

## LAW AND THE MORAL GEOGRAPHY OF URBAN EDUCATION

by  
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*In contemporary discussions, urban schools are often labeled as “bad,” while suburban schools are generally regarded as “good.” These assessments are typically based on achievement metrics, resource allocations, and the demographics of student populations. However, this Article offers a new lens through which to analyze the valuation of urban schools: the relationship between local vice regulation and what I term “educational geographies” in urban areas. Specifically, it argues that the location of vice institutions in cities has disproportionately impacted Black neighborhoods, thereby devaluing the educational geographies within these communities. These distributions do not just impact market value, but rather, also impact the perceived moral worth of different neighborhoods. By exploring how vice regulation has shaped the moral valuation of educational geographies, this Article uncovers how race-neutral regulatory practices have contributed to the differential valuation of schools based on race.*

*Drawing on novel archival research and interdisciplinary analysis, this Article examines the lasting effects of vice regulation during the Progressive Era in Chicago. It reveals how schools in predominantly Black neighborhoods were both racialized and devalued as protective vice regulations favored White neighborhoods. These historical processes have not only limited the resources available to Black schools but have also shaped the public perception of Black school spaces as morally inferior and quasi-criminal. To address the resource disparities that continue to affect Black schools today, it is essential to recognize how the legal framework of local land use regulation—built over a century of policy decisions—continues to shape educational inequality. Achieving a more equitable distribution of municipal burdens is therefore a necessary step toward ensuring more equitable valuations of public schools.*

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Introduction .....	52
I. The Relationship Between Property, Moral Worth, and Race .....	59
A. <i>Local Regulation and the Market Value of Property</i> .....	59
B. <i>Communicating Status Through Property</i> .....	61
II. Land Use and Racialized Moral Geographies .....	62
A. <i>Anti-Vice Activism Within the Black Community</i> .....	64
B. <i>Local Regulation and the Distribution of Moral Geographies</i> .....	67
1. <i>The Political Economy of Segregated Vice Institutions</i> .....	69
2. <i>Race, Place, and the Regulation Scattered Vice</i> .....	70
C. <i>Vice, Children, and Educational Geographies</i> .....	76
III. Vice Regulation and the Criminalization of Black Educational Geographies.....	86
A. <i>Vice and Racial Meanings</i> .....	87
B. <i>Constructing Delinquency</i> .....	89
IV. Revaluing Educational Geographies .....	91
Conclusion.....	93

## INTRODUCTION

Property communicates. An abandoned school, overgrown with weeds and falling into disrepair, stands as a physical reminder of municipal neglect to the neighborhood's children.<sup>1</sup> On the other hand, accessible, well-maintained playgrounds convey investment in childhood.<sup>2</sup> A bar or liquor store across the street from a school blurs the zones of adult leisure and childhood play. In each of these cases, local governments communicate value through property and land use. At the same time, these messages also invariably communicate messages about goodness and the moral worth of people who live there.

In recent years, the relationship between education and property has come under intense scrutiny, with scholars critiquing the close relationship between property values and educational opportunities.<sup>3</sup> Many of the concerns about this

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<sup>1</sup> Sarah Karp, Nader Issa, Lauren FitzPatrick & Alden Loury, *After 10 Years, Chicago School Closings Have Left Big Holes, and Promises Unkept*, NPR (June 1, 2023, at 06:00 ET), <https://www.npr.org/2023/06/01/1178727834/after-10-years-chicago-school-closings-have-left-big-holes-and-promises-unkept> [perma.cc/QZ7N-DJBZ].

<sup>2</sup> Cat Wise, *Nonprofit Tackles Inequities by Building Playgrounds in Low-Income Neighborhoods*, PBS NEWS (Jan. 26, 2022, at 17:30 EDT), <https://www.pbs.org/newshour/show/non-profit-tackles-inequities-by-building-playgrounds-in-low-income-neighborhoods> [https://perma.cc/BS89-2NPR]. Children in well-resourced areas have more access to safe playgrounds, which in addition to providing recreation, are important for gross motor development. *Id.*

<sup>3</sup> This body of scholarship is large, but representative examples include: LaToya Baldwin Clark, Essay, *Whose Child Is This? Education, Property, and Belonging*, 123 COLUM. L. REV. 1201 (2023) [hereinafter Clark, *Whose Child Is This?*] (arguing that belonging should be considered to

relationship center on the cyclical relationship between school funding, local control, and educational opportunities: revenue from property taxes offers more funding for public schools, which in turn drives up the property values of a school's catchment area, which sustains high funding for schools in property-rich (generally majority-White) areas.<sup>4</sup> This relationship is upheld by long-standing norms of neighborhood schools and local control that harden attendance boundaries around these well-resourced schools to students living nearby.<sup>5</sup> Other scholarship has considered education itself to be a property interest, protected by due process provisions in the Fifth and Fourteenth Amendments.<sup>6</sup> At root, these strands of scholarship are concerned with the consequences of the relationship between education and property on educational resources and access, educational outcomes, and constitutional protections of education.

This Article contributes to these studies by focusing on the moral value of educational property and how that value intersects with race. Schools are emplaced institutions situated within the built environment; they exist as both sites of learning and places within a larger geographic area. Indeed, children's experiences of schooling are shaped not only by what occurs inside the building, but also by a

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understand who truly owns educational opportunities); LaToya Baldwin Clark, *Barbed Wire Fences: The Structural Violence of Education Law*, 89 U. CHI. L. REV. 499 (2022) [hereinafter Clark, *Barbed Wire Fences*] (arguing that U.S. education law doesn't just fail to protect poor Black children, but it actively harms them by embedding structural violence in the very design of educational institutions); Timothy M. Mulvaney, *Beneath the Property Taxes Financing Education*, 123 COLUM. L. REV. 1325 (2023) (contending that government-created property laws and policies shape the underlying property values being taxed and thereby structure educational inequality); Erika K. Wilson, *Toward a Theory of Equitable Federated Regionalism in Public Education*, 61 UCLA L. REV. 1416 (2014) (positing that the traditional commitment to localized control of public education reinforces racial and economic disparities); Erika K. Wilson, *White Cities, White Schools*, 123 COLUM. L. REV. 1221 (2023) [hereinafter Wilson, *White Cities*] (arguing that the lasting legacy of racially exclusionary housing practices shapes school district boundaries and perpetuates racialized spatial inequality in public education in ways that legal doctrine and policy fail to address).

<sup>4</sup> See Clark, *Barbed Wire Fences*, *supra* note 3, at 502–03. Throughout this Article, I capitalize both Black and White when referring to members of each racial group. Although it is widely accepted to capitalize Black, the capitalization of White is less common. Following scholars Imani Perry and Eve Ewing, I believe capitalizing White disrupts the supposed normalcy of Whiteness and reflects that whiteness, like blackness, is socially constructed in relation to other racial groups. See IMANI PERRY, *SOUTH TO AMERICA: A JOURNEY BELOW THE MASON-DIXON TO UNDERSTAND THE SOUL OF A NATION*, at xi (2022); Eve L. Ewing, *I'm a Black Scholar Who Studies Race. Here's Why I Capitalize 'White,'* MEDIUM (July 2, 2020), <https://medium.com/zora/im-a-black-scholar-who-studies-race-here-s-why-i-capitalize-white-f94883aa2dd3> [<https://perma.cc/BP8B-D695>].

<sup>5</sup> Clark, *Barbed Wire Fences*, *supra* note 3, at 502–03.

<sup>6</sup> See, e.g., Matthew Patrick Shaw, *The Public Right to Education*, 89 U. CHI. L. REV. 1179, 1186–87 (2022).

school's surrounding neighborhood.<sup>7</sup> In this Article, I refer to the relationship between schools and their surroundings as “educational geographies.” Educational geographies are made up of relationships between people and a physical school building, as well as the surroundings of a school, including the quality of its infrastructure, surrounding greenspace, and neighborhood safety. Educational geographies have been culturally and materially shaped by historical choices that increased the value of educational geographies in Whiter, wealthier neighborhoods, while decreasing the value of educational geographies in Blacker, poorer neighborhoods.<sup>8</sup> They are also essential in shaping how we think about “good” and “bad” schools.

The perceived goodness of educational geographies is not simply tied to the wealth of their surrounding community. Rather, the value of educational geographies is also created by municipal land-use policies that communicate comparative value and status between educational geographies.<sup>9</sup> Moreover, this Article demonstrates that municipal regulation creates racial meanings through land-use policies beyond zoning.<sup>10</sup> The relationship between race and space is essential for understanding racial inequality, as space is a “resource in the production of white privilege”<sup>11</sup> and racism is made concrete through spatial practices.<sup>12</sup> Building on insights from Cheryl Harris<sup>13</sup> and Richard Ford,<sup>14</sup> legal scholars have demonstrated how the right to exclude through attendance boundaries operates as

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<sup>7</sup> See CARLA SHEDD, *UNEQUAL CITY: RACE, SCHOOLS, AND PERCEPTIONS OF INJUSTICE* 12–17 (2015).

<sup>8</sup> For further discussion of how property used to fund education has obtained its value, see Mulvaney, *supra* note 3, at 1362.

<sup>9</sup> See Nestor M. Davidson, *Property and Relative Status*, 107 MICH. L. REV. 757, 805 (2009); Adam J. MacLeod, *Identifying Values in Land Use Regulation*, 101 KY. L.J. 55, 103 (2013).

<sup>10</sup> Sociologists have demonstrated the co-constitutive relationship between race and space. See, e.g., Jennifer LaFleur, *The Race That Space Makes: The Power of Place in the Colonial Formation of Social Categorizations*, 7 SOCIO. RACE & ETHNICITY 512, 523 (2021) (showing that colonial spatial practices did not merely reflect preexisting racial categories but actively produced and stabilized racial meanings, demonstrating that race is formed through the organization and power of place rather than simply imposed upon it).

<sup>11</sup> Laura Pulido, *Rethinking Environmental Racism: White Privilege and Urban Development in Southern California*, 90 ANNALS ASS'N AM. GEOGRAPHERS 12, 30 (2000).

<sup>12</sup> LaFleur, *supra* note 10, at 523.

<sup>13</sup> Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1707, 1734–37 (1993). Harris explains how Whiteness gains value through the right to occupy space and exclude others from space. *Id.*

<sup>14</sup> See generally Richard Thompson Ford, *The Boundaries of Race: Political Geography in Legal Analysis*, 107 HARV. L. REV. 1841 (1994) (showing how public and private actors work together to create and promote racially identifiable space and the segregation that accompanies it, and demonstrating that racially identifiable space interacts with race-neutral policies to reinforce segregation).

a legal mechanism for constructing racially identifiable schools.<sup>15</sup> However, while legal scholarship has documented the role of law in creating racially identifiable space through exclusionary zoning polices and racist housing policies, less is known about how space (or, more specifically, the built environment) reinforces racial meanings and ideas about moral worth.<sup>16</sup>

More specifically, the distributions of burdens (such as public nuisance and environmental toxins) and benefits (such as green spaces and well-maintained playgrounds) within an area tend to map onto racially identifiable neighborhoods. These physical representations of inequality do not just reflect racism; rather, the connections between space and race make racial categorizations understandable within a racial hierarchy as they connect Whiteness with “good neighborhoods” and Blackness with “bad neighborhoods.”<sup>17</sup> Building on insights from the humanities and social science, this Article considers how local regulations regarding vice, generally considered both immoral and undesirable, created physical and moral representations of racial inequalities.<sup>18</sup> This analysis is critical for understanding how law creates, maintains, and/or breaks down racial inequalities, including inequalities in the valuation of educational geographies.<sup>19</sup>

<sup>15</sup> See, e.g., Clark, *Whose Child Is This?*, *supra* note 3, at 1207–08; Wilson, *White Cities*, *supra* note 3, at 1243–44, 1251.

<sup>16</sup> Davidson, *supra* note 9, at 805.

<sup>17</sup> CHI. COMM’N ON RACE RELS., THE NEGRO IN CHICAGO: A STUDY OF RACE RELATIONS AND A RACE RIOT 343 (1922); see Angelica C. Loblack, *Spatialized Race or Racialized Space?*, 21 CONTEXTS, No. 1, Winter 2022, at 4, 4. Spatial productions go beyond racial inequality and can encompass a wide range of social inequality. Identifying the role of law in intertwining race and space can shed insight into myriad processes of inequality. See Wendy Cheng & Rashad Shabazz, *Introduction: Race, Space, and Scale in the Twenty-First Century*, OCCASION, Aug. 31, 2015, at 1, 4.

<sup>18</sup> In *The Philadelphia Negro*, W.E.B. Du Bois explained how racism determines opportunities to people based on which side of color line they have been assigned. W.E. BURGHARDT DU BOIS, THE PHILADELPHIA NEGRO: A SOCIAL STUDY 350 (1899). More recently, historian Andrew Kahrl has shown how race was used to differentially value land based on race, with Black-owned land receiving higher valuation for taxation purposes, even as the fruit of those taxes was funneled to improve White neighborhoods and schools. ANDREW W. KAHRL, THE BLACK TAX: 150 YEARS OF THEFT, EXPLOITATION, AND DISPOSSESSION IN AMERICA 1–15 (2024). For other work analyzing the relationship between race and space, see GEORGE LIPSITZ, HOW RACISM TAKES PLACE 6–7 (2011); DOUGLAS S. MASSEY & NANCY A. DENTON, AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS 142, 151–53 (1993); RASHAD SHABAZZ, SPATIALIZING BLACKNESS: ARCHITECTURES OF CONFINEMENT AND BLACK MASCULINITY IN CHICAGO 2 (Darlene Clark Hine & Dwight A. McBride eds., 2015); Cheng & Shabazz, *supra* note 17.

<sup>19</sup> Much of the scholarship studying the relationship between education, property, and inequality focuses on what Tim Mulvaney calls “second-order issues” regarding the consequences of differential property valuations. Mulvaney urges scholars to also consider the first order question of how land used to fund education gets its value in the first place. He identifies three

In this Article, I argue that the roots of contemporary disparities in urban educational geographies—whether within cities or between cities and suburbs—are located in Progressive Era, municipal regulation of vice.<sup>20</sup> Today’s urban schools inherit a legacy of municipal neglect of Black neighborhoods that concentrated the burdens of vice (including the perceived threats of alcohol, prostitution, and gambling) and the immorality associated with vice in Black educational geographies in the early 20th century.<sup>21</sup> Changes in vice regulation created protective “moral geographies” around White neighborhoods, while leaving Black neighborhoods overburdened with vice and the immorality associated with vice.<sup>22</sup> Chicago’s Black

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categories of government choices that impact land value: structural choices regarding land use; financial choices, such as subsidies and exemptions; and protective choices. See Mulvaney, *supra* note 3, at 1339, 1345.

<sup>20</sup> The Progressive Era is generally considered to be the period between approximately 1890 and 1920 during which social, legal, and political changes attempted to make the United States more democratic. Central to Progressive Era reforms was an expansion of government regulation, notably in the area of social legislation. For a recent overview of this period, see WILLIAM J. NOVAK, *NEW DEMOCRACY: THE CREATION OF THE MODERN AMERICAN STATE* 146–79 (2022). Notably, the Progressive Era overlaps with the “nadir” of American race relations and the Jim Crow Era. RAYFORD W. LOGAN, *THE NEGRO IN AMERICAN LIFE AND THOUGHT: THE NADIR, 1877–1901*, at ix–x (1954). Other historians have extended this time period and demonstrated how Jim Crow was a system that extended beyond the South. See KHALIL GIBRAN MUHAMMAD, *THE CONDEMNATION OF BLACKNESS: RACE, CRIME, AND THE MAKING OF MODERN URBAN AMERICA* 226–27 (2010).

<sup>21</sup> I use the term “vice institutions” to refer to saloons, houses of ill-fame, prostitution, and other establishments associated with drinking, debauchery, and/or prostitution. While these terms might seem outdated today, they retain historical meaning in line with their use during the early 20th century.

