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INEQUITABLE SCHOOL FUNDING IN ILLINOIS COLORBLIND OR
BLINDFOLDED: A CRITICAL RACE THEORY ANALYSIS
COUNTERSTORY OF ILLINOIS' *LEWIS E. v. SPAGNOLO*

Mariette Y. Cheatam

339 Pages

December 2014

Despite the Illinois school funding formula continuing to be one of the most staggeringly unequal in the nation, the Illinois State Supreme Court excludes school finance from judicial review. Although entities such as the National Center for Education Statistics (NCES), which is the primary federal entity for collecting and analyzing data related to education, continue to both collect and analyze education results along racial and ethnic lines, many studies leave out the importance of racism in their analysis.

In its search for the colorblind doctrine, this critical race theory (CRT) study focuses on *Lewis E. v. Spagnolo*, 710 N.E.2d 798 (1999). It continues the work of Bell, Crenshaw, Delgado, Orfield, Stefancic, Yosso and others who investigate minority student cause and effects. Findings indicate the colorblind doctrine as obstructive in the struggle for PK-12 funding justice. Offering a view “from the bottom”, facts indicate stock stories as contributors to so called race neutral school finance policy.

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MARIETTE Y. CHEATAM

A Dissertation Submitted in Partial
Fulfillment of the Requirements
for the Degree of

DOCTOR OF EDUCATION

Department of Educational Administration and Foundations

ILLINOIS STATE UNIVERSITY

2014

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INEQUITABLE SCHOOL FUNDING IN ILLINOIS COLORBLIND OR
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No one knows, like a poor black mom, the sacrifice and dedication it takes to instill strength and hope in children born to areas where children are seen as worthless and unimportant. Thank you mom and both Big Moms, for everything you are and everything I hope to become. Auntie Eloise, I thank you for your unconditional love and unwavering support. To my sisters (which include Carolyn) and my children, thank you for your patience.

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Finally, this is dedicated posthumously to my dad, Mr. Earl W. Hudson III, a man who worked two jobs but still came home and sat on the back porch to read with me. No matter how tired or hungry, Dad you were there sitting on the back stoop with steel toed work boots and work soiled clothes. I understand now why you forced me to read through blurred teary eyes. Sometimes my eyes were so filled with tears I could barely see the words on the page. You would say, "You made a mistake start over from the beginning. Do it perfect this time. Now that's my Funny Face." You were my driving force and I thank you for being there to push. I love you!

M.Y.C.

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CHAPTER I

INTRODUCTION TO THE RESEARCH

Research Problem

The Illinois State Constitution reads,

The State shall provide for an efficient system of high quality public educational institutions and services. Education in public schools through the secondary level shall be free. There may be such other free education as the General Assembly provides by law. The State has the primary responsibility for financing the system of public education. (Lousin, 2011, p. 211)

As specified in Article X section 1, of the Illinois State Constitution, the state shall provide a system which performs or functions in the best possible manner, be of high quality and be free of charge for both primary and secondary schools to educate the students of the state. In addition, the State has the primary responsibility for financing this system (State of Illinois, 2012). Inferred in that constitutional provision, is the presumption the state will in some manner fund public schools. Exactly how, and to what extent that funding will be done has been a source of legislation and litigation in the state of Illinois (The Oyez Project at IIT Chicago-Kent College of Law, 2011). Article X section 1, of the Illinois State Constitution continues to stand as strong policy supporting equitable and adequate funding for public schools. Unfortunately, court rulings of legal cases such as *Lewis E. v. Spagnolo*, 710 N.E.2d 798 (1999), hereafter referred to as *Lewis E. v. Spagnolo*, show an Illinois State Supreme Court whose actions indicate a stance in

contrast to the principals set forth in Article X section 1 of the Illinois State Constitution. Specifically, the Illinois State Supreme Court continues to uphold the exclusion of school finance from judicial review (State of Illinois, 2012).

A myriad of concepts have been explored as legal challenges were launched to bring either equity or adequacy to profoundly unequal public school finance formulas. Although undeniably tied together in their objectives, which are to achieve equal quality education for poor and non-white children, both desegregation and school finance equality have been separated in the courts (*Keyes v. School District No. 1*, 413 U.S. 189 (1973); *San Antonio v. Rodriguez*, 411 U.S. 1 (1973)). Examples include challenges which sight the lack of high quality in public education, continued maintenance of discriminatory school finance formulas, the underfunding of many districts and neglecting the needs of poor preschool children (Card & Payne, 2002; Galster, Marcotte, Mandell, Wolman, Augustine, 2007). All are challenges of which have strong ties to heavy reliance on local property taxes for major funding streams (Alemán, 2006, 2007a, 2007b; Galster, Cutsinger, & Malega, 2008; Orfield, 2009; Odden & Picus, 2004).

