
SOLVING THE PROBLEM OF POWER: THE EMERGING LEGISLATIVE COALITION FOR CIVIL RIGHTS

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INTRODUCTION

Segregation is the great unsolved problem of American society and American communities. The number of segregated American cities, neighborhoods, and schools continues to grow. The racial injustices and disparities created by segregation are a root cause of racial inequality and conflict, including the unrest that has seized U.S. cities in the summer of 2020 after the murder of George Floyd by a Minneapolis police officer.

Civil rights advocates and social scientists have long understood that the solution to endemic segregation is proactive racial integration, conducted on a regional scale.¹ The benefits of these integration efforts, both in schools and neighborhoods, are firmly established by research.² In the past, U.S. governmental entities pursued large-scale integration programs in education and housing. However, since the 1970s, these programs and their advocates have been confronted with many setbacks and defeats.³ Today, the political landscape for integration seems grimmer than any time in decades. Is there a path forward for integrationists? Can the bold programs that followed the civil rights movement ever be restored?

This Article lays out a new pathway to racial integration, pointing to hopeful political and social trends. It argues that, underneath disastrous federal political developments, the legal and demographic context is changing in states and within American cities, in a way that opens the door to new integration efforts.

In particular, two recent developments have proved especially important in improving the prospects for civil rights advances. First, there is a renaissance of state civil rights law, which allows advocates to pursue state court remedies that were previously mostly sought in federal litigation.⁴ Second, America's suburbs are

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1. In 1968, the Kerner Commission established by President Lyndon Johnson to study the roots of civil unrest the previous year squarely identified segregation as its major underlying cause; the Commission recommended what it referred to as “the integration choice,” helping black Americans integrate into communities outside of central cities, as a necessary part of the solution. REP. OF THE NAT’L COMM’N ON CIV. DISORDERS, SUMMARY REP. 224 (1968).

2. See discussion *infra* Section V.

3. See discussion *infra* Section II.B.

4. See, e.g., Jim Hilbert, *Restoring the Promise of Brown: Using State Constitutional Law to Challenge School Segregation*, 46 J.L. & EDUC. 1 (2017).

becoming much more racially diverse.⁵ This gives them an incentive to take civil rights reforms seriously. Taken together, these two changes suggest a new legislative strategy for civil rights. In the past, the legislature has often been a critical stumbling block for integration advocates. That barrier may be dissolving.

Indeed, for a subset of rapidly demographically-changing suburban communities, there may be few other options than to form political coalitions with the goal of stably integrating their surrounding regions. The racial and economic transition taking place within these municipalities have placed terrible strains on their social, political, and financial stability, eroding public services and driving white flight to their neighbors. Some, like Ferguson, Missouri, have become infamous as the site of critical civil rights and racial conflicts of twenty-first century America. Leaders in these places must choose between resigning themselves to ongoing inequality and decline or banding together for bold regional initiatives to produce stable integration.

In short, twenty-first century America is producing the potential for unique new political and legal coalitions for integration—coalitions built around mutual self-interest, instead of abstract notions of altruism or goodwill.

This Article demonstrates these ideas by examining two places in which large-scale school desegregation litigation is currently taking place in state courts—Minnesota and New Jersey. Despite dramatic demographic and geographic differences between these states, both states are currently capable of producing a legislative coalition in support of school integration. As little as a decade ago, these coalitions would have been weaker or nonexistent. Today, a majority of New Jersey legislators represent racially diverse districts where integration is the only pathway to long-term stability. Minnesota is whiter overall, but in the Twin Cities region that has been the focus of civil rights organizing efforts, a majority of legislators represent diverse districts.

Figure 1: Racial Diversity in State Legislative Districts (2020)⁶

	Majority of Population Lives in Racially Diverse Areas	Majority of Population Lives in Predominantly White Areas
New Jersey	33	7
Twin Cities Region	46	39

Part I of this Article gives important historical and policy context on regional racial integration plans, including the successful implementation of such plans in earlier decades and the role of white suburbs in undermining regional integration. Part II talks about the characteristics that define successful integration plans. Part III describes recent developments that change the landscape of civil rights, including new

5. Myron Orfield & Thomas F. Luce, *America's Racially Diverse Suburbs: Challenges and Opportunities*, 23 HOUS. POL'Y DEBATE 395, 396 (2013).

6. This figure is an analysis of legislative district demographics conducted by the Institute on Metropolitan Opportunity at the University of Minnesota. It uses geographic information system data from the State of New Jersey and State of Minnesota, and demographic data from the 2019 U.S. Census American Community.

developments in state law and changing suburban demographics. Part IV describes two critical effects of segregation—harms to entire communities, and the erosion of demographic stability of regions—that create political incentives to integrate. Part V discusses two school desegregation lawsuits in Minnesota and New Jersey as an illustration of the new political and legislative coalitions that may now be available to promote civil rights and integration.

Near the end of his life, Dr. Martin Luther King, Jr. spoke frankly about the challenges confronting racial integration. He identified the problem as one of amassing sufficient political power to push past white society's self-interested desire to maintain segregation:

From the old plantations of the South to the newer ghettos of the North, the Negro has been confined to a life of voicelessness and powerlessness. Stripped of the right to make decisions concerning his life and destiny he has been subject to the authoritarian and sometimes whimsical decisions of the white power structure. The plantation and the ghetto were created by those who had power, both to confine those who had no power and to perpetuate their powerlessness. Now the problem of transforming the ghetto, therefore, is a problem of power, a confrontation between the forces of power demanding change and the forces of power dedicated to the preserving of the status quo.⁷

The present day seems like a gloomy time for civil rights. But if the problem of racial integration is framed in the terms that Dr. King uses—as a problem of amassing political power—the outlook shifts. While the short-term legal environment for civil rights is inauspicious, King's "problem of power" is becoming easier to solve as American society becomes more diverse. In the long run, this deeper shift may prove more consequential than any single Supreme Court decision or agency rulemaking. After all, the extraordinary civil rights efforts in past eras were not ultimately sabotaged by the lack of short-run support from any single elected or appointed official. Instead, they were undermined by more fundamental divisions in society, which pitted the self-interest of a few against the prejudices of the majority.⁸ Today, racial integration is in the self-interest of the majority.

I. HISTORICAL REGIONAL INTEGRATION

The civil rights movement of the 1960s made a heroic effort to defeat residential and educational segregation, and at times made significant headway; the civil rights movement of the 1960s culminated in the passage of the Fair Housing Act in 1968 and a period of large-scale school integration.⁹

7. Martin Luther King, Jr., Address Delivered at the Eleventh Annual Southern Christian Leadership Conference Convention: Where Do We Go From Here? (Aug. 16, 1967), STAN. MARTIN LUTHER KING, JR. RSCH. & EDUC. INST., <https://kinginstitute.stanford.edu/where-do-we-go-here>.

8. See generally MATTHEW D. LASSITER, *THE SILENT MAJORITY: SUBURBAN POLITICS IN THE SUNBELT SOUTH* (2006); KEVIN KRUSE, *WHITE FLIGHT: ATLANTA AND THE MAKING OF MODERN CONSERVATISM* (2005). For a discussion centered around K-12 education and integration "busing," see MATTHEW DELMONT, *WHY BUSING FAILED* (2016).

9. For a history of federal housing segregation, see CHARLES M. LAMB, *HOUSING SEGREGATION IN SUBURBAN AMERICA SINCE 1960* (2005). For a history of federal-run K-12 integration, see GARY ORFIELD, *MUST WE BUS?* (1978).

This era produced many successful integration programs which taught civil rights reformers valuable lessons about how to best desegregate cities and school districts.

In the context of larger cities, the most important lesson of these efforts was the importance of pursuing desegregation on a large, metropolitan scale, rather than pursuing piecemeal remedies that only affected a few communities at a time.¹⁰ Only regional integration remedies proved stable and effective over the long run.¹¹

But the practical need to desegregate across entire regions ultimately proved to be the political Achilles' heel of integrationists. It effectively required them to find ways to include all types of communities in their plans, from diverse and segregated central cities to heavily white suburbs. Suburbs, for their part, fought back strenuously.¹² Although some courageous jurists and politicians tried to impose desegregation in suburbs regardless, these stalwarts were few and far between.¹³ However compelling the moral arguments of integrationists, political reality usually spoke louder, particularly in the legislative context. Civil rights advocates simply did not command the votes to overcome the suburban residents.

As a result, in many places large-scale integration efforts sputtered to a dispiriting end in the 1980s and 1990s, the product of a great political fissure between a diverse minority of black-segregated central city neighborhoods and a vast majority of white-segregated suburbs.¹⁴

A. Successful Integration Efforts

Although school segregation was prohibited in the United States with the *Brown v. Board of Education* decision in 1954, efforts to proactively integrate schools on a large scale through busing and other measures did not really begin until the Supreme Court decided *Green v. New Kent County* in 1968.¹⁵ *Green* held that simply removing racial assignments from schools was not a constitutionally sufficient remedy for segregation, and that segregated districts had an obligation to eliminate "root and branch" the effects of their discrimination, including any persistent demographic patterns in their schools.¹⁶ As a result, many large school districts which had maintained separate schools for black and white children suddenly found themselves required to eliminate the effects of segregation.

10. See, e.g., ANSLEY T. ERICKSON, MAKING THE UNEQUAL METROPOLIS: SCHOOL DESEGREGATION AND ITS LIMITS (2016); GERALD W. HEANEY & SUSAN UCHITELLE, UNENDING STRUGGLE: THE LONG ROAD TO AN EQUAL EDUCATION IN ST. LOUIS (2004); SUSAN E. EATON, THE OTHER BOSTON BUSING STORY: WHAT'S WON AND LOST ACROSS THE BOUNDARY LINE (2001).

11. See, e.g., Orfield & Luce, *supra* note 5, at 421–22.

12. See Kruse, *supra* note 8; Lassiter, *supra* note 8.

13. See, e.g., Lamb, *supra* note 9, at 56–107 (discussing Housing and Urban Development Secretary George Romney's attempts to integrate U.S. cities over President Richard Nixon's opposition).

14. See Myron Orfield, *Milliken, Meredith, and Metropolitan Segregation*, 62 UCLA L. Rev. 363, 447–57 (2015) (discussing how the exclusion of suburbs from integration programs preceded their failure).

15. *Brown v. Bd. of Educ.*, 347 U.S. 483, 495 (1954); *Green v. Cnty. Sch. Bd. of New Kent Cnty.*, 391 U.S. 430, 439–42 (1968).

16. *Green*, 391 U.S. at 437–38.

Only a month prior to *Green*, Congress had taken direct aim at housing segregation by passing the Fair Housing Act of 1968.¹⁷ This landmark law was the last of three great civil rights acts in the 1960s.¹⁸ The coauthor of the law, Senator Walter Mondale, famously described its goal as the creation of “truly integrated and balanced living patterns.”¹⁹ In addition to prohibiting a wide array of segregative practices in the private market, the Fair Housing Act required the U.S. Department of Housing and Urban Development (“HUD”) to “affirmatively further” integration through its activities.²⁰

Taken together, these two developments initiated the first era of metropolitan integration in America. In both schools and housing, the most successful integration plans were typically regional in scope.