<sup>22</sup> Moral geography refers to “the idea that certain people, things and practices belong in certain spaces, places and landscapes and not in others” have devalued nonwhite and poor spaces in support of the political economy. Tim Cresswell, *Moral Geographies*, in *CULTURAL GEOGRAPHY: A CRITICAL DICTIONARY OF KEY CONCEPTS* 128, 128 (David Atkinson, Peter Jackson, David Sibley & Neil Washbourne eds., 2005). A growing body of scholarship studies Black geographies, with a focus on how racial power is built and contested through space and place. See generally KATHERINE MCKITTRICK, *DEMONIC GROUNDS: BLACK WOMEN AND THE CARTOGRAPHIES OF STRUGGLE* (2006) (explaining “how practices of and resistances to racial domination across different borders bring into focus black women’s complex relationship with geography”); Katherine McKittrick, *On Plantations, Prisons, and a Black Sense of Place*, 12 *SOC. & CULTURAL GEOGRAPHY* 947 (2011) (addressing “blackness, place, and violence in order to consider the ways in which slave and post-slave black geographies in the Americas are connected to practices of domination and deliberate attempts to destroy a black sense of place”). For Black geographies of Chicago in particular, see Amani C. Morrison, *Quotidian Expenses: Residential Repertoires and Domestic Pedagogies in Great Migration Chicago’s Kitchennettes*, 74 *AM. Q.* 73 *passim* (2022); SHABAZZ, *supra* note 18, at 2. In the context of education, Ansley Erickson has studied how the spatial ideology of schooling was racialized in a way that placed a lower value on Black school space during the northern desegregation movements of the 1960s. See generally Ansley T. Erickson, *Desegregation’s Architects: Education Parks and the Spatial Ideology of Schooling*, 56 *HIST.*

Belt<sup>23</sup> emerged out of the period of vice reform shouldering a disproportionate burden of vice, thus rendering the Black Belt knowable as an underground space on the verge of criminality.<sup>24</sup> The racialized distribution of vice legitimized narratives that criminalized Black educational geographies and devalued the schools therein.<sup>25</sup>

I draw on novel archival sources and an interdisciplinary methodology to

EDUC. Q. 560 (2016) (examining how “education parks” were one example of White resistance to desegregation).

<sup>23</sup> The term “Black Belt” refers to the main neighborhood of Chicago where Black people lived. It was given this name due to its long rectangular shape. For a detailed analysis of how the Black Belt formed, see ST. CLAIR DRAKE & HORACE R. CAYTON, *BLACK METROPOLIS: A STUDY OF NEGRO LIFE IN A NORTHERN CITY* 174–213 (2015). Importantly, life in the Black Belt was not solely defined by segregation. While this paper focuses on the criminalization of the Black Belt, there were many ways in which Black residents created a rich and full life in the city-within-a-city. *Id.*

<sup>24</sup> The conditions of vice in the Black Belt were later taken up by social scientists in the Chicago School as “evidence” of Black people’s innate predisposition to disorder, depravity, and crime, rather than policies of coercion. The Chicago School further argued that racial segregation was a product of people’s preferences and innate tendencies. See Ernest W. Burgess, *The Growth of the City: An Introduction to a Research Project*, in *THE CITY* 47, 54–59 (1925). This Article’s analysis of vice adds to work studying the myriad ways state officials and private actors created racial segregation by highlighting how the spatialization of vice into the Black Belt shaped the meaning of segregated space. For a discussion of the Chicago School and its discourse on racialized poverty, see Davarian L. Baldwin & Emma S. Crane, *Cities, Racialized Poverty, and Infrastructures of Possibility*, 52 *ANTIPODE* 365, 368–75 (2020). For early work by Black sociologists challenging biological or cultural explanations of Black poverty, see DU BOIS, *supra* note 18, at 350; DRAKE & CAYTON, *supra* note 23, at 190–98; E. FRANKLIN FRAZIER, *THE NEGRO FAMILY IN CHICAGO* 245–56 (1932). The phenomena of pushing vice institutions into the Black neighborhood against the wishes of the Black community is similar to the creation of environmental sacrifice zones. The term “sacrifice zone” refers to distributional effects of policies that leave low-income and communities of color bearing the brunt of environmental harms such as pollution, toxic waste, and contamination. See STEVE LERNER, *SACRIFICE ZONES: THE FRONT LINES OF TOXIC CHEMICAL EXPOSURE IN THE UNITED STATES* 2–6 (2010). The underlying assumption behind sacrifice zones is that someone needs to deal with the negative consequences of policies that ostensibly benefit the public good. *Id.* at 3.

<sup>25</sup> This Article builds on scholarship studying the racialized dimensions of vice and urban history. For an analysis of the racialized and gendered nature of sexual policing in cities, see ANNE GRAY FISCHER, *THE STREETS BELONG TO US: SEX, RACE, AND POLICE POWER FROM SEGREGATION TO GENTRIFICATION* 1–17 (2022). For a discussion of the agency and exploitation of Black sex workers, see CYNTHIA M. BLAIR, *I’VE GOT TO MAKE MY LIVIN’*: BLACK WOMEN’S SEX WORK IN TURN-OF-THE-CENTURY CHICAGO 152–59 (2010). For a discussion of the relationship between vice and residential segregation, see MARA L. KEIRE, *FOR BUSINESS & PLEASURE: RED-LIGHT DISTRICTS AND THE REGULATION OF VICE IN THE UNITED STATES, 1890–1933*, at 5–11 (2010). And for an analysis of the role vice districts played in shaping racial categories in urban spaces, see KEVIN J. MUMFORD, *INTERZONES: BLACK/WHITE SEX DISTRICTS IN CHICAGO AND NEW YORK IN THE EARLY TWENTIETH CENTURY* 20 (1997).

surface critical insights into how legal reforms regarding vice regulation devalued land in Chicago's Black neighborhoods.<sup>26</sup> Laws and ordinances intended to eradicate vice through exclusionary land-use mechanisms and strategic policing created new forms of municipal regulation that disproportionately distributed the risk of vice—and the moral and material devaluation associated with vice institutions—to Black neighborhoods.<sup>27</sup> These spatial distributions of power, belonging, and moral worth occurred through collaborations between private reformers and public officials as reformers worked to expand the police powers of the state in ways that effectuated their vision for a good and just government.<sup>28</sup>

As this Article demonstrates, the hierarchies of moral worth created through vice reforms impacted education for Black children in Chicago by shaping both the conceptual meanings of Blackness and the material conditions of Black neighborhoods, including Black schools. Municipal regulations that excluded vice from Whiter neighborhoods with more political power invariably enabled vice to flourish in Black neighborhoods with less political power. These regulations created conceptions of “good” and “bad” schools shaped by the racial composition of neighborhoods. Vice became a race-neutral way for White parents to demand transfers out of schools with a sizable Black population, increased Black children's likelihood of being caught up in the juvenile justice system, and created a justification for blaming poor, Black Chicagoans for their neighborhood conditions.<sup>29</sup> By analyzing how the moral geographies created by vice regulation upheld racial differentiation, I study an overlooked process that led to the confinement of Black children in devalued and overpoliced schools at a time when the “ghetto was not yet a foregone conclusion.”<sup>30</sup>

The moral dimensions of local regulation matter for at least three reasons. First, accounting for the moral effects of local policy will deepen our understanding of how local governments (re)distribute economic values across space. Second, it will help policymakers understand how the “twin pillars” of local government—education and land use—interact.<sup>31</sup> Finally, it will shed light on how race-neutral policies create and entrench racial hierarchies. The choices of contemporary

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<sup>26</sup> Vice regulation should be understood as part of the city's legal authority to regulate land use and as one part of the state's vast police powers. See Richard Briffault, *Our Localism: Part I—The Structure of Local Government Law*, 90 COLUM. L. REV. 1, 19, 39–40, 46–47 (1990); NOVAK, *supra* note 20, at 163.

<sup>27</sup> India Thusi, *The Racialized History of Vice Policing*, 69 UCLA L. REV. 1576, 1613–14 (2023).

<sup>28</sup> For a detailed discussion of how Progressive Era reformers worked to expand the police powers of the state in furtherance of democracy, see NOVAK, *supra* note 20, at 146–79.

<sup>29</sup> See *infra* Part III.

<sup>30</sup> SAIDIYA HARTMAN, *WAYWARD LIVES, BEAUTIFUL EXPERIMENTS: INTIMATE HISTORIES OF RIOTOUS BLACK GIRLS, TROUBLESOME WOMEN, AND QUEER RADICALS* 94 (2019).

<sup>31</sup> See Briffault, *supra* note 26, at 3.

policymakers—whether elected officials or members of the Chicago School Board—are situated within the legacy and consequences of the harm enacted during the period this Article studies. This legacy has led to an accumulated devaluing of Black educational geographies, and I argue that remedying this legacy requires critical engagement with the relationship between the bedrocks of municipal governance: education and land use. Taken together, the insights of this Article and the history it recovers will assist city councils, zoning boards, and school boards with making better-informed policy decisions.

This Article proceeds as follows. Part I outlines how scholarship has generally thought about the relationship between land use and value. In Part II, I use the history of municipal vice reform during the Progressive Era to develop an origin story for the contemporary moral valuation of educational geographies. Drawing on novel archival research, I further show how choices regarding land use, regulation, and vice enforcement shaped the value of educational geographies in racialized ways. I also illustrate how these policies impeded Black Chicagoans' ability to shape their neighborhoods and to create a sense of place aligned with community values. Part III analyzes the consequences of Progressive Era vice regulations on the valuation of Chicago's Black schools today, with particular attention to how these regulations rendered Black school space as always on the verge of criminality.

## I. THE RELATIONSHIP BETWEEN PROPERTY, MORAL WORTH, AND RACE

The regulation of land use and education are two essential functions of local governments, yet tend to be thought of as distinct areas of local governance.<sup>32</sup> However, land use and education are inextricably linked in a number of ways, and land-use regulation communicates both market values and moral values regarding schools.<sup>33</sup>

### *A. Local Regulation and the Market Value of Property*

Traditional approaches to understanding property valuation have focused on a market-based approach that treats property as a commodity.<sup>34</sup> Similarly, theories that rely on market-based valuations of property advocate for local land-use regulations that preserve or increase property values.<sup>35</sup> Historically, these regulations

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<sup>32</sup> *Id.*

<sup>33</sup> See Davidson, *supra* note 9, at 784; MacLeod, *supra* note 9, at 85–87.

<sup>34</sup> Eduardo M. Penalver, *Land Virtues*, 94 CORNELL L. REV. 821, 833 (2009); Charles M. Tiebout, *A Pure Theory of Local Expenditures*, 64 J. POL. ECON. 416, 418–20 (1956).

<sup>35</sup> See, e.g., WILLIAM A. FISCHEL, THE HOMEVOTER HYPOTHESIS: HOW HOME VALUES INFLUENCE LOCAL GOVERNMENT TAXATION, SCHOOL FINANCE, AND LAND-USE POLICIES 52 (2001); RICHARD SCHRAGGER, CITY POWER: URBAN GOVERNANCE IN A GLOBAL AGE 109–10, 153 (2016).

have often taken the form of exclusionary zoning policies that create rigid boundaries around wealthier, Whiter enclaves.<sup>36</sup> Exclusionary zoning has taken both overtly discriminatory forms<sup>37</sup> and ostensibly race-neutral forms.<sup>38</sup> Regardless of intention, land-use policies have profound consequences for educational opportunities.

First, school funding ensures schools within property-rich areas have the capacity to draw more revenue than those in lower-wealth areas. Local property taxes fund the bulk of school budgets; therefore, higher property values within a school district lead to higher potential revenue for local schools.<sup>39</sup> This connection creates incentives for wealthier school districts to create “barbed wire fences” around their catchment areas<sup>40</sup> and for the strategic gerrymandering of school district boundaries.<sup>41</sup> High-wealth neighborhoods are also driven by racism and the value of race in the housing market.<sup>42</sup> Put plainly, property values in White neighborhoods are higher because they are located in majority-White neighborhoods.<sup>43</sup> The result has been an accumulated “educational debt” that has left majority Black, Latinx, and low-income schools under resourced.<sup>44</sup>

Second, local land-use regulation influences the underlying value of the land

<sup>36</sup> Ford, *supra* note 14, at 1861; Wilson, *White Cities*, *supra* note 3, at 1233.

<sup>37</sup> Rachel D. Godsil, *Race Nuisance: The Politics of Law in the Jim Crow Era*, 105 MICH. L. REV. 505, 539 (2006).

<sup>38</sup> See MICHELLE ADAMS, *THE CONTAINMENT: DETROIT, THE SUPREME COURT, AND THE BATTLE FOR RACIAL JUSTICE IN THE NORTH* 369–71 (2025) (explaining how certain zoning laws, although race neutral on their face, have “pernicious effects”).

<sup>39</sup> Laurie Reynolds, *Skybox Schools: Public Education as Private Luxury*, 82 WASH. U. L.Q. 755, 756–57 (2004); Richard Briffault, *The Role of Local Control in School Finance Reform*, 24 CONN. L. REV. 773, 803 (1992); Timothy M. Mulvaney & LaToya Baldwin Clark, *Foreword: Property and Education*, 123 COLUM. L. REV. 1189, 1194–95 (2023).

<sup>40</sup> Clark, *Barbed Wire Fences*, *supra* note 3, at 522.

<sup>41</sup> Derek W. Black, *Educational Gerrymandering: Money, Motives, and Constitutional Rights*, 94 N.Y.U. L. REV. 1385, 1392, 1406 (2019).

<sup>42</sup> See KAHRL, *supra* note 18, at 77–79.

<sup>43</sup> Legal space is never neutral, however, as the meanings tied to space are constituted by race and class, just as the meanings attached to race and class are constituted by space. For further discussions of the relationship between race, space, and the law, including how law creates conceptual boundaries of belonging and differentiation based on race, see, for example, DAVID DELANEY, *RACE, PLACE, AND THE LAW, 1836–1948*, at 170 (1998); Nicholas Blomley, David Delaney & Richard T. Ford, *Preface* to *THE LEGAL GEOGRAPHIES READER: LAW, POWER, AND SPACE*, at xiii, xv–xvi (Nicholas Blomley, David Delaney & Richard T. Ford eds., 2001); SARAH KEENAN, *SUBVERSIVE PROPERTY: LAW AND THE PRODUCTION OF SPACES OF BELONGING* 17–38 (Sarah Lamble & Davina Cooper eds., 2015); Ford, *supra* note 14, at 1863–78.

<sup>44</sup> Gloria Ladson-Billings, *From the Achievement Gap to the Education Debt: Understanding Achievement in U.S. Schools*, EDUC. RESEARCHER, Oct. 2006, at 3, 5.

that is taxed to fund schools.<sup>45</sup> As one example, undesirable land uses tend to be concentrated in lower-income, majority Black and Latinx neighborhoods.<sup>46</sup> These undesirable uses depress property values, which impacts available resources for local schools.<sup>47</sup> Additionally, it creates incentives for those with money to buy property in more expensive areas, which further drives educational resource inequality.<sup>48</sup> At the same time, overburdening lower-income and majority Black and Latinx neighborhoods with undesirable land uses (including environmental toxins and concentrated crime) can increase the range of needs that schools are expected to support.<sup>49</sup> Arguably, these consequences should be considered as part of local land-use decision making.<sup>50</sup>

### B. *Communicating Status Through Property*

Local land-use regulation doesn't just impact educational inequality through market valuations; rather, local regulations communicate information about the relative status of different communities.<sup>51</sup> Drawing on social-relations theory of property, legal scholar Nestor Davidson has developed a framework for understanding property's role in signaling relative status.<sup>52</sup> Davidson shows the role of property in "marking, communicating, and policing status," and he highlights that the law is central to property's signaling function.<sup>53</sup>

The role of property in signaling status goes beyond influencing individual perceptions of other people's property;<sup>54</sup> rather, popular ideas about the relative status of property get mapped onto geographic areas.<sup>55</sup> When the use of land or the

<sup>45</sup> Mulvaney, *supra* note 3, at 1348.

<sup>46</sup> Nathan Bennett Fleming, *Strategies to Build Racial Equity into Land Use & Zoning*, ANTI-RACISM POL'Y J., Spring 2023, at 21, 21; Vicki Been, *Locally Undesirable Land Uses in Minority Neighborhoods: Disproportionate Siting or Market Dynamics?*, 103 YALE L.J. 1383, 1384, 1387 (1994).

<sup>47</sup> Mulvaney, *supra* note 3, at 1332.

<sup>48</sup> Wilson, *White Cities*, *supra* note 3, at 1226–27; see ADAMS, *supra* note 38, at 369–71.

<sup>49</sup> See Been, *supra* note 46, at 1392–95; Ladson-Billings, *supra* note 44, at 5.

<sup>50</sup> See Timothy Beatley, *A Set of Ethical Principles to Guide Land Use Policy*, 8 LAND USE POL'Y 3, 3–5 (1991).

<sup>51</sup> See Davidson, *supra* note 9, at 778–82; Spencer A. Overton, *Racial Disparities and the Political Function of Property*, 49 UCLA L. REV. 1553, 1561 (2002) ("While the concept of property serves a variety of functions related to general welfare, productivity, and development, property also serves a political function.").

