

**GENTRIFICATION AND URBAN PUBLIC SCHOOL REFORMS:
THE INTEREST DIVERGENCE DILEMMA**

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	ABSTRACT	678
I.	INTRODUCTION.....	679
II.	THE RESURGENCE OF GENTRIFICATION.....	684
	A. <i>Waves of Gentrification</i>	686
	B. <i>Recruiting Middle-Class Residents: The Public Policy Dimensions of the Resurgence of Gentrification</i>	689
	1. Policies Aimed at Spurring Economic Development.....	692
	2. Housing Policies	693
	C. <i>The Consequences of Gentrification</i>	696
III.	GENTRIFICATION AND URBAN PUBLIC SCHOOLS	697
	A. <i>Middle-Class White Flight and Declining Urban Public School Conditions</i>	698
	B. <i>The Rise of Market-Based Public School Reforms</i>	702
	C. <i>The Connection Between Urban Public School Reforms and Gentrification</i>	704
	1. Chicago	706
	2. Philadelphia.....	708
	3. Washington, D.C.....	709
	D. <i>The Impact of Market-Based Public School Reforms on Poor and Minority Students</i>	711
IV.	LEGAL CHALLENGES TO MARKET-BASED REFORMS IN GENTRIFYING URBAN CITIES AND THE INTEREST DIVERGENCE DILEMMA	716
	A. <i>Court-Based Challenges to Market-Based Public School Reforms</i>	716

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	<i>B. Administrative Challenges to Market-Based Public School Reforms</i>	722
V.	GENTRIFICATION, URBAN PUBLIC SCHOOL REFORMS, AND THE POSSIBILITIES FOR INTEREST CONVERGENCE	725
	<i>A. The Interest Convergence Theory</i>	726
	<i>B. Creating Interest Convergence Between Poor and Minority Families and Gentrifiers</i>	727
	<i>C. Using Legislative Solutions to Capitalize on Interest Convergence</i>	730
VI.	CONCLUSION	733

ABSTRACT

Cities across the country are experiencing rapid increases in gentrification: the influx of middle-class, usually white, residents into cities with large minority populations. Reversing a decades-long trend of white flight out of urban city schools, a significant number of white middle-class gentrifiers are now enrolling their children in urban city public schools. Local officials in many gentrifying cities value the renewed interest of middle-class white residents in urban public schools because it represents an opportunity to finally racially integrate urban public schools. It also represents an opportunity to keep middle-class gentrifiers, and their tax dollars, from fleeing to the suburbs and suburban school districts once they have school-aged children.

In order to attract white middle-class gentrifiers, this Article suggests that local officials in some gentrifying cities are implementing certain public school reforms for the specific purpose of making their school systems more palatable to gentrifiers. Such reforms, the Article argues, harm poor and minority students by disproportionately displacing them from their neighborhood public schools while simultaneously limiting the number of quality public and charter schools available to them. While advocates for poor and minority students are mounting legal challenges to the reforms, to date the legal challenges have not been successful because courts lack the doctrinal support to find that the reforms constitute an actionable form of intentional discrimination.

This Article applies Derek Bell's Interest Convergence Theory and argues for the implementation of legislative solutions that can benefit both poor minority students and gentrifiers. Such an approach is a more effective way to both capitalize on the renewed interest of white middle-class residents in urban public schools and to improve educational opportunities for poor and minority students.

I. INTRODUCTION

For much of the late 20th century, the dominant narrative surrounding American urban public schools revolved around middle-class white flight and abandonment of public schools. Precipitated in part by the Supreme Court's decision in *Swann v. Charlotte-Mecklenburg Board of Education*¹ and buttressed by the Supreme Court's decision in *Milliken v. Bradley*,² middle-class white students fled urban schools for suburban schools or enrolled in private schools in large numbers.³ As a result, most urban schools were left with a predominately poor and minority student population.⁴ Recently however, in some urban school districts, the trend of white middle-class flight is slowly subsiding. A small but increasing number of white middle-class families are enrolling their children in urban public schools.⁵ This increase is part of a much broader trend involving a resurgence of gentrification.⁶ Indeed, cities across the country are gentrifying at a rapid rate as young, middle-class, and usually white professionals take up residence in neighborhoods that were occupied by predominately poor and minority residents for decades.⁷

¹ 402 U.S. 1 (1971) (allowing for the busing of students across neighborhoods in order to desegregate schools).

