is the land sold but the social space itself is bought. As Schmid points out, "[t]he entire space is sold—including the people living in it as well as the social resources and the economic effects produced by them."[277] If we apply this notion to the privatization of education, then we find the commodification of an essential social space, the school. However, when schools are turned over to management companies, the public is paying the companies to take control of the social space. Once they are in control of social space, they can reserve social spaces for specific groups while excluding others. In San Antonio, there are a growing number of people who are beginning to articulate resistance to this project.

As SAISD moves to partner with private companies, many parents are unsure of what this means for their schools. Some of these parents are attempting to grow a coalition of people concerned about the privatization. Most of the worries, and activism, center on

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275. HARVEY, *supra* note 21, at 315.

276. Christian Schmid, *Henri Lefebvre, the Right to the City, and the New Metropolitan Mainstream, in* CITIES FOR PEOPLE, NOT FOR PROFIT 55 (Neil Brenner, Peter Marcuse, Margit Mayer eds., 2012).

277. *Id.* at 56.

inequality across the district and city, the lack of transparency within SAISD, and the fear of losing democratic control over their schools. These parents are organizing and asking other groups to join them in a coalition. The nascent group describes themselves as a coalition of parents, community members, teachers, school staff, and retired teachers who are concerned about growing efforts to privatize public education in San Antonio.

Interestingly, one of the unifying elements for the group is a shared sense of being in the dark about privatization plans. Parents in more affluent school districts are concerned about how poorer schools are being sold. Thus, much of the energy for organizing is generated because of the lack of transparency from the district. For example, a 1,000-page plan to turn over 18 of SAISD schools to private contractors became available to the public. However, it was released on the Friday before the next board meeting on the following Monday where they passed the plan. This upset a great number of people. One of the organizers commented, "I think the common thread, too, is this feeling like there's a plan, somewhere there's a plan, but it's not my plan. And so, you just don't know."

Geographically, the group consists of parents from an elementary school on the western edge of the school district near the Edgewood district. The school is located in the most property poor area of the district. More parents are located at a high school on the northern edge of the district located just near one of the wealthiest neighboring school districts. Finally, there are more parents at another elementary located on the east side which was historically Black. They also have a social media following.

While the spread of activists across the district is a good indication of a movement, they lack a geographic foundation. One of the activists rhetorically asked, "How do you have events where people from the east side can get to the west side? It actually is a long way to go, it's not easy to get to and not everyone has transportation. So we have to think and strategize around that."

While the activists have not been able to rally around a specific spatial location, they have been working to develop a coalition with other advocacy organizations. Other non-profits that address public education, parenthood, Native American rights, and tenants' rights are supportive of their cause. In addition, local academics, the local teachers association, and representatives from a national teacher's

union are working with the group to develop resistance strategies. Despite this growing coalition, the school district continues to pursue the privatization of their own public schools.

San Antonio is not alone in their resistance to privatization and desire for healthy and rigorous schools. There have been successful movements in Boston, Chicago, Detroit and Cincinnati. In each of these cities, various coalitions developed to advocate for better funding of their public schools and to stop the encroachment of privatization. For example, the Boston Education Justice Alliance fought to stop a state law that would create a radical expansion of charter schools within the city.[278] Their alliance was a coalition of public school students, unions, university supporters, and local church representatives.[279] In Chicago, the Grassroots Education Movement fought to stop the replacement of a storied Black high school with charter schools.[280] A coalition of labor activists and community members utilized a hunger strike strategy to bring attention to the importance of the high school in connection with the geography of the neighborhood.[281] In each of these cities, there is resistance to the neoliberal solutions and a demand for control over the development of their social spaces.[282]

In the resistance to the privatization of public schools in San Antonio, we believe there is a consciousness developing that recognizes the imperative nature of spatialization for equal opportunity. It is a demand for a just city in which a few do not determine the opportunity of the many. It is a recognition that the current landscape is a crystallization of past forms of domination. We conclude with Peter Marcuse's explanation of this right to the city:

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278. *See* THE ALLIANCE TO RECLAIM OUR SCHOOLS, http://www.reclaimourschools.org (last visited Apr. 27, 2020); *Grassroots Organizing Just Won $1.5 Billion for Public Schools*, SCHOTT FOUND. FOR PUB. EDUC. (Nov. 27, 2019), http://schottfoundation.org/blog/2019/11/27/grassroots-organizing-just-won-15-billion-public-schools.

279. *See* THE ALLIANCE TO RECLAIM OUR SCHOOLS, *supra* note 278.

280. *See* Sarah Diem & Anjalé D. Welton, *Disrupting Spaces for Education Policymaking and Activism, in* MENDING WALLS: HISTORICAL, SOCIO-POLITICAL, ECONOMIC, AND GEOGRAPHIC PERSPECTIVES 232 (Richard A. Diem & Michael J. Berson eds., 2017).

281. *See id.*

282. THE ALLIANCE TO RECLAIM OUR SCHOOLS, *supra* note 278.

> The right to the city does not demand all rights for all people . . . To gain rights for those who do not have them will involve eliminating some rights for those that do: the right to dispossess others, to exploit, to dominate, to suppress, to manipulate the conduct of others. No one should be deprived of the right to the city as it is socially defined, including those individual rights necessary for a decent life referred to above; but to secure them for all means no one may have the right to deny them to any.[283]

283. Peter Marcuse, *Whose Right(s) to What City?*, *in* CITIES FOR PEOPLE, NOT FOR PROFIT: CRITICAL URBAN THEORY AND THE RIGHT TO THE CITY 35 (Neil Brenner, Peter Marcuse & Margit Mayer eds., 2012).

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