The Supreme Court reaffirmed the power of school integration plans to utilize a wide range of tools, including busing, school and district consolidation, and boundary redrawing.²¹ The result was a variety of integrative approaches and programs. While there has been a veritable avalanche of academic research confirming the educational, economic, and social benefits of school desegregation, not all integration plans were equally successful in actually achieving integration over long periods of time.²²

Although hundreds of cities implemented school integration plans of varying scale and complexity, the most stable and long-lasting plans typically proved to be those in upper southern states like North Carolina, Tennessee, and Kentucky. The Charlotte school integration plan lasted from 1971 to 2002.²³ After the school integration plan ended, subsequent research showed that the school integration plan was successful at improving a wide range of student outcomes.²⁴ Integration plans in the Raleigh-Durham metropolitan area have operated in various forms from the 1970s to the present day—at one point being eliminated by Republican-backed school board officials, only to be reimplemented.²⁵ The integration plan in Louisville, Kentucky is also still in place after nearly a half-century.²⁶ It has both maintained higher levels of racial integration than demographically similar cities and helped produce relatively low racial achievement gaps in the city.²⁷ Initially attacked by white residents, the

17. Fair Housing Act, 42 U.S.C. §§ 3601–19 (2020).

18. The other two were, of course, the Civil Rights Act of 1964, which addressed segregation in public accommodations, and the Voting Rights Act of 1965.

19. *Trafficante v. Metro. Life Ins. Co.*, 409 U.S. 205, 211 (1972) (quoting 114 CONG. REC. 3422 (1968)).

20. Fair Housing Act, 42 U.S.C. § 3608(e)(5) (2020).

21. *See, e.g., Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 22–31 (1971).

22. The failure of some integration plans has been documented journalistically to much fanfare. *See generally* J. ANTHONY LUKAS, *COMMON GROUND: A TURBULENT DECADE IN THE LIVES OF THREE AMERICAN FAMILIES* (1986).

23. Stephen B. Billings et al., *School Segregation, Educational Attainment, and Crime: Evidence from the End of Busing in Charlotte-Mecklenburg*, 129 Q.J. ECON. 435, 436 (2014).

24. *Id.* at 435–73.

25. Christina A. Samuels, *A Losing Fight to Keep Schools Desegregated*, EDUC. WK. (Aug. 12, 2019), <http://www.edweek.org/leadership/a-losing-fight-to-keep-schools-desegregated/2019/08>.

26. *See, e.g.,* John Eligon, *Busing Worked in Louisville. So Why Are Its Schools Becoming More Segregated?*, N.Y. TIMES (July 28, 2019), <https://www.nytimes.com/2019/07/28/us/busing-louisville-student-segregation.html>; Alana Semuels, *The City that Believed in Desegregation*, ATLANTIC (Mar. 27, 2015), <https://www.theatlantic.com/business/archive/2015/03/the-city-that-believed-in-desegregation/388532/>.

27. *Id.*

plan has also proven politically popular over the long run, and has survived attempts by conservative legislators to undermine it.²⁸

The key feature uniting these successful integration plans is their broad geographic reach. Their scope included much or all of entire metropolitan regions, rather than a single central city. This helps explain the stability of many southern integration plans; in the South, school districts are typically organized at the county level, so a desegregation order targeted at a single school district often ends up being regional in scope. By contrast, in northern metropolitan areas, the central city usually operates its own school district; an integration order targeting that district would *not* include surrounding suburban areas.

The Fair Housing Act also led to efforts to attack housing segregation and implement regional housing integration plans. The most aggressive of these at the federal level was the Open Communities Program, implemented by Richard Nixon's HUD Secretary, George Romney.²⁹ Romney's program—which was largely conducted without Nixon's approval and, initially, even without his knowledge—sought to withhold federal subsidies from communities that refused to produce low- and moderate-income housing in white neighborhoods.³⁰ Although it achieved some brief success, it quickly fell into disfavor with Nixon.³¹

Several states also implemented housing integration plans. Minnesota created a regional government, known as the Metropolitan Council.³² The state empowered this regional government to mandate that certain municipalities within the region create housing allocations; specifically, the Met Council required that each suburban community in the region provide its “fair share” of low- and moderate-income housing.³³ In the 1970s, the Council stepped up its housing activities with support from HUD. It implemented a policy—reminiscent of Romney's Open Communities Program—which penalized noncompliance in creating affordable housing by withholding other sources of funding.³⁴ The result was an immediate transformation of the distribution of affordable housing in the region.³⁵ Suburbs which previously had little or no affordable housing suddenly produced many new subsidized units. In some years in the 1970s, as much as seventy percent of new subsidized units were produced in the suburbs.³⁶ In 1970, fewer than ten percent of the region's 189 municipalities contained subsidized units; by the end of the decade, over half of them did.³⁷ By balancing the political and financial burden of this housing construction

28. Eligon, *supra* note 26.

29. LAMB, *supra* note 9, at 69–72.

30. *Id.*

31. *Id.*

32. Myron Orfield & Will Stancil, *Why Are the Twin Cities So Segregated?*, 43 MITCHELL HAMLINE L. REV. 1, 10 (2017).

33. *Id.*

34. *Id.* at 21–22.

35. *Id.* at 22.

36. *Id.*

37. *Id.* at 22–23.

over the entire region, the Twin Cities program remained stable throughout the decade, never producing a major political backlash from the region's suburbs.³⁸

New Jersey also implemented a housing integration program, initially through the courts. Known as the *Mount Laurel* doctrine after the case that created it, this policy effectively eliminated exclusionary zoning, requiring that all municipalities allow for the construction of a sufficient number of affordable housing units within their borders.³⁹ Ultimately, the doctrine was codified by the New Jersey legislature in the state's Fair Housing Act.⁴⁰ The Act created a system, similar to that practiced in Minnesota, where each municipality's fair share of affordable housing was determined and allocated.⁴¹

Even in the 1960s and '70s, it was widely recognized that integration efforts should be as geographically broad as possible.⁴² Unfortunately, this reality also ensured that suburban political forces played a major role in the success or failure of those efforts. Mostly, the suburbs worked to ensure that they failed.

B. Mounting Obstacles to Regional Integration

Despite the persistence of many effective regional school integration plans into the twenty-first century, the early 1970s represented the high-water mark for racial integration in civil rights. Since that time, courts, legislatures, and presidential administrations have rolled back the rules and laws that sustained integration efforts. Very often, these rollbacks highlighted the role of the city-suburban border as a racial boundary line and sought to prevent integration across such borders. Many of these efforts have culminated in the Trump administration, which has mounted thinly disguised defenses of segregated living patterns.

In the Supreme Court, the most significant blow to regional integration came early, in the 1974 case *Milliken v. Bradley*.⁴³ This case limited the ability of federal courts to order desegregation plans that reached across district borders, absent a finding that the districts included in a plan participated in the constitutional violation.⁴⁴ As a result, in places where formal segregation had been practiced primarily in a central city district, white suburbs were suddenly immune to court order. *Milliken* was the conclusion of a long battle between plaintiffs in the Detroit school district,

38. *Id.* at 61.

39. *S. Burlington Cnty. N.A.A.C.P. v. Twp. of Mount Laurel*, 67 N.J. 151, 174 (1975).

40. N.J. STAT. ANN. § 52:27D-305 (West 2021).

41. N.J. STAT. ANN. § 52:27D-307 (West 2021).

42. *See, e.g.*, THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS, REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS 10 (1968) (recommending strategies to encourage integration of black Americans into areas outside of central cities).

43. *See generally* *Milliken v. Bradley*, 418 U.S. 717 (1974).

44. *Id.* at 718. The holding says, in relevant part:

A federal court may not impose a multidistrict, areawide remedy for single-district de jure school segregation violations, where there is no finding that the other included school districts have failed to operate unitary school systems or have committed acts that effected segregation within the other districts, there is no claim or finding that the school district boundary lines were established with the purpose of fostering racial segregation, and there is no meaningful opportunity for the included neighboring school districts to present evidence or be heard on the propriety of a multidistrict remedy or on the question of constitutional violations by those districts.

who wanted an integration plan that included the city's overwhelmingly white suburbs, and the populations of those suburbs, who vociferously opposed busing.⁴⁵

The *Milliken* decision was the product of Richard Nixon's desire to bolster his 1972 political campaign by undercutting third-party candidate George Wallace.⁴⁶ Wallace had earned fourteen percent of the vote in 1968 by espousing segregationism; he had demonstrated appeal not just in former Jim Crow states but in northern metropolitan areas, like Detroit, where white suburbs felt menaced by regional integration plans.⁴⁷ When Nixon appointed Justices Powell and Rehnquist to the Supreme Court, he requested that his Attorney General John Mitchell secure a commitment from them that they would end suburban busing.⁴⁸

In a historical coincidence, Detroit's white suburbs were also the site of a key breakdown of George Romney's Open Communities housing integration program.⁴⁹ When Romney—formerly the governor of Michigan—threatened to withhold funding from the nearly all-white Detroit suburb of Warren, community leaders notified the Nixon administration directly.⁵⁰ This set off a conflict between Romney, who believed strongly that the Fair Housing Act required proactive integration, and Nixon, who felt that defending white suburbs was critical to reelection. Ultimately, this conflict destroyed the Open Communities program.⁵¹

Elsewhere, white suburbs found other ways to resist integration. New Jersey's Fair Housing Act, which required suburban communities to provide for their regional share of affordable housing units, contained a loophole: the ability of suburban communities to enter into what were known as "Regional Contribution Agreements," or RCAs.⁵² RCAs permitted municipalities to pay a fee to another city in exchange for the latter carrying some or all of its affordable housing obligation.⁵³ RCAs broke down the fair share system because wealthy communities proved more than willing to pay a fee to keep affordable housing out; the result was a recreation of the same patterns of segregation and poverty concentration that existed across the rest of the country.⁵⁴

II. COMPONENTS OF SUCCESSFUL INTEGRATION PLANS

Lengthy historical experience with desegregation has provided many lessons to civil rights advocates about the necessary components of any integration effort. First, integration works best when it is pursued at a regional scale. Second, successful

45. See, e.g., David Riddle, *Race and Reaction in Warren, Michigan, 1971 to 1974: Milliken v. Bradley and the Cross-District Busing Controversy*, 26 MICH. HIST. REV. 1 (2000).

46. See Orfield & Luce, *supra* note 5, at 380.

47. See *id.* at 404.

48. *Id.* at 384.

49. LAMB, *supra* note 9, at 85–94.

50. See *id.* at 89–94.

51. *Id.* at 96–97.

52. Sheryll Cashin, *Shall We Overcome? "Post-Racialism" and Inclusion in the 21st Century*, 1 ALA. C.R. & C.L.L. L. REV. 31, 46 (2011).

53. *Id.*

54. *Id.*

integration strategies cannot be conducted solely through the courts. Instead, they must be multipronged efforts that include political and legislative strategies.

A. The Necessity of Regional Integration

As suggested by the historical events described above, most of the nation's successful integration programs have shared a common feature: they apply across a wide geographic area, typically most or all of an entire metropolitan region. This is not a coincidence. Research has consistently shown that integration works best when carried out as broadly as possible.

This is because integrated schools and neighborhoods are fragile, at least at first. In a non-regional integration plan, integrated schools and neighborhoods do not tend to last very long. Instead, population shifts occur, and segregation reappears in the previously integrated area. Historically, the primary cause of these population shifts has been the interplay of growing racial diversity and white flight.

If segregation contributes to neighborhood instability, large-scale integration on the metropolitan level contributes to neighborhood stability. Diverse communities frequently cannot survive in a segregated context; many forces work in concert to make those communities segregated. By contrast, in an integrated context, those communities do not face the same pressure to segregate and can persist and prosper indefinitely.

Creating large-scale integration is beyond the capacity of any single city or municipality. Whatever a single city does, its immediate neighbors can undermine. The only sustainable way to create large-scale integration is for entire regions or states to act in relative unity. In short, for racially diverse communities, comprehensive metropolitan integration plans are the only sure pathway to long-term prosperity and stability.