² 418 U.S. 717 (1974) (prohibiting inter-district desegregation orders, which in light of urban/suburban residential segregation, essentially insulated suburban white schools from having to integrate).

³ See, e.g., Erwin Chemerinsky, *The Segregation and Resegregation of American Public Education: The Courts' Role*, 81 N.C. L. REV. 1597, 1608 (2003) (arguing that the Supreme Court's decision in *Milliken* encouraged white flight by allowing those who wished to avoid racially integrated schools to move to the suburbs without fear that desegregation would reach suburban schools); Christine H. Rossell, *Applied Social Science Research: What Does It Say About the Effectiveness of School Desegregation Plans?*, 12 J. LEGAL STUD. 69, 80–94 (1983) (summarizing various white-flight studies and concluding that school desegregation orders accelerated white flight).

⁴ See generally Richard Rothstein, *For Public Schools, Segregation Then, Segregation Since: Education and the Unfinished March*, ECON. POL'Y INST. 17–18 (2013), <http://s2.epi.org/files/2013/Unfinished-March-School-Segregation.pdf>.

⁵ See, e.g., Linn Posey, *Middle- and Upper-Middle-Class Parent Action for Urban Public Schools: Promise or Paradox*, 114 TCHRS. C. REC. 1, 1–34 (2012) (finding that a growing number of young professionals in central city areas want to maintain an urban lifestyle while raising a family and that growing economic pressures are compelling a large number of parents to opt for public rather than private school); Bill Turque, *Henderson Calls White Enrollment Growth Good for D.C. Schools*, WASH. POST (Sept. 2, 2011), https://www.washingtonpost.com/local/education/henderson-calls-white-enrollment-growth-good-for-dc-schools/2011/09/02/gIQAkBknxJ_story.html (noting that “white enrollment in the 45,000-student system was approaching 10 percent—about double the share of a decade ago”).

⁶ For a more in-depth discussion of the meaning of gentrification generally and how it is used in this Article, see *infra* Part II.

⁷ See Elvin K. Wyly & Daniel J. Hammel, *Islands of Decay in Seas of Renewal: Housing Policy and the Resurgence of Gentrification*, 10 HOUSING POL'Y DEBATE 711, 711–63 (1999)

While much scholarly attention is being paid to the ways in which the resurgence of gentrification is impacting urban housing markets,⁸ little attention is being paid to the effects of gentrification on urban public schools.⁹ This is likely the case because in past waves of urban gentrification, white middle-class residents either avoided the public schools or moved out of the city once they had school-aged children.¹⁰ In the most recent resurgence of urban gentrification, however, insulation of public schools from the effects of gentrification is no longer the norm.¹¹ Instead, schools which were once considered too Black,¹² too poor, and too academically deficient to warrant

(finding that widespread evidence points to a revival of central land markets in urban cities such as Chicago, Boston, and New York); Natalie Hopkinson, Opinion, *Farewell to Chocolate City*, N.Y. TIMES (June 23, 2012), <http://www.nytimes.com/2012/06/24/opinion/sunday/farewell-to-chocolate-city.html>.

⁸ See, e.g., Keith Aoki, *Race, Space, and Place: The Relation Between Architectural Modernism, Post-Modernism, Urban Planning, and Gentrification*, 20 FORDHAM URB. L.J. 699, 814–815 (1993) (“While gentrification may indeed increase property values and bring higher maintenance and investment levels in a neighborhood, gentrification necessarily involves displacement of low-income tenants.”); Jon C. Dubin, *From Junkyards to Gentrification: Explicating a Right to Protective Zoning in Low-Income Communities of Color*, 77 MINN. L. REV. 739, 768–70 (1993) (describing the effects of certain types of zoning measures as resulting in the displacement of low-income residents through the process of gentrification).

⁹ A few scholars have analyzed the effects of gentrification on public schools. See, e.g., MAIA BLOOMFIELD CUCCHIARA, *MARKETING SCHOOLS, MARKETING CITIES: WHO WINS AND WHO LOSES WHEN SCHOOLS BECOME URBAN AMENITIES* (2013) (describing efforts in Philadelphia’s gentrifying Center City to market public schools to gentrifiers); JENNIFER BURNS STILLMAN, *GENTRIFICATION AND SCHOOLS: THE PROCESS OF INTEGRATION WHEN WHITES REVERSE FLIGHT* (2012) (describing efforts by middle-class gentrifiers to reform local public schools); Chase M. Billingham & Shelley McDonough Kimelberg, *Middle-Class Parents, Urban Schooling, and the Shift from Consumption to Production of Urban Space*, 28 SOC. F. 85 (2013) (analyzing shifts in gentrifiers’ public school consumption patterns in Boston).

