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## (Sub)Urban Poverty and Regional Interest Convergence

Patience A. Crowder

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# **(SUB)URBAN POVERTY AND REGIONAL INTEREST CONVERGENCE**

PATIENCE A. CROWDER\*

*Poverty has expanded from America's urban cores to its inner and outer suburban rings. In the midst of spreading hardship, new opportunities for confronting questions of regional equity are emerging, such as how best to govern our regional spaces for the benefit of all regional constituents, including the poor, middle class, and affluent. To date, governance theories have proven inadequate to this task. In the parlance of the current regional governance discourse, localists, regionalists, and new regionalists need a framework to make a reality of their seemingly disparate and inconsistent visions of local versus regional interests. Localists champion the autonomy of local governments as the appropriate form of regional management. Regionalists, on the other hand, advocate for mechanisms of regional governance to manage the maintenance and development of regional spaces. While new regionalists have advocated practical steps to eliminate the causes of regional inequities, encouraging more efficient fiscal and land use planning cooperation between local governments in a metropolitan region, new regionalism as a social movement is stalled largely because it has existed as a set of ideals without a framework for effectuating those ideals. This*

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\* Assistant Professor of Law, The University of Denver Sturm College of Law. B.A., Georgetown University; J.D., Rutgers University School of Law—Newark. I am extremely grateful to several individuals for their invaluable insights on this project, including Michèle Alexandre, Roberto Corrada, Nancy Ehrenreich, Eric Franklin, Christopher Hill, Chris Lasch, Audrey McFarlane, Susannah Pollvogt, Tom Romero, Nantiya Ruan, Catherine Smith, Robin Walker Sterling, and the members of the Denver Law's Rocky Mountain Collective on Race, Place & Law (RPL). I thank Daniel Graham, Elizabeth Pophal, LaLonnie Villa-Martinez, and Maggie Wesley for their thorough and diligent research assistance. I thank the University of Denver Sturm College of Law for providing generous financial and research support, and I am grateful to the editorial staff of *Marquette Law Review* for their stellar editing assistance. This article benefited from comments received at the following conferences: ClassCrits VI Conference at Southwestern Law School; AALS Conference on Clinical Legal Education in San Juan, Puerto Rico; CRT and Empirical Methods Public Symposium and Fourth Working Group Meeting at the University of Iowa College of Law; the 1st Annual Local Government Law Works in Progress Conference at Marquette University Law School; and the 6th Annual Lutie A. Lytle Black Women Law Faculty Writing Workshop at Suffolk University Law School. Finally, I'd like to thank the late Professor Derrick Bell for leaving a light on.

*Article introduces a new strategy, regional interest convergence, as a new social justice framework to effectuate new regionalism and revive the movement. Regional interest convergence, a reconceptualization of the interest convergence theory first articulated by Professor Derrick Bell, provides a framework for beginning to address both urban and suburban poverty.*

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## I. INTRODUCTION

*“Poverty is not an accident. Like slavery and apartheid, it is man-made and can be removed by the actions of human beings.”*

—Nelson Mandela<sup>1</sup>

“A Region,” somebody has wryly said, “is an area safely larger than the last one to whose problems we found no solution.”

—Jane Jacobs<sup>2</sup>

America’s War on Poverty began approximately fifty years ago under the administration of President Lyndon B. Johnson.<sup>3</sup> While a “war” is typically defined as a state of open, armed conflict between parties,<sup>4</sup> the War on Poverty pitted legislative and policy tools of government against not a party but, as the quotes above assert, a condition that lies within our collective control to alleviate.<sup>5</sup> Of course, having the ability to do something and wanting to do that something are two different things. Comprehensively altering the course of poverty in America will require a fundamental shift in our approach to poverty relief. Because the dynamism of poverty manifests itself in myriad ways, an important first step is to make sure that we have a shared understanding of poverty. To that end, I invite you, the reader, to take the following short quiz to test your poverty IQ.

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1. Chris Williams, *The Price of Politics and Poverty*, HUFFINGTON POST (Nov. 13, 2012, 12:24 PM), [http://www.huffingtonpost.com/chris-williams/the-price-of-politics-and\\_b\\_2105160.html](http://www.huffingtonpost.com/chris-williams/the-price-of-politics-and_b_2105160.html) (quoting former South African President Nelson Mandela) (internal quotation marks omitted), archived at <http://perma.cc/DS4X-8SQ9> (last updated Jan. 13, 2013, 5:12 AM).

2. JANE JACOBS, *THE DEATH AND LIFE OF GREAT AMERICAN CITIES* 410 (1961) (commenting on the general planning process and quoting an unnamed person).

3. See, e.g., Edgar S. & Jean C. Cahn, *The War on Poverty: A Civilian Perspective*, 73 YALE L.J. 1317, 1317 (1964).

4. THE AMERICAN HERITAGE COLLEGE DICTIONARY 1545 (4th ed. 2010).

5. Cahn, *supra* note 3, at 1317–18.

**Metropolitan Poverty Quiz**

1. **True or False.** *Nearly 16.5 million people live in poverty in the suburb[s], in comparison with about 13 million poor people in American cities.*<sup>6</sup>
2. **True or False.** *More than 50 million Americans, or 1 in 6, are food insecure (do not have reliable sources of affordable and nutritious food).*<sup>7</sup>
3. **True or False.** *The pace of suburban poverty growth is more than twice as fast as the poverty rate in urban areas.*<sup>8</sup>
4. **True or False.** *The lowest paying jobs are in urban areas.*<sup>9</sup>
5. **True or False.** *It is easier to find affordable housing in urban areas than in the suburbs.*<sup>10</sup>

How did you do? What was the most surprising fact that you learned? Were you surprised to learn that there are more people living in poverty in the suburbs than our urban cores? This surge is becoming a defining characteristic of our metropolitan regions as poverty stretches from its traditional home in central cities to their surrounding suburbs — effectively expanding the battlegrounds of the War on Poverty.<sup>11</sup>

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6. True. *Suburban Poverty Rate Increasing Rapidly in US: Report*, PRESS TV (May 21, 2013, 2:10 AM), <http://www.presstv.ir/detail/2013/05/21/304565/suburban-poverty-soaring-in-america/>, archived at <http://perma.cc/8E3W-TNYT>.

7. True. See *Speakers Bureau Housing and Poverty Stats 2014*, <http://jim.reutler.org/habitat/updates/speakers-bureau-housing-and-poverty-stats-2014.pdf> (last visited Mar. 19, 2014), archived at <http://perma.cc/93ND-758E> (citing ALISHA COLEMAN-JENSEN, MARK NORD & ANITA SINGH, U.S. DEPT' T AGRIC., HOUSEHOLD FOOD SECURITY IN THE UNITED STATES IN 2012, at 8 (2012), available at <http://www.ers.usda.gov/media/1183208/err-155.pdf>, archived at <http://perma.cc/GHQ9-EQAR>).

8. True. *Suburban Poverty Rate Increasing Rapidly in US: Report*, *supra* note 6.

9. False. *Id.* (“The lowest paying jobs are the most suburbanized,” [Kneebone] said. “Retail services, construction jobs, manufacturing even.”).

10. Neither. This is sort of a trick question. Affordable quality rental housing is increasingly difficult to find in both urban and suburban areas. The rental market in the suburbs, however, is steadily increasing. Today, 40% of all renters reside in the suburbs. See Barbara Ray, *The Squeeze is on for Affordable Rentals in the Suburbs*, CONFRONTING SUBURBAN POVERTY AM. (Feb. 20, 2014), <http://confrontingsuburbanpoverty.org/2014/02/the-squeeze-is-on-for-affordable-rentals-in-the-suburbs/>, archived at <http://perma.cc/J8JW-KV7Q>.

11. See *Suburban Poverty Rate Increasing Rapidly in US: Report*, *supra* note 6.

More recently, the economic devastation wrought by the Great Recession<sup>12</sup> has forever altered the character of America's suburbs. The expansion of poverty from the central cities throughout metropolitan regions is a phenomenon that brings new dimensions to the character of American poverty.<sup>13</sup>

This Article is structured around two symbiotic principles: (1) poverty is a condition that affects all regional constituents, and (2) poverty alleviation benefits all regional constituents. It examines the expanse of regional poverty and regional inequities through lenses of local and regional governance theories. While poverty alleviation is largely funded by federal and state dollars, it is local government that bears the majority of the responsibility for the execution of poverty alleviation programs.<sup>14</sup> While the expansion of poverty creates undeniable hardship, it also creates new opportunities for thinking about regional equity<sup>15</sup> and to best how govern our regional spaces for the benefit of all residents of the region, including the poor, middle class, and affluent. To date, governance theories have proven inadequate and unequal to this task. As efforts to cope with poverty are now firmly entrenched in the suburbs,<sup>16</sup> an opportunity to think about how to operationalize regional governance theories should be considered.

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12. The Great Recession started in December 2007 and ended in June 2009. See Press Release, Bus. Cycle Dating Comm., Nat'l Bureau of Econ. Research (Sept. 20, 2010), available at <http://www.nber.org/cycles/sept2010.pdf>, archived at <http://perma.cc/K8ZN-M95Y>. It is "the longest recession of the post-World War II era." Neil Irwin & Nia-Malika Henderson, *Recession is Officially Over, but Anxiety Lingers*, WASH. POST, Sept. 21, 2010, at A1.

13. Increased rates of poverty resulting from the economic crisis are not heavily disputed; however, there are some who dispute the notion of a "new suburban poverty" based upon the classification of suburb versus smaller central city. See Joe Kriesberg, *More Suburban Poor? Think Again*, ROOFLINES: SHELTERFORCE BLOG (June 7, 2013), [http://www.rooflines.org/3252/more\\_suburban\\_poor\\_think\\_again/](http://www.rooflines.org/3252/more_suburban_poor_think_again/), archived at <http://perma.cc/32PY-953K> (arguing that the expansion of suburban poverty depends upon the definition of "suburb" and that what some researchers have defined as "suburban" are actually small central cities).

14. See Liz Farmer, *Can Cities and Suburbs Work Together?*, GOVERNING (Mar. 13, 2014), <http://www.governing.com/news/headlines/Can-Cities-and-Their-Suburbs-Work-Together.html>, archived at <http://perma.cc/UV3E-XBTB>.

15. See *infra* notes 37–42 and accompanying text.

16. Alan Berube, Senior Fellow and Deputy Dir., Metro. Policy Program, The State of Metropolitan America: Suburbs and the 2010 Census (July 14, 2011), available at <http://www.brookings.edu/research/speeches/2011/07/14-census-suburbs-berube>, archived at <http://perma.cc/cVCX8-P2MX>.

Today's metropolitan regions are comprised of both the urban and the suburban. While urban central cities may have larger populations, it does not follow that urban central cities dominate regional spaces as they used to in the 1950s and 1960s.<sup>17</sup> Instead, the character of a metropolitan region is determined by the various localities within it. For example, metropolitan regions such as Chicago and San Francisco house hundreds of municipalities.<sup>18</sup>

The modern regional governance debate is centered on the question of whether metropolitan regions<sup>19</sup> are better managed through the individualized efforts of local governments or through cooperative regional governance approaches.<sup>20</sup> Metropolitan regions are home to a diverse range of regional constituent groups, each with its own respective interests. In the parlance of the current regional governance discourse, there are two broadly defined categories of regional constituent groups: regionalists and localists.<sup>21</sup> Regionalists advocate for mechanisms of regional governance to manage the maintenance and development of regional spaces.<sup>22</sup> Localists, on the other hand, champion the autonomy of local governments as the appropriate form of regional management.<sup>23</sup> While these two groups are at the opposite ends of the regional governance discourse, there is a third voice in the discourse: new regionalism. New regionalists advocate measures to eliminate the causes of regional inequities, encourage more efficient fiscal cooperation between local governments in the same metropolitan region, and seek to identify new resources for cooperative land use planning.<sup>24</sup> The new regionalist movement, however, is a stalled movement because, until now, it has existed as a set of ideals without a framework for effectuating those ideals. This Article considers a new strategy—regional interest convergence—as a new social justice strategy to effectuate new regionalism and revive the movement.

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17. See BRUCE KATZ & JENNIFER BRADLEY, *THE METROPOLITAN REVOLUTION: HOW CITIES AND METROS ARE FIXING OUR BROKEN POLITICS AND FRAGILE ECONOMY* 47 (2013).

18. See *id.* at 2.

19. See *infra* notes 119–21 and accompanying text.

20. See *infra* Part II.C.

21. Matthew J. Parlow, *Equitable Fiscal Regionalism*, 85 TEMP. L. REV. 49, 51–52 (2012).

22. *Id.* at 62–63.

23. *Id.* at 53.

24. Myron Orfield, *The Region and Taxation: School Finance, Cities, and the Hope for Regional Reform*, 55 BUFF. L. REV. 91, 92 (2007).

Regional interest convergence<sup>25</sup> is a reconceptualization of the interest convergence theory first articulated by Professor Derrick Bell.<sup>26</sup> Broadly stated, interest convergence theory explains that where parties in unequal positions of power have divergent interests, to advance its goals, the subordinate party must find commonality between its interests and the interests of the majority party.<sup>27</sup> The application of the interest convergence theory to regional governance is a novel yet logical next step for constructing mechanisms to align the interests of residents of regional communities and address poverty throughout metropolitan communities. To date, however, Bell's theory has been largely applied in litigation strategies.<sup>28</sup>

Regional interest convergence has the potential to be a comprehensive anti-poverty mechanism designed specifically to alleviate regional inequity. It operates at the intersection of regional planning, local government law, economic development policy, negotiation, and community organizing, and provides the structure to create a blueprint for identifying metropolitan regional constituent groups and their interests to determine points of convergence among these disparate interests to achieve regional equity. The Article proceeds as follows: Part II documents the growth and development of America's metropolitan regions and regional inequities to demonstrate the urgent need for regional interest convergence. Highlighting the current suburban poverty crisis and the shrinking middle class, Part II also situates this discussion in the modern regional governance conversation by exploring the successes and failures of the predominant governance theories overlaying metropolitan regions: localism, regionalism, and new regionalism. Part III reconceptualizes the interest convergence theory to apply it in the regional governance context and presents the interest

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25. While new regionalism exists without a succinct definition, there have been several superb articles exploring new regionalism's impact on regional equity. See, e.g., Lisa T. Alexander, *The Promise and Perils of "New Regionalist" Approaches to Sustainable Communities*, 38 FORDHAM URB. L.J. 629 (2011); Parlow, *supra* note 21, at 64–67; Christopher J. Tyson, *Localism and Involuntary Annexation: Reconsidering Approaches to New Regionalism*, 87 TUL. L. REV. 297 (2012).

26. Sheryll D. Cashin, *Shall We Overcome? Transcending Race, Class, and Ideology Through Interest Convergence*, 79 ST. JOHN'S L. REV. 253, 254 (2005).

27. See Derrick A. Bell, Jr., *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518, 523–24 (1980) (arguing that interest convergence would not occur if the status quo of the dominant party would be negatively impacted).

28. See Cynthia Lee, *Cultural Convergence: Interest Convergence Theory Meets the Cultural Defense*, 49 ARIZ. L. REV. 911, 925 (2007).



convergence methodology. Part IV sketches a framework for the implementation of regional interest convergence as a new regionalist strategy for achieving regional equity and navigates and explores practical opportunities for regional interest convergence.

## II. THE CAUSES AND PERSISTENCE OF REGIONAL INEQUITY

Regions are becoming increasingly important in the American landscape.<sup>29</sup> Unlike states and cities, regions are not formal legal structures formed by government action. Instead, regions are formed through engaged networks of commerce and custom and are becoming increasingly important cultural and political actors.<sup>30</sup> Regions are complex mosaics of culture, economics, and geography, with dual identities as “regional spaces” and “spaces of regionalism.” Stated differently, a region is both an economic unit with an objective nature and defined geographical boundaries and a “created territory” formed for “political mobilization and . . . cultural expression.”<sup>31</sup> There are close to 400 metropolitan regions in the United States,<sup>32</sup> and these regions are increasing in national and international prominence as economic actors.<sup>33</sup> Metropolitan regions house the overwhelming majority of the country’s residents. Almost two-thirds of the American population lives in the 100 largest metropolitan regions,<sup>34</sup> which is only 12% of the country’s land mass.<sup>35</sup> Moreover, 85% of the nation’s immigrants and 77% of the nation’s minority population live in metropolitan regions.<sup>36</sup>

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29. See, e.g., Judith Rodin, *Foreword* to KATZ & BRADLEY, *supra* note 17, at vii, vii.

30. See *id.* at vii–viii.

31. See MANUEL PASTOR JR., CHRIS BENNER & MARTHA MATSUOKA, *THIS COULD BE THE START OF SOMETHING BIG: HOW SOCIAL MOVEMENTS FOR REGIONAL EQUITY ARE RESHAPING METROPOLITAN AMERICA* 53 (2009) (citing Martin Jones & Gordon MacLeod, *Regional Spaces, Spaces of Regionalism: Territory, Insurgent Politics and the English Question*, 29 *TRANSACTIONS INST. BRIT. GEOGRAPHERS* 433 (2004)).

32. MYRON ORFIELD, *AMERICAN METROPOLITICS: THE NEW SUBURBAN REALITY* 1 (2002); OFFICE OF MGMT. AND BUDGET, EXEC. OFFICE OF THE PRESIDENT, OMB BULLETIN NO. 13-01, at 22 (2013), *available at* <http://www.whitehouse.gov/sites/default/files/omb/bulletins/2013/b-13-01.pdf>, *archived at* <http://perma.cc/B88-APGN>.

33. E.g., Rodin, *supra* note 29, at vii, 2.

34. *Id.* at 1; see also ELIZABETH KNEEBONE, *METRO. POLICY PROGRAM AT BROOKINGS, THE GREAT RECESSION AND POVERTY IN METROPOLITAN AMERICAN* (2010).

35. KATZ & BRADLEY, *supra* note 17, at 1.

36. See METRO. POLICY PROGRAM AT BROOKINGS, *METROPOLICY: SHAPING A NEW FEDERAL PARTNERSHIP FOR A METROPOLITAN NATION* 4 (2008).

There are distinctions between regions, generally, and metropolitan regions, specifically. The Census Bureau defines metropolitan regions as having an urban core central city with a population that exceeds 50,000 people and several adjacent, lesser populated suburban localities that are highly socially and economically integrated with the core.<sup>37</sup> It is important to understand the common history behind the development of these spaces to identify the root causes of regional inequity, better address its current iterations, and maximize the economic and political potential of regional spaces.

Regional inequity encompasses the range of social and economic disparities between residents in a metropolitan region. It speaks to power imbalances, unequal access to public resources, and wealth gaps between localities within the same metropolitan region. Examples include disparities between unemployment rates, the availability of affordable housing, the recruitment of commercial retail, and the funding of public schools.<sup>38</sup> Its causes are multifaceted and complex, simultaneously reflecting public policy, personal prejudices and choice, and the operation of law.<sup>39</sup> Regional inequities surfaced concomitant with the initial development of metropolitan regions—beginning with the incorporation of the first suburbs,<sup>40</sup> which were formed to be an escape from urban America and poverty.<sup>41</sup> There is, in fact, a direct link between the origins of the first suburbs and the current expanse of suburban poverty that is one of the legacies of the Great Recession.<sup>42</sup>

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37. Metropolitan regions are formally distinguished from nonmetropolitan regions by their higher populations and informally by the diversity of their populations. Neither metropolitan regions nor nonmetropolitan regions are confined to state boundaries. For example, the New York Metropolitan Statistical Area (commonly referred to as a tri-state area) is comprised of counties from the states of New York, Connecticut, and New Jersey. See OFFICE OF MGMT. AND BUDGET, *supra* note 32, at 2. The proposals presented in the article are applicable to both metropolitan and nonmetropolitan regions; however, this Article is focused on the story of metropolitan regional development. It goes without saying that nonmetropolitan regions have their own unique challenges that warrant study.

