LORRIN THOMAS

# Desegregation is Not a Black and White Issue: Latino Advocacy for Equal Schooling before and after *Brown*

**Abstract:** This article argues for the importance of reframing the history of school desegregation in the United States beyond Black and white and beyond the regional frames through which this history has been interpreted. In Western states, most Latino children attended schools segregated not by law but by custom starting in the early twentieth century; Latino students also encountered de facto segregation in the Eastern and Midwestern cities with large Puerto Rican populations by the 1950s. Parents, students, advocates, and activists protested the inequality of educational outcomes for Latino children over many decades, developing distinctive strategies to address the combination of racial and language-based discrimination faced by Latino students. Yet, because they were marginalized in political debates in the 1960s and 1970s and because most national-level historical scholarship on school desegregation focuses on Black and white participants, Latinos' role in this aspect of our national civil rights history has remained obscured.

**Keywords:** school desegregation, equal educational opportunity, Mexican Americans, Puerto Ricans in the United States, Latino civil rights, integration, Civil Rights Act of 1964

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Sixteen years after the Supreme Court issued its unanimous opinion in *Brown*, a federal district judge in Texas sought to end a debate that had remained unresolved since the Court's decision. Were Latino children also protected by the constitutional prohibition against segregated schools?[1] The long title of the case note published a few months later in the *Texas Law Review* summed up the district court's decision: "*Brown v. Board of Education* Applies to Mexican-American Students and Any Other Readily Identifiable Ethnic Minority Group or Class." The article explained the significance of the recent opinion in *Cisneros v. Corpus Christi Independent School District*, which asserted the principles laid out in *Brown* "are not limited to race and color alone." They applied to all children who were subjected to segregation and discrimination based on their group identity.[2]

Mexican American and other Latino children had attended segregated schools in the majority of districts in Western states since the early twentieth century.[3] Beginning in 1925, a series of legal cases brought evidence to state and federal courts of discrimination in resources, placement of Mexican American students in "mentally retarded" classes, and outright segregation in "Mexican schools." Most courts validated school districts' claims that they separated children for pedagogical reasons due to language deficiencies, but in 1946 Mexican American advocates scored an important victory in a California case, *Mendez v. Westminster*, that presented a challenge to the separate but equal doctrine.[4] The *Mendez* ruling, however, issued by an appellate court, was not nationally binding. And although the *Brown* opinion outlawed school segregation everywhere a few years later, its applicability to Latino children in schools segregated by "custom" in the West, or by "accident" in the Northeast and Midwest, was not established until 1970.

Why did it take so long for the United States' legal system to affirm that Latino children everywhere in the country should be protected by the 14th Amendment? And how did approaches to combating school desegregation change once the principles of the *Brown* decision were unequivocally applied to Latino communities across the country? Analyzing the story behind the 1970 *Cisneros* case and tracing the evolution in both the jurisprudence and the public debate about desegregation that followed helps historians to formulate an answer to these questions.

The prologue to this history involves some of the peculiarities of the binary racial order in the United States. For legal and bureaucratic purposes, Mexicans and Mexican Americans had been considered "white" since the nineteenth century.[5] Advocates who challenged the segregation of Mexican

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American children in separate schools before 1954 had done so on the grounds not that they encountered racial discrimination per se but that the schools to which Mexican Americans were consigned operated with poorer resources than those for "other white" children.[6] Although enforcement of *Brown* finally gained momentum after the passage of the 1964 Civil Rights Act, the situation for Mexican American and other Latino children did not improve substantially until the *Cisneros* ruling in 1970 explicitly extended to them the protections of *Brown*. Soon after *Cisneros*, two more cases out of federal district courts in Texas and then a Supreme Court ruling recognized Latinos as an "identifiable ethnic group." As important, these cases introduced bilingual education into desegregation remedies, changing the course of desegregation litigation in the 1970s and highlighting an important dimension of the evolving conflict over desegregation policy: Latino advocates, activists, and parents tended to define "equal educational opportunity" differently than other participants in the debate.

Despite the emergence of such tangled issues at the heart of the history of school desegregation—the most hotly contested domestic issue in the US during much of the 1970s—Latinos were almost never mentioned in stories about desegregation plans, "racial balance" formulas, and court-ordered busing that covered the front pages of national news throughout the decade that was so pivotal to the testing and enacting of new civil rights policies. Even after *Cisneros*, desegregation cases in "triethnic" cities often did not include Latinos. In a desegregation class action in Los Angeles initiated in the early 1960s, it took well over a decade for the plaintiffs' counsel to invite a Mexican American attorney to join the case; by this point Mexican American children comprised the largest ethnic group in the city's public schools. In Boston's high-profile desegregation conflict, advocates and parents of the district's Puerto Rican children formally intervened several years into the proceedings, and although their demands to preserve existing bilingual programs changed the outcome of the desegregation plan, they were rarely mentioned in news reporting.[7]

This pattern of excluding Latinos from negotiations and remedies, as well as from media coverage, was common across the United States throughout nearly two decades of intensive debate over school desegregation. The near erasure of Latinos' actual role in this process led UCLA researcher Carlos Haro to write an article in the late 1970s for *Nuestro*, a national magazine for a Latino audience, titled "Desegregation is Not a Black and White Issue." Haro's claim was irrefutable. In 1970, there were nearly as many Mexican American and other Latino children attending "predominantly minority" public schools

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in the West as there were African American children attending "predominantly minority" schools in the South; and although segregation indices for Black students across the US dropped sharply over the next decade, they increased notably for Latino students.[8]

The scholarship published about school desegregation in the decades since has done little to change this circumscribed perspective. For decades, the full import of Haro's assertion, and the complex history behind it, has remained largely regional knowledge, some of it sequestered within ethnic studies fields. Scholars of Mexican American history, Latinx studies, and critical race theory have written extensively about the history of nonstatutory segregation in the West and about the legal cases and organizations and people that challenged the segregation of Latino students across the country between the 1930s and 1970s.[9] There is a massive literature on bilingual education, but only in Puerto Rican, Mexican American, and Latinx Studies scholarship has it been linked to the history of desegregation.[10] These works have had relatively little influence on broader national histories of school desegregation, which retain their focus on Black and white students in the South and urban North.[11]

This article examines critical moments and issues in the history of Latinos' engagement with school desegregation in the twentieth century, connecting the experiences of Mexican American and Puerto Rican groups and analyzing in both regional and national contexts the debates about desegregation and equal educational opportunity that most affected Latino children across the country. (Because Cubans settled in Florida in large numbers only in the 1960s, few experienced the kind of historic discrimination being litigated in this era. Cubans' participation in desegregation debates is briefly discussed on pages below.) I demonstrate throughout how often the voices of Latinos—in local committee meetings, in courtrooms, in Congressional and Senate hearings—went unheeded as policy makers and pundits continued to address themselves to the problem of equal schooling in black and white terms. Reframing the narrative of school desegregation to include Latino communities adds a crucial dimension to the history of equal rights struggles in our multiracial nation.

## EARLY CHALLENGES TO SCHOOL SEGREGATION IN THE WEST

Unlike the segregation imposed on African Americans in the South, the segregation encountered by Mexican immigrants and Mexican Americans in the West was accomplished by custom, not law. This was because the treaty ending the US war with Mexico in 1848 granted US citizenship to all Mexicans

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residing in the territory taken by the US; and because citizenship was restricted at that time to "free white persons," Mexicans were formally regarded as "white." Nevertheless, all across the West, they were treated as second-class citizens and served as the region's underclass, impoverished by low wages and constrained in their public lives by signs in shop windows that forbade Mexicans to enter.[12] (Although Puerto Ricans who were migrating to New York City in large numbers by the 1930s encountered aggressive discrimination, especially in employment and housing, they did not experience the more rigid segregation that prevailed in the West.[13]) Mexican American legal advocates began working to undo the constraints of "Juan Crow" in employment, public accommodations, and schools in the 1920s, and soon the League of United Latin American Citizens (LULAC), a civil rights organization formed in Texas in 1929, was at the forefront of that work.[14]

In 1930, represented by LULAC attorneys, a group of Mexican American parents in a town along the southwest border of Texas sued to stop officials in their school district from systematically excluding their children from the better "white" schools. The superintendent claimed that the district's separation of Mexican American students from "other white" children was based purely on instructional logic. "I was not actuated by any motive of segregation by reason of race or color in doing what I said I did," he testified. "The truth is that most of these Spanish speaking children, by reason of the fact that they attend school only a part of the year, are more greatly retarded." The trial court decided in favor of the plaintiffs, asserting that school authorities could not "arbitrarily" segregate Mexican American children. The Texas State Court of Appeals, while agreeing in theory that "arbitrary" segregation was illegal, found that the Del Rio school district had followed valid pedagogical logic in grouping the children and reversed the original injunction against the school district.[15] In a similar case in San Diego the following year, a county court judge found that differences in English-language abilities did not justify the segregation of all Mexican American children in a substantially inferior school building with inferior resources, declaring that "to separate all the Mexicans in one group can only be done by infringing the laws of the State of California."[16]

LULAC lawyers' strategy in their next major school desegregation case, in Orange County, California, dispensed with the argument that Mexican Americans deserved the same treatment as "other whites" and instead directly challenged the principle of "separate but equal." In the 1946 class action suit *Mendez v. Westminster*, a federal district court in Southern California affirmed without qualification the validity of the petitioners' complaint that the

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segregation of Mexican American children violated their constitutional rights. The judge wrote that placing Mexican American children in separate schools, even if they had "the same technical facilities, textbooks and courses of instruction … available to the other public school children," would be a violation of the equal protection of the laws.[17] "A paramount requisite in the American system of public education is social equality," wrote Judge McCormick, forecasting the Supreme Court's opinion in *Brown.*[18]