There is empirical evidence that comprehensive regional integration plans meaningfully change the demographic trajectory of cities and neighborhoods. One 2012 study showed that most diverse communities are collapsing towards racial isolation and segregation.⁵⁵ However, that same study showed very different outcomes in metropolitan areas with regional school integration plans. In those places, neighborhoods which were more than forty percent nonwhite in 1980 had, essentially, a fifty-fifty chance of becoming segregated over the following three decades.⁵⁶ In short, regional integration had a stark effect on the overall stability of neighborhoods and their ability to remain stably integrated for long periods of time.

The 2012 study only examined the effects of comprehensive school integration plans and did not even address the potential impacts of more ambitious approaches that interweave both education and housing factors.⁵⁷ Nonetheless, both educational and housing integration, when undertaken on a metropolitan scale, potentially create stability through the same mechanism. By creating diversity in white enclaves, educational and housing integration reduce large-scale segregative living patterns and

55. Orfield & Luce, *supra* note 5, at 395, 414–22.

56. *See id.*

57. *See generally* Orfield & Luce, *supra* note 5.

remove the simplest pathways for flight from diverse communities. When white residents have few housing options outside of diverse neighborhoods, they are more likely to simply stay put, and ultimately acclimate to the new demographics. Regional resegregation, the evidence suggests, depends heavily on the availability of convenient alternatives to integration. When such alternatives are removed, metropolitan areas grow differently, and integration persists.

B. The Necessity of Legislative Support

Large-scale efforts to combat segregation and increase integration have rarely succeeded without the support of legislative bodies.⁵⁸ Although court orders and executive action can prop up integration programs for a time, the absence of support for those programs among lawmakers typically results in the gradual erosion of the programs. However, producing legislative support for integration has been historically challenging. Courts are, at least nominally, bound by legal principles, while elected executives centralize broad discretionary authority in a single individual. Legislative bodies, by contrast, are guided by the collective elective self-interest of many different legislators. Put bluntly, it is hard to make legislators do something that they do not perceive as being in their personal self-interest.

In the past, civil rights advocates were often forced to rely on moral arguments to appeal to the majority of legislators.⁵⁹ Although support for integration and civil

58. Historically, major school integration programs have been chiefly instituted through litigation. Such reforms came in the wake of *Brown v. Board of Education*, and especially after a second series of school segregation decisions in the late 1960s, most notably *Green v. County School Board of New Kent County* and *Swann v. Charlotte-Mecklenburg Board of Education*. See *Brown v. Bd. of Educ. of Topeka*, 347 U.S. 483 (1954); *Green v. Cnty Sch. Bd. of New Kent Cnty.*, 391 U.S. 430 (1968); *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1 (1971). Housing integration efforts have been led by federal executive agencies, particularly the HUD. See LAMB, *supra* note 9, at 56–107; see also *Affirmatively Furthering Fair Housing*, 80 Fed. Reg. 42271 (July 16, 2015). However, both methods have proven susceptible to political shifts.

Local officials have attempted to sabotage school desegregation plans. More effectively, changes in the composition of the Supreme Court have led to dramatic narrowing of federal desegregation efforts. See, e.g., *Affirmatively Furthering Fair Housing*, 85 Fed. Reg. 2041 (Jan. 14, 2020) (rolling back Obama administration housing desegregation rule); see also *Missouri v. Jenkins*, 515 U.S. 70 (1995) (limiting remedial authority of desegregation orders); *Bd. of Educ. v. Dowell*, 498 U.S. 237 (1991) (establishing a process for ending a federal desegregation order followed in good faith); *Milliken v. Bradley*, 418 U.S. 717 (1974) (barring federal courts from extending desegregation orders across local boundaries absent a finding of additional discrimination). Executive agency housing integration efforts have proven even easier to roll back, tending to vanish with the election of an opposite-party president. Legislative action on desegregation is arguably more difficult to implement initially, as it requires assembling a majoritarian legislative coalition. However, once implemented, statutory programs are difficult to repeal without assembling a similar consensus for the opposite result.

59. The successes of the 1960s civil rights movement depended heavily on that movement's compelling, and now-famous, moral claims. Leaders such as Martin Luther King, Jr., frequently invoked sweeping notions of justice, as well as religious imagery, in their rhetoric. See, e.g., Martin Luther King, Jr., *Letter from Birmingham Jail*, (Apr. 16, 1963), STAN. MARTIN LUTHER KING, JR. RSCH. & EDUC. INST., https://kinginstitute.stanford.edu/sites/mlk/files/letterfrombirmingham_www_0.pdf (“[J]ust as the Apostle Paul left his little village of Tarsus and carried the gospel of Jesus Christ to practically every hamlet and city of the Greco-Roman world, I too am compelled to carry the gospel of freedom beyond my particular hometown.”). However, when problems related to civil rights became more directly threatening to white interests—a shift that abruptly occurred in the wake of the Watts riots in 1965—white Americans quickly lost interest in the cause. Because they greatly outnumbered black Americans and were geographically distant from them, the problems of black communities could be ignored or shunted away. See MARTIN LUTHER KING, JR., *WHERE DO WE GO FROM HERE: CHAOS OR COMMUNITY?* (1967).

rights is ultimately a question of national self-interest—in the long run, it benefits few to live in a society wracked by social conflict and racial caste—the link between these national benefits and the immediate wellbeing of each legislators' own base of constituents is attenuated. While a legislator might recognize, over the course of many decades, that his or her constituents are best off in an integrated society or even that defeating segregation is a moral imperative, these recognitions must compete for space against short-term political realities.

For example, in the twenty-year legal process to desegregate the schools of Wilmington, Delaware, the state legislature was a reliable obstacle to the efforts of the federal courts to create and implement an integration plan.⁶⁰ The Delaware legislature first stalled, refusing to devise the regional plan required by the court.⁶¹ It sought a report from the state board of education. However, that report proposed solutions that the plaintiffs and the federal judge presiding over the case deemed to be discriminatory and segregative.⁶²

Even when school desegregation is induced by settlement agreement and not court order, legislative politics are a serious hurdle for implementation. For instance, when litigants in the long-running St. Louis integration plan reached a fresh settlement in 1999, the state's General Assembly needed to provide funding to support the plan.⁶³ Although the funding passed, it was only accomplished by drafting a bill which provided funding boosts to districts across the state and implemented other education reforms—these steps represented the legislative horse-trading necessary to facilitate integration.⁶⁴

III. THE CHANGING CIVIL RIGHTS LANDSCAPE

At the federal level, the next decade of American politics looks grim for advocates of racial integration. As president, Donald Trump launched an unprecedented attack on the legal and policy foundations of civil rights law. He rolled back critical desegregation rules from the previous administration and openly defended the right of residents of suburbs to keep out low-income people.⁶⁵ He appointed over 220 judges.⁶⁶ Many of these judges are extremely conservative, if not far right.⁶⁷ A large number of Trump-appointed judges distinguished themselves during their confirmation proceedings by refusing to even endorse the fundamental holding of *Brown v.*

60. PAUL R. DIMOND, *BEYOND BUSING: REFLECTIONS ON URBAN SEGREGATION, THE COURTS, & EQUAL OPPORTUNITY* 283–308 (2005).

61. *Id.* at 309–39.

62. *Id.*

63. Heaney & Uchitelle, *supra* note 10, at 198.

64. *Id.*

65. See, e.g., Katy O'Donnell and Daniel Lippman, *White House Scraps Fair Housing Rule as Trump Bids for Suburban Voters*, Politico (July 22, 2020); Donald J. Trump & Ben Carson, *We'll Protect America's Suburbs*, Wall St. J. (Aug. 16, 2020), <https://www.wsj.com/articles/well-protect-americas-suburbs-11597608133>.

66. See, e.g., Moiz Syed, *Charting the Long-Term Impact of Trump's Judicial Appointments*, ProPublica (Oct. 30, 2020), <https://projects.propublica.org/trump-young-judges/>.

67. See Amelia Thomson-DeVeaux & Laura Bronner, *The Supreme Court's Conservative Revolution Is Already Happening*, FiveThirtyEight (Oct. 20, 2021), <https://fivethirtyeight.com/features/the-roberts-court-vs-the-trump-court/>.

Board of Education.⁶⁸ These jurists seem unlikely to uphold, much less expand upon, core civil rights principles.

Trump is not the only problem. The Trump Administration was just the culmination of a long and determined conservative attack on racial desegregation and integration. Republican-appointed Supreme Court justices, beginning with Justices Rehnquist and Powell, have spent decades rolling back federal school desegregation in cases like *Milliken v. Bradley*.⁶⁹ The Roberts Court struck down sections of the seminal Voting Rights Act and has limited the scope of school desegregation.⁷⁰ Even if there are dramatic changes to the composition of Congress or the executive branch, the judges that authored these court decisions will remain in their positions for many years, and the judges' decisions themselves will take years to challenge.

But despite these unfortunate developments, there are several reasons for optimism about the plausibility of regional integration. In recent years, there have been two highly significant changes in the political landscape for civil rights. First, advocates have become increasingly willing to rely on state law and state government for reform and policymaking, and new state law has been created that has strengthened their ability to do so. Second, demographic shifts in American communities have dramatically increased the number of places where concerns over the harms of segregation are politically relevant.

A. Improving Civil Rights Tools in the States

Despite federal backsliding on civil rights, the legal tools for desegregation have not evaporated. Instead, advocates have increasingly turned to state law to seek integration, particularly in schools.

All fifty state constitutions contain language relating to public education, typically in the form of an "education clause" instructing the legislature to provide for a system of public schools.⁷¹ There is considerable variation in the textual requirements of these provisions; some simply allow the creation of public schools while others contain a detailed mandate for a public education with specific qualities or characteristics.

In the 1980s and 1990s, states experienced a wave of "educational adequacy" litigation, which relied on these clauses.⁷² Plaintiffs in this litigation, which most often focused on school finance systems, typically argued that the state constitution education clauses created a legislative duty to provide an education, or fundamental

68. Laura Meckler & Robert Barnes, *Trump Judicial Nominees Decline to Endorse Brown v. Board Under Senate Questioning*, WASH. POST (May 16, 2019), https://www.washingtonpost.com/local/education/trump-judicial-nominees-decline-to-endorse-brown-v-board-under-senate-questioning/2019/05/16/d5409d58-7732-11e9-b7ae-390de4259661_story.html.

69. See discussion *supra* Section II.A.

70. See, e.g., *Shelby Cnty. v. Holder*, 570 U.S. 529, 557 (2013); see also *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 746–48 (2007).

71. See Jeffrey M. Shaman, *The Evolution of Equality in State Constitutional Law*, 34 RUTGERS L.J. 1013, 1087 n.532 (2003).

72. See, e.g., Jim Hilbert, *Restoring the Promise of Brown: Using State Constitutional Law to Challenge School Segregation*, 46 J.L. & EDUC. 1, 32–48 (2017).

constitutional right to an education.⁷³ In addition, plaintiffs argued that such a duty or right required an education that satisfied certain criteria, such as having adequately funded schools.⁷⁴ This differed from prior litigation, which had typically focused on equal protection claims and sought to equalize schools across a region or state.⁷⁵

Although courts did not universally accept these claims, they often did. Starting with the landmark Kentucky case *Rose v. Council for Better Education*, state supreme courts began to apply the framework of “adequacy” to rule school systems unconstitutional.⁷⁶ Although each state’s determination of adequacy differed, the basic principle was the same: state constitutions, in guaranteeing a public education, guaranteed that schools would possess certain minimum fundamental qualities that acted as a “floor” on school quality. If a state’s schools did *not* possess those qualities, then they could be deemed unlawful and ordered to undertake reforms.