¹⁰ See Maureen Kennedy & Paul Leonard, *Dealing with Neighborhood Change: A Primer on Gentrification and Policy Choices*, BROOKINGS INSTITUTION CTR. ON URB. & METROPOLITAN POL’Y 1, 37–38 (2001), <http://www.brookings.edu/research/reports/2001/04/metropolitanpolicy> (examining in a series of essays the displacement of low-income, usually minority, residents caused by gentrification but noting that “poor schools in neighborhoods ripe for gentrification rarely pose an obstacle [to gentrification] since many of those who move to [gentrifying] neighborhoods . . . do not have children”).

¹¹ See, e.g., CUCCHIARA, *supra* note 9, at 187 (noting increases in the number of white children of gentrifiers enrolled in neighborhood public schools in the gentrified Center City section of Philadelphia, Pennsylvania, and anticipating a greater increase due to the changing racial demographics in Center City neighborhoods); STILLMAN, *supra* note 9, at 2 (describing the internal conflict that an increasing number of gentrifiers feel in New York City as they grapple with finding a way to stay in the city and provide their children with a quality education).

¹² When using the term “Black,” I use the upper-case “B” to reflect the view, articulated by other scholars, that Black people are a specific cultural group; therefore, the term “Black” is worthy of being capitalized as a proper noun. See Kimberlé Williams Crenshaw, *Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 HARV. L. REV. 1331, 1332 n.2 (1988) (“When using ‘Black,’ I shall use an upper-case ‘B’ to reflect my

serious consideration by middle-class whites are now being given a second look by middle-class white gentrifiers who wish to remain in the city rather than flee to the suburbs or pay costly tuition for private school.¹³

Importantly, government economic development and housing policies are playing a critical role in facilitating the resurgence of gentrification.¹⁴ This Article suggests that government policies aimed at facilitating gentrification are now extending into the education policy arena as well. To be sure, many local governments see the increasing willingness of gentrifiers to enroll their children in urban schools as a critical opportunity to retain white middle-class residents.¹⁵ These local governments view white middle-class residents as a key ingredient to uplifting the economic and social trajectory of urban cities that often struggle with an anemic tax base and a plethora of social problems.¹⁶

To that end, local officials often view improving urban public schools as necessary in order to sustain gentrification because gentrifiers expect the amenities in cities to match their middle- and upper-class status and privilege.¹⁷

view that Blacks, like Asians, Latinos, and other ‘minorities,’ constitute a specific cultural group and, as such, require denotation as a proper noun.”); Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1709, 1710 n.3 (1993) (“I use the term ‘Black’ throughout the paper for the reasons articulated by Professor Kimberlé Crenshaw. I share her view that ‘Blacks, like Asians, Latinos, and other “minorities,” constitute a specific cultural group and, as such, require denotation as a proper noun.”); Catharine A. MacKinnon, *Feminism, Marxism, Method, and the State: An Agenda for Theory*, 7 SIGNS: J. WOMEN IN CULTURE & SOC’Y 515, 516 (1982) (suggesting that the letter “B” in Black should be capitalized because Black is not “merely a color of skin pigmentation, but . . . a heritage, an experience, a culture and personal identity”).

¹³ See Katherine B. Hankins, *The Final Frontier: Charter Schools as New Community Institutions of Gentrification*, 28 URB. GEOGRAPHY 113, 126 (2007) (“Parent-gentrifiers are driving a new demand for urban services that gentrifiers of old largely did not need or bypassed.”); Billingham & Kimelberg, *supra* note 9, at 101 (studying gentrifier parents in Boston and finding that many decided to utilize their “financial, social, and human capital” to find schools in Boston rather than move to the suburbs or enroll their children in private school).

¹⁴ See *infra* Part II.B.1–2.

¹⁵ See, e.g., Linn Posey-Maddox, Shelley McDonough Kimelberg & Maia Cucchiara, *Middle-Class Parents and Urban Public Schools: Current Research and Future Directions*, 8 SOC. COMPASS 466, 466–67 (2014) (“[A]ttracting [middle-class] families to local public schools has emerged as a strategy for nurturing the revitalization of some cities.”).