38. See generally DAVID RUSK, *INSIDE GAME/OUTSIDE GAME: WINNING STRATEGIES FOR SAVING URBAN AMERICA* (1999).

39. See *id.* at 316–35.

40. See, e.g., Georgette C. Poindexter, *Towards a Legal Framework for Regional Redistribution of Poverty-Related Expenses*, 47 WASH. U. J. URB. & CONTEMP. L. 3, 6, 10 (1995).

41. ELIZABETH KNEEBONE & ALAN BERUBE, *CONFRONTING SUBURBAN POVERTY IN AMERICA* 6–7 (2013).

42. *Id.* at 35.

The persistence of regional inequity is directly related to (1) the nature of the social and political systems that created the suburbs,<sup>43</sup> (2) the intransigent nature of regional inequity as evidenced by the ongoing expansion of suburban poverty,<sup>44</sup> and (3) governance failures in metropolitan regions.<sup>45</sup> Each of these three factors is discussed below.

*A. The Simultaneous Emergence of Metropolitan Regions and Regional Inequity*

A significant reason for the persistence of regional inequity is the way in which metropolitan regions developed—specifically, the formation of America’s suburban communities. Before there were metropolitan regions, the American landscape consisted of urban cities and rural communities. The earliest cities thrived for generations as urban metropolises surrounded by lesser populated rural spaces.<sup>46</sup> City populations steadily increased as rural residents and immigrants were enticed by employment opportunities.<sup>47</sup> However, the complexion and class of the incoming residents alarmed much of the existing populace.<sup>48</sup> Class, racial, and ethnic tensions began to grow.<sup>49</sup> These tensions eased temporarily during World War I, intensified during the Great Depression, and eased again during World War II.<sup>50</sup> After World War II, however, city populations grew exponentially.<sup>51</sup> In addition to rural residents and immigrants, African American agricultural workers from the reconstructing South began relocating to northern cities to find work in industrial, manufacturing, and service positions.<sup>52</sup> The old tensions intensified but were deflected by the federal government’s new home ownership programs, which provided a way out of the central city for

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43. *See infra* Part II.A.

44. *See infra* Part II.B.

45. *See infra* Part II.C.

46. *See* G. ROSS STEPHENS & NELSON WIKSTROM, METROPOLITAN GOVERNMENT AND GOVERNANCE: THEORETICAL PERSPECTIVES, EMPIRICAL ANALYSIS, AND THE FUTURE 14–15 (2000).

47. DOUGLAS S. MASSEY & NANCY A. DENTON, AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS 26–27 (1993).

48. *Id.* at 29.

49. *Id.* at 29–30.

50. *See id.* at 30–31.

51. *See id.* at 27–28, 43.

52. *See id.* at 26–29; *see also* THOMAS J. SUGRUE, THE ORIGINS OF THE URBAN CRISIS: RACE AND INEQUALITY IN POSTWAR DETROIT (1996).

middle-class Americans.<sup>53</sup> These home ownership mortgage programs were not for homes in the central cities but for newly constructed homes in the emerging surrounding suburban communities—creating a new type of space that was neither urban nor rural but suburban.<sup>54</sup>

Throughout the 1950s and 1960s, federal policies supported the development of suburban communities and facilitated racial and economic segregation between central cities and suburbs. African Americans were denied access to federal home ownership programs and loan guarantees, which meant that they could not purchase homes and did not benefit from the mortgage interest deduction on their personal income taxes.<sup>55</sup> Furthermore, the federal government financed highway construction to ease suburban entry into and exit out of the central city.<sup>56</sup> At the same time, it financed urban renewal projects that displaced large numbers of African American central-city residents from neighborhood communities into public housing and concentrated poverty.<sup>57</sup>

Marketed as the American dream, suburbs developed as communities of detached single-family homes from which residents drove to central cities for work. Central-city residents, however, were confined to the city for employment because auto loans were just as difficult to obtain as home mortgages and, unlike highways, public transportation did not connect the central city to the suburbs.<sup>58</sup> As the beneficiaries of the federal home loan programs, white middle-class residents exited central cities en masse, engendering the “white flight” phenomenon.<sup>59</sup> Business and industry also abandoned the central cities to provide services for the wealthier suburban residents—decimating central-city tax bases.<sup>60</sup> To compensate for the divestment of white flight, cities sought to salvage their tax bases by annexing some of the

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53. *See id.* at 52–53.

54. *See id.* at 53.

55. *See id.* at 53–54.

56. *Id.* at 44.

57. *Id.* at 55–56. *See generally* MINDY THOMPSON FULLILOVE, *ROOT SHOCK: HOW TEARING UP CITY NEIGHBORHOODS HURTS AMERICA, AND WHAT WE CAN DO ABOUT IT* (2004) (describing the impact and physiological harm of urban renewal on central-city residents).

58. *See* KNEEBONE & BERUBE, *supra* note 41, at 7–8.

59. MASSEY & DENTON, *supra* note 47, at 52–55.

60. *See id.* at 55–56, 136, 156.

newer surrounding communities outside of their boundaries.<sup>61</sup> Early annexations were successful; however, suburban communities petitioned their state governments to require both central-city and suburban voter approval of any proposed annexation—effectively ending that practice.<sup>62</sup> The suburbs now existed as autonomous local governments with the same authority as central cities to tax, provide services, and regulate land use.<sup>63</sup>

The suburbs were initially limited to the white middle class and elites,<sup>64</sup> and stark disparities between central cities and the surrounding suburbs emerged soon after their creation. From the east coast to the west coast, the ascent of the suburbs propelled the decline of central cities, and cities experienced an unobstructed deterioration during the 1980s and 1990s.<sup>65</sup> This deterioration was supported by suburban land use practices and legislation, such as exclusionary zoning ordinances that appear facially neutral but have the practical effect of excluding low- and moderate-income residents.<sup>66</sup> These policies and practices concentrated poverty and trapped central-city residents, consequently creating a high demand for (and parallel lack of) affordable housing in central cities while increasing the value of suburban land.<sup>67</sup>

As affordable and fair housing advocates and community groups challenged discriminatory housing practices, their efforts led to the construction of affordable housing in certain suburbs.<sup>68</sup> These suburbs became more socially and economically diverse as residents moved from the central city. As a result of the influx of mixed incomes, the housing stock in the suburbs also diversified.<sup>69</sup> Single-family homes were still the norm, but multi-family housing and apartment buildings were also

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61. See Judith Welch Wegner, *North Carolina's Annexation Wars: Whys, Wherefores, and What Next*, 91 N.C. L. REV. 165, 168 (2012).

62. See, e.g., *id.* at 226. See generally Tyson, *supra* note 25.

63. See, e.g., Wegner, *supra* note 61, at 183–85.

64. See RUSK, *supra* note 38, at 1–15. See generally MASSEY & DENTON, *supra* note 47, at 52–55, 44–45.

65. Poindexter, *supra* note 40, at 10.

66. *Id.* at 12–13.

67. See *id.* at 14–15.

68. See, e.g., Harold A. McDougall, *Regional Contribution Agreements: Compensation for Exclusionary Zoning*, 60 TEMP. L. Q. 665, 674–80 (1987). The construction of affordable housing in the suburbs has not been without controversy, as evidenced by the ongoing challenges in Mount Laurel, New Jersey. See, e.g., David D. Troutt, *Katrina's Window: Localism, Resegregation, and Equitable Regionalism*, 55 BUFF. L. REV. 1109, 1179 (2008).

69. See, e.g., RUSK, *supra* note 38, at 168–69.

constructed.<sup>70</sup> Through formal litigation and an informal shift in cultural norms, the suburbs became less exclusive and more economically and ethnically diverse.<sup>71</sup> This change in complexion, combined with the 1990s' strong economy and housing boom, prompted many affluent residents to move deeper into regions and further from central cities to populate new suburban communities called "exurb[s]"<sup>72</sup>—designating the first suburbs adjacent to the central cities the "inner-ring or first-tier suburbs."<sup>73</sup> Now there were three categories of space in regional spaces: central cities, inner-ring suburbs, and exurbs.

In many respects today's suburbs exhibit a very different character from what was prevalent when the suburbs were first formed. In fact, the boundaries between many central cities and their inner-ring suburbs are now blurred for a number of reasons, including the fact that poverty is now a suburban reality.<sup>74</sup> For example, the exodus to the exurbs resulted in disinvestment in the inner-ring suburbs similar to that experienced by the central cities decades earlier.<sup>75</sup> For any given locality, this disinvestment led to lower property value assessments, which, in turn, decreased the volume of public services that locality could provide.<sup>76</sup> While fair share affordable housing laws<sup>77</sup> and laws prohibiting exclusionary zoning<sup>78</sup> made leaving the central city a viable option for central-city residents, the subprime mortgage crises undermined that goal.<sup>79</sup> Another layer of social and economic diversity comes from the fact that the suburbs are also now the destination for newly arrived immigrants seeking to be near family who, in years

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70. See, e.g., *id.*

71. McDougall, *supra* note 68, at 674–80.

72. Exurbs are generally considered low-density communities that extend beyond suburban communities and house affluent residents. See *ENCYCLOPEDIA OF HUMAN GEOGRAPHY* 149 (Barney Warf ed., 2006); Wegner, *supra* note 61, at 257 n.414.

73. Bernadette Hanlon, *A Typology of Inner-Ring Suburbs: Class, Race, and Ethnicity in U.S. Suburbia*, 8 *CITY & COMMUNITY* 221, 225 (2009).

74. Berube, *supra* note 16.

75. See Hanlon, *supra* note 73, at 235.

76. See, e.g., Poindexter, *supra* note 40, at 17–22.

77. See, e.g., *id.* at 40–43.

78. See *id.* at 35–43 (discussing the trio of fair housing cases from Mt. Laurel, New Jersey).

79. See Cassandra Jones Havard, "Goin' Round in Circles" . . . and Letting the Bad Loans Win: When Subprime Lending Fails Borrowers: The Need for Uniform Broker Regulation, 86 *NEB. L. REV.* 737 (2008); Audrey G. McFarlane, *The Properties of Instability: Markets, Predation, Racialized Geography, and Property Law*, 2011 *WIS. L. REV.* 855.

before, would have otherwise resided in the central city.<sup>80</sup> The combined effect of these demographic and cultural shifts increased suburban population growth and improved social and economic integration.<sup>81</sup>

As explained in the next section, instead of the idyllic lifestyle promised in advertising for suburban communities, these communities are experiencing many of the same poverty-based challenges traditionally encountered by low-income residents in central-city neighborhoods.<sup>82</sup> There is a persistent tension that dominates the relationships between central cities and suburbs in metropolitan regions, and our metropolitan regions are places that house extreme social and economic disparities.<sup>83</sup> These disparities, however, are no longer limited to inequities between central cities and suburbs. In an extreme demonstration of irony, many once-idyllic suburbs are experiencing rates of poverty previously only familiar to residents of central cities.<sup>84</sup>

### *B. Expanding Regional Inequity: Suburban Poverty*

Social scientists and social service providers have sounded the alarm about the tightening grip of poverty in many suburban communities. As discussed above, suburban communities were designed to be middle-class enclaves, leaving poverty to the realm of the central cities.<sup>85</sup> As a result of the housing crisis and Great Recession, the expansion of suburban poverty has spread to areas poorly equipped to handle the need.<sup>86</sup> Lacking established supportive social services, the experience of poverty in the suburbs does not mirror poverty in central cities because there is no infrastructure for poverty alleviation programs.<sup>87</sup> On one

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80. Historically, immigrants settled in central cities to join families and existing social networks. Carol Morello & Luz Lazo, *Baltimore's Hope: Immigrants*, WASH. POST, July 25, 2012, at A1, available at 2012 WLNR 15661334. However, immigrants have also been able to participate in the trek outside of the central cities, and new immigrant relatives join them in the suburbs instead. See, e.g., KNEEBONE & BERUBE, *supra* note 41, at 46; Jill H. Wilson & Nicole Prchal Svajlenka, *Immigrants Continue to Disperse, with Fastest Growth in the Suburbs*, BROOKINGS (Oct. 29, 2014), <http://www.brookings.edu/research/papers/2014/10/29-immigrants-disperse-suburbs-wilson-svajlenka>, archived at <http://perma.cc/4CV5-WPVZ>.

81. KNEEBONE & BERUBE, *supra* note 41, at 44.

82. See *infra* Part II.A.

83. See Farmer, *supra* note 14.

84. See KNEEBONE & BERUBE, *supra* note 41, at 17–20.

85. See *supra* note 64 and accompanying text.

86. See KNEEBONE & BERUBE, *supra* note 41, at 10, 35.

87. See *id.* at 10, 88–95.

hand, regional inequity speaks to wealth and resource disparities between central cities and suburban communities. On the other hand, however, the high incidence of suburban poverty should not be interpreted to suggest an easing of disparities between central cities and suburbs. Instead, it means that regional inequities exist between individual suburbs in addition to the historical disparities between central cities and suburbs.

In *Confronting Suburban Poverty in America*, researchers Elizabeth Kneebone and Alan Berube document the spread of poverty in American suburbs.<sup>88</sup> According to the authors, while poverty rates remain higher in cities and rural areas than in suburban communities, poverty grew at a faster rate in the suburbs over the course of the last thirty years.<sup>89</sup> This clearly pre-dates the Great Recession; however, it was the Great Recession and one of its instigators, the housing crash of 2006, that fueled suburban poverty to its current calamitous state.<sup>90</sup> The most rapid growth took place in the 2000s, with the latter half of the 2000s representing twice as much growth as the first half.<sup>91</sup> The net result is that, today, there are more poor people living in the suburbs than in the central cities.<sup>92</sup> The authors are careful to explain, however, that the purpose of their research is not to argue that suburban poverty is more egregious or challenging than urban poverty.<sup>93</sup> Instead, their goal is to identify the ways in which suburban poverty and urban poverty are distinct – and illustrate the need for new and different anti-poverty measures.<sup>94</sup>

The economic crisis hit the poor and economically marginalized the hardest: theirs were the first jobs to disappear, the first rents to rise, and the first homes to be foreclosed.<sup>95</sup> Suburban poverty's higher growth

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88. KNEEBONE & BERUBE, *supra* note 41.

89. *See id.* at 17–20.

90. *Id.* at 39–41.

91. *See id.* at 40–41.

92. Emily Badger, *The Suburbanization of Poverty*, CITYLAB (May 20, 2013), <http://www.citylab.com/work/2013/05/suburbanization-poverty/5633/>, archived at <http://perma.cc/TU92-UABR> (noting that 16.4 million poor people live in the suburbs compared to 13.4 million in the central cities).

93. KNEEBONE & BERUBE, *supra* note 41, at 31–36.

94. *Id.* at 96–112.

95. Kelly D. Edmiston, *The Low-and Moderate-Income Population in Recession and Recovery: Results From a New Survey*, 98 FED. RES. BANK KAN. CITY: ECON. REV. 33, 33, 44 (2013), available at <http://www.kc.frb.org/publicat/econrev/pdf/13q1Edmiston.pdf>, archived at <http://perma.cc/H457-XXSC>.



rate is directly connected to the breadth of the economic crisis, which generated massive losses of service, construction, and manufacturing jobs throughout the nation.<sup>96</sup> Suburban communities suffered these job losses acutely.<sup>97</sup> In addition to the assault against the already poor, the Great Recession propelled significant numbers of middle and higher income families from their respective class brackets into the low and moderate income brackets (LMI)—thereby growing the ranks of the poor.<sup>98</sup> As a consequence, suburban poverty implicates two distinct populations: (i) poor residents already residing in or moving to suburban communities from the central cities (the “traditional LMI”), and (ii) suburban residents who were middle and higher income suburban families impacted by recession-based underemployment or unemployment (the “non-traditional LMI”).<sup>99</sup> The traditional LMI and the non-traditional LMI experience poverty differently, as detailed below through the exploration of their respective labor markets, employment opportunities, and social networks.

The Great Recession compounded an already-distressed labor market. The traditional LMI had already been experiencing a ten-year period of stunted job growth.<sup>100</sup> Traditional LMI jobs are overwhelmingly low-skill and low-paid occupations.<sup>101</sup> As compared to middle and higher incomes, the traditional LMI labor market suffered a

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96. See, e.g., KNEEBONE & BERUBE, *supra* note 41, at 38, 42.

97. See also Aaron Wiener, *The Post-Recession Homelessness Epidemic*, NEXT CITY (Jul. 21, 2014), <http://nextcity.org/features/view/the-post-recession-homelessness-epidemic>, archived at <http://perma.cc/PU3A-TFRH> (citing National Employment Law Project report stating that there are 1 million fewer middle-income jobs than before the Great Recession).

98. See Edmiston, *supra* note 95, at 33, 35 (“LMI families are defined as those with income below 80 percent of an area’s median income, where the area of reference is either the metropolitan area in which a given family lives or, for nonmetropolitan areas, the state as a whole.”); see also, e.g., Allison Linn, *Sprawling and Struggling: Poverty Hits America’s Suburbs*, NBC NEWS (Mar. 22, 2013, 3:26 AM), <http://www.nbcnews.com/feature/in-plain-sight/sprawling-struggling-poverty-hits-americas-suburbs-v17404578>, archived at <http://perma.cc/EY8B-FWMT>.

99. See KNEEBONE & BERUBE, *supra* note 41, at 1–10; Edmiston, *supra* note 95, at 33. Factors contributing to the migration of low-income residents from the central cities to the suburbs include affordable housing advocacy, less expensive rental housing as a result of the glut in housing markets that blocked investors from being able to sell newly built homes, the availability of subprime mortgages, and the “return to downtown/the city” movement that is pricing low-income residents out of their homes. See, e.g., *id.* at 48–54; Theresa Everline, *Surviving Suburbia*, 27 NEXT AM. CITY 32, 35 (2010).

100. See Edmiston, *supra* note 95, at 39–40.

101. *Id.*

steeper decline in employment during the recession.<sup>102</sup> Moreover, because the Great Recession relentlessly assaulted practically all job categories, to the extent any traditional LMI positions become available, they are filled by unemployed but overqualified middle and higher income workers.<sup>103</sup> Thus, even though much of the country is experiencing at least some sort of anemic economic recovery, practically speaking, the traditional LMI do not know that the Great Recession has ended.

Unlike the traditional LMI, the majority of the non-traditional LMI joined the LMI ranks after the recession officially ended.<sup>104</sup> That labor market also suffered significant losses during the recession.<sup>105</sup> Once unemployed, these workers typically first exhausted their personal savings, 401(k) savings, credit, and other assets before seeking public assistance.<sup>106</sup> The fact that the non-traditional LMI are more likely to fill any new job openings over a traditional LMI candidate provides little relief because these jobs pay lower wages than what successful candidates used to bring home and do not offer health benefits.<sup>107</sup> These facts, compounded by depleted personal savings, significantly reduce any opportunities for the non-traditional LMI to regain their former wealth and ascend out of LMI status—in short, shrinking the middle class.

Authors Kneebone and Berube argue that the experience of suburban poverty is different from that of urban poverty, and that the non-traditional LMI experience poverty differently from the traditional LMI.<sup>108</sup> Regardless of their shared status as suburban residents, both the traditional LMI and the non-traditional LMI have challenges navigating poverty in the suburbs because suburban localities are ill-equipped to fund and participate in poverty alleviation and other social service programs. The staggering loss of financial aid from state governments coupled with an increase in poorer residents has severely strained the public service budgets of suburban local governments—particularly because these entities were not designed to provide a high

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102. *Id.* at 40.