Although most of these claims have centered around school finance, civil rights advocates have begun to apply this principle to school segregation, arguing that a segregated school can never be “adequate” owing to the well-documented disadvantages faced by such a school.⁷⁷ In some cases, civil rights advocates have also bolstered these claims with state statutory or constitutional provisions that explicitly prohibit desegregation.⁷⁸ State law school desegregation claims have been pursued in Connecticut, New Jersey, Minnesota, and New York.⁷⁹ In each of these states except New York, advocates have seen considerable success, as will be discussed further below.

Of course, relying on state law for desegregation entails some tradeoffs. State law is not uniform, which means that litigants run the risk of needing to resolve issues of first impression on a state-by-state basis, even when claims—such as state education clause claims—are broadly symmetrical across states. State supreme courts have not uniformly interpreted key questions related to education clauses, such as whether or not they create justiciable principles.⁸⁰ Common sense suggests that this variability problem may be even greater when litigants are relying on state statutes, though statutes may require less judicial interpretation than constitutional provisions.

But these obstacles are not insurmountable. While state education clause provisions vary, they tend to fall into several basic categories. Certain phrases, such as the requirement for a “thorough and efficient” system of education, are shared between multiple state constitutions.⁸¹ State supreme courts have also shown a clear

73. See, e.g., Will Stancil and Jim Hilbert, *Justiciability of State Law School Segregation Claims*, 44 MITCHELL HAMLINE L. REV. 399, 417-21 (2018).

74. *Id.*

75. *Id.*

76. *Rose v. Council for Better Education*, 790 S.W.2d 186, 210-11 (1989); see also *McDuffy v. Sec’y of Educ.*, 615 N.E.2d 516 (Mass. 1993); *Claremont Sch. Dist. v. Governor*, 703 A.2d 1353 (N.H. 1997).

77. See, e.g., Hilbert, *supra* note 64, at 27-29.

78. *Id.*

79. *Id.* at 27-33; Am. Compl. for Declaratory J. & Other Relief, *Latino Action Network et al. v. State of New Jersey*, MER-L-001076-18 (N.J. Sup. Ct., Aug. 2, 2019).

80. Will Stancil & Jim Hilbert, *Justiciability of State Law School Segregation Claims*, 44 MITCHELL HAMLINE L. REV. 399, 434-39 (2018).

81. *Id.* at 403-405. Certain scholars have divided state constitution provisions on education into four broad categories, sorted by the “level of duty imposed in the text.” *Id.* at 404 n.30; see also Shaman, *supra* note 63,

willingness to rely on each other's interpretations of such clauses, even in instances when the constitutional text differs.⁸² Courts often seem to understand that such clauses serve a common purpose, shared between states, even if constitutional drafters in different places and times preferred to express that purpose with different language.⁸³ Besides, the uniformity of federal desegregation cases can easily be overstated. Virtually all major integration plans required detailed, city-and-region-specific remedies, which themselves required complex multiparty negotiations between plaintiffs, state officials, federal courts, and local school officials. Desegregation is a complex endeavor that merges law, policy, and politics. There is no one-size-fits-all formula that will achieve it, in state or federal law.

Relying on state civil rights law can also offer advantages to litigants, compared to federal constitutional law. Some states have treated federal law as a floor, not a ceiling, and enacted stricter civil rights requirements. The famous *Sheff* case in Connecticut, which resulted in the implementation of a metro-wide desegregation plan in Hartford schools, relied on the provision of that state's constitution that banned school segregation altogether.⁸⁴ Unlike federal desegregation cases, no showing of intent was required.⁸⁵ In a more recent (and non-statutory) example, a decision of the Minnesota Supreme Court seems to have also created a disparate impact standard for equal protection claims in that state.⁸⁶

B. *Diversifying Suburbs*⁸⁷

The other trend that creates potential for new integration efforts is an overall increase in diversity in American communities.

America has been undergoing a demographic shift for decades. Most notably, it is becoming less white. As these changes have filtered across the range of American community types, they have transformed the racial composition of those communities, sometimes quite dramatically. The most profound changes have taken place in American suburbs. Formerly hubs of near-uniform whiteness, many suburbs now range from moderate diversity to outright non-white segregation.

The backdrop for these changes is a rapid drop in the white share of the American population. According to the 1970 U.S. Census, the United States was eighty-four percent non-Hispanic white. In the 2020 Census, that share had dropped to sixty-two percent. In other words, the United States has transitioned from a country where

at 1087; Gershon M. Ratner, *A New Legal Duty for Urban Public Schools: Effective Education in Basic Skills*, 63 TEX. L. REV. 777, 814 (1985).

82. See Stancil & Hilbert, *supra* note 69, at 416–21.

83. *Id.*

84. *Sheff v. O'Neill*, 238 Conn. 1, 27 (1996) (“No person shall be denied the equal protection of the law nor be subjected to segregation or discrimination in the exercise or enjoyment of his or her civil or political rights because of religion, race, color, ancestry, national origin, sex or physical or mental disability.” (quoting CONN. CONST. Art 1, § 20)).

85. *Id.* at 33.

86. *Cruz-Guzman v. State*, 916 N.W.2d 1, 7 n.6 (2018) (“It is self-evident that a segregated system of public schools is not ‘general,’ ‘uniform,’ ‘thorough,’ or ‘efficient.’” (quoting MINN. CONST. Art. 8 § 1)).

87. Unless otherwise indicated, the demographic data in this section has been calculated by the authors using data from the U.S. Census, including decennial census data and American Community Survey data.

more than five out of every six people were white, to a country where less than two out of every three people is white.

Much of this change has been caused by a rapid growth in the non-white, non-black share of population, which has been driven heavily by immigration. America's black population share has grown slightly since 1970—from eleven to thirteen percent. But the Hispanic population share has grown from four percent to eighteen percent, and the Asian population share has grown from one percent to five percent.

Nor is the population evenly distributed by age. White Americans are significantly older than non-white Americans, presaging additional racial transition in the future. The median age of white Americans is forty-four, while the median age of non-white Americans is thirty-one. Fifty-six percent of white residents were over the age thirty-eight, compared to forty-five percent of black residents, and thirty-eight percent of Hispanic residents.

This rapid demographic change is taking place in a nation in which the suburbs are more accessible to racial minorities than ever before. Although racial discrimination is still widespread in housing markets, the Fair Housing Act has reduced or eliminated some barriers to residential choice.

Several other factors have worked together to push minority families towards the suburbs. One is the economic decline of cities themselves. Highly impoverished neighborhoods tend to lose residents over time, resulting in reduced population density.⁸⁸ Often, the more affluent residents—regardless of race—are the first to leave a neighborhood.⁸⁹ The result is that, as the population falls, the income profile of the neighborhood also rapidly falls, which in turn creates even more pressure for residents to leave.⁹⁰ This feedback loop of neighborhood decline tends to push residents of segregated neighborhoods out of city centers and towards the periphery.

In addition, many non-white city residents, like most Americans, simply prefer to live in the suburbs if given the opportunity.⁹¹ On average, suburban areas have better-resourced, higher-quality schools, a primary factor in the housing choices of most families with children.⁹² Another major factor in housing preference is the absence of crime.⁹³ Suburban areas are typically perceived as safer than city neighborhoods, particularly low-income city neighborhoods.⁹⁴

88. *Segregation and Neighborhood Growth*, INST. ON METRO. OPPORTUNITY (Dec. 19, 2016) <http://blog.opportunity.mn/2016/12/segregation-and-neighborhood-growth.html>.

89. *Id.*

90. *Id.*

91. Vianney Gómez, *More Americans Now Say They Prefer a Community with Big Houses, Even if Local Amenities Are Farther Away*, PEW RSCH. CTR. (Aug. 26, 2021) <https://www.pewresearch.org/fact-tank/2021/08/26/more-americans-now-say-they-prefer-a-community-with-big-houses-even-if-local-amenities-are-farther-away/>.

92. See, e.g., Adam Goldstein & Orestes P. Hastings, *Buying In: Positional Competition, Schools, Income Inequality, and Housing Consumption*, 6 SOCIO. SCI. 416, 438–41 (2019).

93. See, e.g., George F. Tita, Tricia L. Petras, and Robert T. Greenbaum, *Crime and Residential Choice: A Neighborhood Level Analysis of the Impact of Crime on Housing Prices*, 22 J. QUANTITATIVE CRIMINOLOGY 299, 300 (2006).

94. Kim Parker et al., *Views of Problems Facing Urban, Suburban, and Rural Communities*, PEW RSCH. CTR. (May 22, 2018), <https://www.pewresearch.org/social-trends/2018/05/22/views-of-problems-facing-urban-suburban-and-rural-communities/>.

All of these forces have conspired to alter the landscape of American suburban-ity. The image of a homogeneously white suburban ring around central cities—an image that guides American politics to a significant degree—is no longer accurate. As of 2012, in the fifty largest metropolitan areas, more Americans lived in racially diverse suburbs between twenty and sixty percent nonwhite than in the predominantly white suburbs of the popular imagination. In fact, more Americans lived in these diverse suburbs than in the central cities themselves.

It's difficult to overstate the rapidity of this shift. As recently as 1980, seventy-eight percent of suburban census tracts were predominantly white. By the 2010 census, that share had fallen to forty-two percent. Meanwhile, in 1980, only seven percent of suburban census tracts were more than sixty percent nonwhite. By 2010, the share had tripled to twenty-one percent. In short, if an American were to pick a suburban neighborhood at random, they'd only land in a predominantly white place two tries out of five—and in a nonwhite segregated neighborhood, demographically reminiscent of a central city, about half that often. The political perception of suburbs has struggled to keep up with the pace of change.

The suburban shift has not taken place evenly. Instead, it has occurred concentrically. Families of color, migrating to the suburbs from central cities, have tended to move to the nearest areas. Suburbs immediately adjacent to central cities are usually older, with older, smaller housing stock, and denser development.⁹⁵ Meanwhile, as nonwhite residents arrive, suburbs with no stable integration mechanism also tend to see white flight, no different than the central cities that preceded them.⁹⁶ Those white leavers typically move further out towards the urban periphery, populating an increasingly sprawling belt of newer communities, which disproportionately account for the predominantly white suburbs.⁹⁷ These newer communities are usually less dense, with larger homes and higher incomes. Although there are regional variations accounting for historical patterns and local geography, this basic pattern—a city, ringed with diverse suburbs, which is itself ringed with whiter, less dense suburbs—is visible in almost all American metros.

IV. THE HARMS SUFFERED BY RESEGREGATING CITIES

Segregation harms individuals and devastates entire communities, including their neighborhoods, governments, and schools. As will be discussed below, nonwhite segregated areas frequently face a predictable set of severe social, economic, and educational obstacles that are unmatched elsewhere. In addition, segregated areas tend to be demographically unstable—in other words, they tend to grow *more* segregated over time.

95. For analysis of suburban housing stock, see LEN BOGORAD ET AL., *HOUSING IN THE EVOLVING AMERICAN SUBURB*, 3–8 (James A. Mulligan & Marcey Gessel eds., 2016).

96. See, e.g., Domenico Parisi et al., *Remaking Metropolitan America? Residential Mobility and Racial Integration in the Suburbs*, 5 *SOCIUS* 1, 1–4 (2019).

97. Kim Eckart, *As Metro Areas Grow, Whites Move Farther from the City Center*, UNIV. OF WASH. (June 29, 2017), <https://www.washington.edu/news/2017/06/29/as-metro-areas-grow-whites-move-farther-from-the-city-center/>; see also *American Neighborhood Change in the 21st Century*, INST. ON METRO. OPPORTUNITY (2019), <https://law.umn.edu/institute-metropolitan-opportunity/gentrification>.

These community and stability harms are essential to understanding the political dynamics of segregation. Often, for a municipality accelerating towards resegregation, there is no easy escape from a downward spiral of financial and institutional decline. Moreover, even in places that are still racially integrated, the emergence of segregation in neighboring areas can pose a severe threat, because demographic transition, through the dynamics of white flight and sprawl, tends to spread to nearby communities. As a result, virtually the only plausible way to arrest this cycle and reverse or limit the harms is a successful program of regional integration, which stabilizes the underlying communities.