<sup>52</sup> Davidson, *supra* note 9, at 774.

<sup>53</sup> *Id.* at 802.

<sup>54</sup> *Id.*

<sup>55</sup> See Jill Fraley, *Missionaries to the Wilderness: A History of Land, Identity, and Moral Geography in Appalachia*, 17 J. APPALACHIAN STUD. 28, 29–30, 34, 36 (2011) (explaining that representations of space shape social understandings of land and produce economic consequences as a result).

character of the built environment goes against general standards of morality or decency, the morality of the people who live within that geographic area can be called into question.<sup>56</sup> In turn, these moral geographies can have economic consequences as the value of immoral geographies diminishes.<sup>57</sup>

The concept of status is multifaceted and can accompany various social hierarchies, including race. Indeed, the relationship between relative status, race, and property has been central to maintaining racial segregation in the United States.<sup>58</sup> Discriminatory land-use policies operate on two levels in the construction of racially-identifiable space: first, exclusionary land-use policies (such as zoning) preserve the character (including the racial character) of certain geographic areas; second, local regulations overburden “lower value,” majority-minority areas with undesirable land uses. This second mechanism is essential for preserving the meaning of distinct racial groups within the American racial hierarchy and helps explain why racial minorities are disproportionately burdened with proximity to undesirable land uses.<sup>59</sup>

Questions of value are essential for understanding the relationship between local regulation, race, and educational inequality. This Article builds on the insights of Professor Davidson to argue that race-neutral land-use policies can create moral geographies bounded by race, which in turn create educational inequalities. Vice regulation during Progressive Era Chicago provides an excellent case to understand the history of race, local regulation, and moral geographies, and how that history shaped educational opportunities in urban schools today.

## II. LAND USE AND RACIALIZED MORAL GEOGRAPHIES

During the Progressive Era, vice regulation greatly expanded the state’s police powers as city officials used new forms of criminal and civil regulation in the name of protecting the general welfare of the people.<sup>60</sup> Children and the protection of

<sup>56</sup> *Id.* at 28–34.

<sup>57</sup> *Id.* at 29–30; KAHRL, *supra* note 18, at 73–87.

<sup>58</sup> Overton, *supra* note 51, at 1559–60; Ladson-Billings, *supra* note 44, at 9. For a detailed discussion of how law was used to racially segregate urban areas, see RICHARD ROTHSTEIN, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* 39–57 (2017).

<sup>59</sup> KAHRL, *supra* note 18, at 73–74; see Ladson-Billings, *supra* note 44, at 3–9. Ruth Gilmore offers a helpful way of thinking about the relationship between race and geography. She defines racism as “the state-sanctioned and/or extralegal production and exploitation of group-differentiated vulnerabilities to premature death” and “life-limiting inequalities.” If property signals status, including moral status, then high social status is maintained (at least in part) through exclusionary access to moral geographies. RUTH WILSON GILMORE, *ABOLITION GEOGRAPHY: ESSAYS TOWARD LIBERATION* 107, 107 n.1 (Brenna Bhandar & Alberto Toscano eds., 2022).

<sup>60</sup> For discussions of Progressive Era state building, see NOVAK, *supra* note 20, at 146–79; TRACY LYNN STEFFES, *SCHOOL, SOCIETY, AND STATE: A NEW EDUCATION TO GOVERN MODERN*

childhood innocence was central to this work, yet the implementation of vice reforms entrenched racialized understandings of which children are perceived as innocent.<sup>61</sup> Not only did new vice laws, regulations, and institutions expand the policing capacity of the state, they also expanded the power of private reform groups to shape the character of their neighborhoods, including the siting of undesirable vice institutions.<sup>62</sup> In the context of vice, conflicts over the enforcement of vice regulations produced unbalanced and inequitable moral geographies in the city, and set the stage for the “quotidian management of Black life through confinement, police, and violence.”<sup>63</sup>

Despite the efforts of reformers and activists, Chicago’s Black neighborhoods became dotted with saloons and vice institutions in the first two decades of the 20th century. The overabundance of saloons and other vice institutions in Chicago’s Black Belt has long been noticed by researchers interested in race and vice in the city.<sup>64</sup> Yet, while the fact of Black residents’ proximity to vice institutions is clearly established in the historical record, we know less about how local regulation enabled vice to flourish in the Black Belt during a time when temperance activists were intent on making the entire city anti-saloon territory.<sup>65</sup> A web of regulations intended to protect residents from the perceived evils of vice nonetheless distributed the burdens of vice to Black residents in Chicago’s South Side neighborhoods, thereby creating an underground zone of immorality in the Black Belt.

Municipal regulation and enforcement of vice dramatically shaped the geography of the Black Belt: not only were Black children disproportionately exposed to the distractions, violence, and policing that accompanied vice institutions, but the encroachment of vice into the Black Belt facilitated the

AMERICA, 1890–1940, at 174–75 (2012). For a discussion of the legal tools used to shut down “immoral” vice institutions, see Lon B. Rogers, Note, *The Use of the Injunction to Prevent Crime in Cases Involving Houses of Ill Fame, Gambling Houses, Bull Fights, Prize Fights, and Saloons*, 20 KY. L.J. 329, 329–35, 338 (1931).

<sup>61</sup> VICE COMM’N OF CHI., *THE SOCIAL EVIL IN CHICAGO: A STUDY OF EXISTING CONDITIONS* 235–37 (1911).

<sup>62</sup> See, e.g., *id.* at 329 (providing rules regulating vice promulgated in the early 1900s); see *infra* Section II.B.2.

<sup>63</sup> N’Kosi Oates & J.T. Roane, *A Black Geography of the City*, BOS. REV. (June 5, 2023), <https://www.bostonreview.net/articles/a-black-geography-of-the-city/> [https://perma.cc/67U5-BAM4].

<sup>64</sup> See, e.g., WALTER C. RECKLESS, *VICE IN CHICAGO* 26 (1933); BLAIR, *supra* note 25, at 152–53; THOMAS C. MACKEY, *RED LIGHTS OUT: A LEGAL HISTORY OF PROSTITUTION, DISORDERLY HOUSES, AND VICE DISTRICTS, 1870–1917*, at 176–77 (1987); MUMFORD, *supra* note 25, at 21; ARNOLD R. HIRSCH, *MAKING THE SECOND GHETTO: RACE AND HOUSING IN CHICAGO, 1940–1960*, at 114 (2021).

<sup>65</sup> See AMY ABSHER, *THE BLACK MUSICIAN AND THE WHITE CITY: RACE AND MUSIC IN CHICAGO, 1900–1967*, at 19–20 (2014) (discussing the “booming ‘vice’ businesses” in early 20th century Chicago).

differentiation of Black people as separate and other from other racial groups in the city.<sup>66</sup> The lax enforcement of vice regulations in the Black Belt conceptually communicated to Chicagoans that Black people were outside the “universe of obligation,” thereby disregarding the Black community’s moral claims to protections from vice and (ironically) blaming them for the conditions of vice in the Black Belt.<sup>67</sup> The connections between Black neighborhoods and vice created racially demarcated hierarchies of worth and further associated Black Chicagoans with criminality, disorder, and the need for punitive social control. To lay out what was at stake in vice regulation, this Part begins with an overview of the relationship between freedom and temperance in anti-vice activism in the Black community.

### A. *Anti-Vice Activism Within the Black Community*

For many 19th century Black activists, temperance, or restraint from excessive drinking, was closely linked to freedom. The temperance movement, spearheaded by the Women’s Christian Temperance Union (WCTU), took aim at shutting down saloons<sup>68</sup> which they believed to be the cause of myriad social and economic problems faced by industrialized society.<sup>69</sup> Black activists focused their critique of alcohol and vice on the relationship between enslavement and drunkenness and the predatory nature of liquor trafficking.<sup>70</sup> In 1888, Francis Ellen Watkins Harper, the “Superintendent for Work Among the Colored People of the North” of the WCTU, called upon Black women to join in the battle against intemperance, against “an enemy that had entrenched itself in the strongholds of appetite and avarice, and was upheld by fashion, custom, and legislation.”<sup>71</sup> Harper conveyed the urgency of

<sup>66</sup> Thusi, *supra* note 27, at 1606–08.

<sup>67</sup> See Sylvia Wynter, “*No Humans Involved*”: *An Open Letter to My Colleagues*, 1 F. N.H.I.: KNOWLEDGE FOR 21ST CENTURY 1, 2 (1994) (discussing how systematic classifications in American society dehumanize young Black males).

<sup>68</sup> Saloons were similar to what we might call a pub or bar today—a place to drink, socialize, and eat. I use the term “saloon” throughout this paper for historical accuracy.

<sup>69</sup> RUTH BORDIN, *WOMAN AND THE TEMPERANCE: THE QUEST FOR POWER AND LIBERTY, 1873–1900*, at 5–8, 12–14 (1981).

<sup>70</sup> Although extant scholarship has tended to portray the temperance movement, including the WCTU, as a moralistic white crusade, historians have begun to focus on the long legacy of Black temperance activists, including Frederick Douglass, Ida B. Wells, F.E.W. Harper, Booker T. Washington, and the structural critiques underpinning their advocacy. See, e.g., MARK LAWRENCE SCHRAD, *SMASHING THE LIQUOR MACHINE: A GLOBAL HISTORY OF PROHIBITION* 308–09 (2021); DoVeanna S. Fulton, *Sowing Seeds in an Untilled Field: Temperance and Race, Indeterminacy and Recovery in Frances E. W. Harper’s Sowing and Reaping*, 24 LEGACY 207, 208–09 (2007); Donald Yacovone, *The Transformation of the Black Temperance Movement, 1827–1854: An Interpretation*, 8 J. EARLY REPUBLIC 281, 282 (1988).

<sup>71</sup> F.E.W. Harper, *The Woman’s Christian Temperance Union and the Colored Woman*, 12 AME CHURCH REV. (1888), reprinted in 6 AFRICAN AMERICAN FEMINISMS 1828–1923: INTERRACIAL AND BLACK FEMINIST ORGANIZING 379, 379–80 (Teresa Zackodnik ed., 2007).

intemperance by situating it as a one of the “twin evils . . . which had foisted themselves like leeches upon the civilization of the present age.”<sup>72</sup> For Harper, legislative activism and legal change against the sale of liquor was the only way to overcome the evil of alcohol and build women’s power.<sup>73</sup>

Black temperance leaders clearly understood the relationship between economic profits, intemperance, poverty, and racism. As explained by Ida B. Wells, “All things considered, our race is probably not more intemperate than other races. By reason, though, of poverty, ignorance, and consequent degradation *as a mass*, we are behind in general advancement. We can, therefore, less afford to equal other races in that which still further debases, degrades and impoverishes.”<sup>74</sup> Wells’s concerns extended liquor’s role in impeding racial progress and connected intemperance to a system that justified the criminalization of Blackness.

Like Harper, Wells advocated for organized resistance against liquor and urged church leaders and women’s groups to lead the work.<sup>75</sup> Black civic leaders in Chicago took up these concerns about intemperance. In 1901, the Phyllis Wheatley Club celebrated their success closing a saloon in a Black neighborhood at that year’s National Association of Colored Women’s biennial meeting.<sup>76</sup> According to delegates, the saloon in question was near a school and particularly disreputable.<sup>77</sup> Black women’s advocacy against liquor was connected to activism to protect young girls from the “dangers of city life” that might lure “young city women away from the path of propriety.”<sup>78</sup> Indeed, the same year they engaged in a campaign to shut

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Despite Harper’s activism and success recruiting Black women to the WCTU, the organization was plagued with racism and racial division. Frances Walker, leader of the WCTU, exchanged the dignity and fairness of Black members for the inclusion of White southern women. The subsequent power of the southerners shaped Walker’s willingness to publicly advocate against lynching and ultimately eroded Black women’s support for the organization. See FREDERICK DOUGLASS, *WHY IS THE NEGRO LYNCHED?: THE LESSON OF THE HOUR* (1894), reprinted in 4 *THE LIFE AND WRITINGS OF FREDERICK DOUGLASS: RECONSTRUCTION AND AFTER* 491, 495 (Philip S. Foner ed., 1955); Fiona Maxwell, *The Activism and Artistry of Frances Ellen Watkins Harper*, FRANCES WILLARD HOUSE MUSEUM & ARCHIVES (July 24, 2020), <http://franceswillardhouse.org/the-activism-and-artistry-of-frances-ellen-watkins-harper/> [perma.cc/F4NY-SLM6].

<sup>72</sup> Harper, *supra* note 71, at 379.

<sup>73</sup> Fulton, *supra* note 70, at 215.

<sup>74</sup> Ida B. Wells, *All Things Considered*, AME CHURCH REV. (1891), reprinted in 6 *AFRICAN AMERICAN FEMINISMS 1828–1923: INTERRACIAL AND BLACK FEMINIST ORGANIZING*, *supra* note 71, at 395, 395–97.

<sup>75</sup> Harper, *supra* note 71, at 382; Wells, *supra* note 74, at 397.

<sup>76</sup> *National Association of Colored Women Holds [Biennial Meeting in Buffalo]*, *THE APPEAL* (Minn.), July 20, 1901, at 2.

<sup>77</sup> ELIZABETH LINDSEY DAVIS, *THE STORY OF THE ILLINOIS FEDERATION OF COLORED WOMEN’S CLUBS 1900–1922*, at 16 (1922).

<sup>78</sup> BLAIR, *supra* note 25, at 202 (internal quotation and citation omitted).

down saloons, the Phyllis Wheatley Club organized the “Sunshine Club” to keep vulnerable girls ages nine to eighteen out of harms’ way.<sup>79</sup> Black women continued to open homes that would protect Black girls and women from becoming fallen women throughout the early 1900s.<sup>80</sup>

Simply put, saloons and other vice institutions were seen as a nuisance that had a corrupting and demoralizing influence on the community, and anti-saloon activism was taken up within the middle-class Black community throughout the nation.<sup>81</sup> Activists focused on grassroots legal change, as well as pushing for equal educational and employment opportunities for Black communities.<sup>82</sup> For Black activists the saloon did not merely represent an undesirable neighborhood institution, nor did the crusade against saloons solely represent the imposition of middle-class values on working-class and poor Black people. Rather, activists viewed the overabundance of saloons in Black neighborhoods as a threat to the flourishing of Black people writ large.

<sup>79</sup> *Id.* at 203.

<sup>80</sup> Anne Meis Knupfer, *If You Can’t Push, Pull, If You Can’t Pull, Please Get out of the Way: The Phyllis Wheatley Club and Home in Chicago, 1896 to 1920*, 82 J. NEGRO HIST. 221, 221 (1997); ANNE MEIS KNUPFER, TOWARD A TENDERER HUMANITY AND A NOBLER WOMANHOOD: AFRICAN AMERICAN WOMEN’S CLUBS IN TURN-OF-THE-CENTURY CHICAGO 65–70, 81 (1996); BLAIR, *supra* note 25, at 201–05. The efforts in Chicago foreshadowed a national movement to eradicate saloons and other vice institutions from Black neighborhoods. Activists believed restricting saloon licenses was key to improving neighborhood conditions. *National Law and Order Association.*, AFRO-AM. LEDGER (Md.), Sep. 12, 1908, at 4; *Plan Law and Order League: Convention of Colored Men and Women to Form Organization in Chicago*, WASH. POST, Aug. 30, 1908, at 1. Reformers also looked to Baltimore for a success story of community activism against saloons in Black neighborhoods. During a hearing to pass an ordinance restricting saloons in a Black neighborhood in Baltimore, supporters evocatively referring to saloons as “social cancers” that “nullified” the positive influence of the neighborhoods’ many schools and churches. Indeed, a biracial coalition of ministers and the Baltimore School Board supported this characterization, and, over the objections of the saloon owners and the police, the petition to revoke several licenses and deny others that were up for renewal passed. JAMES H.N. WARING, WORK OF THE COLORED LAW AND ORDER LEAGUE: BALTIMORE, MD. 20–25 (1908).

<sup>81</sup> As an example of this work, THE CRISIS reported on anti-saloon activity in Tennessee in 1911, Opinion, 3 THE CRISIS 13, 17 (1911); Chicago in 1914, *Along the Color Line*, 8 THE CRISIS 264, 267 (1914) [hereinafter THE CRISIS, 1914]; Chester, PA in 1915, *Along the Color Line*, 9 THE CRISIS 111, 112–13 (1915); Ohio in 1915, Carrie W. Clifford, “Votes for Children,” 10 THE CRISIS 185, 185 (1915); Kansas City in 1917, *Miscellaneous*, 13 THE CRISIS 239, 239 (1917); and New Haven in 1920, Edward F. Goin, *One Hundred Years of Negro Congregationalism in New Haven, Conn.*, 19 THE CRISIS 177, 180 (1920). In 1918, in a reflection on his childhood, Du Bois recalled that his mother warned him early on that saloons were an “open door to hell.” W.E.B. Du Bois, *The Shadow of Years*, 15 THE CRISIS 167, 168 (1918).