¹⁶ See, e.g., Jonetta Rose Barras, *Recruiting Diversity: Michelle Rhee’s Campaign to Diversify DCPS Means Wooing White Parents*, WASH. CITY PAPER (Aug. 27, 2010), <http://www.washingtoncitypaper.com/articles/39647/michelle-rhees-campaign-to-diversify-dc-public-schools-means-wooing/full> (“What used to be white flight is turning into ‘bright flight’ to the cities that have become magnets for aspiring young adults who see access to knowledge-based jobs, public transportation and a new city ambiance as an attraction.”); Kevin Hartnett, *Middle-Class Parents in the Boston Public Schools*, BOS. GLOBE (June 4, 2013, 10:00 AM), http://www.boston.com/bostonglobe/ideas/brainiac/2013/06/middle_class_pa.html (“For city officials, middle-class parents are a seduction and also a policy riddle. They are a boon to the schools their kids attend and a great source of tax revenue for the city in general.”).

¹⁷ See Audrey G. McFarlane, *The New Inner City: Class Transformation, Concentrated Affluence and the Obligations of Police Power*, 8 U. PA. J. CONST. L. 1, 23 (2006) (documenting

Many urban school systems in gentrifying areas do not match the middle- and upper-class privilege and status of gentrifiers because they serve predominately poor and minority students.¹⁸ They also have a reputation for being low quality. In a quest to make their schools attractive for gentrifiers, this Article argues that local officials in some gentrifying cities are enacting or expanding pre-existing public school reforms in an attempt to increase both the reputational value of their school systems and the number of middle-class and non-minority students willing to enroll in urban public schools.¹⁹ The Article further suggests that they are most prominently relying upon two public school reforms: (i) replacing so-called failing or underutilized traditional public schools with charter schools and (ii) enacting school enrollment policies that favor neighborhood schools rather than a system of open enrollment.²⁰

The net effect of these two reforms has been to further increase racial segregation in schools. To be sure, research suggests that closing public schools diminishes the number of traditional public schools available to poor and minority students.²¹ Poor and minority students are then required to compete for entry into a limited number of quality charter schools.²² Further, the better public schools in many urban areas are often located in heavily gentrified neighborhoods.²³ As a result, by changing enrollment policies to favor

the ways in which urban cities offer various upscale amenities and services which allow gentrifiers to “display [their] status through [their] environment”).

¹⁸ See, e.g., Jennifer Jellison Holme, *Buying Homes, Buying Schools: School Choice and the Social Construction of School Quality*, 72 HARV. EDUC. REV. 117, 201 (2002) (finding that middle-class parents relied upon information passed through social networks and the number of middle-class and white students enrolled in a school in determining whether a school was high quality or not).

¹⁹ See, e.g., CUCCHIARA, *supra* note 9, at 2 (“Urban areas have experimented with voluntary choice programs, magnet schools, charter schools . . . all designed, at least in part, to slow suburban flight and increase race and class integration in schools.”).

²⁰ See Tomeka Davis & Deirdre Oakley, *Linking Charter School Emergence to Urban Revitalization and Gentrification: A Socio-Spatial Analysis of Three Cities*, 35 J. URB. AFF. 81, 99 (2013) (finding “clear trends in Chicago and Philadelphia, demonstrating an association between urban revitalization and charter school emergence”); Pauline Lipman & Nathan Haines, *From Accountability to Privatization and African American Exclusion: Chicago’s “Renaissance 2010,”* 21 EDUC. POL’Y 471, 488 (2007) (detailing a plan to close failing schools in Chicago and noting that “[c]losing schools and then reopening them as new schools is a key aspect of signifying to middle-class gentrifiers that the area will be literally reborn”).

²¹ See *infra* Part III.D.

²² See *infra* Part III.D.

²³ See, e.g., CUCCHIARA, *supra* note 9, at 10–11 (describing the ways in which neighborhood schools in gentrified areas in Philadelphia benefit from the resources and active involvement of middle-class parents to create high quality neighborhood schools); JACQUELINE EDELBERG & SUSAN KURLAND, *HOW TO WALK TO SCHOOL: A BLUEPRINT FOR A NEIGHBORHOOD RENAISSANCE* (2009) (discussing how parents in a middle-class gentrified neighborhood in Chicago utilized their financial and cultural capital to transform a traditional neighborhood school into one of the best schools in Chicago).