When the school district appealed, LULAC attorneys requested amicus curiae briefs from the ACLU, the American Jewish Congress (AJC), the NAACP Legal Defense Fund, and the office of the Attorney General of California. Writing for the NAACP, Thurgood Marshall and Robert L. Carter asserted, "We have developed and practiced a theory of government which finds distinctions on racial grounds inimical to our best interests and contrary to our laws." The AJC brief, authored in part by civil rights advocate Pauli Murray, made the most direct attack against *Plessy*'s separate but equal doctrine, calling segregation a "humiliating and discriminatory denial of equality of the group considered 'inferior,'" a practice that "threatens the more perfect union which the Constitution seeks to achieve."[19] The appellate judges affirmed the trial court decision, agreeing that the school district's segregation policy "violated the federal law as provided in the Fourteenth Amendment to the Federal Constitution by depriving [the children] of liberty and property without due process of law and by denying to them the equal protection of the laws."[20] A number of legal scholars have identified the *Mendez* case as an important "dry run" for testing legal arguments NAACP lawyers would use in *Brown.*[21]

*Mendez* got close attention from legal scholars and civil rights attorneys, although the national press largely ignored the case. The *Yale Law Journal* published a detailed summary, which noted that both the district and appeals court decisions "questioned the basic assumption of the *Plessy* case and may portend a complete reversal of the doctrine"[22]—an accurate prediction. And although the appeals court had chosen not to challenge the validity of the existing laws that permitted segregation of Asian and Native American schoolchildren, claiming that issue should be a matter for the state legislature, California Governor Earl Warren (who would be confirmed as Chief Justice of the Supreme Court in 1954) signed a bill ending all statutory school segregation in the state.[23] *Mendez* also had a direct reverberation in Texas: in another successful school desegregation suit, *Delgado v. Bastrop Independent School District*, LULAC attorneys persuaded a Texas federal court that the

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segregation of students of "Mexican or other Latin American descent" was "arbitrary and discriminatory" and violated the plaintiff's constitutional rights.[24]

The steady if limited success of these desegregation lawsuits was punctuated dramatically in May 1954. While civil rights advocates anxiously awaited the decision in *Brown v. Board of Education of Topeka* in spring 1954, the Supreme Court delivered an opinion unrelated to school segregation, just two weeks before *Brown*, that would set a crucial new precedent for challenging discrimination against Latinos on the basis of racial or ethnic categorization. In *Hernandez v. Texas*, a case about discrimination in jury selection, the plaintiff's lawyers argued that Mexican Americans should be included in a rule that forbade the exclusion from juries of African Americans. Appealing to the Supreme Court to overturn the district court's decision that "Mexican people are not a separate race but are white people of Spanish descent," Hernández's attorneys sought to prove that in Texas, people of Mexican descent were considered to be part of a separate and subordinate group, "distinct from 'whites,'" and that the customary discrimination they faced was no less damaging to their rights than discrimination by statute.[25]

The Supreme Court concurred, with Chief Justice Earl Warren asserting in a unanimous opinion that obvious discrimination of "ancestry or national origin" was forbidden by 14th Amendment, the protections of which were "not directed solely against discrimination … based upon differences between 'white' and Negro." Describing racial discrimination as an evolving social dynamic, Chief Justice Warren wrote, "Throughout our history, differences in race and color have defined easily identifiable groups which have at times required the aid of the courts in securing equal treatment under the laws"; yet, he said, "community prejudices are not static, and from time to time other differences from the community norm may define other groups which need the same protection." Identifying Mexican Americans as an "other" group marked by discriminatory treatment reversed decades of legal logic that had restricted Mexican Americans' ability to claim violations of their rights to equal protection.

The *Hernández* decision portended an important shift for Mexican Americans, opening the possibility for them to be treated as a legally protected class.[26] But the *Hernandez* opinion did not provide settled law in all jurisdictions on the question of identifying Latinos as a "cognizable class." This was because the Court found that the evidence proved the charge of "group discrimination" only in a specific place—Jackson County, Texas. Moreover, the Supreme Court's opinion in *Brown*, decisive though it was in its "complete

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reversal of the doctrine" that separate schools could be equal, left unanswered questions about whether the ruling affected any groups other than African Americans. Latinos' inclusion under the equal protection clause of the 14th Amendment would not be established with certainty as federal law until two decades later, when the Supreme Court took on its first school desegregation lawsuit originating outside the South, *Keyes v. Denver School District No. 1*.

## DE FACTO SEGREGATION, EAST AND WEST

The day after the Supreme Court announced its unanimous *Brown* opinion, a *Washington Post* editorial hailed the advent of "Equal Education for All."[27] Those who sought to dismantle segregated education in the US now had the law on their side, but the only way they could force recalcitrant school districts into compliance was through individual lawsuits. As elected officials across the South resisted school integration by employing a variety of tactics to replace their outlawed segregation statutes—in some cases shutting down public schools across entire districts—civil rights advocates began scrutinizing the practices of school officials in regions beyond the South.[28] Increasingly on the defensive after 1954, officials in cities and towns outside the South claimed that because their schools were not segregated by law, the segregation was not intentional and they were therefore not obligated to take measures to desegregate. Yet nowhere in its opinion did the Supreme Court limit *Brown*'s purview to what came to be called de jure segregation, or segregation by statute. In fact, staff attorneys at the NAACP Legal Defense and Education Fund deployed the phrase "de facto segregation" in the first decade after *Brown* as a way to emphasize the fundamental equivalence between segregation "by law" and segregation "by fact."[29]

While continuing to argue that they had no responsibility for the "natural segregation" in their districts, school officials throughout the North and West upheld the status quo by continuing to gerrymander district lines, much like their Southern counterparts, or, if pressured by the possibility of legal action, by adopting voluntary desegregation plans that resulted in little change.[30] Their evasions were not infrequently backed up by state court rulings. In one case originating in Southern California in 1955, *Romero v. Weakley*, a federal judge tried to dismiss the plaintiffs' complaint about segregated schools on the grounds that "the *Brown* case is not applicable or controlling here" because, he said, the issues decided in *Brown* were "concerned with constitutional or statutory provisions" and did not apply in a case involving nonstatutory segregation.[31]

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Desegregation campaigns gained momentum in a number of Northern and Western cities by the early 1960s, a result of grassroots action combined with professional civil rights advocacy, and accelerated by the growing urgency of the Southern movement for civil rights. In spring 1963, Americans everywhere watched TV footage of peaceful demonstrators attacked by dogs and firehoses in Birmingham; a month later Mississippi NAACP leader Medgar Evers was assassinated on his own front lawn. In August, the March on Washington for Jobs and Justice attracted over 250,000 demonstrators from every part of the country (including thousands of Latinos from states spanning the mid-Atlantic to the Southwest); two weeks later segregationists began a bombing campaign in Birmingham, including the explosion that killed four girls at the Sixteenth Street Baptist Church.[32] Pressure on metropolitan school districts intensified in the wake of these events and became particularly acute in New York City and Los Angeles.

Black and Puerto Rican leaders and parents in New York had been urging the school board since the mid-1950s to address the problem of its segregated and unequal schools. The Board of Education made promises to study the issue but took no action for several years, during which time segregation in the school system increased notably.[33] By 1960, residents of African American and Puerto Rican communities in Brooklyn, the Bronx, and Manhattan were pushing hard for specific measures to improve the quality of their schools; they planned strikes and demonstrations when school officials failed to respond. For many of the parent activists in these communities—whose children comprised nearly 40% of the city's 1.2 million public school students—integration was a means to greater equality for their children's education, not a goal in itself.[34] They protested the inequality of conditions at schools that were majority Black and Puerto Rican, citing poorly maintained and "antiquated" buildings, many so overcrowded they were run on a half-day schedule; high proportions of inexperienced teachers and a rate of teacher vacancies double that of primarily white schools; few guidance counselors; a lack of lunchrooms and libraries; and inadequate or nonfunctioning bathroom facilities.[35] Puerto Rican parents were especially concerned about how many of their children were shunted into vocational rather than academic programs: one study from the early 1960s reported that over 80% of Puerto Rican high school graduates received their diplomas from vocational programs.[36] Puerto Rican leaders and parents were also furious that they had no representation on the school board despite the fact that Puerto Rican children comprised 16% of the city's public school population in 1960 and were the majority or near-majority in about two dozen schools across the city.[37]

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It was this sense of voicelessness amid the glaring inequality of resources that inspired Puerto Rican parents and activists—mobilized by labor organizer Gilberto Gerena Valentín and the newly formed National Association of Puerto Rican Civil Rights—to join a campaign in 1963 to pressure the school board to take decisive action on integration.[38] The New York Citywide Committee for Integrated Schools, organized in 1963 by Reverend Milton Galamison and other activists, threatened a districtwide protest if the board was unable to produce an integration plan acceptable to the committee. When the committee's negotiations with the school board failed after several months, an estimated 360,000 students and 3,500 teachers took part in a boycott in a cold day in February 1964. The participation rate of schools in the most segregated Black and Puerto Rican neighborhoods reached over 90%, and protesters picketed in front of a third of the city's 860 public schools.[39]

National civil rights leader Bayard Rustin, who had advised the committee in its campaign, declared the boycott the largest civil rights protest in the nation's history, counting at least 100,000 more participants than the number that had attended the March on Washington Rustin had helped organize six months earlier. He told a *New York Times* reporter that what was "more significant than the statistics of yesterday's protest" was the fact that Black and Puerto Rican communities had "joined together to work for common objectives."[40] Indeed, the boycott marked the beginning of an era of substantial collaboration between leaders of the two communities on school equity issues.[41]

"The spirit of Birmingham stirs in the hearts of Californians, too." So began a written statement submitted in August 1963 by the Los Angeles chapter of the NAACP to the House Subcommittee on Education, which held a hearing in Los Angeles that month in connection with the civil rights bill being debated in Congress.[42] The statement went on to describe the "grossly intolerable segregation and discrimination against Negroes and other minorities in Los Angeles City and County." Over the previous year, representatives of Black and Mexican American community groups had communicated their grievances to the Los Angeles board of education. The board largely dismissed these complaints. Two weeks before the hearing, lawyers for the NAACP and ACLU filed a class action complaint in Los Angeles County Superior Court, *Crawford v. Los Angeles Board of Education.*[43] Although Mexican American students were not included in the original filing, Mexican Americans had expressed their concerns about school equity issues in multiple venues, most recently at a state-wide meeting of Mexican American leaders convened in Los Angles to discuss, among other issues, the necessity of a "fundamental

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reorientation of public education in the Southwest." Participants repeated many of the laments that the Los Angeles school board had ignored—though this time they had the ear of Vice President Lyndon Johnson, who attended the concluding session.[44]