<sup>82</sup> *Stamp out Vice, Aim of Negroes: Race Leaders in Chicago to Make War on Colored People’s Dens*, CHI. DAILY TRIB., Aug. 18, 1908, at 2; *National Law and Order Association.*, *supra* note 80, at 4; *Police Start War on Vice: Social Evil on South Side Is Appalling, Club Women and Ministers Asleep*, CHI. DEF., May 12, 1917, at 1, 3.

For many of the Progressive Era's most well-known Black elites, temperance was "one of the cardinal virtues necessary to success,"<sup>83</sup> and the presence of saloons in Black neighborhoods reified White stereotypes about Black criminality, idleness, and immorality.<sup>84</sup> Saloons themselves were connected with neighborhood violence and disorder, but they also diminished the dignity of the people living in saloon-adjacent neighborhoods by imputing the immoral values of the saloon onto the perceived moral worth of the people therein.<sup>85</sup> The imposition of saloons in Black neighborhoods encroached on the Black community's "time, talents, labor and money" and perpetuated the assumption that Black people were tolerant of the degrading conditions represented by the saloon.<sup>86</sup> For no one was the threat of the saloon more acute than for the Black children in Chicago's second and third wards.

### B. *Local Regulation and the Distribution of Moral Geographies*

Prohibition politics helped build Chicago's boundaries. As the city expanded its borders by annexing neighboring towns in the late 1880s, many new areas demanded they keep their own prohibition rules as part of the annexation terms.<sup>87</sup> As a result, wealthier neighborhoods were able to designate certain streets "anti-saloon territory." By the late 1890s, informal political agreements enabled aldermen to dedicate small parts of their districts as anti-saloon territory.<sup>88</sup> The ability of neighborhoods to "go dry" was strengthened in 1907, when the state legislature passed a local option law granting voters the ability to choose if and how alcohol could be sold in their precinct.<sup>89</sup> The law depended on political organizing and the support of voting-age men to work: first, a petition needed to be signed by one-quarter of the total vote count from the previous election; next, a simple majority was required to approve the petition to establish a precinct as anti-saloon territory.<sup>90</sup>

This practice benefited White, wealthy, politically connected neighborhoods where residents had the time and means to organize a petition and solicit signatures.<sup>91</sup> Moreover, middle-class men were less reliant than poor and working-

<sup>83</sup> Wells, *supra* note 74, at 395.

<sup>84</sup> See BOOKER T. WASHINGTON, *2 THE STORY OF THE NEGRO: THE RISE OF THE RACE FROM SLAVERY* 356–82 (Negro Univs. Press 1969) (1909).

<sup>85</sup> See Wells, *supra* note 74, at 396.

<sup>86</sup> *Id.*

<sup>87</sup> PERRY R. DUIS, *THE SALOON: PUBLIC DRINKING IN CHICAGO AND BOSTON, 1880–1920*, at 211–12, 215, 217 (Illini Books 1999).

<sup>88</sup> *Id.* at 216–17.

<sup>89</sup> See S.B. 504, 45th Gen. Assemb., Reg. Biennial Sess. (Ill. 1907).

<sup>90</sup> *Id.*

<sup>91</sup> See, e.g., *Fight for a Dry Chicago: Anti-Saloon Forces Announce That They Will Start a Campaign Oct. 1*, N.Y. TIMES, Sep. 27, 1909, at 1.

class men on the saloon as a space for leisure.<sup>92</sup> Amongst the middle class, campaigns against the saloon were not necessarily in favor of temperance, but rather represented advocacy against the excess spending and debauchery that often came with saloons.<sup>93</sup> Middle-class men had alternatives to the neighborhood saloon: they could drink in the privacy of their home or they could frequent a saloon in the Loop, Chicago's central downtown district, after work. Drinking among women was more private than among men, as women generally did not frequent the saloons.<sup>94</sup> Vice reformers were acutely concerned with public drinking amongst the poor and working class, who were most vulnerable to the economic exploitation that occurred at the saloon and least likely to have access to "respectable" forms of recreation.<sup>95</sup>

For both men and women, opportunities for private drinking and (relatively) respectable forms of public consumption were more available for the middle and upper class than for the poor and working class. Therefore, supporting an "anti-saloon" petition for their neighborhood asked less of the middle class than it did of working class and poor men whose options to enjoy a drink were generally limited to the local saloon. By 1909, nearly two-thirds of the city's middle-class neighborhoods had voted themselves anti-saloon territory, leaving licensed saloons to crowd into the Loop and the poor, working-class, and, over time, Black neighborhoods of the city.<sup>96</sup> By advocating for local option laws that protected their neighborhoods from vice institutions, private organizations and actors leveraged their political power in a way that hindered the ability of neighborhoods with less economic and political power to protect the moral reputation of their own neighborhood.

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<sup>92</sup> Working class and poor men were more likely to live in cramped homes with little privacy, while middle-class homes afforded the luxury of space. DUIS, *supra* note 87, at 111–12, 205, 211. Jon Grinspan argues that saloons served an important function in democracy by providing a space in which working class people (mostly men) could debate ideas. Jon Grinspan, Opinion, *The Saloon, America's Forgotten Democratic Institution*, N.Y. TIMES (Nov. 26, 2016), <https://www.nytimes.com/2016/11/26/opinion/sunday/the-saloon-americas-forgotten-democratic-institution.html> [<https://perma.cc/L4KQ-FV9Z>].

<sup>93</sup> F.T., *Voice of the People: Moderate Drinking and the Saloon*, CHI. DAILY TRIB., Mar. 4, 1910, at 10.

<sup>94</sup> DUIS, *supra* note 87, at 106; MICHELLE L. MCCLELLAN, *LADY LUSHES: GENDER, ALCOHOLISM, AND MEDICINE IN MODERN AMERICA* 25, 45, 51 (2017). McClellan highlights that the few saloons that welcomed women would create spatial barriers for women to keep them separate from male patrons. MCCLELLAN, *supra*, at 52.

<sup>95</sup> *Id.* During this time, new forms of urban leisure, such as cabarets and dance halls, began to cater to a middle-class clientele. Changes in leisure coincided with a rise in women attending college and the workforce, and began to reshape gender norms surrounding the social lives of young women. *Id.* at 54–57. These new forms of leisure institutions also provided more spaces for interracial socializing, especially among young people. For analysis of how interracial leisure institutions shaped racial politics and the policing of Black neighborhoods in Chicago, see SHABAZZ, *supra* note 18, at 12–14; MUMFORD, *supra* note 25, at 14, 21, 30–32.

<sup>96</sup> DUIS, *supra* note 87, at 217.

1. *The Political Economy of Segregated Vice Institutions*

In the first decade of the 20th century, Chicago managed vice through a policy of segregation, whereby vice institutions were concentrated in three red-light districts.<sup>97</sup> The largest of these districts, the Levee, was located near downtown just north of the residential area where Chicago's growing Black population tended to live.<sup>98</sup> Between 1900 and 1910, the rise of vice syndicates, aided by police graft, changed the political economy of saloons in the South Side Twenty-Second Street Levee District.<sup>99</sup> Vice proved to be a lucrative business for police, and in 1907 police were estimated to have received over \$200,000 a year in payments tied to "immoral" leisure resorts.<sup>100</sup> In order to avoid police raids, license revocation, and/or arrest, saloonkeepers had to pay steep fees to police and syndicate bosses.<sup>101</sup> Unable to pay the fees required to stay in business, many Black-owned saloons were raided or closed, and by 1905 the number of Black-owned saloons had precipitously declined.<sup>102</sup> During this time, saloons that catered to a racially mixed crowd were also targeted by police, and most "leisure resorts" in the Levee began catering to White men and some White women.<sup>103</sup> These institutions did not entirely exclude Black people; rather, young Black men and women were hired as servers, while Black musicians provided entertainment.<sup>104</sup> The spatial landscape of the saloon therefore reflected the complex relationships between race, immorality, and leisure: within the saloon, itself an institution bordering on vice and immorality, Black people were relegated as servants or entertainment, but not as humans worthy of leisure itself.

In addition to providing leisure for men and profits for the saloonkeepers, saloons were an important source of revenue for the city. In 1906, a heated battle to raise the saloon tax to \$1,000 broke out in the city council.<sup>105</sup> For reformers, the added tax was viewed as a deterrent for saloons; for city officials, it was a way to

<sup>97</sup> For an analysis of the political economy of vice districts and reformers' economic critiques of segregated vice, see Mara L. Keire, *The Vice Trust: A Reinterpretation of the White Slavery Scare in the United States, 1907–1917*, 35 J. SOC. HIST. 5, 13–14 (2001). In *The Vice Trust*, Keire argues that segregated vice represented an early experiment with municipal zoning, although one that many supporters later found disgraceful. *Id.* For a detailed discussion of the policy of segregated vice and the shift towards scatteration of vice, see KEIRE, *supra* note 25, at 5–11, 49–50, 55–56, 86–87.

<sup>98</sup> MUMFORD, *supra* note 25, at 26.

<sup>99</sup> Keire, *supra* note 97, at 9–10; BLAIR, *supra* note 25, at 127, 129–30.

<sup>100</sup> See George Kibbe Turner, *The City of Chicago: A Study of the Great Immoralities*, 28 McClure's Mag. 575, 587 (1907).

<sup>101</sup> *Id.* at 587–88; BLAIR, *supra* note 25, at 140–42.

<sup>102</sup> BLAIR, *supra* note 25, at 140.

<sup>103</sup> *Id.* at 141–42. Interracial saloons and resorts would resurface after the breakup of the Levee District in 1912. MUMFORD, *supra* note 25, at 22, 26–27.

<sup>104</sup> ABSHER, *supra* note 65, at 22.

<sup>105</sup> *License Battle Growing Warmer: Advocates of Higher Saloon Tax Are Called On to Interview Aldermen*, CHI. DAILY TRIB., Feb. 13, 1906, at 3.

placate anti-saloon groups while potentially increasing revenue from vice regulation.<sup>106</sup> Although the tax wouldn't get rid of saloons, it would materially benefit the city by bringing in additional money. Among the aldermen supporting the measure was Alderman Harding, who faced strong pressure from the Black population in the second ward who believed this increased tax would help slow the expansion of saloons in Black neighborhoods.<sup>107</sup>

However, instead of being used for services that could improve the well-being of the communities that disproportionately housed saloons, the intended use of this additional revenue was to add 1,000 policemen who would provide "relief from crime and disorder."<sup>108</sup> The irony, of course, is that the saloons themselves were sources of crime and disorder, and the increased tax was used to pay for the policing of the harms brought on by the institution being taxed. Rather than benefiting the residents of the communities impacted by proximity to saloons, the tax ultimately benefited the police and wealthy saloonkeepers who could afford the increased license fee.<sup>109</sup>

The moral interests of middle-class reformers (both White and Black) in closing vice institutions often ran counter to the financial interests of city officials, police, and vice syndicates. Indeed, city officials had vested interests in the ongoing operations of saloons through taxes and oftentimes a private interest in other vice institutions through kickbacks.<sup>110</sup> As a result, the ability of reformers to shape the legal geography was often hyperlocal, and limited to the previously discussed local option petitions which favored neighborhoods with wealth and political power. By 1910, however, this balance of power would shift in favor of reformers, and a new policy of vice regulation would come into being.

## 2. *Race, Place, and the Regulation Scattered Vice*

In 1910, after years of political pressure from social reformers concerned with the issue of prostitution, drinking, and other social ills, Mayor Fred A. Busse appointed the Chicago Vice Commission to investigate the "social evil" in Chicago.<sup>111</sup> A leading push behind anti-prostitution advocacy was the fear of "White

<sup>106</sup> *See id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*; see *The Reform Wave Continues to Sweep Over Chicago*, BROAD AX (Chi.), Mar. 10, 1906, at 1.

<sup>109</sup> For a discussion of police graft and saloons, see RICHARD C. LINDBERG, *TO SERVE AND COLLECT: CHICAGO POLITICS AND POLICE CORRUPTION FROM THE LAGER BEER RIOT TO THE SUMMERDALE SCANDAL, 1855–1960*, at 119–26 (1998).

<sup>110</sup> For a discussion on kickbacks and graft associated with vice institutions, see Jeffrey Wiltse, "I Like to Get Around": *City Girls in Chicago Music Saloons, 1858–1906*, 39 J. URB. HIST. 1125, 1135–36 (2013); KEIRE, *supra* note 25, at 6–12, 77–78.

<sup>111</sup> Eric Anderson, *Prostitution and Social Justice: Chicago, 1910–15*, 48 SOC. SERV. REV. 203, 204, 207 (1974).

slavery,” or the procurement of young White women into a life of prostitution.<sup>112</sup> Although it drew on the same rhetorical tools as the 19th century “White slavery scare” rooted in sweatshop labor, the 20th century version of White slavery focused on the abduction of White girls by men (usually foreign, ethnic European men) for the purposes of sex and prostitution.<sup>113</sup> White slavery opponents centered on two campaigns: first, laws and policies that would prevent young White girls from becoming prostitutes; and second, laws and policies that would destroy the markets of commercial vice that trapped women who had already become sex workers.<sup>114</sup> Destroying geographies of concentrated vice became the central focus of these reformers.<sup>115</sup>

When the Vice Commission released its findings, it recommended that the city abandon its policy of allowing the police to regulate vice within a segregated district, and instead advocated for the disbandment of the Levee District.<sup>116</sup> Furthermore, the Commission clearly condemned the movement of vice into Black communities.<sup>117</sup> Seemingly overnight, police raided the most infamous vice institutions in the Levee, putting an end to the tacit acceptance of the red-light district.<sup>118</sup> Vice did not disappear from the city; instead, as the Black community had feared, it reappeared (underground) throughout the Black Belt.<sup>119</sup>

The scattering of vice shaped the legal and moral geography of the Black Belt in important ways. The city’s new policy of vice enforcement expanded the web of social policing experienced by Black communities as new legal strategies—such as abatement and injunction laws used to shut down houses of ill-fame, brothels, hotels of assignation, and, under Prohibition, saloons—expanded state power to intervene with private business, while police raids were used to arrest “prisoners” at vice institutions.<sup>120</sup> A cadre of White inspectors from the Juvenile Protective

<sup>112</sup> *Id.* at 205; BRIAN DONOVAN, *WHITE SLAVE CRUSADES: RACE, GENDER, AND ANTI-VICE ACTIVISM, 1887–1917*, at 1, 19–20 (2006); MUMFORD, *supra* note 25, at 14; BLAIR, *supra* note 25, at 141–42.

<sup>113</sup> See Keire, *supra* note 97, at 5, 7–8.

<sup>114</sup> *Id.* at 17–19.

<sup>115</sup> *Id.*; Anderson, *supra* note 111, at 207.

<sup>116</sup> See VICE COMM’N OF CHI., *supra* note 61, at 59–60.

<sup>117</sup> Thusi, *supra* note 27, at 1607–08.

<sup>118</sup> MUMFORD, *supra* note 25, at 26–27.

<sup>119</sup> See *id.* at 27–28; SHABAZZ, *supra* note 18, at 12. The Chicago Defender warned that the breakup of the Levee would result in “scattering the denizens of the red light district and menacing the residence districts of the race” because “[t]he underworld must live.” *The Vice Crusade in Chicago; Negroes’ Part*, CHI. DEF., Oct. 12, 1912, at 1. The paper urged careful regulation of vice, cautioning: “School Children, Youths and Young Misses Must Not Be Contaminated,” and further called for the Black community to take a greater stance against vice. *Id.*

<sup>120</sup> On the development of new legal strategies, see MACKKEY, *supra* note 64, at 37–41, 278–79. For an example of police raids, see *Police Start War on Vice: Social Evil on South Side Is*

Association (JPA) and the Committee of Fifteen began surveilling the South Side of Chicago to identify places of “immorality,” while a new Morals Court was established to handle cases of prostitution and “immoral” women.<sup>121</sup> Indeed, regulations enacted at the end of segregated vice greatly increased the power of private reform groups to police the public space. The policing of vice also expanded the use of carceral power to manage institutions in the Black Belt, especially as interracial vice institutions proliferated in Black neighborhoods.<sup>122</sup>

Black Chicagoans used a variety of tactics to resist the movement of vice into their community. For example, the Committee of Ten Thousand of the Second Ward (the Committee) formed to survey and address the common “problems with which the Race In Chicago is confronted.”<sup>123</sup> Distinguishing itself from other civic groups such as the JPA and the Committee of Fifteen, the Committee did not stop at investigations, but rather used “the courts and the ballot” to improve the moral, educational, and labor conditions afforded to Black Chicagoans.<sup>124</sup> As one example of the Committee’s work, they engaged in a careful investigation of the moral conditions surrounding schools, including: “What evils exist within or without the schools which may be considered to militate against the opportunities of our boys and girls acquiring a good education which will take them to their places in the great world of affairs as good American citizens?”<sup>125</sup> Here, the Committee conveys the important relationship between schools and their neighborhood conditions: “evils” surrounding the school mitigate the opportunities possible within the school, and therefore their democratic potential.