In short, segregated communities have a rational self-interest in maintaining integration and not becoming segregated.⁹⁸

A. Community Harms

Because there is a strong correlation between minority status and income, racial concentrations are frequently also concentrations of poverty.⁹⁹ Second, outright racial discrimination plays a significant role in creating problems faced by segregated communities. Nonwhite segregated areas are stigmatized or seen as undesirable places to live or work, leading to disparate treatment by public and private actors alike.

The resulting harms are manifold, starting with severe economic obstacles. Highly segregated, impoverished areas often suffer from severe disinvestment. Because they lack the private wealth to support many commercial enterprises, they cannot reliably maintain a commercial base, or the jobs that such businesses bring.¹⁰⁰ This can contribute to endemic unemployment.¹⁰¹ Neighborhood economic malaise may also be associated with other negative trends in segregated areas, such as elevated crime rates and increased levels of pollution.¹⁰²

98. Of course, it is inaccurate to characterize nonwhite segregated areas as the only places affected by racial segregation. Predominantly white and affluent enclaves are affected too. In a racially segregated society, no place can be said to truly escape segregation's effects. After all, it is segregation that has helped preserve those enclaves, shielding these communities from the country's true racial diversity. In some senses, these places are also harmed by segregation, denied the interpersonal and social benefits of diversity. Indeed, many residents of white enclaves may find it practically or personally fruitful to fight for increased integration. But the reality is that people living in enclaves of affluence and privilege do not primarily experience segregation as a threatening force. To those unaccustomed to racial diversity, its absence may be invisible. Thus, many of the residents of predominantly white enclaves may be unaware of the severity of racial segregation at all or fail to see the way in which it helped build the social, economic, and educational landscape upon which they live their day-to-day lives. While integrationists may seek and welcome political support from such places, a truly pragmatic political analysis could not rely on it. By contrast, there are other places in which the threat posed by segregation is more directly felt, more inherently negative, and more difficult to ignore. In these places, naked self-interest counsels in favor of an integrationist agenda.

99. See, e.g., John Iceland, *Racial and Ethnic Inequality in Poverty and Affluence, 1959-2015*, 28 POP. RESEARCH AND POLICY REV. 615, 638-40 (2019).

100. WILLIAM JULIUS WILSON, WHEN WORK DISAPPEARS: THE WORLD OF THE NEW URBAN POOR 34-42 (1996).

101. *Id.*

102. See, e.g., Bongki Woo, Nicole Kravitz-Wirtz, Victoria Sass, Kyle Crowder, Samantha Teixeira, & David T. Takeuchi, *Residential Segregation and Racial/Ethnic Disparities in Ambient Air Pollution*, 11 RACE

Nonwhite segregated areas also tend to suffer from persistent housing woes. Low-income or vulnerable residents are easy prey for slumlords.¹⁰³ On a much larger scale, there is considerable evidence that many large financial entities still engage in racially disparate mortgage lending, redlining, geographically-targeted predatory lending, and other forms of neighborhood-based real estate discrimination.¹⁰⁴ For instance, it is not uncommon to find that high-income black families are less likely to be approved for a mortgage than low-income white families.¹⁰⁵ Meanwhile, state and local governments frequently cluster low-income housing in these segregated areas.¹⁰⁶ This practice reinforces existing racial isolation by ensuring that most affordable housing options are concentrated in a limited selection of impoverished neighborhoods.¹⁰⁷

In addition, segregation has corrosive effects on public education. Public schools are funded in significant part by property taxes, which means they can face financial disparities when the surrounding community is lower-income or the real estate market is weak. Segregated neighborhoods tend to produce segregated, high-need schools, which struggle to retain teachers, manage discipline, and provide students access to networks of opportunity.¹⁰⁸ School quality is a major determinant of where families choose to reside, so declining schools in a segregated area can create a kind of feedback loop, driving the few affluent families remaining to depart, and deepening segregation even further.¹⁰⁹

B. Stability Harms

But segregated places are not the only places harmed by segregation. As long as segregation persists at a societal level, even integrated cities, neighborhoods, and schools are at risk of one day becoming segregated and suffering the associated harms

AND SOCIAL PROBLEMS 60, 64-65 (2018); Doug Massey, *Getting Away with Murder: Segregation and Violent Crime in Urban America*, 143 U. PENN. L. REV. 1203, 1209 (1995).

103. See generally MATTHEW DESMOND, *EVICTED: POVERTY AND PROFIT IN THE AMERICAN CITY* (2016).

104. Aaron Glantz & Emmanuel Martinez, *Kept Out: For People of Color, Banks Are Shutting the Door to Homeownership*, REVEAL NEWS (Feb. 15, 2018), <https://revealnews.org/article/for-people-of-color-banks-are-shutting-the-door-to-homeownership/>. The Center for Investigative Reporting conducted a nationwide study of racial disparities in Home Mortgage Disclosure Act data and discovered significant evidence of mortgage discrimination in dozens of metropolitan areas. Aaron Glantz and Emmanuel Martinez, *For People of Color, Banks Are Shutting the Door to Homeownership*, REVEAL NEWS (Feb. 15, 2018).

105. INST. ON METRO. OPPORTUNITY, *TWIN CITIES IN CRISIS: UNEQUAL TREATMENT OF COMMUNITIES OF COLOR IN MORTGAGE LENDING 1* (2014) (showing that very high-income black loan applicants in MN communities were more likely to be denied a loan than low-income white applicants).

106. See, e.g., Orfield & Stancil, *supra* note 31, at 37-47; Myron Orfield et. al., *High Costs and Segregation in Subsidized Housing Policy*, 25 Hous. Pol'y Debate 574, 578-80 (2015).

107. See, e.g., Thomas B. Edsall, *Where Should a Poor Family Live?*, N.Y. Times (Aug. 5, 2015), <https://www.nytimes.com/2015/08/05/opinion/where-should-a-poor-family-live.html>.

108. See Jacqueline Rabe Thomas, *Separated by Design: Why Affordable Housing Is Built in Areas with High Crime, Few Jobs and Struggling Schools*, ProPublica (Nov. 25, 2019), <https://www.propublica.org/article/separated-by-design-why-affordable-housing-is-built-in-areas-with-high-crime-few-jobs-and-struggling-schools>.

109. See, e.g., Haifeng (Charlie) Zhang, *White Flight in the Context of Education: Evidence from South Carolina*, 107 J. Geography 236, 243 (2009) ("Public schools with poor academic performance lost white students regardless of inner-city or suburban localities.").

as well. Research shows that diverse communities in metropolitan areas without regional integration plans are significantly more likely to resegregate than those subject to such plans.¹¹⁰

This is not an idle concern. As diversity has increased in the United States, the process of residential neighborhoods reaching a “tipping point” and rapidly transitioning into segregation has occurred with some regularity. For instance, a 2012 study suggested that a diverse neighborhood that was more than forty percent nonwhite in 1980 had a greater than seventy percent chance of becoming nonwhite segregated by 2009.¹¹¹

The primary mechanism for these changes is a combination of growing racial diversity and white flight. If an integrated neighborhood or city exists in close proximity to a predominantly white enclave, white residents uncomfortable with the integrated area’s diversity may relocate to the nearby enclave. This in turn makes the integrated area less white overall—and often poorer as well—which can then initiate another round of white flight. This process tends to continue uninterrupted until the previously diverse area has very few white residents left—in other words, until it becomes heavily segregated.

These instability-related harms of segregation are harder to observe directly than the immediate individual- and community-level harms discussed above. But they are still quite severe because they frustrate a city’s ability to engage in long-term planning, threaten the economic future of a city or neighborhood, and create constant demographic drain for affected communities.

Finally, it should be noted that while that demographic transition can cause instability wherever it falls, it often falls hardest on small cities and suburbs. Large urban centers typically contain a mix of residential, industrial, and commercial activity. This economic diversity can produce the tax base necessary to help insulate municipalities from the worst financial consequences of segregation. Small suburbs, by contrast, often contain little or no commercial or industrial property. Their entire tax base is derived from their residential population. If that population becomes rapidly poorer, then the city itself can quickly find itself in dire financial straits with little flexibility, forced to cut back on essential services and other elements of government. This in turn can accelerate the underlying process of white flight and racial transition. In short, suburbs may be the communities in America most vulnerable to rapid resegregation.

V. THE NEW COALITION FOR CIVIL RIGHTS EMERGES

Today, because of the factors described above, there is potential for new political coalitions to advance civil rights and racial integration. In the past, most political support for large-scale programs of integration has arisen from a handful of sources: advocacy groups, highly impoverished central city constituencies, and very progressive politicians. Advocates for integration were forced to rely on legal requirements

110. Orfield and Luce, *supra* note 5, at 27-28.

111. *Id.* at 21.

that had a limited natural political constituency, meaning that even when the law was on their side, they were always swimming against the current, so to speak.

But with the changing American demographics of the 21st century, there are hundreds of new suburban communities in the U.S. that directly experience the negative impacts of segregation. For these places, rational self-interest points in the direction of supporting broad regional integration measures. Without those measures, many will soon undergo dramatic demographic transitions that undermine their own stability.

Of course, simply because leaders of these communities have a rational self-interest in supporting integration does not mean that they will always do so, much less initiate efforts to implement integration plans unprompted. The onus for building support for integration still lies with activists and advocates, as it has in the past. The key change in recent years is that those activists are building a coalition on much more fertile ground and can make a credible argument, supported by voluminous social science research, that effective regional integration will have an immediate and lasting positive impact for a majority of communities.

In several places in the United States, this process is already underway. The remainder of this article details two instances where major integration efforts (using new, state-based constitutional legal claims) are advancing. In both cases, the changing neighborhood demographics have created a much stronger coalition for the advocates' goals.

A. School Desegregation Lawsuits in Minnesota and New Jersey

The first major state desegregation lawsuit, the Connecticut case *Sheff v. O'Neill*, was filed in 1989 and initially decided in 1996.¹¹² The plaintiffs prevailed, winning implementation of the innovative regional desegregation plan that spans the Hartford area.¹¹³ Over time, the particulars of that plan have been adjusted—most recently in a settlement occurring in late 2019, which altered the integration scheme to focus on socioeconomic status instead of race.¹¹⁴ However, it has been maintained continuously in some form since its introduction. In a more limited victory, a lawsuit modeled after *Sheff* was filed in Minnesota in 1995, and settled in 2000 with the implementation of a voluntary inter-district transportation plan designed to provide low-income students of color access to suburban schools.¹¹⁵

A second wave of state-level desegregation lawsuits has been initiated in recent years. Two of those cases, one in Minnesota and one in New Jersey, are still underway.

112. *Sheff v. O'Neill*, 678 A.2d 1267 (Conn. 1996).

113. See Rachel M. Cohen, *Desegregated, Differently*, AM. PROSPECT (Oct. 18, 2017), <https://prospect.org/power/desegregated-differently/>.

114. Press Release, Governor Ned Lamont, State of Connecticut, Attorney General Tong, Governor Lamont Announce Breakthrough *Sheff v. O'Neill* Settlement (Jan. 10, 2020), <https://portal.ct.gov/Office-of-the-Governor/News/Press-Releases/2020/01-2020/Attorney-General-Tong-Governor-Lamont-Announce-Breakthrough-Sheff-v-ONeill-Settlement>.

115. Myron Orfield, *Choice, Equal Protection, and Metropolitan Integration: The Hope of the Minneapolis Desegregation Settlement*, 24 LAW & INEQ. 269, 310–14 (2006).