Three days later, the House Subcommittee heard testimony from over a dozen Mexican American and African American residents of Los Angeles, including teachers, attorneys, and parents, each of them representing a community council or local or regional organization. Each described poor conditions and segregation in the schools that echoed precisely the complaints of Black and Puerto Rican parents in New York. Those who testified at the hearing signaled their hope that the new Los Angeles lawsuit would result in school officials' being held accountable despite their claims that the district's de facto segregation was beyond their control.[45]

## TEXAS-STYLE INTEGRATION

The hearing in Los Angeles in the summer of 1963 was part of an effort to gather testimony in support of the various components of the civil rights bill that would be signed into law the following year as the Civil Rights Act of 1964, which, after its passage, enabled the Office of Civil Rights (OCR) to recommend withholding of federal funds from states allowing discrimination in their public schools.[46] Despite this new leverage gained by the federal government, school districts across the country continued to avoid compliance. In the South, most African American children remained in segregated schools two years after passage of the Civil Rights Act.[47] In the North and West, school boards deflected charges of segregation by arguing that they had no control over the residential segregation that resulted in racially divided schools, spinning the original meaning of de facto segregation—segregation that was in effect no different from that achieved by statute—into an exculpatory phrase that seemed increasingly effective at persuading judges of school officials' lack of intent to operate segregated schools.[48]

In the Southwestern states in particular, compliance was further complicated by a combination of the historic categorization of Mexican Americans as "white" and the fact that the OCR, in its first several years, only collected school population data in two categories: "white" and "Negro." This distortion made Latino students invisible to federal bureaucrats and enabled school districts to engage in a kind of demographic trickery to evade federal scrutiny after the rules tightened in 1964: they could assign Mexican American students to majority-Black schools or transport Black students to majority-

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Mexican American schools in order to claim their schools were "integrated." In 1968, President Johnson's new appointee to the US Civil Rights Commission, Dr. Hector García—the first Latino to serve on the commission—sought to stop this practice by producing a more accurate school census. García prevailed on the OCR to begin collecting data on students categorized as "Indian [Native] American, Oriental, Eskimo, Mexican American, Puerto Rican, Latin, Cuban, etc."[49]

But the new OCR guidelines seemed to be no match for a century of customary practice in Southwestern schools bolstered by the US Census, which still counted the vast majority of Mexican Americans and Puerto Ricans as "white."[50] Texas became infamous for this false form of integration by the late 1960s. During a series of Senate hearings on issues in Mexican American education in August 1970 that was convened by a committee charged with investigating the challenges to equal educational opportunity across the nation, the director of the Mexican American Legal Defense and Education Fund (MALDEF) outlined the compliance problems in civil rights law that affected Mexican American students in particular: "Too often we have had integration plans submitted to [HEW] where the brown and the black were 'integrated' for purposes of compliance."[51] This technique could be seen in the very recent decision in the case *Ross v. Eckels*, initiated by a group of African American plaintiffs in Houston, Texas. In May 1970, after more than a decade of hearings and plans drafted by various parties, Judge Ben Connally of the Southern District of Texas finally approved a "pairing plan" to achieve a desegregated district.[52] The plan involved transporting Black students to white schools in a district whose recent census counted roughly 65% white students and 35% African American. In fact, about 20% of the "white" students were Mexican American, and the court's desegregation order resulted in transporting most Black students to schools that were predominantly Mexican American.[53]

When advocates for the plaintiffs appealed the outcome of the *Ross* case, the *Houston Chronicle* interviewed the MALDEF attorneys who had filed an amicus brief with the Fifth Circuit Court of Appeals. "We want to know where we stand," said one. "For instance, if a school is to have 555 Negroes and 395 whites, we want to know—whites or Mexican-Americans?" The *Chronicle* reporter quoted the brief's central argument "that the Mexican-American is a distinct, identifiable minority group; that he has suffered discrimination in schools throughout the Southwest."[54] The brief also asserted that data collected by the Houston school district itself showed that "black-white integration has meant, in reality, the placing of the black and the Mexican-American

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together."[55] When the Fifth Circuit, unpersuaded by MALDEF's arguments, upheld the trial court's decision, Judge Charles Clark wrote a lone dissent. Clark excoriated his judicial colleagues' position that "Spanish speaking Americans" should be "adjudicated to be statistically white." "I say it is mock justice," he wrote, "when we 'force' the numbers by pairing disadvantaged Negro students into schools with numbers of this equally disadvantaged ethnic group."[56]

"Mock justice" captured the tenor of critique in much of the testimony given in Senate hearings on Mexican American education, which had taken place coincidentally just a few days before Judge Clark and the other Fifth Circuit judges filed their opinions in the *Ross* appeal. The hearings were part of a larger Senate investigation into the problem of equal educational opportunity across the nation. In the segments of the investigation focusing on Mexican American and Puerto Rican students, committee chair Walter Mondale and his Senate colleagues on the committee sought to understand what had begun to look like a full-blown crisis in Mexican American and Puerto Rican education. A wave of Latino student activism had swelled across the country in 1968, involving long-running strikes and demonstrations at both high schools and college campuses from San Francisco to New York City and in dozens of towns and cities in between. It was unclear whether the wave was approaching its breaking point when the Senate resolved in early 1970 to investigate. As one witness explained the students' actions at the hearings in August, "en masse [they] walked out of their schools and challenged … the American education system to an accounting."[57]

Senate investigators learned that the student protests were not focused on desegregation per se. What demonstrators demanded, instead, was redress for discriminatory treatment and poor conditions in their schools. They also called for the widespread implementation of bilingual programs, which new federal legislation had begun to fund modestly but did not yet mandate. In making demands focused on resource equity and school quality—rather than integration—the students outlined a set of goals much like those pursued by teachers, parents, and activists in New York City's largest Black and Puerto Rican neighborhoods around the same time. Frustrated by a decade of what looked like false promises by city officials, leaders in those communities had launched what they called a movement for community control.[58]

Although desegregation was largely incidental to most Latinos' educational activism around 1970, Latino advocates and scholars insisted that it was the long history of de facto segregation of Latino students that enabled and exacerbated the problems that activists were demonstrating against. In the first full-length article on the segregation of Mexican American students to appear

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in a law journal, in 1972, Harvard law students Jorge Rangel and Carlos Alcala analyzed at length the practice of school districts claiming "compliance with the 1964 Act when they had done no more than transfer Black students to Chicano schools."[59] Rangel and Alcala distilled for a national audience this form of evasion of civil rights law that was familiar to many Mexican Americans in the West but was not part of the national conversation about desegregation compliance. A few years later, writing about the ongoing desegregation case in Los Angeles for which she served as an expert witness, Dr. Beatriz Arias used the phrase "Texas-style integration" to describe the evasions.[60]

Although the many compliance problems cited by experts during the 1970 Senate committee hearings were based in Texas (which was also the focus of Rangel and Alcala's research), there were other states in the West where school officials also manipulated racial categorizations either to feign compliance with the 1964 Civil Rights Act or to defend themselves against charges that their policies violated the act. In a Colorado district court case, *Keyes v. Denver*, which would make its way to the Supreme Court in 1973, the school district claimed—as historian Danielle Olden summed up the defendants' strategy—"those Denver schools with high percentages of black and Mexican American students … were not segregated because there was no racial difference between Mexican Americans and Anglos. Both were white."[61] In her careful analysis of the 1970 trial court transcripts, Olden highlighted how the plaintiffs' attorney struggled to clarify his side's position that Hispanos (as Latinos were then called in Colorado) should be categorized as a racial minority for the purposes of school desegregation law even though the US Census did not include them in the nonwhite category. Although the trial court judge was not persuaded by this reasoning, and nor were judges on the Tenth Circuit Court of Appeals, the plaintiffs eventually found a more receptive audience when the case was heard two years later by the Supreme Court.[62]

Attempts to count Latino children as "statistically white" were not unique to the West. Even before the 1964 Civil Rights Act increased the pressure on school officials to comply with desegregation laws, Puerto Rican activists in New York had joked about the presumption by the city's board of education that schools in Harlem would not be considered segregated if they included both Black and Puerto Rican students.[63] In the East and Midwest, where Latino student populations were proportionately smaller than in the West (New York City, where about 25% of the public school population in 1970 was Puerto Rican, was an exception), some school officials tried the same strategy

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Western school officials had resorted to when confronted with a declining number of white students in many urban districts by the mid-1970s: they sought to "force the numbers" by counting Latino students as white.[64]

Examples of such efforts show how Latino students often played a significant role in desegregation strategies even when they comprised a relatively small proportion in a school district. Amid the nationally publicized desegregation battle in Boston in the early 1970s, Latino parents complained when they realized that the school board's court-approved desegregation plan stipulated that light-skinned Puerto Rican children be labeled "Hispanic-white," which in some cases resulted in assigning a child to a school separate from a sibling with a darker complexion and therefore labeled "Hispanic-black." In Milwaukee's court-ordered desegregation process around the same time, a similar objection was raised by Latino advocates to an identical tactic that counted as "desegregated" schools with only Black and Latino students; Latino students there were labeled "Non-Black."[65] These latter manipulations of racial categorization may have been a result of ignorant disregard for recent legal rulings rather than the devious evasions of the law seen in Texas. Both approaches to desegregation depended on a willful blindness to the distinctive place of Latinos in US society.