For the Committee, ensuring the landscape of the Second Ward aligned with the values of the people therein reflected a belief that immoral and discriminatory social conditions were antithetical to the practice of democracy and the cultivation

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*Appalling, Club Women and Ministers Asleep*, *supra* note 82, at 1.

<sup>121</sup> The JPA was an organization focused on social policies that would improve the conditions of poor children. Carol Nackenoff & Kathleen S. Sullivan, *The House That Julia (And Friends) Built: Networking The Chicago Juvenile Court*, in *STATEBUILDING FROM THE MARGINS: BETWEEN RECONSTRUCTION AND THE NEW DEAL* 171, 190–93 (Carol Nackenoff & Julie Novkov eds., 2014). They were often in tension with the Committee of Fifteen, a group of men appointed to investigate the conditions of vice in the city. See *COMM. OF FIFTEEN, ANNUAL REPORT OF THE COMMITTEE OF FIFTEEN* 1–4 (1912). For a discussion of the Morals Court, see MICHAEL WILLRICH, *CITY OF COURTS: SOCIALIZING JUSTICE IN PROGRESSIVE ERA CHICAGO* 177–78 (2003).

<sup>122</sup> SHABAZZ, *supra* note 18, at 30. For a detailed analysis of how the entrenchment of vice and hysteria regarding interracial sex played a role in expanding carceral power in Chicago’s Black Belt, see *id.* at 11–30.

<sup>123</sup> Frank LeMar Vaughn, *Committee of Ten Thousand; Its Purposes and Its Works*, *CHI. DEF.*, Nov. 10, 1917, at 7.

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

of citizens prepared for self-rule.<sup>126</sup> This stance aligned with a long-standing tradition among Black abolitionists that tied temperance with freedom.<sup>127</sup> While the Black community generally supported anti-vice efforts and were aligned with the goals of the White temperance movement, Black people were aware of how the implementation of anti-vice reforms occurred in a way that pathologized Black people as immoral and criminal.

For example, White reformers espoused an environmental argument to explain the conditions of poverty in Black neighborhoods: housing and employment discrimination confined Black Chicagoans to the city's worst neighborhoods and jobs; as was the case with ethnic European immigrants, Black Chicagoans would, with time, work their way out of these impoverished neighborhoods.<sup>128</sup> However, as racial discrimination increasingly segregated and confined Black people within the boundaries of the growing Black Belt, a parallel narrative emerged that the Black community lacked the ability and will to change environmental conditions.<sup>129</sup> As a result, White reformers reflected a belief that the conditions experienced by Black people were a result of both racial discrimination and their own ignorance and lack of initiative.<sup>130</sup> This logic led to paternalistic solutions that led to the surveillance of the social and familial conditions in Black communities, rather than an interrogation of the laws and policies that shaped the landscape of the Black Belt.<sup>131</sup>

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<sup>126</sup> See *id.*

<sup>127</sup> SCHRAD, *supra* note 70, at 308–09.

<sup>128</sup> For a detailed discussion of environmental arguments regarding reform, see Moira Elizabeth Hinderer, *Making African-American Childhood: Chicago, 1915–1945* (2007) (Ph.D. dissertation, University of Chicago) (on file with author).

<sup>129</sup> Hinderer shows how these two narratives trapped African Americans in a circular logic that connected environmental conditions with the initiative of the individual. *Id.* Housing segregation, enforced by coercive measures (bombings and the threat of violence against Black people who moved out of segregated Black areas), and legal practices (such as redlining and restrictive covenants) prevented Black people from moving out of hyper-segregated areas. Although ethnic European immigrants experienced discrimination, they did not experience the type of restricted mobility imposed on the Black community. The color line confined Black Chicagoans in specific South Side neighborhoods in ways that ethnic immigrants did not experience. See THOMAS LEE PHILPOTT, *THE SLUM AND THE GHETTO: IMMIGRANTS, BLACKS, AND REFORMERS IN CHICAGO, 1880–1930*, at 147–48 (1991); SHABAZZ, *supra* note 18, at 35.

<sup>130</sup> Hinderer, *supra* note 128. The Black community conveyed a broader understanding of vice that refused the narrow moral frame urged by White reformers and instead situated the problem of vice within the racialized political economy. *Id.*

<sup>131</sup> Black Chicagoans resisted the paternalism of the JPA and other reform groups in a variety of mundane ways: Black saloonkeepers refused to admit white inspectors from the Committee of Fifteen, while Black school children were recorded taunting JPA inspectors trying to judge the morality of their living conditions. For a detailed discussion of Chicago's Committee of Fifteen, see MUMFORD, *supra* note 25, at 4, 22–27; for anecdotes of the JPA officers, see generally Records of the Juvenile Protective Association, Box 6, Folder 92 (1923) (on file with author) (providing internal JPA files).

After 1913, the Black Belt became the city's new, albeit unofficial, Levee District, with a complex set of political interests leading to the entrenchment of vice in Black communities. Alderman Oscar De Priest, a Black man who represented the Second Ward, was sensitive to the employment benefits that saloons offered to Black people, who were often shut out from work in more "reputable" institutions.<sup>132</sup> When reformers threatened to shut down the Panama Saloon, located on State Street in the heart of the Black Belt, Alderman De Priest argued against its closure because "sixty colored men and girls were employed in the place" and because it offered an essential source of employment for the Black community.<sup>133</sup> De Priest's statement reflected an acknowledgement of the economic exclusion and exploitation that caused Black workers to rely on vice institutions as essential sources of employment. Rather than attacking saloons directly, which could negatively impact Black workers, he advocated for anti-discrimination policies that would prevent White-owned businesses from discriminating against Black patrons and jobseekers.<sup>134</sup>

For everyday Black Chicagoans, however, saloons weren't seen as potential places of employment; rather, saloons in the Black Belt took up valuable real estate that could have been used for housing, playgrounds, or other centers of recreation. When a saloon owner attempted to open a saloon at East 37th Street and Forest Avenue, a quiet residential area of the Black Belt, Black residents protested and petitioned Mayor Harrison to deny the license.<sup>135</sup> Initially, the mayor appeared to respond to the residents' petition, holding off from granting the license—until he was defeated at the primaries.<sup>136</sup> The mayor's friend (and influential businessman) was the head of the corporation that supplied beer to the saloon, showcasing how money and political power forced saloons and other institutions of vice onto Black residents.<sup>137</sup>

Vice was able to flourish in the Black Belt because of a system of patronage politics and police kickbacks that incentivized ignoring vice in a community that had less political power than the ethnic immigrant enclaves protected by White reformers. In 1919, the Chicago Whip, a Black-owned newspaper, criticized Black aldermen's support of vice through patronage, asking:

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<sup>132</sup> DUIS, *supra* note 87, at 158.

<sup>133</sup> JUNIUS B. WOOD, THE NEGRO IN CHICAGO: HOW HE AND HIS RACE KINDRED CAME TO DWELL IN GREAT NUMBERS IN A NORTHERN CITY; HOW HE LIVES AND WORKS; HIS SUCCESSES AND FAILURES; HIS POLITICAL OUTLOOK: A FIRST-HAND STUDY 25 (Chi. Daily News 1916). Notably, many of De Priest's constituents did not support him on this issue. DUIS, *supra* note 87, at 158.

<sup>134</sup> DUIS, *supra* note 87, at 158.

<sup>135</sup> WOOD, *supra* note 133, at 25–26.

<sup>136</sup> *Id.* at 26.

<sup>137</sup> *See id.*

Is vice immunity the only plum that Negro aldermen can secure in the way of patronage? . . . Would the voters of the Second Ward prefer to have open and protected vice to playgrounds and free milk stations? . . . Is the average colored satisfied to see Civil Service perverted to the patronage system of politicians?<sup>138</sup>

The paper went further in 1923, arguing that Mayor Thompson's "[B]lack friends permitted and most likely converted the once fashionable south side into the city's cesspool."<sup>139</sup> In addition to accusing Black politicians and elites of trading the dignity of the South Side for political favors, the paper's mention of the "once fashionable" characteristic of the neighborhood conveys a longing for what could have been. The Whip recognized that vice was not an inevitable consequence of the migration of Black people to the city, but rather a creation of strategic political bartering and the greed of White entrepreneurs who profited from vice in the Black Belt.

Importantly, many of the vice institutions permitted in the Black Belt were operating illegally. In 1919, Louise Demarest Taylor, an active White reformer in the temperance movement, reported: "It is reported that vice, gambling and illegal liquor selling have been running wild all through the black belt and in other parts of the city. We must not overlook the fact that lax enforcement of any law breeds contempt for all law."<sup>140</sup> She went on to reflect: "I have no hesitance in saying that if there had been a strict enforcement of law regarding vice, gambling and illegal liquor selling, there would have been no race riots in Chicago."<sup>141</sup>

While many reformers commented on the relationship between proximity to vice and juvenile delinquency, here, Taylor identifies another danger of vice: by ignoring the law and permitting vice institutions to flourish illegally in the Black Belt, the city tacitly gave license for White mobs to also ignore the law in their violent assault on Black people. By sacrificing the moral geography of the Black Belt in favor of the economic interests of White vice syndicates, vice regulations calcified White people's conceptual othering of Black people as undeserving of protection. The lawlessness of vice regulation in the Black Belt not only undercut Black people's ability to shape their neighborhoods, but it also permitted White outlaw culture to fester throughout the city.<sup>142</sup>

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<sup>138</sup> HAROLD F. GOSNELL, *NEGRO POLITICIANS: THE RISE OF NEGRO POLITICS IN CHICAGO* 60 (1967) (alteration in original) (citing CHI. WHIP, Dec. 13, 1919).

<sup>139</sup> *Id.* (citing CHI. WHIP, Feb. 10, 1923).

<sup>140</sup> Lea Demarest Taylor Papers, Box 2, Folder 29 (1919) (on file with author) (providing part of a collection of correspondence, memos, articles, and more of Lea Demarest Taylor).

<sup>141</sup> *Id.*

<sup>142</sup> Khalil Gibran Muhammad, *The Foundational Lawlessness of the Law Itself: Racial Criminalization & the Punitive Roots of Punishment in America*, DÆDALUS: J. AM. ACAD. ARTS & SCIS., Winter 2022, at 107, 109 (describing "White outlaw culture" as a culture that "rewarded brute force and strength of arms against racialized others").

Vice neighborhoods were underground, illegal spaces constructed because politicians, businessmen, and police exploited the political vulnerability of Black communities and enabled vice to flourish therein. The tacit acceptance of illegal vice institutions in the Black Belt had an educative effect on non-Black people. It produced “cognitive distortions” that constructed Black people as others undeserving of legal protections.<sup>143</sup> Seeing that Black communities did not seem to deserve the protection of vice laws led these mobs to construct Black communities as both inferior and unworthy of legal protections.

### C. *Vice, Children, and Educational Geographies*

Anti-vice activism was not just about eradicating drinking, debauchery, and prostitution; rather, activists sought to preserve the moral futures of the city’s children by protecting them against the evils of excessive drinking and sexual immorality. In the early 1900s, the saloon became the newest institution to shoulder the blame for juvenile delinquency.<sup>144</sup> The link between saloons, vice, and juvenile crime was codified in a 1905 revision to the Juvenile Court Act, which amended the definition of a delinquent child as one “who is growing up in idleness or crime; or who knowingly frequents a house of ill-repute . . . or who frequents any saloon or dram shop where intoxicating liquors are sold.”<sup>145</sup> The inclusion of status crimes in the definition of delinquency represented a dramatic expansion of acts that would be legally considered “delinquent,” as prior to 1905 a delinquent child was simply one who violated the laws of the state.<sup>146</sup>

That same year, in response to advocacy by the JPA, a politically powerful group of White, middle-class reformers, the legislature also expanded parents’ liability for delinquency by making it a misdemeanor to “knowingly or wilfully” contribute to the “dependency, negligence, or delinquency” of a child.<sup>147</sup> By 1905, the association between the saloon and delinquency was no longer theoretical; rather, the presence of neighborhood saloons and other vice institutions increased the possibility that children and their parents would be accused of delinquency or contributing to delinquency.<sup>148</sup>

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<sup>143</sup> See Wynter, *supra* note 67, at 9.

<sup>144</sup> See, e.g., *Saloon as School Neighbor Blamed for Crimes of Youth*, CHI. DAILY TRIB., Feb. 6, 1907, at 11.

<sup>145</sup> Juvenile Courts—Revisions of Act, 44th Gen. Assemb., Reg. Biennial Sess. (Ill. 1905).

<sup>146</sup> A “status crime” or “status offense” is an act that is illegal only when conducted by a certain class of people, most often minors. Examples include truancy, running away from home, incorrigibility, and underage drinking. Jonathan Todres, *Independent Children and the Legal Construction of Childhood*, 23 S. CAL. INTERDISC. L.J. 261, 285 (2014).

<sup>147</sup> Delinquent Child—Liability of Parent of Guardian, 44th Gen. Assemb., Reg. Biennial Sess. (Ill. 1905).

<sup>148</sup> See CLIFFORD R. SHAW & HENRY D. MCKAY, JUVENILE DELINQUENCY AND URBAN

For the city's Black and immigrant children, who lived most proximate to vice institutions and often lacked access to recreational facilities, these laws legitimized a wide net of presumed delinquency that centered on immoral behaviors. In this sense, the advocacy of the JPA and other reformers refined a legal landscape of vice that operated on a conceptual register. By expanding the legal definition of delinquency to include vice institutions, these reformers conceptually tethered the presence of vice institutions with the boundaries of delinquency and deviance in the city. The moral futures of children were central to this conceptual mapping.

Amidst this expanded definition of delinquency, schools and schoolchildren were mobilized as symbols of what was at stake in the anti-saloon campaign.<sup>149</sup> Children were paraded around the city behind the banner "The Saloon or the Boys and Girls," and were staged at polling places to warn men of the true cost of selling their vote to pro-saloon candidates.<sup>150</sup> The saloon became a physical symbol of the risks the city posed to children, and reformers responded to the perceived threat of delinquency by trying to defend the neighborhood, including the school, against the saloon.

In the first decade of the 20th century, reformers took action to defend schools against the perceived immoral and criminal influences of the saloon. Saloons were particularly an issue in the poor, immigrant areas of the city where they provided a much-desired form of leisure for those who could not or would not access saloons and other vice institutions in the Levee District.<sup>151</sup> Although there was no law prohibiting a saloon from being located near a school, the mayor had a long-standing custom of denying petitions for saloons that would be close to schools.<sup>152</sup> This informal policy of mayoral discretion proved insufficient for protecting the space around schools, and by 1905, Mayor Edward Dunne was contemplating strengthening his predecessor's 250-foot rule.<sup>153</sup> In order to investigate the efficacy of this rule, the mayor ordered the chief of police to identify all saloons within

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AREAS: A STUDY OF RATES OF DELINQUENCY IN RELATION TO DIFFERENTIAL CHARACTERISTICS OF LOCAL COMMUNITIES IN AMERICAN CITIES 65–67 (rev. ed. 1969). Between 1900 and 1906, the highest rates of juvenile delinquency, as measured by commitment to a juvenile correctional institution, were in the areas surrounding the central business district, or "the Loop." *Id.* Children committed to these institutions were disproportionately drawn from immigrant and Black families, with poverty being the largest predictor of commitment. *Id.* at 52, 55–57. This same group of children came from neighborhoods most proximate to high numbers of vice institutions, suggesting a correlation between vice, poverty, and risk of delinquency. *Id.* at 67.

<sup>149</sup> *Children to Fight Saloons*, CHI. DAILY TRIB., Apr. 3, 1908, at 4; *Saloon Foes Hard at Work: Enlist School Pupils in Work of Circulating Petitions for Local Option Election*, CHI. DAILY TRIB., Dec. 30, 1909, at 2.