103. *See id.* at 41.

104. *Id.* at 52.

105. *Id.* at 37.

106. *Id.* at 52.

107. *See id.* at 43.

108. *See* KNEEBONE & BERUBE, *supra* note 41, at 31–36.

volume of social services in the first place.<sup>109</sup> Four particularly poignant examples of these limitations are public transportation, public assistance, charitable relief, and social networks.

The suburbs are notoriously known for their lack of efficient public transportation.<sup>110</sup> For the traditional LMI, this limitation makes cars a necessity for traveling to work. However, given their limited financial resources, the traditional LMI are forced to use older model cars that come with the related maintenance issues—which means that even the slightest car repair could cause a major financial disruption.<sup>111</sup> A second limitation is the lack of suburban infrastructure to accommodate rising demands for public assistance, such as food stamps.<sup>112</sup> Likewise, because of the historical focus on poverty in urban areas, traditional sources of charitable relief are available, if at all, in extremely limited quantities.<sup>113</sup> Those programs that do operate in suburban areas are struggling to serve an exponentially larger need with significantly reduced dollars.<sup>114</sup>

The limited suburban infrastructure for social services yields a set of distinct but equally unpleasant outcomes for both the traditional and non-traditional LMI that are directly impacted by the strength of their social networks. Caring for one's child can be grounds for termination, and a move across town can destroy all existing social networks that might be able to provide relief to alleviate any of the other scenarios.<sup>115</sup> In contrast to the social networks used by the traditional LMI to navigate their circumstances,<sup>116</sup> suburban poverty can be an isolating

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109. See Everline, *supra* note 99, at 34–37.

110. See KNEEBONE & BERUBE, *supra* note 41, at 60–62.

111. *Id.* at 60.

112. *Id.* at 62–66, 91; see also Mike Maciag, *Food Stamp Enrollment Still Climbing in Many States*, GOVERNING (July 30, 2013), <http://www.governing.com/blogs/by-the-numbers/food-stamp-snap-enrollment-rates-climb-in-states.html>, archived at <http://perma.cc/L7FL-HPEN> (“The number of Americans relying on federal assistance to put food on the table ballooned to record levels during the recession—more than doubling from just 10 years ago.”).

113. See KNEEBONE & BERUBE, *supra* note 41, at 62–66, 91–95. As we consider new approaches to poverty alleviation in all communities, it is important to track the impact that the racialization of poverty has had on both individual and institutional thinking. Charitable foundations need to re-examine their funding patterns to ensure that they are meeting the most urgent need and not falling victim to past patterns based on historical perceptions of poverty. See, e.g., *id.*

114. *Id.* at 93–94.

115. See FULLILOVE, *supra* note 57, at 229.

116. See *id.*

experience for non-traditional LMI because of their unfamiliarity with its challenges.

The recovery period for all LMI families (both traditional and non-traditional) is the slowest among the economic recoveries occurring across the country—further cementing regional inequities.<sup>117</sup> These challenges are occurring throughout our metropolitan regions without any comprehensive state or local government response designed to meet metropolitan regional needs.<sup>118</sup> This is because, as explained in the following section, regional governance in both theory and application has failed to engage regional inequities.

### C. Governance Failings Perpetuate Regional Inequities

As the realm of both the urban and suburban, metropolitan regions have long been the subject of academic conversations concerning regional governance.<sup>119</sup> The expansion of suburban poverty combined with ongoing urban poverty brings new relevance and a sense of timeliness to the regional governance conversation, which is centered on the question of whether metropolitan regions are better managed through the individualized efforts of local governments within a given metropolitan region or by a voluntary cooperative approach shared among local governments within the same metropolitan region.<sup>120</sup> The former approach is called localism, the latter called regionalism.<sup>121</sup>

Entrenched as the predominant governing philosophy in America since the incorporation of the first suburbs, localism defines local government law and practice.<sup>122</sup> Localism describes the autonomous operation of local governments independently from and irrespective of each other.<sup>123</sup> Regionalism, in contrast, promotes the formation of formal government entities to manage metropolitan regional development and to guide fiscal relationships between localities.<sup>124</sup> With very few exceptions, regionalism has always been more idea than implementable plan.<sup>125</sup> This malleability has led scholars and

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117. See Edmiston, *supra* note 95, at 38.

118. KNEEBONE & BERUBE, *supra* note 41, at 91.

119. See, e.g., Richard Briffault, *Localism and Regionalism*, 48 BUFF. L. REV. 1 (2000).

120. See *id.* at 1.

121. *Id.*

122. See Parlow, *supra* note 21, at 53–55.

123. *Id.* at 53.

124. See *id.* at 62–63.

125. See *id.* at 62, 71–77.

practitioners from various disciplines to craft a range of regional governance proposals.<sup>126</sup> As notions of regionalism evolved, a new branch of regionalism developed, appropriately called new regionalism. Unlike old regionalism, new regionalism seeks to identify new methods for cooperative land use planning between local governments while advocating for measures to eliminate the causes of regional inequities and encourage more efficient fiscal cooperation between local governments in the same metropolitan region.<sup>127</sup> As demonstrated below, however, as a movement, new regionalism is stunted because it exists as a set of ideals without a framework for effectuating those ideals.

There is a deep wealth of well-developed scholarship detailing local government law and regional governance theories;<sup>128</sup> this Article uses the most salient of those points to advance the new regionalism conversation. What follows next are descriptions of the theoretical underpinnings of each of the governance philosophies—localism,<sup>129</sup> regionalism,<sup>130</sup> and new regionalism<sup>131</sup>—accompanied by critiques that demonstrate how each philosophy contributes to regional inequity and falls far short of meeting the needs of all regional constituents.

### 1. The Dimensions of Localism

On its face, localism is a seemingly neutral “descriptive and normative [governance] theory based on a preference for a system of decentralized, independent local governments and local control.”<sup>132</sup> Creations of their states, local governments “are subject to control by both their states and local constituents”<sup>133</sup> and operate in a range of forms, including cities, counties, townships, and parishes.<sup>134</sup> Our 50 states are home to approximately 90,000 local governments with varying

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126. See *infra* Part II.C.2–3.

127. Orfield, *supra* note 24, at 92; see also *infra* Part II.C.3 (discussing limitations of current attempts to regional fiscal cooperation).

128. See, e.g., Michelle Wilde Anderson, *Mapped Out of Local Democracy*, 62 STAN. L. REV. 931 (2010); Briffault, *supra* note 119; Gerald Frug, *Against Centralization*, 48 BUFF. L. REV. 31 (2000).

129. See *infra* Part II.C.1.

130. See *infra* Part II.C.2.

131. See *infra* Part II.C.3.

132. Parlow, *supra* note 21, at 53.

133. See RICHARD BRIFFAULT & LAURIE REYNOLDS, CASES AND MATERIALS ON STATE AND LOCAL GOVERNMENT LAW 8 (6th ed. 2004).

134. See *id.* at 8–10.

levels of authority.<sup>135</sup> Each of these units is created, authorized, and expected to act in isolation from its neighboring localities.<sup>136</sup> Localists assert that the decentralized proliferation of our local governments encourages (i) freedom of consumer choice, (ii) government efficiency and innovation, and (iii) the preservation of the democratic process.<sup>137</sup> As explained below, however, this “fragmented” approach to governing metropolitan regions is not neutral but actually works counter to regional equity.<sup>138</sup>

Arguments supporting localism’s efficiency fall into two categories: freedom of consumer choice and government efficiency.<sup>139</sup> The notion of freedom of consumer choice is one of the earliest articulations of support for localism and is credited to the work of Professor Charles Tiebout.<sup>140</sup> Professor Tiebout asserted that local government fragmentation is ideal for “consumer-voters” who can choose in which localities to live based on an assortment of available public services, tax rates, and regulations.<sup>141</sup> Accordingly, the desire to recruit affluent residents and the constant threat of resident exodus keeps localities competitive and operating at optimal levels of effectiveness because unhappy residents can (in theory) always move to another locality.<sup>142</sup> Thus, localism serves as a constant “check” on the efficiency of local government activities.<sup>143</sup>

The argument for government efficiency asserts that local government operations are superior to those of the federal and state

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135. PEW CHARITABLE TRUSTS, *THE LOCAL SQUEEZE: FALLING REVENUES AND GROWING DEMAND FOR SERVICES CHALLENGE CITIES, COUNTIES, AND SCHOOL DISTRICTS* 5 (2012). As these numbers suggest, local governments substantially affect the daily lives of their residents while also being significant economic and political actors at state and federal levels of government. Advocacy organizations such as the National League of Cities and the United Conference of Mayors provide information about the potential social and economic impact of cities. See *About NLC*, NAT’L LEAGUE CITIES, <http://www.nlc.org/about-nlc> (last visited Dec. 31, 2014), archived at <http://perma.cc/XBP6-64Q4>; *Organization Overview*, U.S. CONF. MAYORS, <http://usmayors.org/about/overview.asp> (last visited Dec. 31, 2014), archived at <http://perma.cc/7WJT-NXCD>.

136. See PEW CHARITABLE TRUSTS, *supra* note 135, at 5.

137. Briffault, *supra* note 119, at 15–17; Parlow, *supra* note 21, at 55–58.

138. See *infra* notes 153–60 and accompanying text.

139. See Briffault, *supra* note 119, at 15.

140. *Id.* (explaining Tiebout’s model in Charles M. Tiebout, *A Pure Theory of Local Expenditures*, 64 J. POL. ECON. 416 (1956)).

141. Briffault, *supra* note 119, at 15 (quoting Tiebout, *supra* note 140, at 417).

142. See *id.* at 15–16.

143. *Id.* at 16; Tiebout, *supra* note 140, at 422.

governments.<sup>144</sup> This superiority stems from the comparatively smaller size of local governments and their accessibility to residents. Specifically, the argument asserts that local governments are better suited to make localized policy decisions that can be specifically tailored to local preferences and are not overly inclusive of large numbers of unaffected or contrary interests.<sup>145</sup> Additionally, because local government operations are, by definition, smaller than those at the federal and state levels, local governments are smaller bureaucracies that are, in theory, much easier for residents to navigate — thus keeping residents from exiting.

In addition to government efficiency, local governments are routinely promoted as being more innovative than their state and federal counterparts.<sup>146</sup> The argument asserts that local governments are more capable of fostering innovation with respect to policy-making, small business support and development, and the creative industries because their smaller size, comparatively speaking, makes it easier for the general public to navigate.<sup>147</sup>

Lastly, the value of preserving the democratic process is framed in the language of increased public participation and civic engagement by local voters. Supporters of localism assert that it provides residents with enhanced opportunities for public discourse and localized decision making because voters are voting on decisions that impact their day-to-day lives.<sup>148</sup> Similar to the arguments about government efficiency, the smaller size of a local government is thought to enhance the daily lives of its residents.<sup>149</sup>

While the attributes of localism discussed above may explain its endurance, these attributes also coalesce to foster an enduring exclusivity with respect to which metropolitan residents receive their benefit. In other words, as outlined below, localism does not promote

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144. See Briffault, *supra* note 119, at 15.

145. See *id.*

146. See, e.g., Parlow, *supra* note 21, at 53.

147. See *id.* at 55–56 (providing health care, gay marriage, domestic partner benefits, climate change, immigration, minimum wage, and medical marijuana examples); Neil Westergaard, *Denver Rises in Small Business Rankings*, DENVER BUS. J. (Feb. 7, 2013, 2:50 PM), [http://www.bizjournals.com/denver/blog/broadway\\_17th/2013/02/Denver-rises-in-small-business-rankings.html?s=print](http://www.bizjournals.com/denver/blog/broadway_17th/2013/02/Denver-rises-in-small-business-rankings.html?s=print) (last updated Feb. 8, 2013, 10:14 AM), *archived at* <http://perm.a.cc/46AJ-S7TB>.

148. But see Bill Keller, Op-Ed, *States Gone Wild*, N.Y. TIMES, Mar. 25, 2013, at A23 (noting who actually votes in local elections).

149. See, e.g., Parlow, *supra* note 21, at 55.

regional equity but in fact really only works for middle- and upper-class localities — the “favored quarter.”<sup>150</sup> Favored quarter is the term used to describe those suburban communities that represent only a quarter of a regional population but experience the greatest amount of economic prosperity due to imbalances such as being able to use local control to avoid taking on regional social service burdens.<sup>151</sup> A favored quarter is a regional space that meets the following three conditions:

(1) it captures the largest or a disproportionate share of public infrastructure investments in the region; (2) it has the region’s largest tax base and is the area of highest job growth; and (3) it retains local powers, which it uses in a manner that closes its housing markets to non-affluent regional workers, thus becoming “both socially and politically isolated from regional responsibilities.”<sup>152</sup>

This systematic regional imbalance is what localism protects and preserves.

At the most fundamental level, local governments are service providers tasked with providing traditional public services, such as police and fire departments, which are essential to residential quality of life. Localism has historically served both its affluent and middle-class constituents well by providing these services in the form of funding good schools, obtaining federal and state funding for public infrastructure, recruiting commercial retail development, and offering sizeable lots for single-family housing while restricting the construction of multi-family housing.<sup>153</sup> Because the suburbs were designed to “create an exclusive quality of life for the emergent middle-class,”<sup>154</sup> until now, localism has historically excelled at protecting its homogenous and affluent constituent communities from socioeconomic diversity.<sup>155</sup> By its very definition, localism cannot simultaneously provide the same quality of benefits to all localities, which means that, for poor and working-class localities and the new suburban poor, localism does more harm than

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150. See Sheryll D. Cashin, *Localism, Self-Interest, and the Tyranny of the Favored Quarter: Addressing the Barriers to New Regionalism*, 88 GEO. L.J. 1985, 1987 (2000).

151. See *id.* at 1987–88.

152. *Id.* at 2004 (quoting MYRON ORFIELD, METRO. AREA RESEARCH CORP., SEATTLE METROPOLITICS: A REGIONAL AGENDA FOR COMMUNITY AND STABILITY IN THE PUGET SOUND REGION 1–2 (1999)).

153. See Parlow, *supra* note 21, at 60.

154. Troutt, *supra* note 68, at 1146 (emphasis omitted).

155. See *id.* at 1145.



good, to the detriment of the metropolitan region.<sup>156</sup> Theoretically, localism should provide the same opportunities for efficiency, innovation, and the preservation of the democratic process for all localities in a metropolitan region. The quality of these opportunities for poor and working-class localities, however, is not the same as what is available to middle-class and affluent localities—cementing regional inequities.<sup>157</sup> For example, all public service delivery is not created equal, and inner-ring suburban localities are not equipped to provide the public *social* services to their increasingly poor residents.<sup>158</sup> This is because, regardless of today's post-recession reality, suburban infrastructures were designed to “sustain an exclusive quality of life”<sup>159</sup> and, intentionally, not to provide public social services.<sup>160</sup> The Great Recession certainly did not create poor and working-class suburbs; localism, however, does not serve these localities well.

Localism's dominance in local government law, however, is firmly grounded in the history of suburban development. As suburban localities multiplied across the American landscape, they did so offering escape from urban life as well as the power to exclude any evidence of it.<sup>161</sup>

So we must ask ourselves, now that the geography of poverty has changed, is localism a defensible approach for any community, even those it formerly served or continues to serve well? This Article answers that question in the negative; future scholarship, previewed in Part IV, will detail how regional interest convergence can demonstrate to localists where their own self-interests are harmed by localism and where their interests align with regionalists'.

## 2. The First Generation of Regionalism (Old Regionalism)

The first generation of regionalism, “old regionalism,” is a response to localism's system of fragmentation. Regionalism offers a much more comprehensive scope to metropolitan development. As metropolitan

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156. See *id.* at 1145–46.

157. See, e.g., Shelley Ross Saxer, *Local Autonomy or Regionalism?: Sharing the Benefits and Burdens of Suburban Commercial Development*, 30 IND. L. REV. 659 (1997).

158. KNEEBONE & BERUBE, *supra* note 41, at 62–66.

159. See Troutt, *supra* note 68, at 1146 (emphasis omitted). See *supra* notes 153–55 and accompanying text for a discussion of local government officials' perceptions that local, state, and federal government have shared responsibility for providing community services.

160. See Troutt, *supra* note 68, at 1146.

161. See *id.*

regions grew in scope, regionalism called for the creation of formal metropolitan government institutions to manage this growth in coordination with the localities in the region.<sup>162</sup> Supporters argued that formal metropolitan governments could lead to more efficient land use planning and development and more comprehensive service delivery within regions.<sup>163</sup> Despite federal studies<sup>164</sup> and academic support<sup>165</sup> expounding on the benefits of regionalism, the metropolitan government movement very rarely materialized in practice in the United States.<sup>166</sup>

Regionalism's explicit concern is the improvement of government efficiency, initially though the creation of new formal regional government structures.<sup>167</sup> Regionalism began as a movement advocating for the creation of formal government structures to manage development patterns and promote regional equity.<sup>168</sup> The metropolitan government movement, however, transformed over time as suburban units of government began to populate the space surrounding central cities. Instead of advocating for formal regional governments, the movement began to argue for regional governance.<sup>169</sup> "Government" and "governance" are not synonymous terms. A regional government is a formal legal structure formed by a state legislature to exercise authority over a particular subject matter,<sup>170</sup> whereas regional governance refers to voluntary informal cooperative arrangements and contracting practices utilized by local governments to jointly and cooperatively manage certain activities within a region.<sup>171</sup> There are only a handful of formal regional government structures in operation in

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162. See STEPHENS & WIKSTROM, *supra* note 46, at vi. The regional government movement began in earnest during the first half of the twentieth century. See *id.*

163. *Id.*

164. See, e.g., THE COMM'N ON INTERGOVERNMENTAL RELATIONS, REPORT TO THE PRESIDENT FOR TRANSMITTAL TO THE CONGRESS (1955).

165. See Symposium, *Metropolitan Regionalism: Developing Governmental Concepts*, 105 U. PA. L. REV. 439 (1957).

166. See *infra* note 172 and accompanying text regarding formal regional entities in Minnesota and Portland, Oregon.

167. See STEPHENS & WIKSTROM, *supra* note 46, at 24–27.

168. See Parlow, *supra* note 21, at 63–64.

169. See Gerald E. Frug, *Beyond Regional Government*, 115 HARV. L. REV. 1763, 1787, 1831 (2002).

170. See STEPHENS & WIKSTROM, *supra* note 46, at vi.

171. See Frug, *supra* note 169, at 1787; Parlow, *supra* note 21, at 62–63.

this country.<sup>172</sup> Regionalism advocates now seek “rules and arrangements that permit, encourage, or require regional approaches to issues of growth, quality of life, and inequality but that do not destroy local autonomy.”<sup>173</sup> The primary arguments in support of regionalism<sup>174</sup> are government efficiency, economic interdependence between central cities and suburbs, fair share contributions of tax revenue, and the establishment of a regional economy through regional economic development.<sup>175</sup>

The argument that regionalism is the more efficient governance philosophy stems from the interdependent relationship between central cities and suburbs. The ever-present disparities between central cities and suburbs should not suggest that these entities exist in complete independence of each other. For example, suburban residents still work in central cities, and many suburban communities still rely on central-city infrastructures for the provision of certain public services.<sup>176</sup> Moreover, domestically, business decisions and strategic planning are centered on regional analysis.<sup>177</sup>

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172. Portland, Oregon, and the Twin Cities in Minnesota are the two most stable and lasting attempts at regional government. See Frug, *supra* note 169, at 1777; see also, e.g., *What is Metro*, OREGON METRO, <http://www.oregonmetro.gov/regional-leadership/what-metro> (last visited Jan. 1, 2014), archived at <http://perma.cc/J3GL-CC5G>; *Who We Are*, METROPOLITAN COUNCIL, <http://www.metrocouncil.org/About-Us/The-Council-Who-We-Are.aspx> (last visited Jan. 1, 2014), archived at <http://perma.cc/GDN5-CBHT>. Portland's Metro is the country's first directly elected regional government, and it manages a range of issues including transportation and boundaries between urban and rural land. *What is Metro*, *supra*. The Twin Cities Metropolitan Council manages regional economic development planning, transportation, and housing policy. *Who We Are*, *supra*. Some scholars have speculated that an underlying reason for the implementation and tenure of these entities is the fact that they are centered in fairly homogenous populations as compared to other regions in the country. See, e.g., Parlow, *supra* note 21, at 74–75. While this Article does not advocate for the formation of similar entities, it does advocate for similar equitable outcomes in other metropolitan regions. As such, the country's changing demographics bring a new avenue of study to these entities.