## AN IDENTIFIABLE CLASS

Less than a week after Judge Connally delivered his opinion in *Ross v. Eckels* in the spring of 1970, the Houston case that resulted in Texas-style desegregation, another judge in the Southern District of Texas issued a very different opinion based in a similar case based in Corpus Christi. *Cisneros v. Corpus Christi Independent School District* began as a class action complaint filed by a group of Mexican American and African American petitioners in 1968, alleging that the Corpus Christi school district maintained segregated schools. The United Steelworkers funded the lawsuit (the named plaintiff's father, José Cisneros, was a member of the union) and MALDEF, founded that year, represented the plaintiffs. Judge Woodrow Seals upheld the plaintiffs' claim that "placing Negroes and Mexican-Americans in the same school"—while white students remained in majority-white or all-white schools—"does not achieve a unitary system as contemplated by law." [66]

This finding made the actions of various school officials in Texas and the opinion of Judge Seals's fellow Southern District judge in the *Ross* case look all the more like defiance of federal law forbidding segregation. During the Senate committee hearings in August, a Senate staffer asked Jesús Rubio, a policy

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researcher in Texas, to compare the recent *Cisneros* case with a desegregation conflict emerging at that time in Austin, the state capital. Rubio explained the significance of the fact that Mexican Americans had been included under the "integration guidelines" in Corpus Christi, setting a new precedent for acknowledging their presence—separate from African Americans—in a desegregation order. "So the Mexican American can no longer be combined with blacks as a desegregation strategy," confirmed the staffer. "That is right," Rubio responded. "Austin supposedly had a beautiful integration plan, but the whites turned out to be brown and that is not integration."[67]

When the Fifth Circuit Court of Appeals ruled on the counting of Mexican American students as "white" for the purposes of Houston's desegregation plan in the *Ross* case, *Cisneros* was the only legal opinion Judge Clark could cite in addressing this question in his own dissenting opinion.[68] Though ignored at the time by Clark's fellow judges on the Fifth Circuit, *Cisneros* would prove to be pivotal in the development of legal reasoning on the question of Latinos' status as plaintiffs in school segregation cases. Instead of employing the decades-old legal argument that Mexican American children suffered harm by being denied the rights enjoyed by "other white" children, the MALDEF lawyers representing the plaintiffs argued that Mexican Americans were a "distinct minority" that had been denied equal protection of the laws. Making use of the factual test of discrimination established in *Hernandez*, the district court's opinion declared that it was clear that *Brown* and subsequent decisions derived from its principles were "not limited to race and color alone." "It is clear to this court," wrote Judge Seals, "that these people for whom we have used the word Mexican-Americans to describe their class, group, or segment of our population, are an identifiable ethnic-minority in the United States, and especially so in the Southwest, in Texas, and in Corpus Christi," evidenced by "their physical characteristics, their language, their predominant religion, their distinct culture, and, of course, their Spanish surnames."[69]

MALDEF lawyers also persuaded the court that the segregation of Mexican American and African American children in Corpus Christi schools was not just incidental to the town's segregated residential patterns. Rather, they argued, the school district had managed and sustained a dual system in a way that violated the law because the segregation that resulted was intentional. Judge Seals concurred, detailing in his opinion how "this segregated and dual school district has its real roots in the minds of men," achieved via school officials' administrative decisions

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> in drawing boundaries, locating new schools, building new schools and renovating old schools in the predominantly Negro and Mexican parts of town, in providing an elastic and flexible, subjective transfer system that resulted in some Anglo children being allowed to avoid the ghetto [schools] …, by bussing some students, by providing one or more optional transfer zones which resulted in Anglos being able to avoid Negro and Mexican-American schools, not allowing Mexican-Americans or Negroes the option of going to Anglo schools, …by assigning Negro and Mexican-American teachers in disparate ratios to these segregated schools, and further failing to employ a sufficient number of Negro and Mexican-American school teachers.[70]

In the first federal court opinion to cite the 1954 landmark case as a precedent in protecting the rights of Latino schoolchildren, Judge Seals concluded that Mexican American students were "an identifiable, ethnic-minority class sufficient to bring them within the protection of *Brown*."

During the year after *Cisneros*, federal judicial decisions in two other closely watched Texas desegregation cases cited *Cisneros* and advanced nearly identical arguments about similar school segregation complaints. Judge William Justice, writing the opinion for *United States v. State of Texas*, quoted *Cisneros* on the status of "Mexican American students … [as] a cognizable group" entitled to the protections of the 14th Amendment and Title VI of the Civil Rights Act 1964. Judge Justice also asserted that the unequal treatment to which Mexican American children had been subjected in the San Felipe Del Rio school district, close to the border in south-central Texas, proved that they were "part of a so-called de jure dual school system based upon separation of students of different ethnic origins."[71]

Judge John Minor Wisdom, writing for the Fifth Circuit Court of Appeals on a case involving the school district of Austin, the state capital, also cited both *Cisneros* and *Hernandez* in declaring that Mexican Americans "are as much entitled to the benefits of the Equal Protection Clause of the Fourteenth Amendment as blacks or whites." Judge Wisdom concluded that "'de jure' segregation is not limited to statutory segregation," and, like Judge Justice, reasoned that the actions of the Austin Independent School District (AISD) "are 'state action' for purposes of the fourteenth amendment'" since "the natural and foreseeable consequence of [the district's actions] was segregation of Mexican-Americans." To the Austin school district's defense that it

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separated Mexican-American children to provide them with "extra attention and help," Judge Wisdom's mordant reply was "We are not convinced that, to meet the special educational needs of Mexican-American children, the AISD had to keep these children in separate schools, isolate them in Mexican-American neighborhoods, or prevent them from sharing in the educational, social, and psychological benefits of an integrated education. See *Brown v. Board of Education*, 1954."[72]

A few months later, the Supreme Court heard oral arguments in the Denver case, *Keyes*, that posed similar legal questions.[73] *Keyes* was the first Supreme Court case to consider desegregation in a school district outside the South, and it was the first heard by the Court that addressed explicitly the problem of school segregation in a triethnic community, with petitioners contending that Black and Latino students in Denver public schools "suffer identical discrimination in treatment" in schools they alleged were kept segregated, intentionally, by district officials. The Court affirmed this conclusion of fact: "though of different origins, Negroes and Hispanos in Denver suffer identical discrimination in treatment when compared with the treatment afforded Anglo students." Denver officials vigorously denied that any intentional segregation existed in the school district, but the Court upheld the plaintiffs' claim that they had "engaged in an unconstitutional policy of deliberate segregation" at a substantial proportion of the city's schools.[74] Another crucial section of the Court's opinion, handed down in spring 1973, answered with finality the question raised repeatedly about Latinos' status as a group protected by the Constitution's Equal Protection Clause. "We have held that Hispanos constitute an identifiable class for purposes of the Fourteenth Amendment," wrote Justice Brennan for the majority. Relying heavily on the 1970 *Cisneros* opinion, the Supreme Court answered with finality the question left open by *Brown* nearly two decades earlier.[75]

It would be hard to overstate the significance of the *Keyes* decision for those who had been fighting the segregation of Latino children in schools since the 1920s. In any future school desegregation case, advocates for Latino students could rely on the equal protection clause of the Fourteenth Amendment in making their claims. Yet the case got far less attention from commentators or researchers outside the circles of Latino advocacy than a similar desegregation case, based in Detroit, heard by the Court the following year.[76] Even many national policy makers failed to note the potential consequences of *Keyes* or adjust to its precedents—first, because desegregation as a policy problem had been defined strictly in Black and white terms and second, because policy makers (and many others) had become preoccupied with a

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far more visible aspect of the school desegregation issue that would dominate public debate by the early 1970s: busing.

## EQUAL EDUCATIONAL OPPORTUNITY BEYOND BLACK AND WHITE

As courts began deciding on remedies to redress segregation in the hundreds of lawsuits initiated after the 1964 Civil Rights Act, it was the prospect of transporting students to schools outside their neighborhoods to improve what experts called "racial balance" that produced the most bitter conflict. By the time the Supreme Court affirmed the constitutional validity of busing as a tool for school integration in its 1971 case *Swann v. Charlotte-Mecklenburg*, it was not just conservatives who opposed busing; even White liberals had become inflamed by the issue. Nathan Glazer, a sociologist and conservative commentator on civil rights politics, described "a massive wave of antagonism to transportation for desegregation sweep[ing] the country"—primarily among whites, though Glazer did not see the need to specify. He also noted the political complications the issue represented for liberal (and white) politicians.[77] With the Nixon administration pushing hard for antibusing legislation in the spring of 1972, George McGovern, the Democratic presidential nominee, wound up reluctantly promoting a platform at the Democratic National Convention that featured busing as the top-billing domestic issue. Some pundits blamed McGovern's defeat on his failure to grasp the power of the busing issue early in the campaign; he had called it a "minor flap."[78] Savvier Democratic politicians treated the 1972 campaign as a cautionary tale. Joe Biden, then a liberal junior senator, drafted the first of several antibusing bills that he would sponsor in the mid-1970s in collaboration with Southern Democrats who still openly supported segregation.[79]

While white communities' hostility about busing was reaching a crescendo, Black parents were expressing increasing disillusionment with school desegregation for different reasons. Although most Black Americans polled continued to support desegregation as a policy, many Black parents by the early 1970s were shifting their demands from integration to more concrete measures of school quality that continued to elude their communities. Overturning legal segregation had been the first crucial step in the transition to a more equitable system of education, and the path to the *Brown* decision two decades earlier had produced little disagreement on that central principle. But, after many years of uphill battles, there was growing disagreement about the idea of making racial integration—as opposed to other possible outcomes of desegregation—the final goal of the struggle for equality in education.