<sup>150</sup> *Children to Fight Saloons*, *supra* note 149, at 4.

<sup>151</sup> DUIS, *supra* note 87, at 111, 128, 164.

<sup>152</sup> *Mayor Opens New Crusade*, CHI. DAILY TRIB., June 8, 1905, at 1; *Saloon Too Near a School*, CHI. DAILY TRIB., Apr. 30, 1908, at 11.

<sup>153</sup> *Mayor Opens New Crusade*, *supra* note 152, at 1.

250 feet of a school or church.<sup>154</sup> According to Chief O'Neil's report, 235 saloons were within 250 feet of 103 of the city's schools.<sup>155</sup> At the top of the list were four schools serving ethnic European immigrant communities: the Dante School (16 saloons within 250 feet), the Montefiore School (11 saloons within 250 feet), the Armour School (eight saloons within 250 feet), and the Throop School (seven saloons within 250 feet).<sup>156</sup> Before the breakup of the Levee, schools attended by Black students were not reported as having saloons nearby.<sup>157</sup>

During the period of segregated vice regulation, two spatial considerations kept saloons away from schools attended by Black children. First, the Black community was small and located close to the Levee, making it easy for Black men to frequent saloons within the borders of the Levee, while Black entrepreneurs could easily site saloons within the boundaries of the Levee.<sup>158</sup> Second, even though some Black residential areas abutted the borders of the Levee, Black children attended schools to the south of this district.<sup>159</sup> The policy of segregated vice, somewhat surprisingly, provided protection from vice's encroachment into the Black residential areas by creating a legal geography that contained vice and the immorality associated with vice institutions away from Chicago's main Black neighborhood. Within the city's commercial district just north of the Black Belt, the red-light district to the northwest, and its schools just to the south, for a brief period, Black parents did not have to worry about their children attending school near the nuisances of an official saloon or immoral venue.<sup>160</sup>

The mayor's long-standing saloon policy disadvantaged dense, congested neighborhoods such as the Near West Side, where European immigrants tended to

<sup>154</sup> *Id.*

<sup>155</sup> *Bars Hedge 103 Schools*, CHI. DAILY TRIB., Mar. 24, 1906, at 2; *Map of Saloons Near One School*, CHI. DAILY TRIB., Mar. 26, 1906, at 2.

<sup>156</sup> *Bars Hedge 103 Schools*, *supra* note 155, at 2.

<sup>157</sup> *Race Problem Rends Schools*, CHI. DAILY TRIB., Dec. 5, 1905, at 9. The Board of Education did not keep official records of students' racial identity during this time. According to an estimate by a Board of Education official reported in the Tribune, Black students had a significant presence in five schools in the city: Keith (60–70% Black), Farron (30% Black), Raymond (20% Black), Webster (20% Black), and Moseley (15% Black). Five additional schools were mentioned as having a “significant” number of Black students, although “significant” seems to have meant more than 10%. *Id.*

<sup>158</sup> See ABSHER, *supra* note 65, at 19–22 (describing how the Levee and the Black South Side became intertwined); Robert M. Lombardo, *The Black Mafia: African-American Organized Crime in Chicago 1890–1960*, 38 CRIME, L. & SOC. CHANGE 33 *passim* (2022) (chronicling high-profile Black saloon owners).

<sup>159</sup> *Race Problem Rends Schools*, *supra* note 157, at 9 (discussing schools bordering the Black Belt being attended by both Black and White children).

<sup>160</sup> VICE COMM'N OF CHI., *supra* note 61, at 239. Although the schools attended by Black children were not located near saloons, according to the 1910 Vice Commission report, there were 173 saloons in one of the Black residential areas near the southern border of the Levee. *Id.*

settle, and (within the coming decades) the Black Belt neighborhoods that grew along State Street.<sup>161</sup> One reason mayoral discretion failed to prevent the establishment of saloons near so many schools was a policy permitting saloon licenses to saloons in business districts, even if the new saloon would be proximate to a school.<sup>162</sup> Compounding this issue was the school board's failure to adequately predict demand for schools in the early 1900s. The rapid increase in students during this time left the Board scrambling to build more schools, and in congested areas many available school sites were nearby existing saloons.<sup>163</sup> Although the mayor was technically authorized to revoke a saloon license, eradicating existing saloons was more difficult than preventing new ones.<sup>164</sup>

Chicago school officials tended to support measures to restrict saloons near schools. In 1907, the superintendent of compulsory education, Lester Bodine, echoed reformers' concerns about the relationship between saloons and juvenile delinquency, and news reports on anti-saloon efforts often quoted school officials who supported the movement.<sup>165</sup> At least some school board officials also supported anti-saloon efforts. In 1908, a group of parents near the Wells School on the northwest side of Chicago started a petition asking the Board of Education to investigate immoral conditions near the school.<sup>166</sup> Four saloons already existed near

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<sup>161</sup> See PHILPOTT, *supra* note 129, at 149; DRAKE & CAYTON, *supra* note 23, at 53–54, 56–57; (explaining that while saloons were not reported as proximate to schools attended by Black children before 1910, they were located in close proximity to a number of other community institutions, such as Black churches, a YMCA, and local branches of civil organizations). For an overview of the early contours of the Black Belt, see PHILPOTT, *supra* note 129, at 147–49; for a description of Black institutions in the early Black Belt, see DRAKE & CAYTON, *supra* note 23, at 53–57. Today, the West Side, along with the South Side, are predominately Black neighborhoods. Notably, these are the two neighborhoods most severely impacted by school closures and vacant school buildings. Madeleine Parrish & Chima Ikoro, *Chicago Public Schools and Segregation*, WTTW, <https://www.wttw.com/firsthand/segregation/chicago-public-schools-and-segregation> (on file with the Lewis & Clark Law Review) (last visited Mar. 23, 2026).

<sup>162</sup> *Mayor Opens New Crusade*, *supra* note 152, at 1.

<sup>163</sup> John L. Rury, *Schools and Education*, ENCYCLOPEDIA OF CHI., <http://www.encyclopedia.chicagohistory.org/pages/1124.html> [<https://perma.cc/PW76-J432>] (last visited Mar. 23, 2026); *Bars Hedge 103 Schools*, *supra* note 155, at 2.

<sup>164</sup> See *Hornstein v. Liquor Control Comm'n*, 412 Ill. 365, 370–71 (1952) (“Revocation at the discretion of the mayor, with the license terminating ‘absolutely upon the notice of said revocation being left at the bar,’ was standard under our earlier liquor laws, and was sustained against constitutional attack.” (quoting *Malkan v. City of Chicago*, 217 Ill. 471, 477 (1905)) (citations omitted)). Moreover, mayoral discretion did not formally extend to informal vice institutions, or those operating in the shadows of the licensing regime. Despite its limitations, regulated vice provided at least some formal measures for citizens to protest the establishment of new vice institutions. See Turner, *supra* note 100, at 577–79.

<sup>165</sup> *Saloon as School Neighbor Blamed for Crimes of Youth*, *supra* note 144, at 11; *Bars Hedge 103 Schools*, *supra* note 155, at 2.

<sup>166</sup> *Saloon Too Near a School*, *supra* note 152, at 11.

the school, and parents were livid that the mayor had recently granted another saloon license for an establishment 40 feet from the school building.<sup>167</sup> The president of the Board of Education sympathized with the parents' petition and directed the Compulsory Education Department to investigate their claims.<sup>168</sup> However, in reflection of the broader disagreement regarding the question of prohibition, the Board officials did not have a united front on the saloon question.<sup>169</sup>

By 1915, the legal geography of vice had reshaped the landscape of schools and saloons significantly and weakened the Black community's power to advocate against the siting of vice institutions near Black schools. Whereas the Dante School headed the list of schools proximate to saloons in 1906 with 16 nearby saloons, a 1915 report counted only eight saloons in the vicinity of the Dante.<sup>170</sup> Meanwhile, the Keith School, which had zero reported saloons nearby in 1906, was within two blocks of at least four saloons by 1915.<sup>171</sup> These saloons were located along State Street, and undoubtedly benefited from the "commercial exemption" that enabled saloons to open near schools, churches, and residences.<sup>172</sup> The Jones School, also located in a commercial area near downtown, was reported as being proximate to 28 saloons in 1915, even though there were zero saloons reported in 1906.<sup>173</sup> Additionally, despite the advocacy of reformers, the number of elementary schools located within 250 feet of a saloon increased from 103 in 1906 to 120 in 1915.<sup>174</sup>

The neighborhood conditions around some schools received more attention than others. For example, the conditions surrounding the Lucy Flower High School for Girls (later called Lucy Flower Technical High School) received intense scrutiny shortly after its founding in 1911. That year, the school moved into the building of the former South Chicago High School, located on 26th Street and Wabash Avenue

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<sup>167</sup> *Id.*; *Bars Hedge 103 Schools*, *supra* note 155, at 2.

<sup>168</sup> *Saloon Too Near a School*, *supra* note 152, at 11.

<sup>169</sup> *Saloon Defended by School Head*, CHI. DAILY TRIB., Dec. 5, 1908, at 3 (describing conflict between the principal of the Drake School, Miss Grace Reed, and the school board president, Otto Schneider, who accused the temperance movement of hypocrisy and bigotry and instead urged "common sense methods of dealing with the saloon").

<sup>170</sup> *Saloons Abound Near City's Schools*, CHI. DAILY TRIB., Dec. 9, 1915, at 9.

<sup>171</sup> 4 SANBORN MAP CO., INSURANCE MAPS OF CHICAGO ILLINOIS 52-53 (1912).

<sup>172</sup> The city's commercial exemption allowed saloons to operate within 250 feet of a school if the school was in a commercial district. This policy disproportionately impacted "congested" areas, such as the narrow Black Belt that developed along State Street on the South Side of Chicago. *See supra* notes 161-62 and accompanying text. Because racist housing policies and White violence confined the Black community to residences within a limited region along the commercial areas of State Street, the Black community was therefore confined to a commercial district.

<sup>173</sup> *Saloons Abound Near City's Schools*, *supra* note 170, at 9.

<sup>174</sup> *Id.*

on the eastern edge of the Black Belt.<sup>175</sup> The Lucy Flower School was innovative for its time: it was the city's first open-enrollment school for girls and enabled young women to "gain a livelihood" through two tracks of study, one focused on household arts and the other on industrial work.<sup>176</sup> The school was strongly supported by Ella Flagg Young, a progressive educator and Chicago's first female superintendent, and mostly attended by girls from "comfortable, well-ordered homes."<sup>177</sup> Few students were very rich or very poor, and the school was popular among both European immigrant and Black families.<sup>178</sup>

Lucy Flower High had a distinctly political mission: it sought to raise the dignity of women's work, including domestic work, so that the economic value of household arts would be "recognized and translated into standardizing terms of dollars and cents."<sup>179</sup> The first principal of the school further explained, "Not a few of the problems that vex social reformers, temperance societies, and anti-divorce leagues will begin to cease from troubling when women undertake their great tasks of wifehood and motherhood as a profession worthy of professional study and professional understanding."<sup>180</sup> The dignity and value of women's work and the social status of women writ large was, according to this argument, intricately tied to the issues of vice, intemperance, and divorce.

At the same time, the mission of the school required that girls be protected from these negative social conditions, and especially from boys, who were not allowed within two blocks of the school.<sup>181</sup> Three years after the school was founded, the Board of Education's Committee on Building and Grounds called attention to the "character of the neighborhood" surrounding Lucy Flower High.<sup>182</sup> These "conditions" included approximately five saloons within two blocks of the school, garages, and autobody shops.<sup>183</sup> Also proximate to the school were a number of churches, a Catholic high school, an elementary school, and a playground.<sup>184</sup> That these positive neighborhood factors were overshadowed by the perceived threat that proximity to vice institutions posed to the virtue of girls highlights the role of chastity in defining the moral worth of girlhood during this time. Moreover, Lucy

<sup>175</sup> Dora Wells, *The Lucy Flower Technical High School*, 22 SCH. REV. 611, 611 (1914).

<sup>176</sup> *Plans Girls' Tech School: Education Board Favors Project; Offers Vocational Courses.*, CHI. DAILY TRIB., June 29, 1911, at 11.

<sup>177</sup> Wells, *supra* note 175, at 611, 619.

<sup>178</sup> *Lucy Flower Technical High School for Girls*, NAT'L PARK SERV. (Feb. 7, 2022), <https://www.nps.gov/places/lucy-flower-technical-high-school-for-girls.htm> [perma.cc/C5H5-22JG].

<sup>179</sup> Wells, *supra* note 175, at 615.

<sup>180</sup> *Id.*

<sup>181</sup> *Lucy Flower Technical High School for Girls*, *supra* note 178.

<sup>182</sup> CHI. BD. OF EDUC., PROCEEDINGS JULY 8, 1914 TO JUNE 30, 1915, at 15 (1915).

<sup>183</sup> 3 SANBORN MAP CO., *supra* note 171, at 82–84 (1911).

<sup>184</sup> *Id.*

Flower High's proximity to a growing community of Black people likely skewed White stakeholder's perceptions and valuation of this neighborhood, including their perception of the threat vice posed to the White girls at Lucy Flower High, rendering this particular neighborhood unfit for a girls' school that catered predominately to a White student body.<sup>185</sup>

In 1911, Lucy Flower High was proximate to the blocks where vice had scattered after the Levee disbanded, ostensibly increasing the potential that the school's girls might encounter sex workers, pimps, and others associated with the sex trade.<sup>186</sup> At the same time, the scatteration of vice coincided with the first Great Migration, leading changes in the geography of vice to overlap with changes in the geography of race in Chicago's South Side.<sup>187</sup> Parents and school officials alike were concerned with the neighborhood conditions of the school, and in 1915 the Committee on Buildings and Grounds recommended that school officials alert Mayor Harrison to these immoral conditions so that he might take steps to "properly protect and safeguard the pupils attending said school."<sup>188</sup> Superintendent Young and the parents of Lucy Flower High students shared the Committee's alarm and concern that the school could not "overcome the evils of its neighborhood," and in 1916 the Board of Education took the extraordinary step of moving the school to a predominately White neighborhood nearly 40 blocks south at 61st Street and Wabash Avenue.<sup>189</sup>

The case of Lucy Flower High highlights how the intersection of anti-Black racism and vice shaped the spatial logics of school neighborhoods by legitimizing the separation of White schools away from vice and Black neighborhoods. Rather than leveraging the Board of Education's political power to invest in the neighborhood or taking steps to invest in the school in ways that might enrich the neighborhood, the Board decided to abandon the neighborhood in the name of (White girls') safety.<sup>190</sup> Notably, the move coincided with rapid demographic shifts

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<sup>185</sup> See Philip T.K. Daniel, *A History of Discrimination Against Black Students in Chicago Secondary Schools*, 20 HIST. EDUC. Q. 147, 151 (1980).

<sup>186</sup> *Vice Forces Lucy Flower Girls' School to Move*, CHI. DAILY TRIB., Mar. 7, 1915, at 1.

<sup>187</sup> For a historical overview of the formation of Chicago's Black neighborhoods, see DRAKE & CAYTON, *supra* note 23, at 175–178. Recent studies in Black geography have critiqued how race shaped the meaning of space and how space shaped the meaning of race during the Great Migration. See SHABAZZ, *supra* note 18, at 2, 30; Morrison, *supra* note 22, at 89–90.

<sup>188</sup> CHI. BD. OF EDUC., *supra* note 182, at 15.

<sup>189</sup> *Vice Forces Lucy Flower Girls' School to Move*, *supra* note 186, at 1. The school's new neighborhood was similar to the old one, with the school surrounded by dwellings, flats, and a number of industrial buildings. The two most obvious differences were the lack of saloons and the small number of Black residents near the new location. 16 SANBORN MAP CO., *supra* note 171, at 11 (1926).