173. Richard Briffault, *Beyond City and Suburb: Thinking Regionally*, 116 YALE L.J. POCKET PART 203 (2006), <http://yalelawjournal.org/forum/beyond-city-and-suburb-thinking-regionally>.

174. According to Professor Richard Briffault, the three core components of the modern argument for regionalism are (i) the region is a “real economic, social, and ecological unit”; (ii) there is a need for comprehensive regional policies and planning; and (iii) there is a need for region-level mechanisms capable of formulating and executing regional-wide perspectives. See Briffault, *supra* note 119, at 3–6.

175. See, e.g., *id.* at 15–17.

176. See *infra* notes 187–92 and accompanying text.

177. See AMY B. DEAN & DAVID B. REYNOLDS, *A NEW NEW DEAL: HOW REGIONAL ACTIVISM WILL RESHAPE THE AMERICAN LABOR MOVEMENT* 21–27 (2009).

In addition, several studies have established correlations between central-city income growth and suburban income growth and the positive impact of such growth on a region's overall economy.<sup>178</sup> The notion of regional economies has long been on the radar of economic development professionals,<sup>179</sup> with a particular focus on the economic impact of regional clusters.<sup>180</sup> The economic impact of a regional cluster is under continuous study but not in doubt.<sup>181</sup> Domestic business decisions and strategic planning are centered on regional analysis.<sup>182</sup> A relocating or expanding business, for example, will look to the region to determine if there is an existing industry cluster that would complement or compete with its goods and services. In addition, that same business would assess the region's transportation infrastructure, the quality of the available workforce, and the availability of housing for its existing workforce. The new regional economy has been described as a "network economy" in which access to many different forms of networks is critical. These networks may revolve around labor pools,

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178. See Briffault, *supra* note 119, at 13 (citing LARRY C. LEDEBUR & WILLIAM R. BARNES, *ALL IN IT TOGETHER: CITIES, SUBURBS AND LOCAL ECONOMIC REGIONS* 1 (1993)).

179. See *id.* at 26–28.

180. A regional cluster exists where the economy is based on multiple complimentary industries that provide a diverse range of jobs. See Mercedes Delgado, Michael E. Porter & Scott Stern, *Clusters, Convergence, and Economic Performance* 2–3 (Nat'l Bureau of Econ. Research, Working Paper No. 18250, 2012); see also Joel Kotkin, *Greetings from Recoveryland*, *NEWSWEEK*, Nov. 15, 2010, at 30, 31 (reporting that Raleigh-Durham, among a few other areas, is a fast-growing location for Silicon Valley-type activity); Kit Eaton, *The Silicon Valleys of the World: The European Edition*, *FAST CO.* (July 24, 2012, 1:35 AM) <http://www.fastcompany.com/1843422/silicon-valleys-world-european-edition>, archived at <http://perma.cc/8QLD-MABV> (listing Dublin, Berlin, and the Silicon Corridor, Silicon Fen, and Silicon Roundabout in Great Britain as European versions of the United States' Silicon Valley).

181. Regional economies based on a singular industry have suffered. "Rust Belt" is the phrase used to describe post-industrial cities who have suffered from massive declines in industry, jobs, and population, although there is some recent anecdotal information to suggest that some of these cities may be experiencing comebacks. See, e.g., Jonathan Oosting, *Brookings: Metro Detroit Economy on 'Road to Full Recovery' After Surviving 'Great Recession'*, *MICH. LIVE* (Dec. 1, 2010, 10:53 AM), [http://www.mlive.com/news/detroit/index.ssf/2010/12/brookings\\_metro\\_detroit\\_econom.html](http://www.mlive.com/news/detroit/index.ssf/2010/12/brookings_metro_detroit_econom.html) (last updated Dec. 1, 2010, 12:29 PM), archived at <http://perma.cc/D36G-RFC2> (reporting that Detroit has entered a recovery period since the 2008 recession); Will Doig, *Rust Belt Chic: Declining Midwest Cities Make a Comeback*, *SALON* (May 12, 2012, 11:00 AM), [http://www.salon.com/2012/05/12/rust\\_belt\\_chi\\_c\\_declining\\_midwest\\_cities\\_make\\_a\\_comeback/](http://www.salon.com/2012/05/12/rust_belt_chi_c_declining_midwest_cities_make_a_comeback/), archived at <http://perma.cc/KQ2Y-JT36>.

182. See DEAN & REYNOLDS, *supra* note 177 at 21–27.

finance, retail, services, ideas, or other areas of expertise.”<sup>183</sup> Studies have also found an interdependent relationship between the economic health of a region’s citizens and the region’s ability to compete successfully in the global marketplace.<sup>184</sup> Thus,<sup>185</sup> regions are domestic economic actors with the potential to participate in global markets.<sup>186</sup> Finally, in addition to the above arguments, there are very practical reasons for regionalism’s appeal. Metropolitan residents lead regional lives.<sup>187</sup> Residents’ daily activities (including work, shopping, and entertainment) may involve trips to numerous localities within a region in any given day.<sup>188</sup>

Regionalists argue that the independent actions of multiple localities within a region are incapable of comprehensively addressing regional issues.<sup>189</sup> Because localities plan in isolation from each other, regionalists argue that this status quo approach, fragmentation, is economically inefficient and inequitable.<sup>190</sup> As independent units with their own tax bases, localities compete against each other for new affluent and middle-class residents who will grow their respective tax bases by deploying a host of fiscal and land use products such as zoning, eminent domain, and tax incentive programs.<sup>191</sup> These incentives, however, further intensify regional inequities.<sup>192</sup>

Despite its more comprehensive approach, regionalism still falls short of promoting regional equity. As explained below, the majority of regional activities performed by local governments are governed by

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183. See Janice C. Griffith, *Regional Governance Reconsidered*, 21 J.L. & POL. 505, 508 (2005).

184. See PASTOR ET AL., *supra* note 31, at 35–36. But see Briffault, *supra* note 119, at 13–14 (explaining that the argument that regions compete in the global marketplace is controversial).

185. The idea of a regional role in the global economy is more aspirational than the domestic analog. Social scientists, economists in particular, predict a role for regions as global economic actors but acknowledge that the capacity is not there yet except in a handful of regions such as Silicon Valley in northern California. See Kotkin, *supra* note 180, at 32; Michael S. Malone, *Why Silicon Valley Will Continue to Rule the Tech Economy* (Aug. 22, 2014, 6:51 PM), <http://www.wsj.com/articles/michael-malone-why-silicon-valley-will-continue-to-rule-the-tech-economy-1408747795>, archived at <http://perma.cc/8HV7-YTA9>.

186. See Griffith, *supra* note 183, at 510.

187. See Briffault, *supra* note 173.

188. See, e.g., *id.*

189. See *id.*

190. See Griffith, *supra* note 183, at 509; see also Briffault, *supra* note 173.

191. See Briffault, *supra* note 173.

192. *Id.*

informal, voluntary arrangements.<sup>193</sup> The two most frequently employed mechanisms of regional governance are intergovernmental cooperative agreements<sup>194</sup> and special purpose districts.<sup>195</sup> The widespread use of these mechanisms is not suited for ameliorating regional inequities, however, and the flawed design and implementation of these mechanisms actually contribute to regional inequality.<sup>196</sup>

State laws generally permit municipalities and local governments to contract with each other through cooperative agreements for shared services and the collection and distribution of taxes.<sup>197</sup> These regional service-sharing agreements typically govern costs and use for services such as police and fire departments, public transportation, waste treatment, airports, sports arenas, and convention centers.<sup>198</sup> While it is quite common practice for localities to voluntarily enter into these agreements for the mutual benefit of their respective citizens, these are not comprehensive schemes of regional governance.<sup>199</sup> First, the scope of these agreements is typically too narrowly defined or otherwise too limited to make any impact on regional inequities.<sup>200</sup> For example, scopes of service are limited to discrete topics such as water, policing, or waste removal, whereas, in contrast, regional governance agreements rarely govern more comprehensive equity issues such as affordable housing efforts.<sup>201</sup> Second, because these agreements are voluntary, they lack any stringent mechanisms for oversight or accountability.<sup>202</sup> The

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193. See *infra* notes 197–204 and accompanying text.

194. See Laurie Reynolds, *Intergovernmental Cooperation, Metropolitan Equity, and the New Regionalism*, 78 WASH. L. REV. 93, 119–32 (2003) [hereinafter Reynolds, *Intergovernmental Cooperation*].

195. See Laurie Reynolds, *Local Governments and Regional Governance*, 39 URB. LAW. 483, 498 (2007) [hereinafter Reynolds, *Local Governments*].

196. See Reynolds, *Intergovernmental Cooperation*, *supra* note 194, at 123.

197. See Reynolds, *Local Governments*, *supra* note 195, at 496.

198. See Cashin, *supra* note 150, at 2030.

199. See *id.* at 2028–30.

200. See Reynolds, *Intergovernmental Cooperation*, *supra* note 194, at 120–32, 137.

201. See, e.g., McDougall, *supra* note 68, at 666–67 (discussing regional contribution agreements for affordable housing in New Jersey); Rachel Fox, *The Selling Out of Mount Laurel: Regional Contribution Agreements in New Jersey's Fair Housing Act*, 16 FORDHAM URB. L.J. 535 (1988) (discussing regional contribution agreements for affordable housing in New Jersey); see also Alan Mallach, *The Mount Laurel Doctrine and the Uncertainties of Social Policy in a Time of Retrenchment*, 63 RUTGERS L. REV. 849 (2011) (chronicling the series of Mount Laurel court decisions and the effects of their current application on affordable housing issues in New Jersey).

202. Reynolds, *Intergovernmental Cooperation*, *supra* note 194, at 127.

consequence of this is that there is no regional-level mechanism that monitors the execution or breach of these agreements. Finally, these agreements are not designed to curb existing inequities between communities.<sup>203</sup> In fact, scholars have argued that cooperative agreements actually exacerbate regional inequalities because only similarly situated municipalities are parties to the agreements.<sup>204</sup> Thus, even if they contract with each other, less affluent localities do not benefit from this mechanism because of their limited resources.

The creation of special purpose districts is a second approach to attempting some form of regional governance. On average, each metropolitan region hosts 100 general purpose and special purpose local governments.<sup>205</sup> As the name suggests, general purpose governments exercise authority over a large range of subject areas, such as land use, public safety, health, and transportation.<sup>206</sup> In contrast, special purpose districts are delegated very limited scopes of authority<sup>207</sup> and are formed typically to exercise narrowly defined powers over entities such as sports stadiums or transportation authorities.<sup>208</sup> While special purpose governments are not uncommon, they are not inherently regional by design.<sup>209</sup> In fact, some scholars have argued that special purpose entities are so widely used precisely because these entities yield no regional impact.<sup>210</sup> Their narrow focus limits their authority to one issue, prevents any sort of coordinated effort with other entities, and makes them less susceptible to political entreaties.<sup>211</sup> These entities deal with “things regionalism” rather than “people regionalism.”<sup>212</sup> In other words, special purpose entities are not intended to address “lifestyle issues like housing, education, and social equity.”<sup>213</sup>

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203. See *id.* at 116, 128.

204. Professor Laurie Reynolds argues that intergovernmental agreements have “non-trivial” anti-regional effect. *Id.* at 98.

205. STEPHENS & WIKSTROM, *supra* note 46, at vi.

206. BRIFFAULT & REYNOLDS, *supra* note 133, at 11.

207. *Id.*

208. See *id.*

209. See Reynolds, *Local Governments*, *supra* note 195, at 498.

210. See *id.*

211. See *id.* at 512 (discussing regional special districts).

212. *Id.* at 516–17 (quoting HENRY G. CISNEROS, REGIONALISM: THE NEW GEOGRAPHY OF OPPORTUNITY 8–9 (1995)).

213. See *id.* at 516 (quoting Donald F. Norris, *Prospects for Regional Governance Under the New Regionalism: Economic Imperatives Versus Political Impediments*, 23 J. URB. AFF. 557, 561 (2001)).

Neither intergovernmental cooperative agreements nor special purpose districts are properly designed to alleviate regional inequities. After all of these decades, why has regionalism not been accepted as a viable option to localism? Regionalism has failed to garner significant grassroots support<sup>214</sup> because, in large part, it is an abstract concept. This is not just the result of a poorly executed marketing strategy, meaning it is not simply a matter of regionalists' having a good product that they are not communicating properly about. It is also about the product, or rather, the lack of an identifiable outcome and a focus instead on too many undefined outcomes. Once regionalism moved away from advocating for formal regional government structures to advocating for informal regional governance structures, it unwittingly opened the door to countless mechanisms and proposals to effectuate informal regional governance. It is hard to get grounded in or feel connected to a movement that has no solid tactical foundation. Numerous articles have been written to propose new forms of regional governance structures or legislation.<sup>215</sup> Despite these proposals, however, regionalists have done a poor job of communicating with specificity what regionalism has to offer. As a result, regionalism has experienced a series of theoretical and practical failures, which are structural and direct by-products of localism's successes. These include the failure to garner broad political support of, or at least key political figures capable of exercising political will in support of, regionalism; a persistent lack of momentum on the ground; the failure to deliver a solid framework for implementation; and the failure to communicate to localists the shared benefits of regionalism and where their self-interests are aligned.<sup>216</sup> Regionalism's informal attempt to address equity concerns with governance morphed into what is known as the new regionalism movement.

### 3. New Regionalism's Unfulfilled Promise

Recognizing the limited appeal of formal regional government entities, regionalism advocates adjusted their strategic position to adopt a "new regionalism."<sup>217</sup> This new regionalism hearkens back to the underlying principles of the metropolitan government by seeking to

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214. See Cashin, *supra* note 150, at 2037.

215. See, e.g., McDougall, *supra* note 68.

216. See Briffault, *supra* note 119, at 15–17; Parlow, *supra* note 21, at 70–77.

217. See Griffith, *supra* note 183, at 509–10.



serve the wider social and economic needs of all regional residents.<sup>218</sup> It marries these equity principles to the use of informal and voluntary governance mechanisms that preserve local government autonomy.<sup>219</sup> This Article does not present a new type of governance school of thought. Instead, recognizing the limitations in that area and acknowledging that many good ideas have been proposed that are yet to be tested, this Article proposes a strategy for revitalizing the dormant new regionalist movement to achieve regional equity.

New regionalism is an interdisciplinary reform movement that promotes regional governance and regional equity.<sup>220</sup> The movement materialized in planning literature in the 1990s as a response to the unchecked growth of regional inequities.<sup>221</sup> Although a succinct definition of new regionalism has yet to evolve, “key elements” include a place-based focus on planning, crafting a “response to the problems of postmodern metropolitan regions,” a holistic approach to regional planning, retooling existing physical planning practices, and passionate advocacy.<sup>222</sup> “New regionalists advocate measures to reduce growing inequality, discourage the detrimental fiscal competition between local governments within a metropolitan region, and remove fiscal barriers to cooperative land use planning.”<sup>223</sup> The movement seeks to respond to the current tension in the regional governance conversation concerning the feasibility of and desire to achieve equitable delivery of local government services and cure other regional inequities while respecting local government autonomy.<sup>224</sup> Instead of a formal metropolitan

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218. See Cashin, *supra* note 150, at 2027.

219. See *id.*

220. See Stephen M. Wheeler, *The New Regionalism: Key Characteristics of an Emerging Movement*, 68 J. AM. PLAN. ASS'N 267, 267–74 (2002).

221. See *id.* at 267, 269.

222. See *id.* at 270–71 (title case removed); see also Reynolds, *Intergovernmental Cooperation*, *supra* note 194, at 113 (listing efficiency, economic interdependence, participatory democracy, and equity as the four criteria that underlie the new regionalist movement).

223. Orfield, *supra* note 24, at 92.

224. See Cashin, *supra* note 150, at 2028. Despite the moniker, new regionalism is not an entirely new concept, and, notwithstanding its stated platforms, there is no universal description of the new regionalist movement. Frug, *supra* note 169, at 1786–87; see also Wheeler, *supra* note 220, at 270. “In fact, rather than a cohesive ideology with a well-accepted policy agenda, New Regionalism refers more precisely to shared concerns and goals for metropolitan area equity.” Reynolds, *Intergovernmental Cooperation*, *supra* note 194, at 112. “It is hard to pin down exactly what new regionalism is.” Frug, *supra* note 169, at 1786–87.

government, new regionalists advocate for a form of regional governance, created through cooperation and collaborative efforts, seeking to implement governance mechanisms that have regional impact as opposed to regional authority while advancing regional equity.<sup>225</sup>

To a large extent, the new regionalism movement is suffering from the same inertia that doomed the metropolitan government movement discussed earlier.<sup>226</sup> This is because much of the conversation concerns what goals new regionalism should achieve to the exclusion of how to achieve those goals<sup>227</sup> and, to the extent such mechanisms exist, they are not structured in ways that promote regional equity. It is too simple (but not inaccurate) to say that new regionalism has a branding problem. New regionalists promote regional equity but not directly in the communities for which it is promoted. A reform movement without a strategy is an academic concept, and new regionalism has largely remained an academic ideal instead of becoming a grassroots movement—which is a missed opportunity. New regionalists hold fundamental the notion that all elements of a region—cities, suburbs, and green space—are connected and should not be treated in isolation from each other.<sup>228</sup> The movement, however, has not articulated any strategies or crafted any political campaigns to achieve its loosely defined goals.<sup>229</sup> It is missing an implementable strategic plan. Regional interest convergence is such a strategy.

Although each governance philosophy has strengths and weaknesses, this Article argues that a new regionalist governance philosophy offers the optimal governance theory for metropolitan regions because it offers a workable balance between governance interests. The new regionalist movement has been missing a strategic framework to facilitate its actual implementation, and this Article presents regional interest convergence as such a framework.

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225. See Cashin, *supra* note 150, at 2027–28.

226. See *supra* Part II.C.2.

227. But see Cashin, *supra* note 150, at 2036–41 (proposing grassroots coalition building and the smart growth movement as concrete examples for achieving new regionalism).

228. Griffith, *supra* note 183, at 509.

229. See Reynolds, *Local Governments*, *supra* note 195, at 490; see also Griffith, *supra* note 183, at 509–10.

### III. TOWARDS A NEW STRATEGY FOR REGIONAL GOVERNANCE: INTEREST CONVERGENCE

As explained, the new regionalist movement is missing a substantive implementation strategy. As detailed in Parts III and IV, regional interest convergence can fill this gap. What makes this possible is the reconceptualization of interest convergence as a transaction—an exchange for value between regional constituents. This Article accomplishes that by introducing an interest convergence methodology for use as a strategic tool of reform and as a framework for problem solving. To provide the appropriate context for the methodology, it is important to first review the evolution of the interest convergence theory in legal scholarship, particularly its uses as legal strategy.