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Legal scholar Derrick Bell explored this tension in a widely discussed law journal article published in 1976, "Serving Two Masters." "[N]ow that traditional racial balance remedies are becoming increasingly difficult to achieve or maintain," Bell wrote, "there is tardy concern that racial balance may not be the relief actually desired by the victims of segregated schools." The epigraph to Bell's article quotes a statement by a coalition of Black community groups in Boston, which convened in the months after the city's desegregation process had turned violent. The coalition explained to the federal judge overseeing the case that "the dislocations of desegregation" could be justified only if the court recognized "the black community's interest in improved pupil performance as the primary characteristic of educational equity."[80] A few years later, longtime NAACP Legal Defense Fund staff attorney Robert L. Carter confirmed Bell's point succinctly: "While we fashioned *Brown* on the theory that equal education and integrated education were one and the same, the goal was not integration but equal educational opportunity."[81]

This observation certainly would have resonated with Latino parents and advocates well before the 1970s. Marginalized from the beginning in debates over desegregation, most articulated visions of equal education that barely mentioned integration or racial balance. A Latino parent group in Boston, whose consequential participation in the lawsuit Bell did not discuss in his article, intervened formally in the desegregation lawsuit in 1975 precisely because its members sought to improve school equity without risking the "dislocations of desegregation"—which, for Latino students, meant being bused away from neighborhood schools where they participated in the bilingual and bicultural programs the community had struggled to build over the previous decade.[82] The petition to intervene submitted to the court by the Comité de Padres Pro-Defensa de la Educación Bilingüe (Committee of Parents in Defense of Bilingual Education) explained that the "special linguistic characteristics of Hispanic students make bilingual-bicultural programs necessary for Hispanic students to avail themselves of equal educational opportunities available to other students." Because the Boston School Committee's desegregation plan "limited" or "curtailed" the bilingual programs already in place, Boston's Latino students were "denied equal educational opportunity … on account of language and national origin."[83]

The primacy of such concerns over bilingual and bicultural education had intensified ambivalence about desegregation plans in Latino communities around the country over the previous decade. Activists from the Southwest to New York City had begun fighting for bilingual education in the early 1960s and in 1968 celebrated the passage of the Bilingual Education Act, which

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provided federal support for voluntary bilingual programs. In 1970, the federal directive on bilingual education became mandatory when the director of HEW announced that failure to provide "equal educational opportunity for Non-English speaking pupils" would be considered a violation of Title VI of the 1964 Civil Rights Act. Although this federal support for bilingual education represented a substantial victory on paper for advocates of Spanish-speaking and other "non-English speaking" or "limited English-speaking" children, the reality was that funds were difficult to access and unevenly distributed and most bilingual programs continued to operate on a shoestring with little or no federal support. Members of the Senate Select Committee on Equal Educational Opportunity heard voluminous testimony about these problems from dozens Puerto Rican and Mexican American parents and experts during the committee's hearings in 1970.[84]

Latino parents became increasingly skeptical of desegregation plans as they learned that the school reassignments such plans relied on could eviscerate bilingual programs, which required a critical mass of eligible students in a neighborhood school.[85] One exception to this pattern emerged in South Florida, home to what had become a powerful Cuban exile community over the course of the 1960s. After fleeing the revolution at home, Cuban exiles had quickly aligned with Florida's conservative politicians, drawn to their hawkish Cold War stance and law-and-order platform. Republican party officials, glad to attract a growing constituency, assured the exiles not just an accelerated path to citizenship and easy access to real estate and small-business loans but also the implementation in Dade County of the nation's first federally funded bilingual program.[86] The program was so widely supported and well funded by the early 1970s that no desegregation order would endanger it.[87]

When the Supreme Court affirmed public schools' legal requirement to provide bilingual instruction in its 1974 opinion in *Lau v. Nichols*, no guidance was offered on how school districts should accommodate bilingual programs as they developed their desegregation plans. Over the following years, Latino advocates in cities in the East, Midwest, and West struggled to balance seemingly conflicting goals in the pursuit of equal educational opportunity, demanding that Latino students be considered in desegregation plans while protecting the existence of hard-won bilingual education programs.[88] In Los Angeles, when Chicano members of the Citizens' Advisory Committee on School Integration insisted on drafting their own list of recommendations to inform how the advisory committee would communicate its priorities to the Board of Education in 1977, the first point of the 29-point proposal declared, "[t]he integrity of bilingual and/or culturally relevant programs should not be

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violated." Although the advisory committee incorporated most of the Chicano subcommittee's ideas into its recommendations, the Board of Education largely ignored the committee's recommendations.[89]

At the first national conference on Latinos and school desegregation, convened in 1977 by the National Institute of Education in Washington, DC, the problem of balancing bilingual education and desegregation goals was a central focus of discussion. In closing remarks on the last day of the conference, University of Wisconsin–Milwaukee professor of education Ricardo Fernández, who was advising Latino activists in Milwaukee's ongoing desegregation case, described the confusion over where Latinos fit, in both a legal and a practical sense, in a desegregating school system. "How are Hispanic pupils to be counted—as white, non-white but not Black, or as a distinct racial/ethnic group, e.g., Chicanos, Puerto Ricans, Cubans etc? The precedents, as per court decisions to date, are ambiguous at best," he said, "and sometimes downright confusing."[90] Fernández posed a valid question, but his assessment of the details was only partly correct. The translation of legal precedents into policy could be confusing, but the legal rules regarding Latinos' categorization were no longer ambiguous at all. Following *Keyes*, Latinos were classified as a minority population group whose equal protection claims merited strict scrutiny by the courts.

## "HEY! WE'RE HERE!"

Disregarding legal precedent well into the 1970s, school officials around the country continued to categorize Latino students as "white" to facilitate the implementation of court-ordered racial balance formulas. This practice intensified Latino parents' suspicions that their children were not being served by desegregation programs. A few weeks before Ricardo Fernández delivered his closing remarks in Washington DC, a bitter conflict had arisen in Los Angeles on precisely the issue his remarks highlighted. The Los Angeles County court was trying to hash out the details of its original 1970 desegregation order, following seven years of delays and appeals by the defendants that were spurred by a growing popular movement of largely white Californians against "mandatory busing." Charged with the task of achieving some benchmark of racial balance in a large school system with a declining white population, *Crawford*'s new presiding judge made what he seemed to think was a logical proposal: "assimilated" Mexican American students in the district should be counted as "white."[91]

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Within days, a group of Mexican American lawyers issued a 25-page memorandum that rebutted every assumption on which Judge Paul Egly's proposal was based. The memo summarized the by-then voluminous case law affirming patterns of discrimination against Latinos that had culminated with the Supreme Court's recognition of Latinos as "a clearly identifiable class" three years earlier.[92] An equally emphatic response came from the Chicano community, illustrated by an editorial in a bilingual Los Angeles newspaper that excoriated Judge Egly for his "arrogance" and derided him for his "fear of our numbers, our strength, our unity."[93]

Mexican Americans in Los Angeles could argue credibly for the significance of "our numbers" in the city by the late 1970s: in 1977, for the first time, Latinos comprised the largest ethnic group in the Los Angeles public school system.[94] On the other hand, the strength and unity that might have resulted from their numerical status remained aspirational, as city and school officials continued to discount them as participants. One of the few Chicana members of the Citizens' Advisory Committee on School Integration in Los Angeles, María Montes, recalled her frustration at being ignored by fellow committee members during meetings. "We constantly had to remind them, 'Hey! We're here!' We're the largest minority in the district. How many times to we have to say that.'" Another Chicana member, Los Angeles deputy mayor Grace Montañez Davis, reported that it was a "continuous struggle to get them to even accept that we had a different point of view."[95] This lack of voice—experienced by parents, students, and activists as they pushed for equal educational opportunity in Los Angeles, New York City, Milwaukee, Boston, Denver, and in cities and towns all over the Southwest in this era—meant that Latinos' perspectives on educational justice rarely became part of the national story of desegregation.

Debates over school desegregation at the local and regional level changed substantially once the principles of the *Brown* decision were applied to Latino communities across the country. Still, despite their significant numbers in many Western and in some urban Midwestern and Mid-Atlantic school districts, Latinos' efforts to resolve the complications of pursuing desegregation in a way that kept bilingual programs intact never became part of the standard narrative of struggles for educational equity in the 1970s. Instead, it was primarily in the work of scholars in the growing fields of Puerto Rican Studies and Mexican American Studies (later consolidated in many universities as Latino Studies) that the successes and failures of desegregation in the nation's many triethnic communities were chronicled. By the late 1970s, books and journal articles in these fields analyzed how Latinos across the

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country sought to implement their visions of equal educational opportunity first by challenging segregation in courts and then by making bilingual and bicultural programs the focus of activism and advocacy. Bilingual programs had been established in many school districts with even moderate-sized Latino populations in the 1970s, and despite steady opposition from political conservatives and inadequate funding, most programs kept operating for a decade or more, sustained by the labor and commitment of community members.

During the 1980s, however, the story of equal opportunity in Latinos' education changed dramatically once again. By the time Reagan was elected president in 1980, the movement against desegregation and mandatory busing had largely succeeded.[96] Reagan's landslide victory confirmed the emergence of a new Republican majority and, with no use now for Latino voters who were not drawn to his conservative agenda, Reagan's earlier support for bilingual education proved to be faithless.[97] As immigration from Mexico became more politically charged during the Reagan years, an "English-only" movement spread from Arizona and California to New York, Massachusetts, and many other states where the Latino population had increased steadily over recent decades. In this context, Latino communities began to confront a new kind of hypervisibility, compounding the costs of the invisibility they had experienced during the civil rights era.[98]

At the same time, the separate but related assault on the commitment to school desegregation chiseled away at the hard-won gains of the post-*Brown* era. By 1990, the emergence of what experts call "highly segregated" schools was accelerating in New York, California, and Texas—the three states where parents, students, and advocates protested de facto segregation most consistently after 1954 and where, by the 1970s, controversies over desegregation became inextricable from debates over bilingual education as a way to promote equal educational opportunity.

The intense segregation currently experienced by Latino students in these places is unparalleled in the states' histories, surpassed only by the de jure segregation of Black students in the South before the 1960s.[99] Although US historians in recent decades have added considerable depth and nuance to our national narratives about the postwar revolution in civil rights, we cannot understand the myriad ways that desegregation failed to live up to its promises without a more accurate accounting of this complex history that, in the multiracial United States, has never been only Black and white.

*Rutgers University–Camden*

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## NOTES

[1] Throughout this article, I use the term "Latino" to describe people of Latin American descent as a group. Where the subjects of discussion are either Mexican American or Puerto Rican (as opposed to a group of people of mixed national origins), I use those national-origin descriptors. In some instances, I use the term Chicano or Chicana instead of Mexican American, reflecting my sources' usage. In the desegregation case in Denver, "Hispano" is the locally-used term employed in legal documents.

[2] Gerald M. Birnberg, "Constitutional Law—Desegregation—*Brown v. Board of Education* Applies to Mexican-American Students …," *Texas Law Review* 49 (1971): 337–46; Jose Cisneros et al. v. Corpus Christi Independent School District, 324 F. Supp. 599 (S.D. Tex. 1970) at 605.

[3] See Rubén Donato and Jerrod Hanson, "'In These Towns, Mexicans Are Classified as Negroes': The Politics of Unofficial Segregation in the Kansas Public Schools, 1915-1935," *American Educational Research Journal* 54, no. 1 (April 2017): 53–74; and Richard Valencia, *Chicano Students and the Courts: The Mexican American Legal Struggle for Educational Equality* (New York: New York University Press, 2008), 7–13.