In *Cruz-Guzman v. State of Minnesota*, a group of students filed desegregation claims against the state of Minnesota in 2015.¹¹⁶ The plaintiffs alleged that the state constitutional clause establishing public schools also barred racial and economic segregation, and that the students' constitutional rights were violated by the existence of segregated schools in Minnesota.¹¹⁷ After a group of charter schools intervened in the lawsuit as third parties, the plaintiffs faced a series of motions to dismiss on procedural and legal grounds.¹¹⁸ These motions were ultimately heard by the state supreme court. In a landmark decision in the summer of 2018, the Minnesota Supreme Court held that it is "self-evident that a segregated system of public schools" would violate state constitutional requirements.¹¹⁹ With this clear signal that the courts would require desegregation in some form, the parties in the *Cruz-Guzman* suit entered into court-ordered mediation talks.¹²⁰

The Minnesota plaintiffs are explicitly seeking a multi-district, metropolitan-wide integration remedy.¹²¹ The court-ordered mediation concluded in 2021, after which the legislature briefly considered a bill to settle the suit.¹²² That bill was not passed, and the case proceeded back to the district court.¹²³

In *Latino Action Network v. New Jersey*, a coalition of civil rights organizations filed desegregation claims against New Jersey in 2018.¹²⁴ The case relies on New Jersey law and the state constitution, which ban all forms of racial segregation (including so called "de facto" segregation).¹²⁵ Social science research has consistently suggested that New Jersey is one of the most educationally segregated states in the nation.¹²⁶ Plaintiffs seek a statewide remedy which addresses the state's highly fragmented educational system and addresses segregation that they claim to be caused by charter schools and other school choice mechanisms.¹²⁷

116. *Cruz-Guzman v. State*, 916 N.W.2d 1, 4–6 (Minn. 2018); see Cohen, *supra* note 104.

117. *Id.* at 4–6.

118. *Id.*

119. *Id.* at 10 n.6.

120. Rachel Kats, *Education Committee Considers Bill to Increase School Integration*, INSIGHT NEWS (May 4, 2021), https://www.insightnews.com/education/education-committee-considers-bill-to-increase-school-integration/article_a5d97a7a-aca6-11eb-9b8c-8fd9748dce27.html.

121. *Tentative Settlement Reached in Minnesota School Segregation Case*, EDUCATION LAW CENTER (May 5, 2021) (describing a metropolitan-wide remedy negotiated by plaintiffs), <https://edlawcenter.org/news/archives/other-states/tentative-settlement-reached-in-minnesota-school-segregation-case.html>.

122. *Id.*

123. Josh Verges, *MN School Desegregation Lawsuit Heads Back to Court After Legislature Declines to Act on Settlement*, PIONEER PRESS (Sept. 13, 2021).

124. Am. Compl. for Declaratory J. & Other Relief, *Latino Action Network et al. v. State of New Jersey*, MER-L-001076-18 (N.J. Sup. Ct., Aug. 2, 2019).

125. N.J. CONST. Art. 1 ¶ 5; see also *Booker v. Bd. of Educ. of Plainfield*, 45 N.J. 161, 170 (1965) ("It is neither just nor sensible proscribe segregation having its basis in affirmative state action while at the same time failing to provide a remedy for segregation which grows out of discrimination in housing, or other economic or social factors.").

126. See GARY ORFIELD ET AL., *NEW JERSEY'S SEGREGATED SCHOOLS: TRENDS AND PATHS FORWARD* 6 (2017).

127. Several key figures involved in the *Latino Action Network* case have published a proposal for a statewide K-12 integration plan. See PAUL TRACHTENBERG ET AL., *A SCHOOL INTEGRATION ACTION PLAN FOR NEW JERSEY* 4-6 (2019).

In both Minnesota and New Jersey, the political environment, legal background, and case history all suggest that there is strong potential for the creation of large-scale integration plans. However, there is a final obstacle remaining—perhaps the most fundamental obstacle. Can either state overcome the historic suburban political resistance that has sabotaged efforts at integration? In the past, civil rights advocates, no matter how strong their legal and moral claims, have often failed to assemble majoritarian political coalitions to support their plans. As a result, those plans frequently collapsed. Have changing American suburban demographics altered this dynamic? The evidence from Minnesota and New Jersey suggests that they have.

*B. The New Legislative Coalition for Integration*¹²⁸

New Jersey and the Twin Cities make an intriguing pair of test cases for the viability of a new civil rights coalition: they are very different places, with very different racial and demographic trajectories. Minnesota is a heavily white Midwestern state, dominated by a single, sprawling metropolitan area. New Jersey is a highly diverse, highly suburban state, where few residents live in central cities. If both places prove viable for organizing, then many other regions and states may be viable as well.¹²⁹

1. New Jersey

The demographic balance of power in New Jersey has changed sharply since the turn of the century. In the past three decades, New Jersey has experienced an explosion of racial diversity. In turn, the state's residential landscape has undergone an astonishing transformation. Today, most places in the state are integrated or predominantly nonwhite, and as a result the state is fertile ground for pro-integration coalition building.

As recently as 1990, New Jersey's racial geography fit a mid-century archetype: vast, overwhelmingly white suburbs surrounding much smaller pockets of racial diversity, mostly concentrated around a few highly urbanized areas, like Newark, Camden, Trenton, and Atlantic City. But that city-suburban racial dichotomy has broken down. Racial diversity has spread to the suburbs, and now a very significant majority of New Jerseyans live in a racially diverse area, regardless of whether they live in a densely urbanized city or in a suburb. The experience of living in a racially diverse

128. The data in this section was generated using U.S. Census Bureau American Community Survey Data, by the Institute on Metropolitan Opportunity at the University of Minnesota Law School. *American Community Survey Data*, UNITED STATES CENSUS BUREAU, <https://www.census.gov/programs-surveys/acs/data.html> (last visited Mar. 3, 2022). All charts have been created by the authors. Additionally, this Section classifies communities as follows.

129. In the following sub-sections, communities are classified as follows. "Central cities" refer to the major core municipalities of a metropolitan area. "Predominantly white suburbs" refer to suburbs more than eighty percent white. "Moderately diverse suburbs" refer to suburbs between eighty and sixty percent white. "Highly diverse suburbs" refer to suburbs between sixty and forty percent white. "Predominantly nonwhite suburbs" refer to suburbs more than sixty percent nonwhite. "Exurbs" refer to suburbs with a population density below 225 persons per square mile.

area is now familiar for most residents. Less happily, the problems of racial segregation and inequality are not parochial, but nearly universal.

The rapidity of the racial transition is difficult to overstate. In 1990, only nineteen percent of tracts were predominantly nonwhite. In 2000, the share of such tracts increased to twenty-four percent. It increased again to thirty percent in 2010, and yet again to thirty-three percent in 2017.

A similarly rapid trend can be observed in the decline of the number of predominantly white tracts. In 1990, sixty-one percent of urbanized census tracts in New Jersey were predominantly white. In 2000, that figure had declined to forty-five percent. By 2010, it had fallen to thirty-two percent, and further still to twenty-six percent in 2017. In other words, while New Jersey's urbanized areas were overwhelmingly white only thirty years prior, now three-quarters of those areas are racially diverse or predominantly nonwhite.

Figure 2: Racial Transition in Suburban Municipalities: 2000 to 2013–2017 (New Jersey)

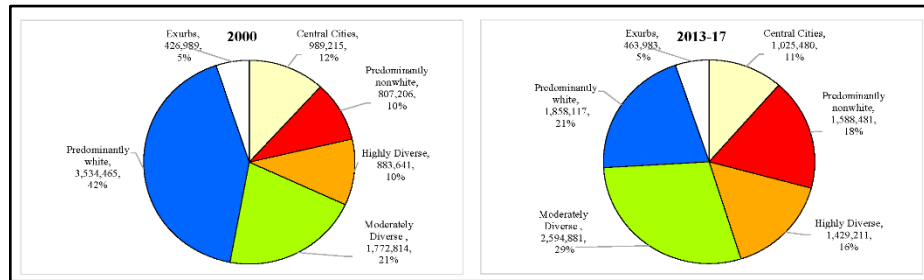
2000 classification	2013–2017 classification				Total
	Predominantly nonwhite	Highly Diverse	Moderately Diverse	Predominantly white	
Predominantly nonwhite	25	0	0	0	25
	100%	0%	0%	0%	100%
Highly Diverse	22	15	0	0	37
	59%	41%	0%	0%	100%
Moderately Diverse	7	47	44	2	100
	7%	47%	44%	2%	100%
Predominantly white	0	8	115	190	313
	0%	3%	37%	61%	100%
Total	54	70	159	192	475

Sources: 2000 U.S. Census of Population; 2017 U.S. Census American Community Survey, 5-year data.

Once again, the theme is rapid evolution. Four out of ten predominantly white cities became diverse, while fifty-four percent of moderately diverse cities saw their diversity increase. Of cities that were highly diverse in 2000, about six out of ten became predominantly nonwhite. Only two cities transitioned “backwards,” from moderate diversity to being predominantly white.¹³⁰

130. In the United States, due to population-level increase in racial diversity, municipal-level racial transition is almost always in the direction of greater diversity. It is extremely uncommon for communities to transition “backwards,” towards greater whiteness. At the census-tract level, this form of transition is still rare but somewhat more common, primarily taking the form of gentrification in a small share of central city neighborhoods. See *American Neighborhood Change in the 21st Century: Gentrification and Decline*, *supra* note 111.

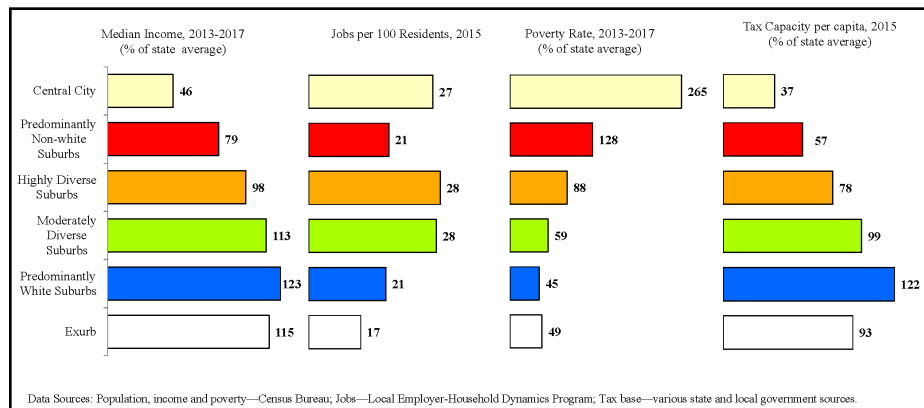
Figure 3: Distribution of Residents Across Community Types (New Jersey)



The topline figures are striking. As recently as 2000, New Jersey was split almost evenly between diverse or nonwhite segregated cities that would benefit from large-scale integration, and predominantly white cities that could be expected to resist such a shift. The former group of cities contained fifty-three percent of population, while the latter contained forty-seven percent.

But by 2017, the balance of power had tipped. In the most recent census data, diverse or nonwhite segregated cities contain seventy-four percent of population, and white areas only contained twenty-six percent. In other words, cities with a strong practical interest in integration could outvote cities without such an interest, nearly three to one.

Figure 4: Characteristics of the Community Types (New Jersey)



Finally, when the characteristics of these various community types are averaged, the costs of segregation become clear. Median incomes are lowest in central cities, and slowly improve across suburban types as they become whiter. Predominantly white suburbs have median incomes that are twenty-three percent higher than the state average. The same trend holds true for tax capacity: white suburbs have a capacity twenty-two percent higher than the state average, while nonwhite segregated suburbs have a tax capacity of less than half of that. The poverty rate is highest in central cities, then nonwhite segregated suburbs; it is elevated in diverse suburbs and

lowest in white suburbs. In other words, economic resources are inequitably distributed in New Jersey in a way that neatly maps onto community demographic difference, suggesting that a more integrated state might also be more equitable.