#### A. *Interest Convergence Theory*

Professor Derrick Bell first articulated the interest convergence theory in a 1980 *Harvard Law Review* article.<sup>230</sup> The article was a response to Professor Herbert Wechsler's criticism of the Supreme Court's decision in *Brown v. Board of Education*, the landmark public school desegregation case.<sup>231</sup> Professor Wechsler critiqued the decision as lacking in neutral principles, meaning he believed that the Supreme Court did not reach its decision as an "exercise of reason" but as an exercise of its will by treating segregation in public schools as a matter of discrimination instead of freedom of association.<sup>232</sup> Thus, while Professor Wechsler himself did not personally object to the outcome of the case, he accused the Court of mischaracterizing the issue to achieve the desired outcome.<sup>233</sup> Professor Bell countered the idea that the case was wrongly decided by using the interest convergence theory as a lens to explain the decision.<sup>234</sup> As *Brown* concerned the nation's separate

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230. Bell, *supra* note 27. Professor Derrick Bell was a well-respected constitutional law scholar and pioneer of critical race theory scholarship. The interest convergence theory is arguably one of Professor Bell's most important legacies. Not only is it a pillar of critical race theory scholarship, but it has also been applied in a host of other legal scholarship genres and as a way to elucidate unequal bargaining power and divergent interests. See DERRICK BELL OFFICIAL SITE, <http://professorderrickbell.com/tributes/> (last visited Nov. 6, 2014), archived at <http://perma.cc/84V-G7SD>.

231. *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954); see also Bell, *supra* note 27 (discussing Herbert Wechsler, *Toward Neutral Principles of Constitutional Law*, 73 HARV. L. REV. 1 (1959)).

232. See *Brown*, 347 U.S. at 520.

233. Wechsler, *supra* note 231, at 32–34.

234. See Bell, *supra* note 27, at 524.

systems for educating black and white children, Bell identified the relevant interests in the case (and as representative of interests throughout the country) as those belonging to blacks and to white elites.<sup>235</sup> Specifically, Professor Bell argued that the Court's decision was the manifestation of the convergence of the interests of white elites and blacks.<sup>236</sup> Professor Bell described the interests of blacks in *Brown* as wanting to achieve racial equality through desegregated schools, and the interests of white elites as being beyond the immorality of racial inequality<sup>237</sup> and extending to reputational concerns about counteracting Communism domestically (particularly in the black community) and internationally, reassuring black Americans about the country's progress towards racial equality, and removing segregation as a barrier to the industrialization of the South.<sup>238</sup> He concluded that the Court reached its decision because the interest of blacks in achieving racial equality through desegregated schools did not conflict with those interests of white elites.<sup>239</sup> In other words, the interests of blacks seeking racial equality through the desegregation of public schools converged with the very different interests of white elites who viewed the desegregation of America's public schools as a means to the end of protecting the country's international reputation on race matters, stemming Communism, and maintaining a sense of domestic calm.<sup>240</sup>

Regional interest convergence is a reconceptualization of the interest convergence theory, a theory designed to explain the circumstances under which the interests of subordinated peoples are

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235. See *id.* at 523–25. It is important to note that the “white” interests represented the interests of white elites, which adds a very interesting class dimension to the analysis. Poor whites were outraged by the outcome of *Brown*. See *id.* at 525–26; see also Derrick Bell, *Diversity's Distractions*, 103 COLUM. L. REV. 1622 (2003) (applying the interest convergence theory to explain the Supreme Court's decision in *Grutter v. Bollinger*, 539 U.S. 306 (2003), approving Michigan Law School's affirmative action program in its admissions process). See *infra* Part IV for a discussion of how regional interest convergence contemplates class.

236. See Bell, *supra* note 27, at 523–24.

237. *Id.* at 525. In fact, Professor Bell argued that white interest in racial equality would not have been enough to motivate the decision. *Id.*

238. *Id.* at 524–25. Professor Bell notes that there were whites who recognized that segregation was inhibiting economic development. See *id.*

239. *Id.* at 523. “[T]his principle of ‘interest convergence’ provides: The interest of blacks in achieving racial equality will be accommodated only when it converges with the interests of whites.” *Id.*

240. See *id.* at 523–25.

advanced.<sup>241</sup> Many scholars perceive the theory as a particularly pessimistic view of race relations in America because it asserts that the interests of a subordinated group will not advance until those interests align with the interests of the majority group and the alignment does not alter the majority's status quo.<sup>242</sup> Some might therefore question this Article's reference to the interest convergence theory to promote regional equity, particularly because, unlike the interest convergence theory, this Article does not position the advancement of regional equity on the maintenance of any group's status quo. This Article instead takes the position that interest convergence has the potential to be a dynamic tool for identifying and aligning the myriad interests in metropolitan regions because it explicitly contemplates the positions of subordinated peoples, a necessary factor in any equity analysis.<sup>243</sup> This Article reconceptualizes the interest convergence theory and highlights the theory's unique suitability for navigating power dynamics in metropolitan regions by identifying and aligning interests across a metropolitan region to promote regional equity without regard for the maintenance of any regional constituents' status quo.<sup>244</sup>

### *B. Interest Convergence Methodology*

Several notable legal scholars have employed interest convergence theory to discuss a range of social inequities and cultural phenomena.<sup>245</sup> These scholars have broadened the application of the interest convergence theory by crafting derivative theories of convergence to analyze group dynamics and to advocate for reform.<sup>246</sup> Similarly, this

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241. See Justin Driver, *Rethinking the Interest-Convergence Thesis*, 105 NW. U. L. REV. 149, 150–51 (2011).

242. See Cashin, *supra* note 26, at 254–55. See also *infra* notes 246–64 and accompanying text for a discussion of the optimistic frame of the transactional approach.

243. See *Palmore v. Sidoti*, 466 U.S. 429, 433 (1984).

244. This application of interest convergence in a transactional context diverges from Professor Bell's original articulation of the theory. See *supra* notes 230–40 and accompanying text.

245. See, e.g., Cashin, *supra* note 26.

246. See, e.g., *infra* notes 244–52 and accompanying text; see also Cashin, *supra* note 26; Michèle Alexandre, "Love Don't Live Here Anymore": *Economic Incentives for a More Equitable Model of Urban Redevelopment*, 35 B.C. ENVTL. AFF. L. REV. 1 (2008) (exploring interest convergence between city officials and private developers to incorporate the interests of the "economically vulnerable" in redevelopment projects). For a detailed list and analysis of articles exploring the interest convergence theory in legal scholarship, see Driver, *supra* note 241, at 152 nn.17–18 (critiquing Professor Bell's interest convergence theory). See also

Article also presents a new derivative theory of interest convergence. This Article, however, explores the interest convergence theory from a transactional perspective and proposes interest convergence as a strategy for reviving the new regionalist movement and advancing regional equity.

Professor Cynthia Lee writes that interest convergence has applications as both an “explanation” and a “tool of strategy or prediction.”<sup>247</sup> Interest convergence as “explanation” is demonstrated when legal scholars use the theory to explain specific judicial decisions, judicial trends, and legislative enactments.<sup>248</sup> Professor Bell’s articulation of the theory to explain *Brown* is the archetype of this application.<sup>249</sup> Interest convergence as a “tool of strategy and prediction” speaks to legal scholars’ deployment of the theory to advocate for reform in various subjects.<sup>250</sup> For example, Professor Lee uses interest convergence theory as the foundation for her theory of cultural convergence, which offers a normative theory for predicting when cultural evidence will be successfully used by defendants in criminal trials.<sup>251</sup> Cultural convergence is “the idea that the interests of minority and immigrant criminal defendants in obtaining leniency seem most likely to receive accommodation when there is a convergence between dominant majority cultural norms and the cultural norms relied upon by the immigrant or minority defendant.”<sup>252</sup> According to Professor Lee, cultural convergence theory can be an explanation for

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Stephen M. Feldman, *Do The Right Thing: Understanding the Interest-Convergence Thesis*, 106 NW. U. L. REV. COLLOQUIY 248 (2012) (critiquing Professor Driver’s critique).

247. Lee, *supra* note 28, at 925, 933. For example, Professor Catherine Smith employs interest convergence theory as an organizing strategy to promote what she coined “outsider interest convergence.” Catherine Smith, *Unconscious Bias and “Outsider” Interest Convergence*, 40 CONN. L. REV. 1077, 1080 (2008). Professor Smith argues that subordinated groups should use interest convergence theory to build coalitions with each other as “outsiders” to the majority by identifying “what are perceived to be white middle class, heterosexual norms and the subordinated groups’ respective group’s failures to conform to those norms serve to marginalize each group and all groups in the coalition.” *Id.* at 1089. For Professor Smith, interest convergence theory is a tool that subordinated groups should use to find shared concerns and commonalities in order to strengthen their collective power and facilitate interactions with the majority. *See id.* at 1089–90.

248. *See* Lee, *supra* note 28, at 925–32.

249. *See* Bell, *supra* note 27.

250. *See* Lee, *supra* note 28, at 933 (presenting four categories of legal scholarship that treat interest convergence theory as strategy or predictive of the success of that strategy: workplace reform, educational reform, political reform, and other reforms).

251. *See id.* at 914.

252. *Id.* at 913–14.

why some defendants may be more successful than others in defending their criminal cases.<sup>253</sup> In other words, when immigrant and minority defendants are successful with the deployment of cultural evidence in their defense, it may be because they have cultural norms that are similar to or in alignment with the norms of our dominant culture.<sup>254</sup> This is an example of employing interest convergence theory as a tool for prediction. Professor Lee's approach highlights a quintessential point about the interest convergence theory—it is not an answer but a device by which to illuminate possible answers, explanations, strategies, and predictions.<sup>255</sup>

The feasibility of the interest convergence theory as the explanation for the outcome in *Brown* is certainly subject to debate. Professor Bell himself acknowledged that the white interests he identified in *Brown* might “seem insufficient proof of self-interest leverage” to explain *Brown*, given the importance of the decision, but that those interests, nonetheless, help assess the decision.<sup>256</sup> Professor Bell's analysis presents a set of criteria that can be normalized and replicated to promote interest convergence in other contexts, specifically, for the purposes of this Article, the new regionalist movement.<sup>257</sup> This Article distills the interest convergence theory into its component elements to formalize an interest convergence methodology and applies interest convergence in the context of local government law from a transactional perspective.<sup>258</sup> As such, regional interest convergence serves as a novel application of interest convergence from a transactional perspective in the local government context.

Transactional law focuses on creating value for the various parties to a transaction.<sup>259</sup> Interest convergence theory has overwhelmingly been

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253. *See id.*

254. *See id.*

255. *See id.* at 939–58.

256. Bell, *supra* note 28, at 525.

257. *See id.* at 523–25.

258. *Cf.* Jonathan C. Augustine, *The Interest Convergence of Education Reform and Economic Development: A Response to “The State of Our Unions,”* 51 U. LOUISVILLE L. REV. 407 (2013) (writing about the convergence of economic interests to improve public education).

259. *See, e.g.,* Ronald J. Gilson, *Value Creation by Business Lawyers: Legal Skills and Pricing*, 94 YALE L.J. 239, 244–56 (1984); Ronald J. Gilson, *Lawyers as Transaction Cost Engineers* (Working Paper No. 147, 1997), available at <http://ssrn.com/abstract=11418>, archived at <http://perma.cc/8PMZ-GP3M>.

examined in a litigation- or rights-based context.<sup>260</sup> This Article proposes that “interest convergence operating in a transactional context, facilitates sustainable alignments between distinct sets of interests and that these alignments are fluid and would be responsive to changes in interests over time.”<sup>261</sup> While litigating rights-based controversies has undoubtedly secured fundamental rights for subordinated groups, that approach can produce a framework for myopic and narrow analyses of those interests.<sup>262</sup> Transactional practice, in contrast, is a collaborative process.<sup>263</sup> Instead of one party seeking value at the expense of another, all parties to the transaction typically expect some sort of exchange of value.<sup>264</sup>

The methodology below presents Professor Bell’s analysis of the facts and outcome of *Brown* to identify the criteria for navigating an interest convergence question.<sup>265</sup> The elements of the methodology are as follows: multiple constituent groups, one of whom is subordinated or represents a subordinated interest;<sup>266</sup> distinct interests held by each constituent group; at least one method of convergence; and an actual resulting convergence that does not downgrade the status quo of the dominant party.<sup>267</sup>

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260. See *supra* note 28 and accompanying text.

261. Patience A. Crowder, *Interest Convergence as Transaction?*, 75 U. PITT. L. REV. (forthcoming 2015) (manuscript at 7) (on file with author).

262. See John O. Calmore, *Critical Race Theory, Archie Shepp, and Fire Music: Securing an Authentic Intellectual Life in a Multicultural World*, 65 S. CAL. L. REV. 2129, 2215–16 (1992).

263. ALICIA ALVAREZ & PAUL R. TREMBLAY, INTRODUCTION TO TRANSACTIONAL LAWYERING PRACTICE 4 (2013).

264. *Id.*

265. See Bell, *supra* note 27, at 523–33.

266. See *infra* notes 276–78 and accompanying text for a discussion about whether, excluding *Brown*, subordination is a requirement for all interest convergence questions.

267. See Bell, *supra* note 27, at 523–33.



**Table 1**  
***Brown* Interest Convergence Methodology**

<b>Multiple Constituent Groups</b>	White Elites	Blacks
<b>Multiple Interests</b>	Protect the United States' international reputation concerning race relations; curtail the spread of Communism in the black community; and remove segregation as a barrier to industrialization in the South.	Equal access to public education (desegregation)
<b>Subordinated Constituent Group/ Type of Subordination</b>	Blacks/Race and Non-elite Whites/Class <sup>268</sup>	Blacks/Race and Non-elite Whites/Class
<b>Medium for Convergence</b>	U.S. Supreme Court	U.S. Supreme Court
<b>Resulting Convergence</b>	Desegregation while preserving status quo of this constituent group	Desegregation

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268. The specific exclusion of the interests of low-income whites is a second form of subordination presented by *Brown*. See *id.* at 525–26.

### 1. Multiple Constituent Groups

An interest convergence transaction requires multiple constituent groups. Professor Bell constructed the interest convergence theory around the interests of black and elite white Americans.<sup>269</sup> He made it a point to explain that poor white Americans were vehemently opposed to public school integration,<sup>270</sup> and their interests were not considered by the Court.<sup>271</sup>

### 2. Multiple Interests

An interest convergence transaction requires at least two distinct sets of interests. According to Professor Bell, the interests of white elites centered on America's international reputation for being a country of tolerance; foreclosing the spread of Communism, particularly in the black community; and removing the economic barriers to industrialization that were being structurally maintained by segregation in the south.<sup>272</sup> The interests of blacks, in comparison, centered on achieving racial equality through the desegregation of public schools.<sup>273</sup> It is important to understand that the interests in an interest convergence transaction do not have to mirror each other or even be similar for a convergence to occur. As explained further in Part IV, the interests must be capable of being aligned. In *Brown*, the interests of blacks in desegregated schools as a function of "equality of individual opportunity"<sup>274</sup> aligned with the interests of white elites to facilitate the Court's decision to desegregate public schools.<sup>275</sup>

### 3. Subordinated Party/Type of Subordination

Interest convergence was designed to explain convergences of interest between multiple parties, where one party was subordinated in some respect to the other.<sup>276</sup> *Brown* was decided at the beginning of the civil resistance campaigns of America's Civil Rights Movement, a social movement dedicated to eradicating formal systems of race

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269. *Id.* at 523.

270. *Id.* at 525.

271. *See id.* at 525–26.

272. *Id.* at 523–25.

273. *Id.* at 529.

274. WILLIAM JULIUS WILSON, *THE TRULY DISADVANTAGED: THE INNER CITY, THE UNDERCLASS, AND PUBLIC POLICY* 112 (2d ed. 2012).

275. *See Bell, supra* note 27, at 524–25.

276. *See id.* at 523.

discrimination in the United States and lessening the impact of informal discriminatory practices.<sup>277</sup> Thus, blacks were the subordinated group in *Brown* and the type of subordination was racial discrimination, specifically with respect to segregation in public schools.<sup>278</sup>

#### 4. Medium for Convergence

An interest convergence transaction requires a medium for convergence.<sup>279</sup> In *Brown*, the Supreme Court was the method of convergence. While the Court's decision does not explicitly state that it considered each of the interests identified by Professor Bell, there is evidence that the parties raised these or similar issues in their respective briefs in addition to other forms of circumstantial evidence.<sup>280</sup>

#### 5. Resulting Convergence

An interest convergence transaction has an outcome.<sup>281</sup> In *Brown*, the Court's decision to desegregate America's public schools was the resultant interest convergence.<sup>282</sup> Desegregation was formally outlawed, which met the interests of white elites in preserving America's international reputation on race relations, appeasing blacks and stemming Communism in the black community, and opening access to quality public education in the South with the goal of industrializing the South.<sup>283</sup> This outcome met the interests of both blacks and white elites without, as Professor Bell noted, altering the status quo of white elites.<sup>284</sup>

Distilling the interest convergence theory down to its basic elements permits a reconceptualization of the theory's import and application. This reconceptualization is appropriate because, to date, scholars have

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277. See WILSON, *supra* note 274, at 112–14.

278. See *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954).

279. See Bell, *supra* note 27, at 528–29.

280. See Brief for Appellants, *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954) (No. 1); see also Lee, *supra* note 28 at 922–24 (citing MARY L. DUDZIAK, COLD WAR RIGHTS: RACE AND THE IMAGE OF AMERICAN DEMOCRACY 90–102 (2000) (discussing Mary Dudziak's book *Cold War Civil Rights: Race and the Image of American Democracy*, in which Dudziak detailed archival records that substantiated Bell's assertion that *Brown* was a Cold War reaction—validating his interest convergence theory)).

281. See Bell, *supra* note 27, at 523.

282. See *id.* at 524; see also *Brown*, 347 U.S. at 495.

283. See Bell, *supra* note 27, at 523–25.

284. This Article deviates from Professor Bell's interest convergence theory on this point. As explained in Part IV, regional interest convergence does not require the majority party's status quo to remain unchanged to facilitate the convergence. See *infra* notes 322–25 and accompanying text.

explored interest convergence theory in litigation-based contexts.<sup>285</sup> This reconceptualization demonstrates that, on a most fundamental level, interest convergence can be a type of transaction between multiple parties (here, regional constituent groups) which creates a space for the implementation of regional interest convergence as a transaction for pursuing new regionalism in regional planning.

#### IV. REGIONAL INTEREST CONVERGENCE: A NEW REGIONALISM REVIVAL

As I have argued in other scholarship, interest convergence can serve as a transactional framework for bringing value to different constituent groups.<sup>286</sup> In that vein, regional interest convergence is a transactional strategy that could reboot the new regionalism movement and revive it by activating new regionalism's twin goals of equity and efficiency.<sup>287</sup> Using the nomenclature of local government law, this section identifies regional constituents and their interests that are ripe for convergence; introduces the regional interest convergence methodology; and outlines mechanisms to effectuate regional interest convergence. The vignettes below depict scenarios of two different types of metropolitan communities and demonstrate where the interests of these regional constituents can converge.

##### *A Tale of Two Communities*

Although it didn't start that way, life in Townedge Park<sup>288</sup> has been hard for generations. Originating as a working class neighborhood in the late nineteenth century, today, it is known as the untouchable neighborhood—the “hard hood.” A community surrounded by industry and where people without choice or options end up. Depending on who you ask, it may be the poorest community in the city; it certainly is one of the poorest in the state. It is the neighborhood of last resort, where no one moves to voluntarily but finds a way to call it home once they are there. It is approximately 1,500 people surrounded by a Central City of almost 500,000. It is a community where close to 90% of the housing is public or subsidized low-quality housing; where the median annual household income is \$8,000; where the median rent is \$174; where 82%

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285. See, e.g., Lee, *supra* note 28, at 925–33.