[4] Mendez et al. v. Westminster School District of Orange County et al., 64 F. Supp. 544 (1946). The named plaintiff in the *Mendez* case, Silvia Méndez, was the daughter of a Mexican American father and a Puerto Rican mother. See Jennifer McCormick and César J. Ayala, "Felícita 'La Prieta' Méndez (1916-1998) and the end of Latino School Segregation in California," *Centro Journal* 19, no. 2 (2007): 13–35.

[5] There is a substantial literature on the Mexican Americans' racial history and whiteness. See Laura Gómez, *Manifest Destinies: The Making of the Mexican American Race* (New York: New York University Press, 2007); Ariela Gross, "Texas Mexicans and the Politics of Whiteness," *Law and History Review* 21, no. 1 (spring 2003): 195–205; Ian Haney-López, "Race and Colorblindness after *Hernandez* and *Brown*," *Chicana/o Latina/o Law Review* 25, no. 1 (2005) 61–76; Neil Foley, "Over the Rainbow: Hernandez v. Texas, Brown v. Board of Education, and Black v. Brown," *Chicana/o Latina/o Law Review* 25, no. 1 (2005): 139–52; Thomas Guglielmo, "Fighting for Caucasian Rights: Mexicans, Mexican Americans, and the Transnational Struggle for Civil Rights in World War II Texas," *Journal of American History* 92, no. 4 (March 2006): 1212–1237; Tom Romero, "Of Race and Rights: Legal Culture, Social Change, and the Making of a Multiracial Metropolis, Denver 1940-1975" (PhD diss., University of Michigan, 2007), 144–87.

[6] Stephen Wilson, "Brown over 'Other White': Mexican Americans' Legal Arguments and Litigation Strategy in School Desegregation Lawsuits," *Law and History Review* 21, no. 1 (spring 2003): 148.

[7] On the erasure of Latinos in US history, see Vicki L. Ruiz, "Nuestra América: Latino History and United States History," *Journal of American History* 93, no. 3 (December 2006): 655–72. Neither of the two most acclaimed histories of Boston's desegregation battle provide more than a passing mention of the Puerto Rican and other Latino participants in the case, even though parents and advocates of the roughly 8,000 Latino children (8%–10% of the school population) attending Boston city schools at the time played an important role as intervenors in the lawsuit. See J. Anthony Lukas, *Common Ground: A Turbulent Decade in the Lives of Three American Families* (New York: Vintage, 1986) and Ronald Formisano,

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*Boston against Busing: Race, Class, and Ethnicity in the 1960s and 1970s* (1991; repr., Chapel Hill: University of North Carolina Press, 2004); "Boston Public Schools, Once Beacons, Losing Students and Pride," *New York Times*, September 20, 1981, 32; Boston Municipal Research Bureau, "State of Boston Public Schools Part II—Pupil Enrollments," September 17, 1981.

[8] Erica Frankerberg, Chungmei Lee, and Gary Orfield, "A Multiracial Society with Segregated Schools: Are We Losing the Dream?" The Civil Rights Project, Harvard University (January 2003): 31–34.

[9] See, for example, Albert M. Camarillo, "Navigating Segregated Life in America's Racial Borderlands, 1910s-1950s," *Journal of American History* 100, no. 3 (December 2013): 645–62; Neil Foley, "'God Bless the Law, He Is White': Legal, Local, and International Politics of Latina/o and Black Desegregation Cases in Post-World War II California and Texas," in *A Companion to Latina/o Studies*, ed. Juan Flores and Renato Rosaldo (New York: Blackwell Publishing, 2007); David-James González, "Placing the et al. Back in *Mendez v. Westminster*: Hector Tarango and the Mexican American Movement to End Segregation in the Social and Political Borderlands of Orange County, California," *American Studies* 56, no. 2 (2017): 31–52; Rosina A. Lozano, "Brown's Legacy in the West: Pasadena Unified School District's Federally Mandated Desegregation," *Southwestern University Law Review* 36, no. 2 (2007): 257–90.

[10] See, for example, Rubén Donato, *The Other Struggle for Equal Schools: Mexican Americans during the Civil Rights Era* (Albany: State University of New York Press, 1997); Guadalupe San Miguel, "The Impact of *Brown* on Mexican American Desegregation Litigation, 1950s to 1980s," *Journal of Latinos and Education* 4, no. 4 (2005): 221–36; Anthony De Jesús and Madeline Pérez, "From Community Control to Consent Decree: Puerto Ricans Organizing for Education and Language Rights in 1960s and '70s New York City," *Centro Journal* 21, no. 2 (2009): 7–31.

[11] See, for example, Ainsley T. Erikson, *Making the Unequal Metropolis: School Desegregation and Its Limits* (Chicago: University of Chicago Press, 2016); Matthew Delmont, *Why Busing Failed: Race, Media, and the National Resistance to School Desegregation* (Oakland, CA: University of California Press, 2016); Paul Dimon, Beyond Busing: *Reflections on Urban Education, the Courts, and Equal Opportunity* (1985; repr., Ann Arbor: University of Michigan Press, 2005); Robert Crain, *The Politics of School Desegregation: Comparative Case Studies* (1968; repr., New York: Routledge, 2017). None of these substantial historical studies of school desegregation at the national level engages with the history of desegregation involving Latinos or Mexican Americans in the West. Even Delmont, who discusses the Los Angeles desegregation case at length, does not have any index entries for "Mexican American," "Hispanic," or "Latino." (He does mention Puerto Ricans in his discussion of the 1964 boycott in New York city.) An exception is Diane Ravitch, whose historical scholarship on school desegregation by the late 1970s addressed Latino communities' distinctive responses to desegregation orders. See Diane Ravitch, "The Evolution of School Desegregation Policy," *History of Education* 7, no. 3 (1978): 229–36.

[12] See Natalia Molina, "'In a Race All Their Own': The Quest to Make Mexicans Ineligible for US Citizenship," *Pacific Historical Review* 79, no. 2 (May 2020): 69–170; George Martínez, "The Legal Construction of Race: Mexican Americans and Whiteness," *Harvard Latino Law Review* 2 (1997): 321–48.

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[13] See Lorrin Thomas, *Puerto Rican Citizen: History and Political Identity in Twentieth Century New York City* (University of Chicago Press, 2010), 56–91.

[14] These are stories thoroughly documented and analyzed by scholars of Mexican American history that are scantily incorporated into many of the more familiar historical narratives of the West. See Cynthia Orozco, *No Mexicans, Women, or Dogs Allowed: The Rise of the Mexican American Civil Rights Movement* (Austin: University of Texas Press, 2009), 151–80; Guadalupe San Miguel, Jr., "*Let All of Them Take Heed": Mexican Americans and the Campaign for Educational Equality in Texas, 1901-1981* (Austin: University of Texas Press, 1987).

[15] Independent School Dist. v. Salvatierra, 33 S.W.2d 792 (Tex. Civ. App. 1930); Jorge Rangel and Carlos Alcala, "Project Report: De Jure Segregation of Chicanos in Texas Schools," *Harvard Civil Rights and Civil Liberties Law Review* 7 (March 1972): 334; Wilson, "Brown over 'Other White,'" 156–58.

[16] Robert Álvarez, "The Lemon Grove Incident," *The Journal of San Diego History* 32, no. 2 (spring 1986): 116–35; Francisco Balderrama, *In Defense of La Raza: The Los Angeles Mexican Consulate and the Mexican Community, 1929-1936* (Tucson: University of Arizona Press, 1982), 61.

[17] *Mendez et al. v. Westminster School District of Orange County et al.*

[18] *Mendez v. Westminster School District*, at 780. These statutes were first developed in the 1860s and evolved over time. Although Mexican American children were not included in the segregation statutes, the California Attorney General decided in the 1920s that Mexicans could be treated as "Indians" and the legislature amended the School Code in the 1930s affirming the establishment of "separate schools for Indian children, excepting Indians who are wards of the United States government." Irving Hendrick, *Final Report: Public Policy Toward the Education of Non-White Minority Group Children in California, 1849-1970*, School of Education, University of California, Riverside, March 1975, 88–91, 116–19, 179–80.

[19] Thurgood Marshall and Robert L. Carter, "Brief for the National Association of Colored People as amicus curiae," *Westminster v. Mendez*, 161 F2d. 774 (9th Cir. 1947). Pauli Murray describes in her memoir a paper she wrote while a student at Howard Law School in 1944 arguing that civil rights advocates should make a "frontal attack" on the *Plessy* doctrine. She later learned her paper had influenced the NAACP lawyers' briefs for *Brown*. Although Murray does not discuss the *Mendez* case in her memoir, the logical conclusion is that she drew on this paper in writing the *Mendez* brief. See Murray, *Song in a Weary Throat: Memoir of an American Pilgrimage* (1987; repr., New York: Liveright Publishing, 2018), 285–86, 329–330 and Rosalind Rosenberg, *Jane Crow: The Life of Pauli Murray* (New York: Oxford University Press, 2017), 169–71.

[20] Mendez v. Westminster 161 F.2d 781 (9th Cir. 1947); see also Rangel and Alcala, "De Jure Segregation of Chicanos," 336.

[21] Frederick Aguirre, "*Mendez v. Westminster School District*: How it Affected Brown v. Board of Education," *Journal of Hispanic Higher Education* 9, no. 4 (October 2005): 321–32; Richard Kluger, *Simple Justice: The History of Brown v. Board of Education and Black America's Struggle for Equality* (New York: Vintage Books, 1975), 399–400.

[22] "Segregation in Public Schools—A Violation of 'Equal Protection of the Laws,'" *The Yale Law Journal* 56 (June 1947): 1060–62.

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[23] Aguirre, "*Mendez v. Westminster*," 321–32, 329.

[24] Minerva Delgado, et al. v. Bastrop Ind. School District, Civil No. 388 (W.D. Tex. June 15, 1948). See Guadalupe San Miguel, "Mexican American Organizations and School Desegregation," *Social Science Quarterly* 63, no. 4 (December 1982): 704–5.

[25] Hernandez v. State, 251 S.W. 2d 531 (1952) at 532–35; Hernandez v. Texas, 347 US 475 (1954). See Wilson, "Brown over 'Other White,'" 162–63.