<sup>190</sup> Superintendent Ella Young and her supervisors were attentive to the mutual relationship between schools and their neighborhood conditions. Her 1912–1913 Annual Report highlighted

that significantly increased the number of Black people living near Lucy Flower High.<sup>191</sup> The removal of the school, itself the antithesis of vice institutions, reinforced the seemingly natural links between Black space and immorality. This decision explicitly revealed the Board's differential investment in the futures of White children over Black children and reinforced a spatial ideology that equated Blackness with danger and immorality.<sup>192</sup>

A controversy started by White parents at Willard Elementary School highlights other ways in which the conceptual mappings of morality, safety, and race were shaped by the shifting legal geography of vice institutions. Five years after the Levee District was disbanded and vice institutions dispersed throughout the Second and Third Wards, a group of White parents at the Willard Elementary School petitioned the Board of Education to add a junior high so that their children would not have to attend Wendell Phillips High School (Phillips High).<sup>193</sup> According to the parents, the "immoral condition[s]" surrounding the school, including the presence of saloons and poolrooms, made it "impossible for [them] to send [their] children there."<sup>194</sup>

At a heated school board meeting, one White school board member laid bare the motivation behind the parents' petition, stating plainly:

If that neighborhood is unsuitable for the children at the Willard School, . . . it is unsuitable for the children of any other school. The real reason is that the Phillips School has a large number of Negroes. So why mince matters or refer to conditions as immoral when we mean there are colored students there?<sup>195</sup>

Willard parents conceded this point, evidencing how "vice" was becoming a code for "Black." The spokesman from the group conveyed the racist underpinnings of the petition by stating "the Phillips school is two-thirds colored and . . . white children should not be compelled to sit with colored children."<sup>196</sup> His appeal landed

schools' assembly halls as "the means of enriching and uplifting not only the school life, but that of the entire neighborhood" and enthusiastically shared there was "growing interest among the young people in the larger possibilities which the school affords as a means for advancing the interests of community life." CHI. BD. OF EDUC., FIFTY-NINTH ANNUAL REPORT OF THE BOARD OF EDUCATION FOR THE YEAR ENDED JUNE 30, 1913, at 163, 282 (1913).

<sup>191</sup> See *supra* notes 186–87 and accompanying text.

<sup>192</sup> My thinking here is influenced by Katherine McKittrick's conceptual framing of Black space. See MCKITTRICK, *supra* note 22, at 5.

<sup>193</sup> At the time, Wendell Phillips High School included junior high grades. *Fights Race Prejudice in School*, CHI. HERALD, Apr. 13, 1915, at 5, reprinted in Illinois Writers Project Papers, Box 14, Folder 20 (1915) (on file with author); *Color Question Again Raised at High School*, CHI. DAILY TRIB., Apr. 6, 1917, at 15.

<sup>194</sup> *Color Question Again Raised at High School*, *supra* note 193, at 15.

<sup>195</sup> *Id.*

<sup>196</sup> *Id.* Phillips High was not two-thirds Black in 1917. Rather, it was likely at most approximately 50% Black. The exaggeration of Black students by White parents reflects a

flat, however, as the audience did not want to be seen as supporting Jim Crow schools.<sup>197</sup> One participant put it bluntly, admonishing “Don’t you know . . . that there is no Jim Crow law in this state?”<sup>198</sup> Willard parents’ efforts to use “immoral conditions” as a cover for school segregation failed in this instance, and they turned to other means, such as transfer requests, to avoid Phillips High.<sup>199</sup> Put otherwise, this case reveals how White parents used the cover of vice and immoral conditions to attempt to police the boundaries of school attendance zones.

Factually, however, the protesting parents were correct: there were at least six saloons within two blocks of Phillips High, an issue that the Board of Education failed to address.<sup>200</sup> Even though the Board did not give in to White parents’ racist segregationist requests, they also did not take steps to address the material conditions surrounding the school. In this case, White parents’ thinly veiled racist requests for transfers distracted school officials from the substantive issue of the number of saloons proximate to Phillips High. Moreover, although parents of both races opposed the saloons near Phillips High, the racist politics advocated by White parents precluded the formation of an interracial coalition of parents against the saloons, leaving Black parents to advocate for addressing the immoral neighborhood conditions surrounding the school on their own.

Black parents were vocal critiques of the saloons surrounding the school, and in 1914 had successfully prevented the opening of a new saloon on 37th Street, two blocks north of Phillips High.<sup>201</sup> The blocks between 37th and 39th were largely residential, with densely packed dwellings and flats interspersed with a few stores and auto shops.<sup>202</sup> Between 1910 and 1920, 39th Street east of State Street bounded neighborhoods by race. In 1910, Black people were a sizeable minority in the area north of 39th Street surrounding Phillips High and by 1920 comprised over half of the population north of 39th Street between Clark Street and Lake Michigan.<sup>203</sup> Very few Black people lived south of 39th Street before 1920.<sup>204</sup>

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distorted perception of Black students’ presence. CHI. COMM’N ON RACE RELS., *supra* note 17, at 245.

<sup>197</sup> *Color Question Again Raised at High School*, *supra* note 193, at 15.

<sup>198</sup> *Id.*

<sup>199</sup> As I discuss in other work, transfer requests were used as a strategy by White parents to establish and preserve white school space throughout the first decade of the 20th century. *See, e.g.,* Rebecca Horwitz-Willis, *Policing the Color Line: The Cultural Infrastructure of “Jim Crow” Schools in Chicago*, J. URB. HIST. (forthcoming 2027).

<sup>200</sup> 4 SANBORN MAP CO., *supra* note 171, at 131–32.

<sup>201</sup> THE CRISIS, 1914, *supra* note 81, at 267; *Plain Clothes Men for Wendell Phillips High School*, CHI. DEF., Sep. 13, 1913, at 1.

<sup>202</sup> 4 SANBORN MAP CO., *supra* note 171, at 131–32.

<sup>203</sup> *See* ALLAN H. SPEAR, BLACK CHICAGO: THE MAKING OF A NEGRO GHETTO 1890–1920, map 3 (Census Tracts of Chicago 1910), map 4 (Census Tracts of Chicago 1920) (1967).

<sup>204</sup> *See id.*

Notably, *all* the saloons on 39th Street in the four blocks surrounding Phillips High to the east and west were on the north side of the street.<sup>205</sup> In this sense, the area surrounding Phillips High refracts the city-wide spatialization of vice institutions in post-Levee years. The northern side of 39th Street contained Black families and saloons, facilitating White parents' conflation of the immoral neighborhood conditions with the Black people who lived amongst those conditions.<sup>206</sup> Their perception was likely heightened by the contrasting conditions surrounding the Willard School, located ten blocks south of Phillips High, just north of Washington Park: densely packed dwellings and flats with one nearby corner lined with shops and no nearby saloons.<sup>207</sup>

While White school officials outwardly opposed the racist motivations of the Willard families, they also used this racism to dodge responsibility for investigating or addressing the neighborhood conditions near Phillips High. One official recommended that the parents report the conditions around Phillips High to the morals commission, while another reminded participants of the city ordinance prohibiting "saloons and immoral places near schools."<sup>208</sup> Superintendent Shoop incredulously chimed in: "It's the first time . . . that I've ever heard charges of immorality in the neighborhood."<sup>209</sup> This was clearly false, however, reflecting willful neglect of the neighborhood conditions long protested by Black parents. Indeed, just one year prior in 1916, the Moral Survey Division of the Board of Education proudly reported on its varied activities protecting the city's schoolchildren from the various evils of city life, eliding the many ways they had ignored Black parents' protests regarding vice institutions in their neighborhood.<sup>210</sup>

The Moral Survey Division was created at the request of Lester Bodine, Superintendent of Compulsory Education, with the express task of fighting "against saloons, poolrooms, and all 'destructive agencies' in the neighborhood of schools through the power of the mayor to revoke licenses."<sup>211</sup> The Board would commission the support of one salaried inspector (with an experienced woman assistant), school principals, the city collector, and parents clubs to identify "shady" and "destructive" institutions contributing to the delinquency of schoolchildren.<sup>212</sup> Their work expanded beyond revoking licenses, and the Moral Division's varied

<sup>205</sup> 4 SANBORN MAP CO., *supra* note 171, at 131–32 (showing north of 39th Street); 14 SANBORN MAP CO., *supra* note 171, at 13–14 (1906) (showing south of 39th Street).

<sup>206</sup> See CHI. COMM'N ON RACE RELS., *supra* note 17, at 202.

<sup>207</sup> 14 SANBORN MAP CO., *supra* note 171, at 65–66.

<sup>208</sup> *Color Question Again Raised at High School*, *supra* note 193, at 15.

<sup>209</sup> *Id.*

<sup>210</sup> CHI. BD. OF EDUC., SIXTY-SECOND ANNUAL REPORT OF THE BOARD OF EDUCATION: REPORT OF THE SUPERINTENDENT OF SCHOOLS FOR THE YEAR ENDING JUNE 30, 1916, at 57–58 (1916).

<sup>211</sup> *Mayor Invoked to Aid Schools' Fight on Vice*, CHI. DAILY TRIB., Feb. 2, 1916, at 9.

<sup>212</sup> *Id.*

successes included “prosecutions . . . against . . . undesirable rooming houses in the vicinity of schools that harbored young girls,” keeping “[d]egenerates” away from the vicinity of schools, revoking the licenses of “undesirable saloons,” and protesting the issuance of new licenses to saloons in close proximity to schools.<sup>213</sup> The Division believed vigilance was required to safeguard of the moral welfare of Chicago, and it used a combination of prosecutions, investigations, and citizen complaints to preserve the moral geography surrounding the city’s schools.<sup>214</sup>

School officials’ public involvement in the careful documentation and prosecution of saloons and other vice institutions close to schools belied the ignorance feigned by Board of Education members during the Willard controversy. Rather, their remarks reflect the willful neglect of conditions that had been protested by Black parents for years and the uneven protection afforded to Black neighborhoods under the city’s discretionary and loophole ridden ordinances.<sup>215</sup> As the increasing number of saloons surrounding the Keith School and Phillips High demonstrate, the Division’s vigilance was not distributed to all students evenly. Yet, even beyond the willful neglect of Black parents’ advocacy, the Board’s actions represent how the changing moral geographies created by vice scatteration enabled a sedimentation of power in White communities.

### III. VICE REGULATION AND THE CRIMINALIZATION OF BLACK EDUCATIONAL GEOGRAPHIES

During the first two decades of the 20th century, Chicago’s Black neighborhoods disproportionately bore the burden of vice institutions as protective regulations defended the perceived morality of White and ethnic European neighborhoods. By 1920, the moral geographies created by vice regulation helped cement the color line around an underground vice district in Chicago’s Black Belt, setting the foundation for an invisible fence that upholds racial boundaries in the city today. Local regulations regarding vice confined Chicago’s Black residents in an overpoliced geography always on the brink of criminality. While other processes, such as redlining, cemented residential segregation in Chicago, the overlapping of the underground onto the Black Belt tethered narratives of criminality to confined

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<sup>213</sup> CHI. BD. OF EDUC., *supra* note 210, at 57.

<sup>214</sup> The Division’s zeal for protecting the space surrounding schools extended to places as seemingly innocuous as ice cream parlors and fruit stands, which (it feared) presented an opportunity for high school students to loaf and idle away their time in the company of the “vicious element.” *Id.* at 57–58.

<sup>215</sup> For examples of Black parents’ protest against saloons near community institutions, see WOOD, *supra* note 133, at 25–26; *Plain Clothes Men for Wendell Phillips High School*, *supra* note 201, at 1; *General Public Praise Defender*, CHI. DEF., Sep. 20, 1913, at 2; CHI. COMM’N ON RACE RELS., *supra* note 17, at 343–44; *Stamp out Vice, Aim of Negroes: Race Leaders in Chicago to Make War on Colored People’s Dens*, *supra* note 82, at 2; Vaughn, *supra* note 123, at 7.

Black space.<sup>216</sup> In other words, the distribution of vice into the Black Belt explains an important process that led segregated Black neighborhoods to become stigmatized as dangerous, criminal, and undervalued.

### A. *Vice and Racial Meanings*

Space has long been used to signify status and power, and “race is always shaped in some way by the built environment.”<sup>217</sup> In Chicago, vice regulation helped shape the racial meanings of “Black” and “White” by producing unbalanced and inequitable moral geographies that drew on and reinforced the color line. These narratives shifted responsibility for the new underground vice district from policy choices to individual behaviors, thereby explaining the immoral and dangerous aspects of vice neighborhoods that was grounded in anti-Black narratives of delinquency and criminality.<sup>218</sup> In turn, these narratives justified the carceral management of Black life in the Black Belt.<sup>219</sup>

At the same time, vice regulation aided in racial formation of ethnic Europeans into White Americans. The spatial distribution of vice provided a physical representation of both social inequalities and racialized power imbalances in the city. Avoiding proximity to vice enabled other racial groups, and notably poor ethnic Europeans, to distance themselves from the racialized Black “other” and position themselves closer to Whiteness.<sup>220</sup> Additionally, moral geographies provided a means for White reformers and ethnic Europeans to leverage legal and political power to shield their neighborhoods from vice and to represent themselves as upstanding, deserving citizens.<sup>221</sup> In time, the power of representation enabled ethnic immigrant groups to position themselves closer to the ideals of middle-class Whiteness.<sup>222</sup>

The status ambiguity that accompanied the “in betweenness” of ethnic Europeans led to strategic defense of ethnic space from the perceived encroachment of Black people, as well as attempts to assimilate into Whiteness and the benefits it

<sup>216</sup> ROTHSTEIN, *supra* note 58, at 64–65, 83 (describing “redlining” as the process by which the Homeowner’s Loan Corporation—and, later, the Federal Housing Administration—marked any neighborhood red for high risk on their maps if even one Black person lived there); HIRSCH, *supra* note 64, at 1, 3–5, 58–59, 114.

<sup>217</sup> ADRIENNE BROWN, *THE BLACK SKYSCRAPER: ARCHITECTURE AND THE PERCEPTION OF RACE 27* (2017) (emphasis omitted).

<sup>218</sup> SHABAZZ, *supra* note 18, at 12–13, 16–17.

<sup>219</sup> *See id.* at 11–30 (providing an extended discussion of the role interracial leisure institutions played in this dynamic). The carceral management of interracial spaces within the Black Belt can be understood as the punitive policing of activities that blur the color line and the racialized spatial ordering of the city.

<sup>220</sup> *Id.* at 61–64.

<sup>221</sup> HIRSCH, *supra* note 64, at 80–81.

<sup>222</sup> *See id.*

conferred.<sup>223</sup> For ethnic Europeans in Chicago, the rapid migration of Black people into the city during the Great Migration heightened the urgency of distinguishing themselves from Black people and enlisting into Whiteness.<sup>224</sup> In an effort to heighten this urgency, the city's White newspapers exaggerated the number of Black people migrating to the city and used racist headlines to manufacture a threat of danger and disorder that Black migrants brought with them.<sup>225</sup>

The fluid racial status of ethnic Europeans raised the stakes of distancing themselves from Black Americans, particularly during a time when the moral fitness of ethnic Europeans was called into question.<sup>226</sup> Social and spatial segregation was one way in which ethnic Europeans could distance themselves from association with Black people and maintain their potential connection to Whiteness intact.<sup>227</sup> The spatialization of vice into the Black Belt, along with its political acceptance by city officials, provided a means for ethnic Europeans to defend their status in the emerging racial hierarchy of the United States and reach for the material advantages of Whiteness (including the ability to exclude the underground from their neighborhoods) to which they aspired.

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<sup>223</sup> Arnold Hirsh surfaces the violent and bureaucratic ways that ethnic Europeans and White Americans created and defended White space in Chicago. *See id.* While Hirsh focuses on the post-war era, Andrew Diamond takes a longer view, highlighting how racial politics mitigated the potential of progressive policies in the early 20th century, and instead left Chicago deeply segregated and racially unequal. *See* ANDREW J. DIAMOND, CHICAGO ON THE MAKE: POWER AND INEQUALITY IN A MODERN CITY 100–01 (2017). Carol Anderson's argument about the history of "White rage" further provides insight into how White people use various mechanisms, such as the courts, the law, and bureaucracy, to protect Whiteness. *See generally* CAROL ANDERSON, WHITE RAGE: THE UNSPOKEN TRUTH OF OUR RACIAL DIVIDE (2016) (exploring the idea that "White rage" is a subtle, but formidable, response to Black advancement, as opposed to visible violence).

<sup>224</sup> Between 1910 and 1940, thousands of Black migrants left the racial terror of the South in search of hope and opportunity in the North and West. JAMES R. GROSSMAN, LAND OF HOPE: CHICAGO, BLACK SOUTHERNERS, AND THE GREAT MIGRATION 162–63 (1989). In Chicago, the Black population grew from 1.3% in 1890 to 4% in 1920, and then to 7.3% in 1934. DRAKE & CAYTON, *supra* note 23, at 9. Although these percentages may seem small, the rate of change in the Black population was higher than that of the White or immigrant population.

<sup>225</sup> TERA EVA AGYEPONG, THE CRIMINALIZATION OF BLACK CHILDREN: RACE, GENDER, AND DELINQUENCY IN CHICAGO'S JUVENILE JUSTICE SYSTEM, 1899–1945, at 12–13 (Heather Ann Thompson & Rhonda Y. Williams eds., 2018).