286. See Crowder, *supra* note 261.

287. See Tyson, *supra* note 25, at 302.

288. Townedge Park is a hypothetical neighborhood in a central city.

of the population lives below the poverty level (compared to 22% of the surrounding city); where over 90% of the adult women in the community commute outside of it for work in a service industry; and where the overwhelming majority of residents are people of color and immigrants. It is a poor inner-city community and its struggles have isolated it from other communities in the city.

In comparison, since its formation as a suburb of Central City, day-to-day life in Groveland is markedly different from the daily experiences in Townedge Park.<sup>289</sup> This is despite the fact that the communities are less than fifteen miles apart. It incorporated as a suburb in the 1940s to form part of the emerging metropolitan region and existed as an idyllic community for decades. Over the years its population grew steadily but modestly to close to 85,000. Its leadership worked to preserve a certain quality of life in Groveland by steadfastly focusing on promoting the construction of single-family homes and recruiting national commercial chains. Within four years of the housing crisis and the Great Recession, one in every eighteen homes was foreclosed. Today, it is a community of single-family homes, of two-car garages, and where the median household income used to be \$89,000 and the unemployment rate sat at 3%. Today, unemployment is 9%. The construction and manufacturing jobs that had historically sustained Groveland and similar suburbs across the nation disappeared. Formerly an affluent community, Groveland now has struggles similar to those in Townedge Park.

Not so long ago, the differences between these two communities could not be starker; today, however, they share striking commonalities that present profound opportunities for change in regional planning and poverty alleviation programs.

The application of regional interest convergence to regional inequity is particularly appropriate because, as discussed in Part III, the origins of interest convergence theory lie in identifying mechanisms by which subordinated groups can advance their cause.<sup>290</sup> The strategy is also relevant given the history of race and class discrimination in the evolution of our metropolitan regions.<sup>291</sup> The growth and development of metropolitan regions cannot be fully understood nor can the persistent advancement of regional inequity be remedied without recognizing the intersection of race and class discrimination that

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289. Groveland is a hypothetical suburb of a central city.

290. See *supra* notes 276–85 and accompanying text.

291. See *supra* Part II.A.

sustained the suburbs for decades. Exclusive by design, the proliferation of the suburbs was fueled by racial and economic segregation that confined the majority of blacks to central cities to contend with a range of social ills, including concentrated poverty.<sup>292</sup> This, unsurprisingly, led to a correlation between race and poverty that that persists today.<sup>293</sup> Efforts to alleviate poverty throughout metropolitan regions have to take this race and class dynamic into account to reach their optimum level of effectiveness. Otherwise, systematic problems will go unaddressed.

#### A. Regional Constituents

Metropolitan regions house a diverse range of individual, community-based, and institutional residents, and, as such, are home to a diverse range of regional constituent groups, each with its own respective interests. In the regional governance vernacular, there are two predominant, but unequally situated, regional constituent groups: regionalists and localists.<sup>294</sup> These are not political parties. These labels are shorthand for an approach that a regional constituent would support to protect its space and interests in the region. Regionalists advocate for mechanisms of regional governance to conceive of, manage, and develop metropolitan areas as regional spaces.<sup>295</sup> Localists champion the autonomy of independent local governments as the appropriate form of regional management.<sup>296</sup> Scholarship on local government law and regional governance has not recognized areas for the convergence of interests between regionalists and localists. This Article presents regional interest convergence as a framework that can facilitate that convergence by identifying and squaring the amorphous limits of new

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292. There is an extensive literature about the well-documented patterns of discrimination that supported the exclusivity of the suburbs. *See generally* MARY PATILLO, *BLACK ON THE BLOCK: THE POLITICS OF RACE AND CLASS IN THE CITY* (2007); RUSK, *supra* note 38; ROBERT O. SELF, *AMERICAN BABYLON: RACE AND THE STRUGGLE FOR POSTWAR OAKLAND* (2003); RAY SUAREZ, *THE OLD NEIGHBORHOOD: WHAT WE LOST IN THE GREAT SUBURBAN MIGRATION 1966–1999* (1999).

293. *See, e.g.*, Ian Haney López, *Is Paul Ryan Racist?*, POLITICO (Mar. 14, 2014), [http://www.politico.com/magazine/story/2014/03/is-paul-ryan-racist-104687\\_full.html?](http://www.politico.com/magazine/story/2014/03/is-paul-ryan-racist-104687_full.html?_archived_at=http://perma.cc/W2JF-2X8R), *archived at* <http://perma.cc/W2JF-2X8R> (discussing politics and the racialization of inner-city poverty). It is worth noting that the non-traditional members of the LMI population are typically not minorities and tend to have more education than the traditional LMI population. Edmiston, *supra* note 95, at 53.

294. *See* Briffault, *supra* note 119, at 1.

295. *See* Parlow, *supra* note 21, at 52.

296. *Id.* at 53.

regionalism.<sup>297</sup> As explained below, regional interest convergence makes these limits functionally effective through the identification of regional constituent groups and their interests and by providing a convergence mechanism for aligning those interests.<sup>298</sup>

### 1. The Localists' Autonomy Interest

As previously explained, localism is currently the dominant governance construct in metropolitan regions.<sup>299</sup> Succinctly stated, localism is “about the legal and political empowerment of local areas.”<sup>300</sup> Localists, therefore, seek to preserve and protect the current system of multiple “relatively small governments wielding power over such critical matters as local land use regulation, local taxation, and the financing of local public services.”<sup>301</sup> As a system that celebrates the independence of localities, localism is supported by a range of individual and institutional actors.<sup>302</sup> These individual and institutional actors are what I identify as the first of the two regional constituent groups identified in this Article: the localists. The localists constituent group consists of suburban local government leaders, residents of affluent suburbs, business and industry entities,<sup>303</sup> real estate developers,<sup>304</sup> institutions of higher education, and, in many cases, central-city officials.<sup>305</sup> The members of the localists constituency have varying reasons for their preference but are united in their ideology of decentralized power in regional spaces.<sup>306</sup> The members of the localists constituent group

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297. See *supra* notes 24–28 and accompanying text.

298. See *infra* notes 311–15 and accompanying text.

299. See Parlow, *supra* note 21, at 51.

300. Briffault, *supra* note 119, at 2.

301. *Id.* at 1.

302. See *id.* at 2.

303. See *id.* While business and industry may have strategic regional plans to guide their growth and development, these entities interact with local governments on a variety of significant matters that include recruitment, relocation assistance, and tax incentives.

304. See JOHN MARTINEZ, LOCAL GOVERNMENT LAW § 8.1 (Supp. 2014).

305. Despite the concerns of inner-city communities with equity, central-city leadership is included in the localist constituent group because many of these leaders typically view autonomy as the way to maintain the influence of the central city (or at least its internal power structure). See, e.g., Briffault, *supra* note 119, at 28–29 (“Central city officials and residents who would benefit from some forms of regionalism, such as tax base sharing, might be leery of regional initiatives that seem to threaten the autonomy of their communities or weaken their political voices.”).

306. See Parlow, *supra* note 21, at 53. The localists interest of autonomy has two distinct strands: autonomy and equity. In other words, there are two subsets of localists—those who value autonomy for the sake of autonomy and those who value autonomy as a means for

typically occupy a privileged position in regional spaces — a position that has historically been well-maintained by localism.<sup>307</sup> While the earliest arguments for localism were clothed in the language of “public choice” to preserve the localist values identified in Part II,<sup>308</sup> today’s dominant justification is articulated as “autonomy”<sup>309</sup> — the autonomy to control land use, tax rates and the distribution of tax revenues, and the delivery of municipal services.<sup>310</sup> Thus, for the purposes of the regional interest convergence methodology, the localists interest is autonomy. “Choice” and “autonomy” are seemingly innocuous terms, but we know from the history of metropolitan regional development that they can be used as proxies for race and class discrimination.<sup>311</sup> Because regional interest convergence requires the identification and alliance of interests, it has the potential to move beyond such pretexts and guard against discrimination.

## 2. The Regionalists’ Equity Interests

Regionalists “call for new regional processes, structures, or institutions that can identify regional problems, formulate regional solutions, implement those solutions, and coordinate regional actions over a wide range of policy domains.”<sup>312</sup> The second group of regional constituents I have identified is the regionalists. The regionalists

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achieving regional equity. I call these two subsets autonomy-localists and equity-localists, respectively. Equity-localists want the same equitable outcome for regional residents as the regionalists, but believe that is best achieved through local governments. See *supra* Part II.C.1. For example, equity-localists such as Professor Gerald Frug believe that cities are hamstrung by limitations set by their state governments and that increased autonomy would enhance community participation as well as the governing and decision-making powers of municipal bodies. See Frug, *supra* note 169, at 1789–90. While all localists value autonomy, the identity of the equity-localists differs from the identity of the autonomy-localists. Equity-localists are the minority viewpoint in the localists constituency and tend to be academics and social scientists as opposed to individuals with economic or political power to effectuate change (unlike autonomy-localists who are generally the parties residing in or otherwise protective of the “favored quarter”). See Cashin, *supra* note 150, at 1987. Neither autonomy-localists nor equity-localists are satisfied with the current level of power held by local governments and believe that local governments need more autonomy through increased powers delegated by the states. See Frug, *supra*, note 167, at 1789–92; see also Briffault, *supra* note 119, at 28–29.

307. See *supra* notes 149–60 and accompanying text.

308. See Frug, *supra* note 167, at 1764 & n.3; see also *supra* Part II.C.1.

309. See Briffault, *supra* note 119, at 15, 17–19.

310. See MARTINEZ, *supra* note 304.

311. See Briffault, *supra* note 119, at 24–25.

312. *Id.* at 6.



constituent group consists of a wide range of subgroups that includes working class and low-income communities (regardless of race or ethnicity); residential communities of color (regardless of class); immigrants; residents of inner-ring suburbs; central-city residents; nonprofit and other charitable organizations; social justice organizations; and new regionalists.<sup>313</sup> These are the groups that have historically been affected, either directly or indirectly, by racial and class inequities.<sup>314</sup> As such, it should not be a surprise that, for the purposes of the regional interest convergence methodology, their interest is equity. Regional equity seeks equal access to opportunities that decrease income gaps within a region and remove barriers to regional construction of affordable housing and the creation of good jobs that pay living wages.<sup>315</sup> The animation of the new regionalism movement, however, requires the strategic acknowledgement that equity is not the primary interest of *all* regional constituents. To navigate regional interest convergence, I have identified two predominant regional constituent groups: localists and regionalists. What follows is an explanation of the regional interest convergence methodology.

### *B. Regional Interest Convergence Methodology*

This section introduces the regional interest convergence methodology.<sup>316</sup> Like the interest convergence methodology, the

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313. See, e.g., *supra* notes 79–80, 348–50 and accompanying text.

314. See Parlow, *supra* note 21, at 69.

315. See Parlow, *supra* note 21, at 69–70.

316. It is important to note that these constituent groups are archetypes of the two governance theories. These are not monolithic categories but expansive labels that represent several subcategories of regional constituents. It is certainly possible that an affluent home owner could have regionalists sympathies despite her class status. Likewise, it is also possible that a working class resident of an inner-ring suburb could have localists sympathies despite her class status.

This Article is focused on interest convergence between the localists and regionalists constituent groups; however, it is important to recognize that each regional constituent group is comprised of subset groups whose interests must be recognized before regional interest convergence can be deployed as a new regionalist strategy. In other words, the localists and regionalists constituent groups must each undergo a micro-interest convergence of the interests of their respective subsets. Because each constituent group represents multiple subsets of interests, the interests of localists and regionalists must be intra-aligned via a micro-interest convergence within their respective constituent groups before cross-aligned between localists and regionalists. As such, this Article argues that three types of interest convergence are required to move towards new regionalist governance: (1) micro-interest convergence among regionalists, (2) micro-interest convergence among localists, and (3) macro-interest convergence between localists and regionalists. Again, this Article is focused on the

regional interest convergence methodology contemplates the following elements: multiple constituent groups; distinct interests held by each group; a subordinated interest; a method of convergence; and a resulting convergence.<sup>317</sup> Both of the methodology charts demonstrate a transactional perspective that brings to light new and intriguing commonalities between the interests identified in *Brown* and those of the localists and regionalists constituent groups. Specifically, the charts reveal that the underlying interests in the *Brown* and regional interest convergence methodologies are similar. The chart below makes what was implicit in *Brown* explicit—that equity and autonomy questions were at the center of *Brown*.<sup>318</sup> The equal access to public education interest of blacks in *Brown* is fundamentally a question of equity—a question of equal access and opportunity in public education. Unfortunately, this remains a social and political challenge and is one of the current platforms of today’s regional equity movement. Similarly, the reputational interests of white elites in *Brown* are fundamentally a question about autonomy, albeit reputational autonomy and self-governance as opposed to formally designated local government autonomy prevalent throughout metropolitan regions today. White elites in *Brown* wanted control over how the world perceived America’s race relations.<sup>319</sup> Today, localists want to maintain local control in regional spaces.

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convergence of localists and regionalists interests. An analysis of micro-interest convergence must be undertaken in future scholarship; however, there is support for this idea in Professor Bell’s work. Micro-interest convergence occurred among the white elites in *Brown* as evidenced by the arguments in the amicus briefs. See Bell, *supra* note 27, at 524; see also *supra* note 280 and accompanying text. Similarly, blacks in *Brown* underwent micro-interest convergence through community organizing. See Bell, *supra* note 27, at 524. The identification of micro-interest convergence as a necessary step for regional interest convergence is a nuanced discovery. It is important because it names and normalizes the interest convergence methodology, thus making it an accessible and replicable strategy for subordinated groups. See, e.g., Yxta Maya Murray, *Towards Interest Convergence: Coalition Building Requires Connection Within as Well as Without*, 33 CAL. W. L. REV. 205 (1997).

317. *Supra* Part III.B.

318. See *supra* notes 237–38 and accompanying text.

319. See *supra* note 235 and accompanying text.

**Table 2**  
**Comparison of *Brown* Interest Convergence and Regional Interest Convergence Methodologies**

	<i>Brown</i> Interest Convergence		Regional Interest Convergence	
Constituent Groups	White Elites	Blacks	Regionalists	Localists
Interests	<p>Protect America's international reputation concerning race relations; curtail the spread of Communism in the black community; and remove segregation as a barrier to industrialization in the South.</p> <p><i>These interests reflect the simultaneous autonomous interests of white elites in both managing the world's perception of America in race relations and managing their own sense of happiness with the state of the country's development.</i></p>	<p>Educational equality.</p> <p><i>This interest in public education represents a core component of the modern regional equity movement.</i></p>	<p>Equity in access to opportunity, including public education, affordable housing, employment opportunities, and economic development.</p>	<p>Autonomy of local governments.</p>
Subordinated Constituent Group and Type of Subordination	Blacks/Race and Poor Whites/Class	Blacks/Race and Poor Whites/Class	Blacks/Race and Poor Whites/Class	Blacks/Race and Poor Whites/Class
Method of Convergence	Supreme Court		Regional Organizing Through Interest-Based Negotiation	
Resulting Convergence	Desegregation		Regional Equity	

## 1. Multiple Constituent Groups

Like in *Brown*, regional interest convergence contemplates two constituent groups: localists and regionalists.<sup>320</sup> Regional interest convergence, therefore, will occur between the localists and regionalists constituent groups.

## 2. Multiple Interests<sup>321</sup>

As in *Brown*, regional interest convergence contemplates two sets of interests, each held by a regional constituent group: autonomy, valued by localists,<sup>322</sup> and equity, valued by regionalists.<sup>323</sup> The interest

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320. See *supra* Table 2.

321. As explained in note 311, each regional constituent group should undergo a micro-interest convergence within itself to facilitate regional interest convergence between the localists and regionalists constituent groups. See *infra* note 316 for an outline of these micro-interest convergence mechanisms.

322. The literature discussing interest convergence is not limited to legal scholarship. Political scientists have also employed interest convergence mechanisms to explain or predict certain outcomes. See Stacy Bondanella Taninchev, *Intergovernmental Organizations and Interest Convergence: Does Issue Area Matter?* (Prepared for the Annual Meeting of the American Political Science Association, Sept. 1–4, 2011, Seattle, W.A.), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1901961](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1901961), archived at <http://perma.cc/8CT6-5UV6>. Institutional socialization is a form of micro-interest convergence that institutional localists can undergo before effectuating regional interest convergence. See generally David H. Bearce & Stacy Bondanella, *Intergovernmental Organizations, Socialization, and Member-State Interest Convergence*, 61 INT'L ORG. 703 (2007). Of particular relevance to this Article are convergences of institutional interests, which are the interests of the institutions that have a demonstrated regional impact. In a paper analyzing state behavior in international relations, Professor Stacy Bondanella Taninchev explains that “greater interaction” within an institution “leads to greater interest convergence over time.” Bondanella Taninchev, *supra*, at 3. This form of interest convergence is institutional socialization. See *id.*

Institutional socialization describes the phenomenon that occurs when independent members of a singular institution show greater convergence of interest over the course of time because of the frequency of contact between the members. See Bearce & Bondanella, *supra* at 703. It speaks to the value of social interaction among representatives from various institutions who are collectively housed by one umbrella institution to find shared interests. Institutional socialization is crucial to achieving interest convergence across and within diverse institutions. Given the range of institutional and individual members of the localists subgroups, there are different types of micro-interest convergences that can occur within the localist constituent group. Institutional interests are particularly prevalent in the localists constituent group. See Briffault, *supra* note 119, at 22. Specifically, a type of micro-interest convergence that institutional localists can undergo before effectuating regional interest convergence is institutional socialization. See Bearce & Bondanella, *supra*, at 723.

Institutional socialization explains the informal process by which the attitudes and behaviors of independent actors are integrated over the course of their interaction within the same institution. See Bearce & Bondanella, *supra*, at 706. In other words, it is likely that the interests of individuals who repeatedly interact with each other under the auspices of the

convergence theory teaches that the constituents' interests need not be the same for a convergence to occur.<sup>324</sup> These two sets of interests are

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same organization will integrate over the course of time. This is true even despite the fact that their respective work in the organization is as a representative for another entity (as is the case with regional councils of government discussed below). This would be a micro-convergence within the localists constituent group.

323. Engaged and effective multi-racial and class-based coalitions are essential to the revival of new regionalism. Interest group convergence is the mechanism by which to form these coalitions and is the micro-interest convergence for regionalists necessary to facilitate regional interest convergence. The phrase was first coined by Professor Sheryll Cashin, who crafted the phrase to describe her advocacy for a process to encourage racial minorities to coalesce around their similarities and exercise collective political power in pursuit of shared interests that impact each group in the coalition for the ultimate purpose of "achieving progressivity through interest group convergence." See Cashin, *supra* note 26, at 256, 265, 273–74 (coining "interest group convergence"). Professor Bell's theory of interest convergence explains an outcome produced when two parties' interests align despite the fact that one of the parties is subordinate to the other. In contrast, Professor Cashin's theory of interest group convergence explains an alignment of similarly situated groups. See *id.* at 272–75. These groups are the subgroups that comprise the regionalist constituent group; like the localists, regionalists must undergo an in-group micro-convergence to facilitate regional interest convergence. See *supra* Part IV.A.2.