[26] *Hernandez v. Texas*, 478. See Wilson, "Brown over 'Other White,'" 164; George Martínez, "Legal Indeterminacy, Judicial Discretion, and the Mexican American Litigation Experience: 1930-1980," *University of California at Davis Law Review* 27 (1994): 555; Haney-López, "Race and Colorblindness after *Hernandez* and *Brown*," 61–76; Kevin Johnson, "*Hernandez v. Texas*: Legacies of Justice and Injustice," *UCLA Chicana/o Latina/o Law Review* 25 (2005): 174–75; Clare Sheridan, "'Another White Race': Mexican Americans and the Paradox of Whiteness in Jury Selection," *Law and History Review* 21, no. 1 (spring 2003): 131; Rangel and Alcala, "De Jure Segregation of Chicanos," 333–48.

[27] "Equal Education for All," *Washington Post and Times Herald*, May 19, 1954, 14; Michael Klarman, *From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality* (Oxford, 2004), 290–312; Mark Tushnet and Katya Lezin, "What Really Happened in *Brown v. Board of Education*," *Columbia Law Review* 91, no. 8 (December 1991): 1867–1930.

[28] "Obstacles to Federal Jurisdiction: New Barriers to Non-Segregated Public Education in Old Forms," *University of Pennsylvania Law Review* 104, no. 7 (May 1956): 974–75; A. E. Papale, "Judicial Enforcement of Desegregation: Its Problems and Limitations," *Northwestern University Law Review* 52, no. 3 (July–August 1957): 309–11, 319.

[29] "Rights Lawyers Widen Program," *New York Times*, March 5, 1962, 18. NAACP lawyers' approach to the issue of de facto segregation can be traced back to a 1930 NAACP document known as the Margold report, which argued that "segregation coupled with discrimination resulting from administrative action … is just as much a denial of equal protection of the laws as is segregation coupled with discrimination required by express statutory enactment." See Leland Ware, "Setting the Stage for *Brown*: The Development and Implementation of the NAACP's School Desegregation Campaign, 1930-1950," *Mercer Law Review* 52, no. 2 (March 2001): 640. Historian Michael Glass offers an excellent analysis of the thorny debate over de facto segregation; see Glass, "From Sword to Shield to Myth," *Journal of Urban History* 44, no. 6 (2018): 1207–9.

[30] Glass, "From Sword to Shield to Myth," 1204–9.

[31] Romero v. Weakley, 131 F. Supp. 818, 820 (S.D. Cal.), *rev'd* 226 F.2d 399 (9th Cir. 1955); Guadalupe Salinas, "Mexican-Americans and the Desegregation of Schools in the Southwest," *Houston Law Review* 8, no. 5 (May 1971): 942.

[32] On the participation of Latinos in the 1963 March on Washington, see Lorrin Thomas and Aldo Lauria Santiago, *Rethinking the Struggle for Puerto Rican Rights* (New York: Routledge, 2018), 64–65, 81.

[33] "Some City Schools Held Segregated," *New York Times*, April 25, 1954, 84; "Racial Unity Set for City Schools," *New York Times*, December 24, 1954, 15. On increasing segregation of New York schools, see "Breakdown of City's Schools by Race," *New York Amsterdam News*, September 10, 1960, 6; Clarence Taylor, *Knocking at our Own Door:*

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*Milton A. Galamison and the Struggle to Integrate New York City Schools* (New York; Columbia University Press, 1997), 80.

[34] "Negroes, Puerto Ricans over One Third of Public School Register," *New York Amsterdam News*, May 13, 1961, 26; Taylor, *Knocking at Our Own Door*, 81–83, 86–87, 97–108, 116; Michael Glass, "From Sword to Shield to Myth," 1205–6; Fitzpatrick, "Puerto Ricans in Perspective: The Meaning of Migration to the Mainland," *International Migration Review* 2 (Spring 1968): 11. "SCHOOL STRIKE! N.Y. City Parents September Sit-ins," *New York Amsterdam News*, July 23, 1960, 19; "New York Takes Integration Step," *The Chicago Defender*, April 28, 1961; "Negroes and Puerto Ricans Boycott PS 81," *New York Amsterdam News*, September 16, 1961, 24.

[35] Adina Back, "Exposing the 'Whole Segregation Myth': The Harlem Nine and New York City's School Desegregation Battle," in *Freedom North: Black Freedom Struggles Outside the South, 1940-1980*, ed. Jeanne Theoharis and Komozi Woodard (New York: Palgrave Macmillan, 2003), 72 and passim.

[36] "Puerto Rican Parents Organization Formed," *New York Amsterdam News*, February 6, 1965, 33.

[37] "Puerto Ricans Seek School Board Say," *New York Amsterdam News*, August 25, 1961, 16.

[38] "Spreading Protest: Negroes' Push Spurs Other Minority Drives against Discrimination," *Wall Street Journal*, July 25, 1963, 1; "Rights Drive Set by Puerto Ricans," *New York Times*, August 23, 1963, 10.

[39] "City Will Permit Pupil Transfers for Integration: Negroes and Puerto Ricans to Be Granted Choice on a First-Come Basis," *New York Times*, August 26, 1963, 1. Taylor, *Knocking at Our Own Door*, 138–39; Thomas and Lauria Santiago, *Rethinking the Struggle for Puerto Rican Rights*, 66–68.

[40] "Boycott Cripples City Schools; Absences 360,000 above Normal; Negroes and Puerto Ricans Unite," *New York Times*, February. 4, 1964, 1.

[41] "Galamison Group Modifies Position on a New Boycott … Puerto Ricans Backed," *New York Times*, February 19, 1964, 1; "6,000 Cross B'klyn Bridge in Unity Anti-Bias March," *New York Amsterdam News*, March 3, 1964, 1.

[42] H.R. 7152, the civil rights bill supported by the Kennedy administration, was introduced to Congress in June 1963. After Kennedy's assassination, President Johnson managed to quell the opposition of Southern Democrats; he signed the Civil Rights Act in July 1964. Select Subcommittee on Education, US Congress, *Racial Discrimination in Federally Assisted Education Programs, Hearing* (Los Angeles, August 12, 1963).

[43] Crawford v. Los Angeles Board of Education, Los Angeles County Superior Court No. 822, 854 (1970).

[44] "Mexicans Plight Decried on Coast: Californians Urge School Changes to Aid Minority," *New York Times*, August 11, 1963; Lyndon B. Johnson's Daily Diary Collection, August 9, 1963, LBJLibrary.net; Benjamin Francis-Fallon, *The Rise of the Latino Vote* (Cambridge, MA: Harvard University Press, 2019), 88–89.

[45] Witnesses' testimony used the term "de facto" to describe the segregation they encountered in Los Angeles schools. A district court decision issued two months earlier in Pasadena (*Jackson v. Pasadena* 59 Cal. 2d 879) asserted that an absence of de jure

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segregation did not relieve the school board from the obligation to operate an unsegregated school system.

[46] Rangel and Alcala, "De Jure Segregation of Chicanos," 365–66; "Text of Civil Rights Commission Statement on School Desegregation," *New York Times*, September 13, 1969, 28.

[47] Rangel and Alcala, "De Jure Segregation of Chicanos," 346; "South Intensifies Resistance to US Guidelines for School Integration," *New York Times*, May 23, 1966, 16; Wilson, "Brown over 'Other White,'" 205.

[48] New York City school superintendent William Jansen told a reporter a few weeks after the *Brown* opinion, "We have natural segregation here—it's accidental." "P.S. Super OK's N.Y. Segregation," *New York Amsterdam News*, June 5, 1954, quoted in Glass, "From Sword to Shield to Myth," 1200. Almost a decade later, during a Congressional hearing in Los Angeles, California Representative Hawkins asked a member of the Los Angeles board of education, "Do you believe that there is any segregation existing in the schools?" To which the board member answered, "There is no deliberate segregation." "Is there any type of segregation?" asked Hawkins. The board member replied, "If you chose to call it what is referred to as de facto segregation, segregation in that sense, but I still feel that this [de facto segregation] is a natural gravitation of people within areas. These are community living patterns." Select Subcommittee on Education, US Congress, 1963, 48.

[49] Wilson, "Brown Over 'Other White,'" 178; San Miguel, *Let All of Them Take Heed*, 175–77.

[50] Francis-Fallon, *The Rise of the Latino Vote*, 159–70. Even after the Census Bureau introduced a "Spanish Origin" question on the census form in 1970, Latinos were still primarily designated as "white."

[51] Select Committee on Equal Educational Opportunity, US Senate, "Hearings—Equal Educational Opportunity, Part 4—Mexican American Education," August 18–21, 1970 (Washington, DC: US Government Printing Office, 1971), 2524. On MALDEF, see San Miguel, *Let All of them Take Heed*, 170–72, 175–76; Rangel and Alcala, "De Jure Segregation of Chicanos," 366.

[52] Ross v. Eckels, 317 F. Supp. 512 (1970).

[53] San Miguel, *Let All of them Take Heed, 175, 179*; Brian Behnken, *Fighting Their Own Battles: Mexican Americans, African Americans, and the Struggle for Civil Rights in Texas* (Chapel Hill: University of North Carolina Press, 2011), 201–3; Rangel and Alcala, "De Jure Segregation of Chicanos," 349.

[54] "Schools Consider Plea by Chicanos," *Houston Chronicle*, August 16, 1970, printed in Select Committee on Equal Educational Opportunity, 2560–61.

[55] Select Committee on Equal Educational Opportunity, Part 4—Mexican American Education, 2561.

[56] *Ross v. Eckels* 434 F.2d 1140 (5th Cir. 1971) at 1150.

[57] Select Committee on Equal Educational Opportunity, Part 4—Mexican American Education, 2528.

[58] See Sonia Lee, *Building a Latino Civil Rights Movement: Puerto Ricans, African Americans, and the Pursuit of Racial Justice in New York City* (Chapel Hill: University of North Carolina Press, 2014), 165–210; De Jesús and Pérez, "From Community Control to Consent Decree," 7–31.

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[59] San Miguel, *Let All of Them Take Heed*, 175; Rangel and Alcala, "De Jure Segregation of Chicanos," 366.