Some individual communities have been economically transformed by demographic shifts, and not for the better. One illustrative example is the suburban borough of Carteret, population 22,000. Between 2000 and 2017, the nonwhite population share in Carteret increased from forty-three percent to seventy-two percent. This rapid spiral into segregation has had dire economic impacts on the community. Since only 2010, its tax capacity dropped by over one-fifth—it now sits at seventy percent of state average. The borough's poverty rate is now 120 percent of state average.

Carteret is far from the only community to experience economic woes as it re-segregates. Other communities that became predominantly nonwhite and subsequently developed below average tax capacities and above average poverty include Lindenwold Borough and Pennsauken Township in Camden County, Belleville in Essex County, and Harrison in Hudson County. In 2017, the moderately diverse suburbs of Gloucester Township and Cherry Hill in Camden County, and Hamilton Township in Mercer County, had tax capacities of fifty percent, eighty-six percent, and seventy-five percent of the state average, respectively.

Needless to say, this is an auspicious political environment for any pro-integration coalition. There is no shortage of city or community leaders whose self-interest could realistically induce them to join such a coalition. But statewide leadership is where civil rights advocates have their fullest reservoir of potential strength. Out of New Jersey's forty legislative districts, there are thirty-three where half the population lives in a diverse or predominantly nonwhite municipality. In nineteen, more than four out of five residents live in a diverse place. If civil rights organizers can induce diverse cities and their representatives to see their shared pragmatic concerns, a true state coalition is within reach.

Figure 5: Racially Diverse Neighborhoods by Census Tract, 2000 (New Jersey)

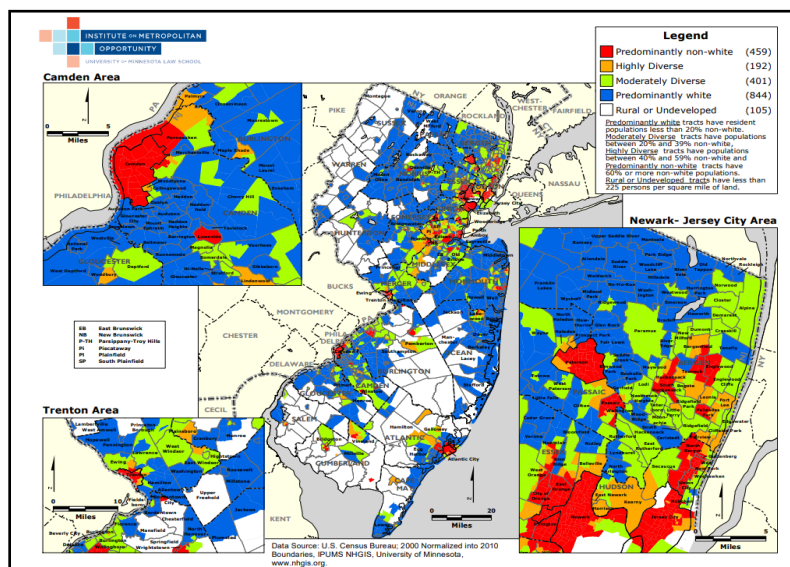


Figure 6: Racially Diverse Neighborhoods by Census Tract, 2010 (New Jersey)

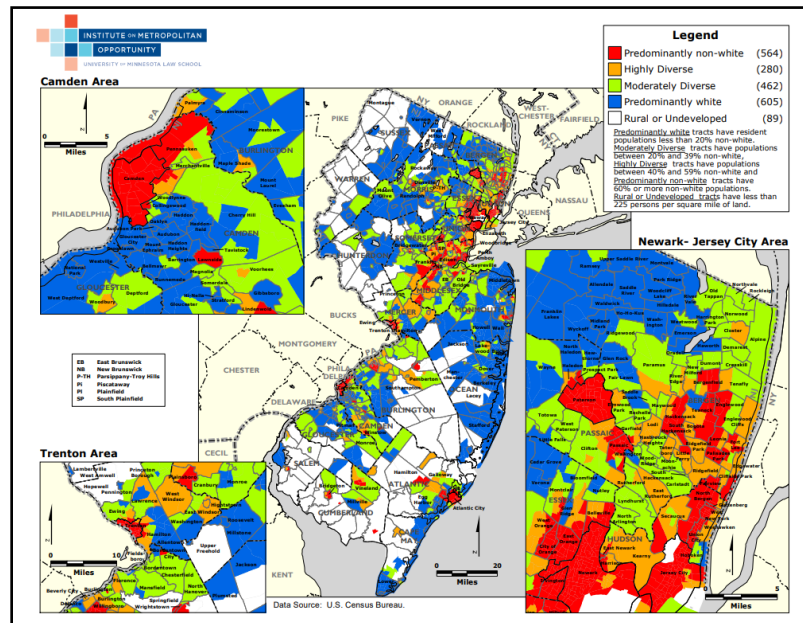


Figure 7: Racially Diverse Neighborhoods by Census Tract, 2017 (New Jersey)

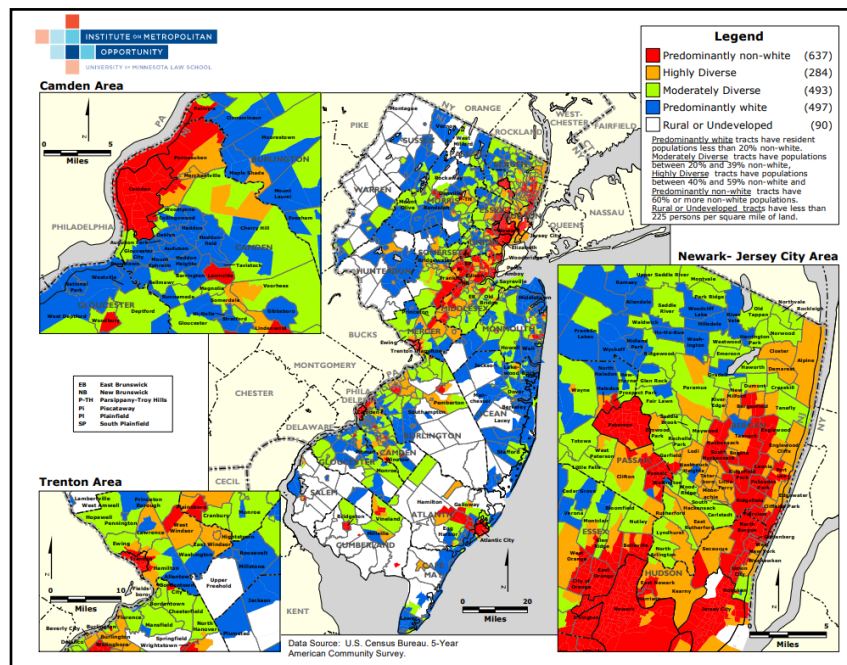
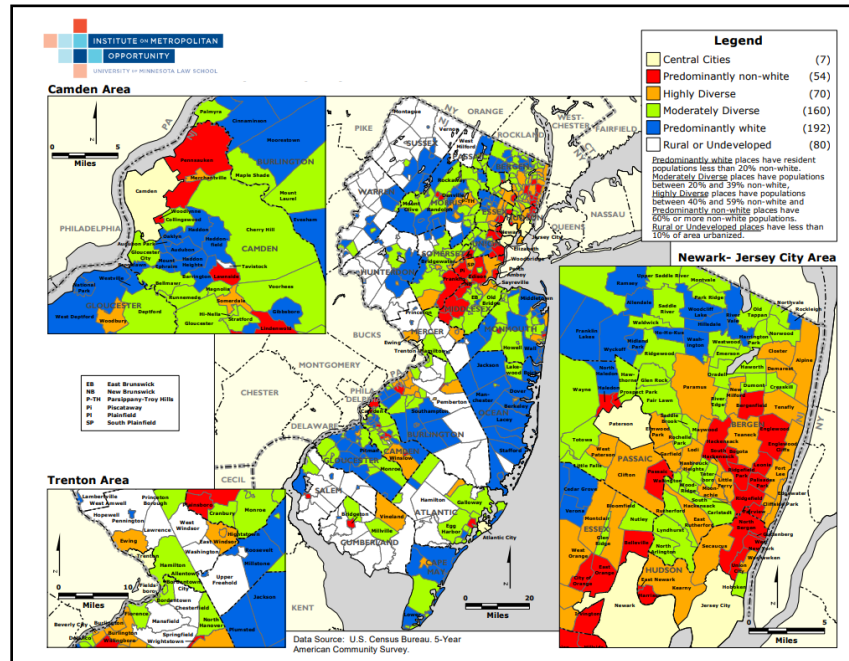


Figure 8: Racially Diverse Places by Municipality, 2017 (New Jersey)



2. Minnesota

Minnesota is much whiter overall than New Jersey, and residential racial transition has not reduced the number of white enclaves as thoroughly. However, rapid change is underway. While predominantly white communities once contained a large majority of the population, they are now home to only a minority of the population. In Minnesota, too, demographic change has tipped the balance of power towards integration, at least within the Twin Cities region that is the focus of the current *Cruz-Guzman* litigation.

As recently as 1990, ninety percent of census tracts in the Twin Cities were predominantly white or exurban. But increasing racial diversity, starting in the central cities and blooming outwards, quickly cut into this number. In 2000, seventy-six percent of tracts were white or exurban. Over the next ten years, that number dropped almost another twenty percent, to fifty-seven percent. By 2017, white or exurban tracts represented only the barest majority of neighborhoods, at fifty-one percent. About thirty-nine percent of tracts were diverse, with the remaining ten percent nonwhite segregated. Among other things, the stunning rapidity of these changes highlights how concerns over demographic stability are far from hypothetical: nearly four in ten Twin Cities neighborhoods have transitioned in a quarter-century.

Figure 9: Racial Transition in Suburban Municipalities: 2000 to 2013–2017 (Minnesota)

2000 classification	2013-2017 classification				Total
	Predominantly nonwhite	Highly Diverse	Moderately Diverse	Predominantly white	
Predominantly nonwhite	0	0	0	0	0
Highly Diverse	0	0	0	0	0
Moderately Diverse	0	4	4	0	8
	0%	50%	50%	0%	100%
Predominantly white	3	1	29	104	137
	2%	1%	21%	76%	100%
Total	3	5	33	104	145

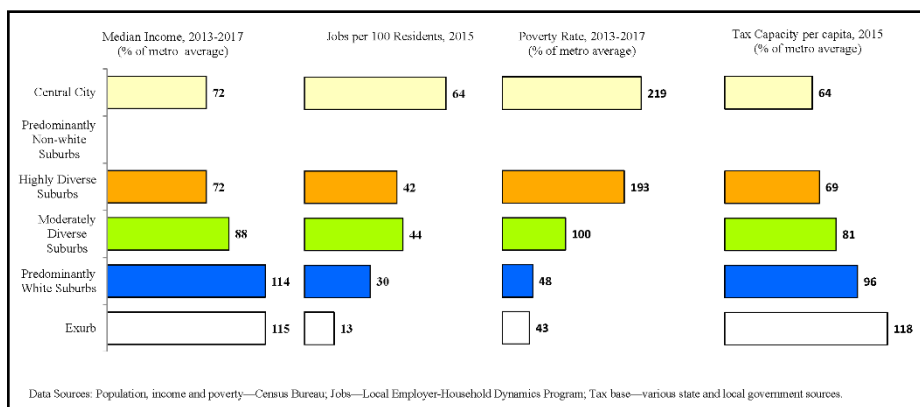
Sources: 2000 U.S. Census of Population; 2017 U.S. Census American Community Survey, 5-year data.