In developing this theory, Professor Cashin advances the idea of employing interest convergence as a strategy—specifically a political strategy—and she argues that interest convergence theory is the appropriate strategy for forming multi-racial coalitions to challenge racial inequalities and champion progressive legislation. See *id.* at 268–291. Relying on political science literature, Professor Cashin identifies the following four preconditions as requirements for viable multi-racial coalitions:

- (a) the recognition by the parties involved of their respective self-interests; (b) the mutual belief that each party stands to benefit in terms of that self-interest from allying with the other or others; (c) the acceptance of the fact that each party has its own independent base of power and does not depend for ultimate decision-making on a force outside itself; and (d) the realization that the coalition deals with specific and identifiable—as opposed to general and vague—goals.

*Id.* at 270 (quoting STOKELY CARMICHAEL & CHARLES V. HAMILTON, *BLACK POWER: THE POLITICS OF LIBERATION IN AMERICA* 79–80 (1967)). Specifically, Professor Cashin argues that a "convergence of interests among communities of color, working class[es], and progressive whites" could lead to a more effective progressive coalition. *Id.* at 255. In making her argument, she reviews the tensions that have historically and are currently challenging multi-racial coalitions and explains that determining whether individual groups are more motivated by ideology or interest is the most challenging hurdle to the formation of multi-racial coalitions. See *id.* at 278–81. Professor Cashin defines "ideology" as "the pre-existing opinions and attitudes of a particular racial group toward another group." *Id.* at 278. She defines interest as "the recognized tactical or strategic advantage that one racial group can gain by forming a coalition with another group." *Id.* Regional organizing is the most effective method for overcoming self-interests and accomplishing interest group convergence. See *infra* notes 326–29 and accompanying text.

324. See Bell, *supra* note 27, at 524–25.

distinct from each other and, as detailed below, capable of being aligned.<sup>325</sup>

### 3. Subordinated Party/Type of Subordination

As did *Brown*, regional interest convergence contemplates both race and class discrimination, as documented through the story of metropolitan development.

### 4. Medium for Convergence: Regional Organizing Through Interest-Based Negotiation

An interest convergence transaction needs a medium to manage the actual convergence of interests and to formalize the result. In *Brown*, the Supreme Court was the medium for convergence.<sup>326</sup> In regional interest convergence, as explained below, a possible medium for convergence is regional organizing through an interest-based negotiation framework<sup>327</sup> for the purpose of creating regional alliances around equity issues.

Regional organizing is the extension of community organizing beyond neighborhood boundaries to connect similarly situated people throughout a metropolitan region.<sup>328</sup> “It is not clear . . . that our metropolitan policyscape can be changed without a base that can consistently challenge and not just mollify elite decision-makers.”<sup>329</sup> Regional organizing efforts seek to build regional coalitions among low-income and diverse communities by “scaling up” local organizing efforts.<sup>330</sup> As a primary tool of the regional equity movement, regional

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325. This Article diverges from Professor Bell’s assertion that interest convergence can only occur if the dominant party’s status quo remains unchanged.

326. See *supra* Table 1.

327. See *infra* notes 327–49 notes and accompanying text for a discussion of interest-based negotiation.

328. See PASTOR ET AL., *supra* note 31, at 10.

329. See *id.* at 44. In accordance with the three strands of the regional equity movement discussed earlier, regional organizing has employed a multi-faceted approach based on three variants of regionalism: community development regionalism, policy reform regionalism, and social movement regionalism. See *id.* at 24. “Community development regionalism has as its focus the use of regional tools to achieve particular projects.” *Id.* at 38 (emphasis omitted). Policy reform regionalism focuses beyond neighborhood boundaries on changes in metropolitan policy. See *id.* Social movement regionalism views regionalism as “a vehicle for doing politics.” *Id.*

330. “Metropolitan organizing is about changing the rules of the game so that those who have not, will have. . . . Metropolitan organizing is the new civil rights movement.” See *id.* at 15 (quoting Rev. Cheryl Rivera) (internal quotation marks omitted).

organizing looks beyond “leveraging regional dynamics for [singular] project development” but focuses instead “on how the region itself might become fertile ground for an entirely new scale of power-building, complete with broader implications for policy and political change.”<sup>331</sup>

The regional equity movement is a reform movement that “includes policies and practices to promote and manage regional economic growth in a way that maximizes benefits for residents of low-income communities of color throughout metropolitan regions.”<sup>332</sup> The movement seeks to build equity concerns into existing local government laws and economic development practices to eradicate regional inequities.<sup>333</sup> Although the regional equity movement originated outside of the scope of the regional governance debate, local government law and equitable economic development policy and practice are the legal and normative standards underlying the regional equity movement.<sup>334</sup> Therefore, it is important to identify intersections between these movements to build broader coalitions and maximize support.

Like the new regionalist movement, the regional equity movement began in the 1990s when “social justice advocates recognized the role of the metropolitan development patterns in maintaining and exacerbating racial and economic disparities in income, wealth, health, and opportunity.”<sup>335</sup> Like new regionalism, the regional equity movement holds that the region is the most appropriate political forum for developing and implementing new regional equity strategies to address existing regional inequities.<sup>336</sup> Fused with market sensitivities, the movement is an amalgamation of past social justice movements that is

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331. *See id.* at 10. There are gradations of regional organizing. For example, in his book *American Metropolitics*, Myron Orfield argues that central cities and inner-ring suburbs should form “metropolitan coalitions” to overcome the power of the “favored quarter” wealthy suburbs. *See* ORFIELD, *supra* note 32, at xii. For a discussion of the three elements of regional power building, see DEAN & REYNOLDS, *supra* note 177, at 85–158 (listing the three elements developing a regional policy agenda, forming deep coalitions, and political action).

332. Angela Glover Blackwell, *Promoting Equitable Development*, 34 IND. L. REV. 1273, 1278 (2001).

333. *See id.* at 1278–81.

334. *See* Reynolds, *Intergovernmental Cooperation*, *supra* note 194, at 116.

335. ANGELA GLOVER BLACKWELL & SARAH TREUHART, POLICYLINK, REGIONAL EQUITY AND THE QUEST FOR FULL INCLUSION 2 (2008), available at [http://www.policylink.org/sites/default/files/REGIONALEQUITY\\_QUEST\\_FOR\\_INCLUSION\\_FINAL.PDF](http://www.policylink.org/sites/default/files/REGIONALEQUITY_QUEST_FOR_INCLUSION_FINAL.PDF), archived at <http://perma.cc/V3LE-U9L2>.

336. *See id.*

built around analytic, practical, and political components.<sup>337</sup> Analytically, the regional equity movement asserts that our metropolitan development patterns need to change because these patterns are responsible for our “most challenging urban problems.”<sup>338</sup> The movement’s practical elements consider the limitations of past but outdated successes and assert that disparities in housing, economic development, and workforce development require “new metropolitan strategies” that should be “more effective at generating equitable outcomes than either traditional community development efforts or broad national policy.”<sup>339</sup> Lastly, the political component asserts “that the region is a productive place for new progressive organizing, partly because it is on the regional scale that many problems are experienced and partly because a confluence of interests make it possible to create new sustainable coalitions among unlikely partners.”<sup>340</sup> The regional equity movement presents a comprehensive framework for implementing regional interest convergence.

In their book *This Could Be the Start of Something Big*, social scientists Manuel Pastor, Chris Benner, and Martha Matsuoka trace the progress of regional organizing and determine that the most fundamental element necessary for effective regional organizing is the identification of links between day-to-day experiences within the region and specific equity issues.<sup>341</sup> The absence of such links has been a challenge for new regionalism since its inception.<sup>342</sup> “Sometimes the link is not explicitly to ‘regional equity’ as a vision or a goal but rather to specific issues of opportunity or inequality that happen to have regional dimensions.”<sup>343</sup> Such links prevent the movement from appearing too abstract and distant from ‘real’ community issues.

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337. See PASTOR ET AL., *supra* note 31, at 3.

338. *Id.*

339. *Id.*

340. *Id.*

341. See *id.* at 170. In addition, successful regional organizing campaigns demonstrate “common themes of power analysis, leadership development, and community organizing.” See *id.* at 15.

342. *Id.* at 170–71.

343. *Id.* at 171. These links can also serve to raise a “regional consciousness” or “metropolitan identity,” particularly if it is true that, while people may pledge devotion to cities, states, and the nation, there is no such allegiance for regions. For most people, “regional identity” is an academic concept. See Briffault, *supra* note 173. This is despite the fact that the daily lives of most people extend beyond the locality in which they live, including the places where they work, shop, visit friends and family, and are entertained. See *id.*



Regionalism cannot be imposed as an external solution—and when presented as an abstract concept, it frequently carries little sense of immediacy in people’s lives. Thus, it does not serve as a mobilizing force. Nor are academic discussions of regional policies . . . necessarily compelling; such conversations tend to launch conferences, not social movements. By contrast, in those efforts that are contributing to building a social movement, regionalism is not perceived as an external concept or abstract notion. Instead, using popular education based on sophisticated research and analysis, regional equity organizers can demonstrate how regional strategies can bring community and individual aspirations to life.<sup>344</sup>

Interest-based negotiation is an answer to the question of how to practically approach coalition building among regional constituents. It is one thing to say that regional community coalitions are an important force in addressing regional poverty; it is another to document how those coalitions can form and successfully interact with local government structures. As a multidimensional challenge, regional inequity is particularly suited for interest-based negotiation. “Multidimensional problem-solving refers to the breadth of issues relevant to both the negotiation process and outcome, and the fact that they will be perceived differently by the stakeholders depending on their own perspectives, interests, and objectives in the negotiation.”<sup>345</sup> Negotiation specialists have identified four steps to completing a successful interest-based negotiation for multidimensional interests: (i) revealing interests, (ii) enlarging interests, (iii) enlightened interests, and (iv) aligning interests.<sup>346</sup> Because interest-based negotiation skills

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344. PASTOR ET AL., *supra* note 31, at 173.

345. Leonard J. Marcus, Barry C. Dorn & Eric J. McNulty, *The Walk in the Woods: A Step-by-Step Method for Facilitating Interest-Based Negotiation and Conflict Resolution*, NEGOTIATION J. 337, 339–40 (2012). “Problem solving may be unidimensional [(me for me)], two-dimensional [(me against you)], or multidimensional.” *Id.* Unidimensional and two-dimensional negotiators employ classic “adversarial conflict.” *Id.* at 340. This means that the negotiators are focused on “triumphing” over the opposing party by learning their vulnerabilities and developing strategies to exploit them. *Id.*

346. Step one, revealing interests, requires the parties to reveal their interests by identifying and articulating what they “hope or need to gain or achieve in the negotiation.” Marcus, et al., *supra* note 345, at 342. During this step, the parties are instructed to listen actively and to talk to each other in a nonadversarial fashion with the goal being that the parties will achieve self-awareness and appreciate the interests of the other party. *Id.* The second step, enlarging interests, requires the parties collectively to list points of agreement and disagreement. *Id.* at 343. This process helps highlight commonalities and enlarge interests. *Id.* Step three, enlightened interests, is facilitated by the discussion that occurs

are centered on identifying and meeting the underlying needs of all parties involved in a negotiation, these negotiation practices dovetail nicely with the transactional application of interest convergence methodology.<sup>347</sup> The principal attributes of interest-based negotiation are “stakeholder interaction” and “bargaining that is based on mutual interests and overlapping objectives” to achieve “a mutually beneficial solution.”<sup>348</sup> Interest-based negotiation skills serve to counteract power imbalances between the parties. This is particularly important for marginalized communities seeking to interact with local governments.<sup>349</sup> To date, lawyers have employed interest-based negotiation techniques in transactions and disputes involving private parties.<sup>350</sup> The suggestion here is that interest-based negotiation might be deployed as a large-scale grassroots effort for regional alliance building, particularly through the work of the nonprofit organizations such as those listed below.<sup>351</sup> Nonprofit organizations such as PolicyLink<sup>352</sup> the Advancement

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during step two. *See id.* at 344. Step three is an “exploratory and creative brainstorming process” that encourages “creative problem solving and [allows parties] to practice mini-deal making.” *Id.* The parties rank the list of ideas generated during the brainstorming session by a value system that indicates the level of agreement between the parties (e.g., 1 could demonstrate total agreement). *Id.* at 345. Each idea is individually discussed, and, after the first ranking, the “maybes” are discussed to determine if these issues can be bumped up to show total agreement or bumped down to show total disagreement. *Id.* Step four, aligning interests, “is the conclusive bargaining phase.” *Id.* Here, the parties finalize the deal. *Id.* “Ultimately, such negotiations result in a deal because each party has achieved enough recognizable gain: they each ‘get’ something. What they each get certainly does not need to be identical, and it does not need to be of equal monetary value; it is gauged by the relative value it has for each stakeholder.” *Id.* at 346.

347. *See, e.g.,* Jim Hilbert, *Collaborative Lawyering: A Process for Interest-Based Negotiation*, 38 HOFSTRA L. REV. 1083 (2010); *see also supra* Part III.B.

348. Marcus et al., *supra* note 345, at 339, 340.

349. Roger Fisher and William Ury are widely credited with being the first to articulate principles of interest-based negotiation in their book *Getting to Yes*. *See generally* ROGER FISHER & WILLIAM URY, *GETTING TO YES: NEGOTIATING AGREEMENT WITHOUT GIVING IN* (Bruce Patton ed., 2d ed. 1991) (using the phrase “principled negotiation” instead of “interest-based negotiation”). Scholars such as Richard Abel have argued that negotiation is an informal mechanism for justice that increases state control over the disempowered. *See* Richard L. Abel, *Introduction to 1 THE POLITICS OF INFORMAL JUSTICE: THE AMERICAN EXPERIENCE* 1, 6, 11 (Richard L. Abel ed., 1982). Here, interest-based negotiation in the service of regional interest convergence is envisioned to be an exercise in grassroots advocacy. *See id.*

350. *See* Marcus et al., *supra* note 345, at 338–39.

351. *See infra* Part IV.C.

352. *Mission Statement*, POLICYLINK, <http://www.policylink.org/about/mission-statement> (last visited Jan. 18, 2015), archived at <http://perma.cc/Y6MT-4U5H> (“PolicyLink connects the work of people on the ground to the creation of sustainable communities of opportunity

Project,<sup>353</sup> the Gamaliel Foundation,<sup>354</sup> and Strategic Concepts in Organizing & Policy Education (S.C.O.P.E),<sup>355</sup> serve regional organizing missions and are working to build coalitions that cut across class, ethnic, racial, and ethno-religious differences. These organizing efforts, however, are not without challenges. To date, activists have had more success building broadband coalitions around singular equity issues (such as living wage campaigns and black and brown coalitions among African American and Latino youth) but have had less success building coalitions that run throughout the equity issues contained in a region.<sup>356</sup> Interest based negotiation frameworks could work with adjustments to current practices that facilitate implementation for coalition-building negotiations, but that inquiry deserves full attention in future scholarship. “Addressing metropolitan policy requires that groups develop new and different sorts of technical capacities; and shifting policy and political aim from the neighborhood to the region requires a

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that allow everyone to participate and prosper. Such communities offer access to quality jobs, affordable housing, good schools, transportation, and the benefits of healthy food and physical activity.”)

353. *Mission*, ADVANCEMENT PROJECT, <http://www.advancementproject.org/pages/mission> (last visited Jan. 18, 2015), *archived at* <http://perma.cc/4FFL-UN2P>. (“Advancement Project is a next generation, multi-racial civil rights organization. Rooted in the great human rights struggles for equality and justice, we exist to fulfill America’s promise of a caring, inclusive and just democracy. We use innovative tools and strategies to strengthen social movements and achieve high impact policy change.”).

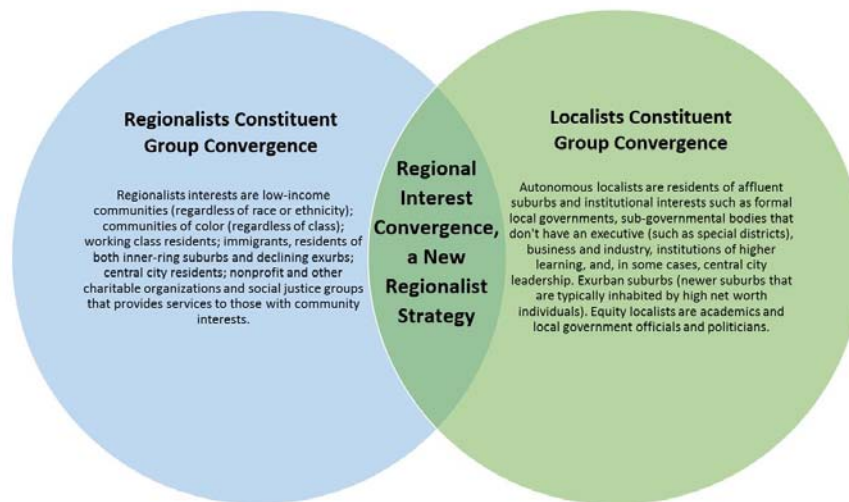
354. *About Gamaliel*, GAMALIEL, <http://www.gamaliel.org/AboutUs.aspx> (last visited Jan. 18, 2015), *archived at* <http://perma.cc/H8AQ-KZMT>; *see also* Gamaliel, ROCHESTER ALLIANCE COMMUNITIES TRANSFORMING SOC’Y, INC. (ROC/ACTS), <https://sites.google.com/site/rochesteracts/gamaliel> (last visited Oct. 29, 2014), *archived at* <http://perma.cc/4JZA-ZQJJ> (“Gamaliel is a grassroots network of non-partisan, faith-based organizations in 17 U.S. states, South Africa and the United Kingdom, that organizes to empower ordinary people to effectively participate in the political, environmental, social and economic decisions affecting their lives. . . . Gamaliel provides leadership training, helps build community organizations, and leads local and national social justice campaigns.”).

355. *Our Mission*, SCOPE, <http://scopela.org/about-us/mission-history/> (last visited Jan. 18, 2015), *archived at* <http://perma.cc/77AN-7Q2C>; *see also* Juliana D. Norwood, *SCOPE’s Novel Approach to Bringing Neighborhood Organizations Together*, OUR WEEKLY L.A. (Oct. 17, 2012, 5:00 PM), <http://ourweekly.com/news/2012/oct/17/scopes-novel-approach-to-bringing-neighborhood/>, *archived at* <http://perma.cc/BRA5-5N4T> (“Strategic Concepts in Organizing and Policy Education (SCOPE) builds grassroots power to eliminate the structural barriers to social and economic opportunities for poor and disenfranchised communities. SCOPE combines community organizing, leadership development, strategic alliance building, research, training and capacity building, and policy advocacy to pursue its mission at the local, state and national levels.”).

356. *See* PASTOR ET AL., *supra* note 31, at 148.

leap of faith that can be difficult to sustain.”<sup>357</sup> As such, something out of the ordinary is required to advance regional equity. As an animator of the new regionalism movement, regional interest convergence provides that opportunity for the extraordinary. New regionalism is the bridge between regionalists and localists, and as demonstrated in the Venn diagram below, regional interest convergence facilitates that alliance. Until now, there has been no strategy to capitalize on this alignment of interests. Now that regional constituents and their interests have been identified, the next section will briefly discuss the practical application of regional interest convergence.

#### Regional Interest Convergence




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357. *Id.* at 14.