<sup>226</sup> Anti-immigrant sentiments were pervasive in early 20th century Chicago and often drew on claims of immorality, degeneracy, and criminality; however, during the Great Migration, Black Chicagoans bore the brunt of racial hostility. *See, e.g.,* GROSSMAN, *supra* note 224, at 163; CHI. COMM'N ON RACE RELS., *supra* note 17, at 245, 344, 631; AGYEPONG, *supra* note 225, at 12–14.

<sup>227</sup> Philpott discusses how the rigid borders of the "ghetto" distinguished it from the slum areas occupied by immigrants. These borders were essential for maintaining social segregation, and therefore status distinctions, between immigrants and Black people. PHILPOTT, *supra* note 129, at 149–50.

### B. *Constructing Delinquency*

Additionally, the combination of vice institutions in Black neighborhoods and racial confinement within poor, under-resourced neighborhoods had a direct impact on Black children's association with delinquency. As Ida B. Wells had warned against, the high number of vice institutions in the Black Belt of Chicago conceptually tied Black people with the immorality and delinquency associated with the conditions of their neighborhood.<sup>228</sup> For Black youth, neighborhood conditions correlated with an increase in delinquency rates; as vice spread south within the Black Belt the rates of highest delinquency followed, extending up to seven miles south of the central business district.<sup>229</sup> The disproportionately high rates of delinquency among Black children could be directly attributed to the multiple factors that entrapped Black families in poverty and in neighborhoods neglected by White landlords.<sup>230</sup> At the same time, however, the encroachment of vice into the Black neighborhoods arguably underwrote and legitimized perceptions of Black delinquency.<sup>231</sup>

Neighborhood conditions, including the conditions of vice, also expanded practices of surveillance of Black families. Surveillance occurred through partnerships between private reform organizations, such as the JPA, and public actors, such as police.<sup>232</sup> Rates of juvenile commitment to correctional institutions steadily decreased in early 20th century as non-institutional methods for addressing delinquency and potential delinquency developed.<sup>233</sup> This did not mean, however, that children's contact with police decreased. Rather, the development of the police probation system increased the policing of poor children in the areas adjacent to the central business district.<sup>234</sup> Between 1910 and 1920, the overall number of cases investigated by police probation officers nearly doubled, and in 1914, the number

<sup>228</sup> Wells, *supra* note 74, at 396.

<sup>229</sup> SHAW & MCKAY, *supra* note 148, at 55–56.

<sup>230</sup> CLIFFORD ROBE SHAW, WITH THE COLLABORATION OF FREDERICK M. ZORBAUGH, HENRY D. MCKAY & LEONARD S. COTTRELL, *DELINQUENCY AREAS: A STUDY OF THE GEOGRAPHIC DISTRIBUTION OF SCHOOL TRUANTS, JUVENILE DELINQUENTS, AND ADULT OFFENDERS IN CHICAGO 204–05* (1929) (explaining the relationship between neighborhood conditions and juvenile delinquency).

<sup>231</sup> Tera Agyepong analyzes how the limited availability of resources for dependent children intersected with tropes of Black delinquency to legitimize the institutionalization of Black children in institutions for delinquent children, which, in turn reified narratives of Black criminality. The processes outlined in this Article provide another way in which Black children were narratively constructed as delinquent, or at least at risk of becoming delinquent. See AGYEPONG, *supra* note 225, at 38–70.

<sup>232</sup> *Id.* at 41–42.

<sup>233</sup> *Id.* at 55–61.

<sup>234</sup> SHAW & MCKAY, *supra* note 148, at 48; ILL. ASS'N FOR CRIM. JUST., *ILLINOIS CRIME SURVEY 646* (1929).

of probation officers increased from 53 to 76.<sup>235</sup> According to the analysis of sociologist Clifford Shaw, the rates of delinquency between immigrant and Black children varied according to neighborhood they lived in, with children living closer to the Loop being most likely to have contact with a probation officer.<sup>236</sup>

Neighborhood conditions were correlated with children's contact with police and arrest for delinquency. Immigrant youth, who were overrepresented in delinquency rates until the Great Migration, were relegated to the slums based on the conditions of poverty; the attainment of education and a union job was, for them, the ticket out of the slum, thus mitigating the possibility of intergenerational poverty.<sup>237</sup> Black children, on the other hand, were increasingly confined to limited areas of the city through overt housing and employment discrimination at the same time vice became entrenched in Black neighborhoods.<sup>238</sup> Over time, vice became a justification for anti-Black tropes that blamed the conditions of poverty and immorality on cultural factors within the Black community, suppressing years of advocacy by Black reformers to preserve the moral fabric of the Black Belt.<sup>239</sup> As a result, the intersections of poverty, vice, and racial confinement increased Black children's contact with police and associations with delinquency at a time when immigrant families were able to take advantage of economic and social mobility.<sup>240</sup>

The spatial change in vice formed new racial meanings around "Blackness" and "Whiteness" as Black people's confinement in the Black Belt became more entrenched. As vice reforms helped produce unbalanced and inequitable moral geographies in the city, reformers and politicians turned to anti-Black narratives of delinquency and criminality to make meaning of these geographies. These narratives were used as a legitimizing "grammar" to make sense of and justify the emergence of the ghetto,<sup>241</sup> and in doing so formed new racial meanings in the city and cemented differential valuations in racialized educational geographies.<sup>242</sup>

<sup>235</sup> ILL. ASS'N FOR CRIM. JUST., *supra* note 234, at 646–48.

<sup>236</sup> *Id.* at 652–59.

<sup>237</sup> For a discussion of immigrant rates of delinquency, see SHAW & MCKAY, *supra* note 148, at 52. For a discussion of mobility out of the slums, see PHILPOTT, *supra* note 129, at 75–79.

<sup>238</sup> See SHABAZZ, *supra* note 18, at 12–15.

<sup>239</sup> *Id.* at 23–24.

<sup>240</sup> The underlying assumption of these dynamics of poverty and delinquency is that there must be an impoverished, under-resourced area of the city to begin with. The existence, and apparent permanence of a slum, is a feature of capitalism that requires the permanence of an underclass. See Dylan Sullivan & Jason Hickel, *Capitalism and Extreme Poverty: A Global Analysis of Real Wages, Human Height, and Mortality since the Long 16th Century*, 161 WORLD DEV., Jan. 2023, at 1, 14–15 (finding that "the expansion of the capitalist world-system caused a dramatic and prolonged process of impoverishment on a scale unparalleled in recorded history").

<sup>241</sup> See Oates & Roane, *supra* note 63.

<sup>242</sup> In their foundational text theorizing the social construction of race, Howard Omi and Michael Winant argue that racial categorization is not fixed but rather formed in relation to

## IV. REVALUING EDUCATIONAL GEOGRAPHIES

Concerns about children and the schools that shape their futures animate intra-city inequality.<sup>243</sup> Indeed, children have been at center of cycles of city growth and decline, from the rise of slums and kitchenettes, to slum clearance and the building of housing projects, to the demolition of those projects and the resurgence of private investment in public institutions.<sup>244</sup> These cycles have also been shot through with racial meanings that have reified tropes of Black criminality and devalued Black space, including majority-Black schools.<sup>245</sup> As the history of vice regulation highlights, choices about land use have cascading consequences. Today, residents of Chicago's South Side neighborhoods are still advocating to close or limit liquor stores in their neighborhoods.<sup>246</sup> However, the impact of moral geographies on education in Chicago extends beyond the siting of liquor stores and other undesirable land uses.

In 2013, then-mayor Rahm Emanuel and the Chicago School Board closed an astounding 50 public schools, citing underutilization and lack of resources as justification for the closures.<sup>247</sup> Although Emanuel promised that shuttered schools would be repurposed as "community assets," less than half of the closed schools are back in use today.<sup>248</sup> The distribution of repurposed and still-shuttered buildings

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context and the social structures of a given time. See MICHAEL OMI & HOWARD WINANT, *RACIAL FORMATION IN THE UNITED STATES* (3d ed. 2015). Since the publication of *Racial Formation in the United States*, legal scholars and historians have provided examples of the many ways racial meanings have changed across time and space.

<sup>243</sup> See SHEDD, *supra* note 7, at 12–18.

<sup>244</sup> See *id.*

<sup>245</sup> For a discussion of how racist policies "lock in" White advantage over time, see generally DARIA ROITHMAYR, *REPRODUCING RACISM: HOW EVERYDAY CHOICES LOCK IN WHITE ADVANTAGE* (2014) (discussing policies related to, for example, education, incarceration, healthcare, and property).

<sup>246</sup> Atavia Reed, 'Unbearable' Happy Liquor-Food Must Get Shut Down by City, *Neighbors Demand*, BLOCK CLUB CHI. (May 24, 2024), <https://blockclubchicago.org/2024/05/24/unbearable-happy-liquor-food-must-get-shut-down-by-city-neighbors-demand/> [perma.cc/K39W-WQNA]. In other cases, efforts to prevent liquor stores are more complicated. Jamie Nesbitt Golden, *Proposed Liquor Ban on 43rd Street Would Slow Progress on Bronzeville Stretch's Revival, Developer Says*, BLOCK CLUB CHI. (Nov. 4, 2024), <https://blockclubchicago.org/2024/11/04/proposed-liquor-ban-on-43rd-street-would-slow-progress-on-bronzeville-stretches-revival-developer-says/> [perma.cc/6EDT-XQ7Z].

<sup>247</sup> This was the largest number of schools to be closed in a district at a single time. Karp et al., *supra* note 1; EVE L. EWING, *GHOSTS IN THE SCHOOLYARD: RACISM AND SCHOOL CLOSINGS ON CHICAGO'S SOUTH SIDE* 54–55 (2018).

<sup>248</sup> Lauren FitzPatrick, Nader Issa, Sarah Karp & Alden Loury, *Ten Years Later, More than Half of Chicago's Closed Schools Remain Unused*, CHI. SUN-TIMES (May 18, 2023), <https://graphics.suntimes.com/education/2023/chicagos-50-closed-schools/buildings/> [perma.cc/FC89-HLWF].

maps onto distributions of race and wealth in the city: closed buildings in wealthier, Whiter neighborhoods with strong real estate markers sold quickly, often as part of multi-million dollar deals.<sup>249</sup> Meanwhile, majority-Black neighborhoods on the South and West Sides have been disproportionately burdened by the consequences of former school buildings that have become ghost schools.<sup>250</sup> Residents in these neighborhoods had fiercely advocated against the closures, in part warning of how abandoned school buildings would negatively affect the surrounding neighborhoods.<sup>251</sup> They were ignored, and today, deteriorating, closed school buildings serve as a daily reminder of municipal distrust, neglect, and the devaluation of Black education.

The distribution of ghost schools in Chicago reflects the racialized and moral valuation of school grounds throughout the city. As with neighborhoods themselves, decades of disinvestment, racial discrimination, and lack of political power have left Black schools under resourced and undervalued.<sup>252</sup> Present-day ghost schools are the manifestation of historical choices that increased the value of educational geographies in Whiter, wealthier areas of the city, while decreasing the value of educational geographies in Blacker, poor neighborhoods.

This history points to the need for local government officials to consider the moral consequences of land-use policies. Doing so requires an analysis of the interdependence of educational property and myriad other aspects of municipal governance, and surfaces a need to share the burdens of nuisance across a jurisdiction. Taking into account the general welfare of all communities and promoting collective decision-making regarding land use in urban areas is one way to mitigate the concentration of municipal burdens in majority-minority neighborhoods. With time, prioritizing the interests of lower-income community members, alongside those of businesses and wealthier residents, can lead to more equitable moral geographies that more equally distribute the burdens of undesirable land uses. Disrupting racially identifiable moral geographies is, in turn, one way to promote more equitable educational geographies.

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<sup>249</sup> *Id.* Of the buildings that have been repurposed, many were bought by private developers for private use such as office space, luxury condos, and an independent school.

<sup>250</sup> *Id.* Drawing on the work of Eve Ewing, I use the term “ghost schools” to reflect the significance of these former educational buildings and the life they once nurtured. EWING, *supra* note 247, at 90–91.

<sup>251</sup> EWING, *supra* note 247, at 54.

<sup>252</sup> *Id.* at 90–92. At the same time, Chicago’s Black community has a long tradition of organizing for greater political power and more educational resources. *See, e.g.*, ELIZABETH TODD-BRELAND, A POLITICAL EDUCATION: BLACK POLITICS AND EDUCATION REFORM IN CHICAGO SINCE THE 1960S, at 40–46 (2018).

## CONCLUSION

In 1927, Maudelle Bousfield was appointed the first Black principal in Chicago. She was assigned to the Keith School, an elementary school that served predominantly Black children.<sup>253</sup> Reflecting on her experience, Mrs. Bousfield recalled it was a “horrible school in a horrible area . . . run-down like I don’t know what.”<sup>254</sup> As principal, she tried to counteract the negative influence of vice in the neighborhood by hiring Black teachers and vocally criticizing the Board of Education for failing to manage overcrowding.<sup>255</sup> In 1939, Mrs. Bousfield became the city’s first Black high school principal when she was appointed principal at Wendell Phillips High School, a majority-Black high school located in the Black Belt.<sup>256</sup> Similar to her recollections of the Keith School, Mrs. Bousfield characterized Phillips High as having a “low-down name,” in large part due to the “prostitution, drug dealing, and gambling” that occurred along the streets surrounding the school.<sup>257</sup> Neighborhood vice presented a distraction for Phillips High students on their way to school, as well as for Mrs. Bousfield, who spent precious time trying to close down a local liquor store that illegally sold alcohol to Phillips High students.<sup>258</sup>

Schools, long articulated as the antidote for the immoral influence of vice on young people, provide one way of seeing how the shifting moral geographies created by new vice regulations shaped educational inequality in the city. Vice created an ostensibly non-racial legitimization of confinement and segregation of Black school children at a time and place where overt, state-sanctioned racial segregation was taboo. White and European immigrant parents used segregation, justified by proximity to vice, to ensure social segregation, which was essential for defending the material advantages of Whiteness. White neighborhoods, shielded from the unwanted nuisances and policing associated with vice, accrued more value—politically and economically—than Black neighborhoods.

The migration of vice into the Black Belt and the subsequent creation of a racialized enclosure was not inevitable; rather, it occurred through an iterative process whereby social reformers, business elites, and politicians attempted to create and solidify new moral geographies upheld by legal reforms. Although Black social reformers had long protested the presence of vice institutions in their neighborhoods, their limited political power was overpowered by the interests of

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<sup>253</sup> TODD-BRELAND, *supra* note 252, at 20; Dionne Danna, *Thriving in the Midst of Adversity: Educator Maudelle Brown Bousfield’s Struggles in Chicago, 1920–1950*, 78 J. NEGRO EDUC. 3, 7–8 (2009).

<sup>254</sup> Danna, *supra* note 253, at 8 (internal quotations omitted).

<sup>255</sup> *See id.* at 8–9.

<sup>256</sup> *Id.* at 10.

<sup>257</sup> *Id.* (internal quotations omitted).

<sup>258</sup> *High School Liquor Case Is Continued*, CHI. DEF., May 11, 1940, at 12; Danna, *supra* note 253, at 10.

White actors. The close association of Blackness and vice invited in a distinctly carceral logic that Black people needed to be kept separate, confined, and policed lest their (perceived) immorality and criminality spread beyond the confines of the Black Belt.

By the end of the First Great Migration, the politics of vice and neighborhood segregation created Black school geographies that were characterized by proximity to vice institutions and the danger and immorality associated with such institutions. For the first two decades of the 20th century, the impact of vice on Black education was conceptual: Black children were increasingly associated with the perceived immoral conditions of their neighborhoods as well as the conditions of social disorder that characterized immigrant and Black, poor neighborhoods in the minds of reformers during this time. By the 1920s, however, the conceptual architecture built by the spatialization of vice had concrete implications for Black education as it shaped the perceptions of White teachers who were educating an increasing number of Black children, and Black educators, such as Mrs. Bousfield, who focused their attention and resources on improving neighborhood conditions.

The devaluation and exploitation of Black educational geographies that occurred through anti-vice reforms was a pre-condition for the ghost schools that dot Chicago's Black neighborhoods today. The racialized geographies of vice that arose during the Progressive Era devalued and exploited the Black community and differentiated the value of neighborhoods, and the people and institutions that inhabit them, by race. The devaluation of Black space during this time had material and symbolic consequences for the educational opportunities afforded to Black children in Chicago and constructed Black educational geographies as dangerous, immoral, and in need of social control.