The table above breaks down these transitions at the municipal level. Between 2000 and 2017, half the region's moderately diverse suburbs became highly diverse, and a quarter of predominantly white suburbs became moderately diverse. If that pattern remains roughly unchanged, by 2035 the number of highly diverse suburbs will increase from 4 to 20, and the number of moderately diverse suburbs will increase from thirty-two to forty-one. Most remaining predominantly white communities would be small bedroom suburbs on the urban periphery.

But even today, the result of these changes has been to create a Twin Cities region where most residents today live in a racially integrated municipality. In 2000, sixty-three percent of Twin Cities regional residents lived in a predominantly white suburb. By 2017, that share had fallen to thirty-six percent. About eighty percent of residents live in an exurban community. The remaining fifty-four percent live in a diverse city—either an integrated suburb, or one of the two central cities.

These changes have come especially quickly in a handful of large, first-ring Twin Cities suburbs. Cities like Brooklyn Park, Brooklyn Center, and Hopkins have roughly doubled their racial minority populations since 2000. Brooklyn Park and Brooklyn Center are majority nonwhite today.

Figure 10: Characteristics of Community Types (Minnesota)



In summary, in the Twin Cities, there is also an emerging majority for racial integration. While that majority is somewhat smaller than in the more-diverse New Jersey, the number of Twin Cities communities that would benefit from integration still substantially outstrips the number that can be expected to protect the segregated status quo. Over half of state house districts in the Twin Cities metropolitan area contain diverse municipalities, including forty-six of eighty-five districts. Notably, the Minnesota Speaker of the House represents Brooklyn Park, one of the most rapidly transitioning suburbs, where significant community disparities have arisen.

Legend

- Predominantly non-white (46)
- Highly Diverse (39)
- Moderately Diverse (93)
- Predominantly white (501)
- Rural or Undeveloped (70)

Predominantly white tracts have resident populations less than 20% non-white.
Moderately Diverse tracts have populations between 20% and 39% non-white.
Highly Diverse tracts have populations between 40% and 59% non-white and **Predominantly non-white** tracts have 60% or more non-white populations.
Rural or Undeveloped tracts have less than 225 persons per square mile of land.

Data Source: U.S. Census Bureau, 2000 Normalized into 2010 Boundaries, IPUMS NHGIS, University of Minnesota, www.nhgis.org

Figure 12: Racially Diverse Neighborhoods by Census Tract, 2010 (Minneapolis – Saint Paul Region)

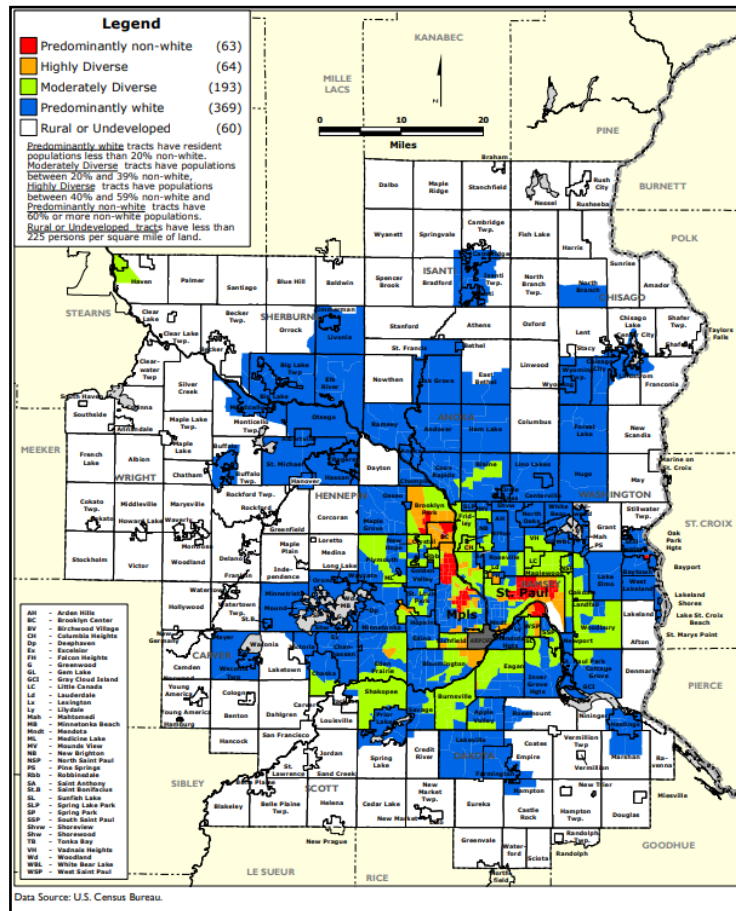


Figure 13: Racially Diverse Neighborhoods by Census Tract, 2017 (Minneapolis – Saint Paul Region)

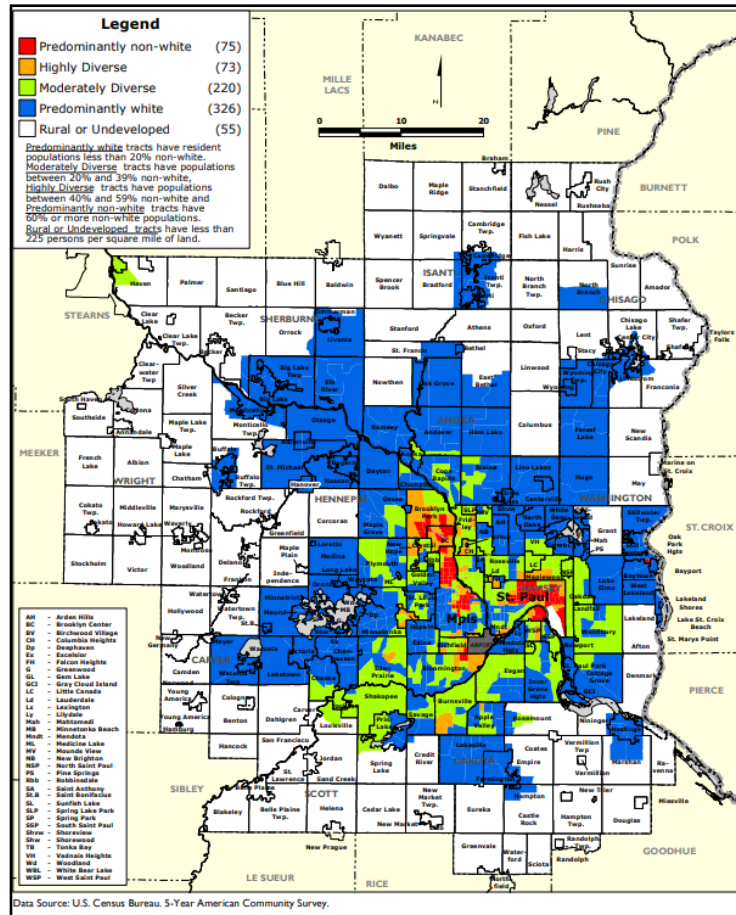
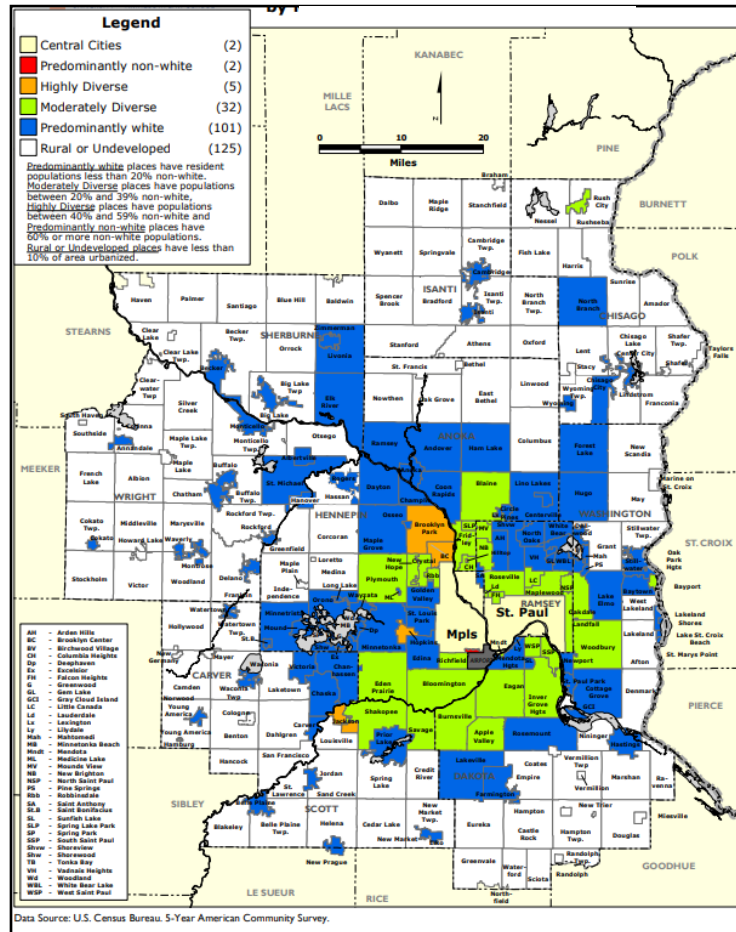


Figure 14: Racially Diverse Neighborhoods by Census Tract, 2017 (Minneapolis – Saint Paul Region)



CONCLUSION

As the analysis above shows, civil rights organizers and other pro-integration advocates have considerable cause for optimism. While many of their efforts failed in the previous half-century, those efforts took place in a very different country—one where the basic demographic balance favored the status quo. Today, at least two of the most important ongoing efforts to defeat segregation and create integration are being fought over terrain that clearly favors the integrationists. Rather than promoting the rights of a small minority, these efforts are promoting the self-interest of a significant majority.

These examples show the viability of a new legislative strategy for regional integration plans—a coalition that could avoid the political pitfalls that unworked federal integration efforts of the 1960s and 1970s.

Of course, much work remains to be done. As noted above, communities with shared interests do not automatically respond to those interests. Instead, places that

stand to benefit from integrative policymaking are *potential* members of a pro-integrative coalition. These are places that could form plausible targets for civil rights coalitional organizing, and whose elected officials would be wise to support integration remedies. Nothing about this analysis changes the need for activists and advocates to make the case for integration. But this analysis does reveal whether or not appeals for racial integration are likely to fall on deaf ears, as they too often have in previous decades.

Likewise, whether or not such a coalition-building effort is ripe will, of course, vary from state to state, and region to region. In many places, there is no legal or legislative effort to organize around, as opportunities for integrative policymaking are rare and the existing balance of power in federal, state, or local governments may be unlikely to support any attack on the status quo.

Old political habits die hard. Many newly diverse communities were once white enclaves themselves, only years or decades before. Their political leadership may not immediately recognize that their communities' priorities have changed or see the new dangers that threaten their long-term stability and viability. They may see themselves as being in political partnership with predominantly white suburbs instead of segregated cities. Even if they realize great change is afoot, some community leaders may be caught in conflicts between long-term residents and diverse newcomers.

However, the threat faced by integrated communities is real, regardless of whether it is immediately acknowledged. For the most part, demographic transition only goes one way in the United States: towards greater segregation and higher poverty, with all the harm that entails. And because transition is so widespread, there is no shortage of instructive examples for the parochial or the obstinate. With time, patience, and dedicated organizing, even the most reluctant communities might be brought into the fold. When that happens, civil rights advocates may find themselves with unprecedented power to defeat racial segregation, once and for all. Dr. Martin Luther King, Jr. described racial integration as "a problem of power." In our time, that problem finally has a politically plausible solution.