*C. Resulting Convergence: Regional Interest Convergence in Practice*

The convergence methodologies uniquely chart paths to coalition building. In *Brown*, the resulting interest convergence was the Court's holding to desegregate public schools.<sup>358</sup> Interest convergence theory holds that this occurred because of the alignment between the interests of blacks and white elites.<sup>359</sup> As a new regionalist strategy, regional interest convergence holds that the resulting convergence of an alignment of the interests of localists and regionalists can advance regional equity while maintaining local government autonomy.<sup>360</sup> While the goal of this Article is not to maintain any constituent's status quo, it's worth noting that, to some extent, regional interest convergence preserves local government autonomy because it does not depend upon the creation of any new state legislative avenues for its implementation.<sup>361</sup> However, the advancement of regional equity must necessarily impair localism's ability to exclude residents from affluent communities because "[p]rivate biases may be outside the reach of the law, but the law cannot, directly or indirectly, give them effect."<sup>362</sup> Barriers to regional equity can, therefore, be challenged by using interest-based negotiation to mount effective regional organizing campaigns to align the interests of localists and regionalists and promote regional interest convergence. Regional interest convergence can incentivize the behavior of members of constituent groups who have misperceived their self-interests as opposed to those who intentionally discriminate based on race or class.<sup>363</sup>

To attempt to alleviate metropolitan poverty, it is important to develop poverty alleviation mechanisms for both urban and suburban communities. As a new regionalist strategy, regional interest convergence is designed to meet the needs of both of these communities because it forces the identification of each regional constituent's

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358. See Bell, *supra* note 27, at 524; see also *Brown v. Bd. of Educ.*, 347 U.S. 483, 495 (1954).

359. See *supra* notes 233–40 and accompanying text for a discussion of the interests in *Brown*.

360. See *supra* Table 2.

361. See *infra* Part IV.B.

362. *Palmore v. Sidoti*, 466 U.S. 429, 433 (1984).

363. See, e.g., Daniel Coleman, *Rich People Just Care Less*, N.Y. TIMES, Oct. 6, 2013, at SR12 (reporting on research that people with "the most social power pay scant attention to those with little such power").

interest, including the interests of both urban and suburban communities.

Ultimately, for a regional equity movement to capture the national imagination fully and contribute to a revitalization of progressive politics around the country, the varying constituencies need to develop a closer communication and coordinating structure throughout the country. They need to build on the telling moments of social combustion—starting at a local and regional scale with the modest epiphanies that come when city dwellers and suburbanites reach out to each other about more sustainable development, when the working poor and the middle class see a common fate resulting from economic insecurity, and when blacks, whites, Latinos, Asians, and others find identity not only in their ethnicity but also in their regional or community connections.<sup>364</sup>

This section identifies mechanisms that can serve as conceptual anchors for regional interest convergence efforts. Each of these should be explored in future scholarship; however, here they generally fall into one of the following categories: economic development, regional planning, and strategic partnerships between community groups and business. Each of the anchors would appear in the blended section of the Venn diagram on page 821 and is briefly outlined below. It is helpful to identify rationales for regional interest convergence that explain its capacity to work for the benefit of both localists and regionalists—demonstrating why either regional constituent would want to participate in regional interest convergence.

[T]he political challenge of regionalism in any form is to show middle- and lower middle-class voters in suburbs with low and declining property tax values that their interests converge with central cities, that tax base sharing will improve their services while lowering their tax taxes, that it will restrict their fair housing commitments to regional standards, and that it will stabilize their communities against further decline.<sup>365</sup>

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364. PASTOR ET AL., *supra* note 31, at 215.

365. Troutt, *supra* note 68, at 1175.

The answers to this challenge lie in the nation's rapidly changing demographics and in communities such as Ferguson, Missouri.<sup>366</sup>

The country is projected to become majority-minority by 2044.<sup>367</sup> With these demographics shifts in population will come shifts in attitudes about class and race that will make the facilitation of regional interest convergence easier to navigate as we move farther and farther away from the black/white dichotomy,<sup>368</sup> and the country will suffer in the global marketplace if the majority of its young workforce is underprepared and undereducated for the existing job market.<sup>369</sup> Also, while it might seem alarmist to point to Ferguson, Missouri, as a harbinger of things to come, decades of class and race discrimination have produced an untold number of communities like Ferguson, where the poor population doubled and the unemployment rate was over 13% between 2010 and 2012.<sup>370</sup> Regional interest convergence can serve as a tool to build regional alliances among communities like Ferguson to strengthen their social and political power within a metropolitan region.

Both localists and regionalists would benefit from regional interest convergence efforts in economic development activities, particularly those aimed at distressed cities in metropolitan regions.<sup>371</sup> Distressed cities are those that are financially insolvent but have not yet declared

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366. Daniel J. McGraw, *Ferguson: Race and the Inner-Ring Suburb*, BELT MAG. (Aug. 14, 2014), <http://beltmag.com/ferguson-race-inner-ring-suburb/>, archived at <http://perma.cc/U N36-5KGP>.

367. SANDRA L. COLBY & JENNIFER M. ORTMAN, PROJECTIONS OF THE SIZE AND COMPOSITION OF THE U.S. POPULATION: 2014 TO 2060, at 9 (2015), available at <http://www.census.gov/content/dam/Census/library/publications/2015/demo/p25-1143.pdf>; see also McGraw, *supra* note 366.

368. Although this will undoubtedly bring other challenges. See, e.g., Cashin, *supra* note 150.

369. In today's labor market, most good jobs require a higher education. See *Four Reasons to Use the Equity Frame in Your Campaign*, BOLDER ADVOCACY BLOG (April 15, 5:24 PM 2014), <http://bolderadvocacy.org/blog/4-reasons-why-equity-is-the-superior-growth-model-for-the-nation-and-3-ways-to-implement-equitable-growth>, available at <http://perma.cc/LWH8-DUG4>. In two decades the majority of all young American workers will be people of color; however, only 28% of black and Latino workers, 15% of Latino immigrants, and 24% of Native Americans and Alaskan natives have an associate's degree. See *id.*

370. See Elizabeth Kneebone, *Ferguson, Mo. Emblematic of Growing Suburban Poverty*, BROOKINGS, <http://www.brookings.edu/blogs/the-avenue/posts/2014/08/15-ferguson-suburban-poverty> (Aug. 15, 2014, 2:30 PM), archived at <http://perma.cc/8A6D-585V>.

371. Distressed cities are cities that have not declared bankruptcy but are in an acute struggle for economic stability. See Liz Farmer, *Distress Signals*, GOVERNING, Mar. 2014, at 42, 44.

Chapter 9 municipal bankruptcy.<sup>372</sup> While currently on the rise in some parts of the country, property values plummeted across the nation during the housing crisis, shrinking the value and volume of property tax payments received by state and local governments.<sup>373</sup> These entities responded in various ways, with state governments undergoing dramatic organizational changes to address record budget short falls.<sup>374</sup> In addition to cutting back on social services, many state governments are delegating responsibilities to local governments without providing additional financial resources.<sup>375</sup> Localities, in turn, have been forced to explore extreme measures to address their current state of financial instability<sup>376</sup> as the citizenry of numerous states and localities have been rocked by battles over public pension funds.<sup>377</sup> Because the economic stability of localities varies in accordance with a locality's available tax base, the loss of state aid and tax revenue impacts localities within the same region differently—intensifying regional disparities and increasing the number of localities in distress.<sup>378</sup> There is a shared sentiment

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372. See Michelle Wilde Anderson, *The New Minimal Cities*, 123 YALE L.J. 1118 (2014); Farmer, *supra* note 371.

373. See *supra* notes 60, 191 and accompanying text.

374. For example, California is in the process of dissolving more than 400 of its redevelopment agencies due to budget constraints. See Maura Dolan, Jessica Garrison & Anthony York, *Court Deals Costly Blow to Cities*, L.A. TIMES, Dec. 30, 2011, at A1. Other states have severely reduced employment in state-wide public services such as public education. See Dennis Cauchon, *Public Workforce Slashed at Local Level: 5 States Account for Majority of Losses*, USA TODAY, Oct. 29, 2010, at 1A.

375. Local governments are losing access to significant financial resources from their state governments. See Alan Greenblatt, *The Hand-Off*, GOVERNING, Apr. 2011, at 24, 24.

376. For example, cities such as Richmond, California; Irvington, New Jersey; and North Las Vegas, Nevada have explored the feasibility of using eminent domain to slow the rate of home foreclosures. See Shaila Dewan, *A City Invokes Seizure Laws to Save Homes*, N.Y. TIMES, Jul. 30, 2013, at A1. In Richmond, where almost half of the city's homeowners with mortgages owe more than the home's current worth, the city proposes to purchase these loans at fair market value, write down the debt, and allow the homeowner to refinance the mortgage at more favorable terms through partnerships with government programs or nonprofit organizations. See *id.* According to the proposal, if the city's offer to purchase is declined, it will then use eminent domain to obtain the loan. See *id.* Not surprisingly, the banking and real estate industries oppose these sorts of proposals, which is somewhat ironic given their support of the use of eminent domain during the urban renewal heydays. See *id.*; Justin Yurkanin, *Mortgage Relief Plan in North Las Vegas Ignites Morality Debate*, LAS VEGAS REV. J. (Jul. 14, 2013, 9:03 AM), <http://www.reviewjournal.com/multimedia/mortgage-relief-plan-in-north-las-vegas-ignites-morality-debate>.

377. The most infamous to date is the City of Detroit's bankruptcy filing. See, e.g., Rana Foroohar, *Broken City: How Detroit's Epic Bankruptcy Could Help the Rest of the Country*, TIME, Aug. 5, 2013, at 22.

378. See *supra* notes 60, 191 and accompanying text.



among localities that “[t]he federal government has all the money, states have all the power and cities have all the problems.”<sup>379</sup> When the first suburbs were formed, cities relied on property taxes as the main source of revenue for funding public services.<sup>380</sup> That model has been in decline for decades and a suitable replacement has yet to be discovered.<sup>381</sup> As a result, cities are contemplating a host of austerity measures that are particularly focused on service delivery but could impact their neighboring suburbs as well. Suburban communities, including affluent communities, need to be vested in the economic health of their central cities

Because regional planning is largely an advisory activity that requires the voluntary participation of localities, regional interest convergence efforts in regional planning should revolve around incentive programs. Current federal funding practices for community and economic development programs are fertile ground for regional interest convergence. One program that is particularly relevant is the Sustainable Communities Regional Planning Grant Program.<sup>382</sup> This program rewards applications for funding that demonstrate regional or multijurisdictional impact. This is because localists and regionalists interests converge where the goal is federal funding for affordable housing and community and economic development programs.<sup>383</sup> Many formerly affluent suburban communities are confronting challenges in their boundaries ranging from economic harms associated with foreclosed and abandoned homes<sup>384</sup> to the emerging suburban single family rental housing market, which is becoming increasingly tight and being driven by investment firms that are bundling and securitizing the rent payments.<sup>385</sup> Innovative regional planning through regional interest convergence would promote regional affordable housing plans and the equitable expansion of regional transit.

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379. See Farmer, *supra* note 14.

380. See *id.*

381. See *id.*

382. See *Sustainable Communities Regional Planning Grants*, U.S. DEP’T HOUSING & URB. DEV., [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/economic\\_resilience/sustainable\\_communities\\_regional\\_planning\\_grants](http://portal.hud.gov/hudportal/HUD?src=/program_offices/economic_resilience/sustainable_communities_regional_planning_grants) (last visited Jan. 18, 2015), *archived at* <http://perma.cc/PMP8-FKWM>.

383. See Alexander, *supra* note 25, at 649 (presenting the Sustainable Communities Regional Planning Grant Program as an example of a new regionalism).

384. See, e.g., Al Yoon, *Blackstone Offers Bond Tied to Rental Income*, WALL ST. J., Nov. 1, 2013, at C4.

385. See *id.*

Innovative strategic partnerships between community groups and business interests also present opportunities for regional interest convergence. “[W]ith a clearer mutuality of interest, regional equity coalitions should attract many more politically powerful interests, including smart-growth, transportation alternatives, and environmental advocates.”<sup>386</sup> Thinking and acting regionally have been part of business and industry strategic plans for decades.<sup>387</sup> Advocacy efforts are catching up. From the civil rights movement to the Occupy Wall Street movement, coalitions are being formed to advocate for social and economic justice.<sup>388</sup> In the absence of regional governance structures, business interests and public-private partnerships direct regional growth,<sup>389</sup> subordinating community interests to institutional interests in regional affairs.<sup>390</sup> Regional interest convergence can counter that outcome because it speaks to both localist “issues of economic competitiveness” and regionalist issues of “sustainability in ways that appeal beyond the usual low-income constituencies.”<sup>391</sup> Community activists and business interests generally mistrust each other because community activists’ emphasis on economic and social justice for residents typically does not seemingly align with the economic and profit emphasis of business interests.<sup>392</sup> However, the expansive geography of regions may prove fruitful for historical alliances between business and regional equity advocates.<sup>393</sup> In fact, “regional equity organizers tend to take market realities into account” because “[t]hey know that business can make money and do good in underserved communities, and they understand that companies need to remain economically viable while also paying higher wages.”<sup>394</sup>

Indeed, this helps to explain why equity issues are sometimes slipped in through the backdoor of efforts to promote competitiveness: since elites stand to lose ground in any direct

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386. Troutt, *supra* note 68, at 1189.

387. See generally DEAN & REYNOLDS, *supra* note 177.

388. See, e.g., Judy Lubin, *The ‘Occupy’ Movement: Emerging Protest Forms and Contested Urban Spaces*, 25 BERKELEY PLAN. J. 184 (2012).

389. PASTOR ET AL., *supra* note 31, at 6–7. This is reminiscent of the rise of business and public-private interests in inner-city development.

390. *Id.* This is similar to the lack of import afforded central-city residents impacted by urban redevelopment projects.

391. *Id.* at 3.

392. See *id.* at 183.

393. See *id.* at 183–84.

394. *Id.* at 184.

redistribution, they will be more persuaded by strategies that aid the economy directly — and [through direct efforts] will also help the poor.<sup>395</sup>

There are, of course, barriers to regional interest convergence. These stem from general counterarguments to regionalism to specific challenges to the interest convergence theory itself. Professor Bell himself acknowledged that there are some limitations to the applicability of the interest convergence theory.<sup>396</sup> The strongest barriers to regional interest convergence are (1) overcoming the self-interests of the various regional constituents, (2) limited financial resources, and (3) limited political will.<sup>397</sup> These barriers, however, are not insurmountable, particularly as the number of distressed localities continues to grow, the nation's demographics change, and regional organizing efforts gain further traction. The number of cities experiencing financial instability and experimenting with new austerity measures is forcing both urban and suburban leaders to identify complimentary interests and call for more collaboration and increased political support for regional efforts.<sup>398</sup>

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395. *Id.* at 44. Many commentators have highlighted the fact that eliminating poverty in a region is good for the businesses in the region. *See, e.g.*, Manuel Pastor, *Growing Together: New Poverty Policy for New Times* (prepared for the Charles Steward Mott Foundation "Defining Poverty Reduction Strategies" Project, Aug. 2008), available at [http://www.brookings.edu/~media/Events/2008/9/29%20poverty/pastor\\_paper.PDF](http://www.brookings.edu/~media/Events/2008/9/29%20poverty/pastor_paper.PDF), archived at <http://perma.cc/9T9P-R3ZH>. A more fundamental point about interest convergence theory has to be made at this juncture. Much of the critique surrounding Bell's interest convergence theory concerned what some viewed to be a pessimistic outlook on human nature in general and race relations in particular. *See, e.g.*, Cashin, *supra* note 26, at 254–55. Bell's theory essentially maintains that a successful interest convergence would advance the cause of the minority party without negatively altering the status quo of the majority. *See* Bell, *supra* note 27, at 523–33. Regardless of whether one subscribes to this view or a broader articulation of Bell's theory, a new regionalist approach to local government interest convergence could actually improve the status quo of local governments. As explained earlier, a new regionalist approach would provide for a regional governance form that preserved local government autonomy. *See supra* Part IV.A.1. Therefore, if local governments' interest converged through the adoption of a new regionalist model of governance, then local governments could obtain the benefits of regional equity evidenced by a reduction in poverty and the region's improved ability to participate in the global market place.

396. *See* Bell *supra* note 27, at 523.

397. *See, e.g.*, Justin Driver, *supra* note 241 (noting defining common interests, accommodating diverse interest, and sustainability of converged interest as challenges to the interest convergence theory); *see also* Cashin, *supra* note 150, at 2015–27 (discussing barriers to new regionalism).

398. *See* Farmer, *supra* note 14.

## V. CONCLUSION

Poverty is no longer concentrated on certain vulnerable populations in central cities and, like a true epidemic, is spreading into the suburbs. Regional inequities consistently worsen, and localized mechanisms for poverty alleviation are insufficient methods to address the problem.<sup>399</sup> News headlines and nightly news broadcasts are replete with phrases such as “the shrinking middle class” and “class warfare.”<sup>400</sup> To date, the response to this “class crisis” has yielded mixed results. The federal government has affirmatively entered the conversation by taking such steps as creating the Consumer Financial Protection Bureau.<sup>401</sup> In addition, a new generation of grassroots movements has used organizing lessons from past movements, such as the Civil Rights Movement, to create new forms of protest.<sup>402</sup> Given the breadth of the economic issues, organizers have experienced challenges launching a sustainable and focused offensive against economic injustice.<sup>403</sup> Regional organizing efforts, however, are becoming more coordinated and constructed for a long-term engagement.<sup>404</sup>

As dire as the effects of the financial crisis are, it is important to realize that they are the facts of a new regional geography. New proposals have to meet the needs of the new regional spaces. Even past proposals that were successful have to be revised to meet the new regional reality so that regions are not ignored as relevant areas for addressing problems currently conceived of as purely local.<sup>405</sup> The

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399. See Scott L. Cummings, *Recentralization: Community Economic Development and the Case for Regionalism*, 8 J. SMALL & EMERGING BUS. L. 131 (2004).

400. See, e.g., Michael R. Bloomberg, *Federal Budgets and Class Warfare*, WALL ST. J., Mar. 29, 2012, at A19; Nelson D. Schwartz, *The Middle Class Is Steadily Eroding. Just Ask the Business World.*, N.Y. TIMES, Feb. 3, 2014, at A1; Bob Burnett, *Class Warfare: The 2014 Election*, HUFFINGTON POST (June 6, 2014, 10:58 AM), [http://www.huffingtonpost.com/bob-burnett/class-warfare-the-2014-election\\_b\\_5459057.html](http://www.huffingtonpost.com/bob-burnett/class-warfare-the-2014-election_b_5459057.html) (last updated Aug. 6, 2014, 5:59 AM), archived at <http://perma.cc/58KL-L436>; Brian Darling, *America's Middle Class Is Shrinking. So Who Is to Blame?*, MAILONLINE (Aug. 29, 2012, 3:24 PM), <http://www.dailymail.co.uk/debate/article-2194390/Americas-middle-class-shrinking-So-blame.html>, (last updated Aug. 29, 2012, 9:56 AM), archived at <http://perma.cc/7UET-XSNF>.

401. Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, § 1011, 124 Stat. 1376, 1964 (2010); see also *About Us*, CONSUMER FIN. PROTECTION BUREAU, <http://www.consumerfinance.gov/the-bureau/> (last visited Jan. 18, 2015), archived at <http://perma.cc/8QRX-NRAX>.

402. See, e.g., Lubin, *supra* note 388.

403. See *supra* note 216 and accompanying text.

404. See Lubin, *supra* note 388, at 184–87.

405. See JACOBS, *supra* note 2, at 410 (commenting on the general planning process and

recent collective efforts of the federal, state, and local governments and grassroots economic justice movements demonstrate the country's readiness for a national conversation about class and inequity, specifically, regional equity. The regional interest convergence mechanism proposed in this Article is not a panacea but a foundational framework for navigating both the persistent poverty that has plagued central cities for decades and the rise in suburban poverty. "This is no time for romantic illusions and empty philosophical debates . . . . This is a time for action. . . . What is needed is a strategy for change, a tactical program."<sup>406</sup> Regional interest convergence responds to that call.

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quoting an unnamed individual).

406. MARTIN LUTHER KING, JR., WHERE DO WE GO FROM HERE: CHAOS OR COMMUNITY? 59 (1967).