[60] M. Beatriz Arias, "Desegregation and the Rights of Hispanic Students: The Los Angeles Case," *Center for the Study of Evaluation, UCLA: Evaluation Comment* 6, no.1 (October 1979): 14–18; Salinas, "Mexican-Americans and the Desegregation of Schools in the Southwest," 942; Gary Orfield, "Lessons of the Los Angeles Desegregation Case," *Education and Urban Society* 16 (May 1984): 338–53; "Texas School Official Confused by Conflicting US Stands on Busing," *New York Times*, August 8, 1971, 47.

[61] Danielle Olden, "Becoming Minority: Mexican Americans, Race, and the Legal Struggle for Educational Equity in Denver, Colorado," *Western Historical Quarterly* 48, no. 1 (Spring 2017): 62–63.

[62] Olden, "Becoming Minority," 59–64.

[63] Lee, *Building a Latino Civil Rights Movement*, 173–74.

[64] US Bureau of the Census, *Census of Population: 1970 Subject Reports, Puerto Ricans in the United States* (Washington, DC: US Government Printing Office, 1973).

[65] Intervenors are distinct from plaintiffs, though they are allowed to introduce evidence, rebut evidence, and file an appeal. Betsy Jane Tregar, "Bilingual Education in Boston: Litigation, Legislation, Regulation, and Issues for Implementation" (EdD diss., Harvard University, 1983), 57–59; Tatiana Cruz, "'We Took 'Em On': The Latino Movement for Educational Justice in Boston, 1965-1980," *Journal of Urban History* 43, no.2 (2017): 242–43. On the Milwaukee case, see Tony Báez, Ricardo Fernández, and Judith Guskin, *Desegregation and Hispanic Students: A Community Perspective* (Arlington, VA: National Clearinghouse for Bilingual Education, 1980), 27–31.

[66] *Jose Cisneros et al. v. Corpus Christi Independent School District et al.*; Birnberg, "Constitutional Law—Desegregation," 341. See also San Miguel, *Let All of them Take Heed*, 181; and John Trevino, "Cisneros v. CCISD: The Desegregation of the Corpus Christi Independent School District" (EdD diss., Texas A&M University, 2010).

[67] Select Committee on Equal Educational Opportunity, Part 4—Mexican American Education, 2510.

[68] *Ross v. Eckels* 317 F. Supp. 512 (1970). An earlier California case, *Romero v. Weakley* (131 F. Supp. 818 [1955]), had made a similar complaint about the segregation of African American and Mexican American students, reasoning that Mexican Americans were "white." After the Ninth Circuit remanded the case to the district court "to cure the insufficiency" of fact (*Romero v. Weakley*, 226 F. 2d 399), the case appears to have settled out of court. See Salinas, "Mexican-Americans and the Desegregation of Schools in the Southwest," 942.

[69] *Jose Cisneros et al. v. Corpus Christi Independent School District*, at 604–8.

[70] *Cisneros v. Corpus Christi*, at 617–21.

[71] US v. State of Texas, 321 F. Supp. 1043 (E.D. Texas 1970) at 24.

[72] US v Texas Education Agency, 467 F.2d 848 (5th Cir.1972) at 2, 36, 49. The judges in these two cases represent a remarkable coincidence of "aptronyms," names appropriate to a person's occupation.

[73] Keyes v. School Dist. No. 1, 413 US. 189 (1973) at 197.

[74] *Keyes v. School Dist. No. 1*, at 198 and 199.

[75] *Keyes v. School Dist. No. 1*, at 197.

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[76] In searches of two major social science databases covering the five years following each case, the Denver case, *Keyes,* was referenced in about half as many publications as the Detroit case, Milliken v. Bradley, 418 US 717 (1974).

[77] Nathan Glazer, "Is Busing Necessary?" in *The Great School Bus Controversy*, ed. *Nicolaus Mills* (New York: Teachers College Press, 1973), 194–95.

[78] "More on the President's 'Anti-Busing' Program," *Washington Post*, March 22, 1972, A22. Busing did not conform to party alignment: New York's liberal Republican Senator Jacob Javits opposed the antibusing provisions of the bill, "a clear and unconstitutional repudiation of the principles of racial equality." "Busing Bill Approved by Senate," *Washington Post*, May 25, 1972, A1. "Democrats Vote Pro-Busing Plank," *New York Times*, June 27, 1972, 1.

[79] "Biden: A Liberal Breaks Ranks," *The Washington Post*, September 28, 1975, 30. Roy Wilkins of the NAACP called Biden's 1975 bill "incredible, appalling"; "In Our Opinion," *Chicago Defender*, September 27, 1975, 6. For links to a series of solicitous letters on his busing bill from Biden to Mississippi Senator James Eastland (a Southern Democrat and avowed segregationist), see "Tensions Ripple through Biden Campaign as His Past Working Relationship with a Segregationist Senator Comes to the Forefront," *Washington Post*, June 20, 2019.

[80] Derrick Bell, "Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation," *Yale Law Review* 85, no. 4 (March 1976): 470–72.

[81] Robert L. Carter, "A Reassessment of *Brown v. Board*," in *Shades of Brown: New Perspectives on School Desegregation*, ed. Derrick Bell, 27; see also Derrick Bell, *Silent Covenants: Brown v. Board of Education and the Unfulfilled Hopes for Racial Reform* (New York: Oxford University Press), 115. Carter coauthored the amicus brief in the 1947 *Mendez v. Westminster* case with Thurgood Marshall.

[82] "We think it neither necessary, nor proper, to endure the dislocations of desegregation without reasonable assurances that our children will instructionally profit." Bell, "Serving Two Masters," epigraph, 470.

[83] "Complaint in Intervention," filed January 23, 1975, by the Massachusetts Chapter of the Lawyers Guild and the Puerto Rican Legal Defense and Education Fund.

[84] Select Committee on Equal Educational Opportunity, Part 4—Mexican American Education, 2395, 2409–13, 2443–4, 2469–75, 2482 and 2638; Part 8—Equal Educational Opportunity for Puerto Rican Children, 3782–88, 3819–28.

[85] Olden, "Shifting the Lens: Using Critical Race Theory and Latino Critical Theory to Re-Examine the History of School Desegregation," *Qualitative Inquiry* 2, no. 3 (2015): 257.

[86] Francis-Fallon, *The Rise of the Latino Vote*, 72–74; Mauricio Castro, "'The Republican Party Congratulates You, and Needs You!': Cuban Americans, South Florida Politics, and Republican Outreach In the 1970s," Paper presented at the Purdue Political History Conference, West Lafayette, IN, June 2022.

[87] Rangel and Alcala, "De Jure Segregation of Chicanos," 390; Carlos Blanton, *The Strange Career of Bilingual Education in Texas, 1836-1981* (College Station: Texas A&M University Press), 127. US Commission on Civil Rights, *Confronting Racial Isolation in Miami* (Washington, DC: Government Printing Office, June 1982), 51–52; Select

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Committee on Equal Educational Opportunity, Part 4—Mexican American Education, 2410–12.

[88] Báez, Fernández, and Guskin, *Desegregation and Hispanic Students*, 16, 36–43.

[89] Carlos Haro, *Mexicano/Chicano Concerns and School Desegregation in Los Angeles* (Los Angeles: Chicano Studies Center Publications, UCLA, 1977), 53, 57–58.

[90] Dr. Ricardo Fernández, "Closing Comments," in *Desegregation and Education Concerns of the Hispanic Community: Conference Report, June 26–28, 1977* (Washington, DC: Department. of Health, Education, and Welfare, National Institute of Education, 1977), 72–74.

[91] "'Anti-Busing' Bill Gets California Governor's O.K.," *Chicago Daily Defender*, October 3, 1970, 31; John Caughey, "The Racial Mix, No Barrier to School Integration," [n.d., 1976?], J. W. Caughey Papers, School Desegregation, box 2, folder 4, CSUN Oviatt Library.

[92] John L. Martínez, "Petitioners Memorandum of Points and Authorities Re the Hispanic Minority," May 19, 1977, Caughey collection, CSUN, box 2, folder 5, 17–18.

[93] "What is Mexican?—The Arrogance of Fear," *Sin Fronteras*, June 1977, Chicano Resource Center, L. A. County Library.

[94] In 1977, Latinos comprised 34.9% of the student body, whites 33.7%, and African Americans 24.7%. See Paul Egly, "*Crawford v. Los Angeles Unified School District*: An Unfulfilled Plea for Racial Equality," *University of La Verne Law Review* 31 (2009): 267.

[95] Haro, *Mexicano/Chicano Concerns*, 52.

[96] Reagan won 489 electoral college votes to Carter's 49. See David Broder, "A Sharp Right Turn," *New York Times*, November 6, 1980, A1.

[97] Francis-Fallon, *The Rise of the Latino Vote*, 364–71. During the campaign, Reagan promised voters in East Los Angeles he "would oppose any legislative attempts to eliminate" bilingual education; after he was elected, having won about a quarter of Latinos' votes, Reagan's aggressive budget cuts included bilingual education programs.

[98] "The Battle of Bilingual Education," *The Washington Post*, August 10, 1980, BW19; "The War of the Words: A Decade Later, Bilingual Education's Dilemmas Persist," *Washington Post*, July 7, 1985, A1.

[99] In California in 2017, 54.2% of Latinos attended highly segregated schools, defined as 90%–100% nonwhite (57.7% of students in the state were Latino); in New York, 55.4% of Latinos attended highly segregated schools (26.4% of students in the state were Latino); in Texas, 54.3% of Latinos attended highly segregated schools (52.3% of students in the state were Latino). The percentage of Black students in highly segregated schools was higher in 2017 in New York and Illinois (65.2% and 58.4%, respectively), although the number was considerably smaller, as Black students comprised 17% of each of those states' enrolled students, compared with a Latino enrollment of 26.4% and 25.8%, respectively. Only Mississippi and Louisiana have student populations that approach 50% Black (49% and 44%), but in those states the proportion in highly segregated schools was lower (44.7% and 41.2%, respectively) than the highest figures for Latinos. See Erica Frankenberg, Jongyeon Ee, Jennifer Ayscue, and Gary Orfield, "Harming our Common Future: America's Segregated Schools 65 Years after *Brown*," The Civil Rights Project, UCLA, May 10, 2019, 15–19, 28–30.

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