Legal cases nationwide have affected Illinois policy. Having a national impact of epic proportion, the Texas 1973 U.S. Supreme Court ruling on *San Antonio Independent School District v. Rodriguez* removed school finance cases from the scrutiny of our nation's highest court and focused on the treatment of wealth as a suspect class, education as a fundamental right and the federal courts authority to rule or review a state's education policy (*San Antonio v. Rodriguez*, 411 U.S. 1 (1973); The Oyez Project at IIT Chicago-Kent College of Law, 2011). The court classified *San Antonio v. Rodriguez*, 411 U.S. 1 (1973), as a colorblind inter-district funding inequality case. On

the other hand, they classified *Keyes v. School District No. 1*, 413 U.S. 189 (1973) as an intra-district, de jure, racial/ethnic segregation case (Bowman, 2009).

For the State of Illinois as well as the nation, school culture and the resulting ravages of unequal and inadequate finance for minority students, no longer takes the obvious form of de jure segregation. There is no necessity to have armed National Guardsmen stationed at the front door of the school. Angry White parents no longer line the sidewalks, as Black children file past clutching books close to their bosoms in fear of reprisal (Roberts, 2009). However, the war over equity and adequacy continues to be equally divisive since Levi Pearson, of Clarendon County South Carolina, filed a lawsuit on March 16, 1948 because community taxes paid for 30 buses to carry White children to schools which were made of brick; while Black children walked nine or more miles to wooden one room schools with an outhouse, and a potbelly wood burner for heat (*Brown v. Board of Education of Topeka*, 347 U.S. 483, 1954; Kluger, 1975; Rogers & Oakes, 2005).

Today, because of de facto segregation, something far more damaging and dangerous exists in the new brand of racism. It exists in areas where things have occurred which create disparity in wealth that lead to areas of community space and race, and ultimately segregate us in where we live. It exists in housing patterns which place children of the wealthy in communities separate and distinct from those of the poor (Orefield & Yun 1999; U.S. Census Bureau, 2012b). Separation of our children for education and education finance levels now takes the form of de facto segregation and has as a catalyst aversive racism. Aversive racism exists in covert coded speaking and other techniques instituted so the decision maker, speaker or actor is not seen as

unreasonable, unjust, or outright racist. It partially hides itself from all but those who experience it (Dovidio, 2001; Dovidio & Gaertner, 1986, 2000, 2004, 2005; Dovidio, Kawakami, Smoak, & Gaertner, 2009; Pearson, Gaertner & Dovidio, 2009; Taylor, Gillborn & Ladson-Billings, 2009). Dovidio and Gaertner (2005) write, “Like a virus that has mutated, racism has evolved into a new form that is difficult to recognize and harder to combat” (p. 4).

More importantly, it exist in the highest courts in the State of Illinois in decisions which impact compliance with policy already established in the best interest of all students. Including those students who are minorities and without exception for those who are Black.

Rational for Research

According to Skubikowski, Wright, and Graf (2009),

Schooling often reproduces patterns of social and economic inequality that have historic roots and that characterize contemporary society. These patterns of inequality are based on social and cultural differences, used as explanations and justification for the domination of some social group and the subordination of others. (p. 6)

In Taylor et al. (2009), Ladson-Billings writes, “Perhaps no area of schooling underscores inequity and racism better than school funding” (p. 31). The social practices implemented in the finance of education are examples of the means by which existing social relations are reproduced, or conditions under which the relationships are contested (Fairclough, 1992). These practices include geographic housing patterns, which are both historically and currently connected to issues of race and poverty (National Advisory

Commission on Civil Disorders, 1968a; Orfield, 2002). Housing practices produce patterns which are connected to school districting and attendance zones. Both of these influence quality of life, as well as opportunities for the provision of quality school programming, or in the case of predominantly minority school districts the lack of provision of the same (Alemán, 2007a, 2007b; Lee, 1992, 1993). Bullard (1993a) writes,

No matter what their education, occupation, or income level, African Americans suffer from less effective educational systems, lower quality housing, more dilapidated neighborhoods, increased mortality rates, and greater environmental threats than do whites. (p. 321)

Unfortunately, even issues of student health have correlations to race in areas of concentrated poverty inhabited by minorities (MMWR, 1992).

Delgado and Stefancic (2000) write, the birth of critical race theory (CRT) recognized there was a need for new approaches to address “the more subtle, but as deeply entrenched, varieties of racism that characterize our times” (p. xvi). The need for critical analysis of policy application, as well as critique which comes from the viewpoint of those most affected by its failure, make review and reevaluation key to progressive measures in public school education finance. In the case of Illinois, those most affected are students from the at-risk communities (Lawrence; 2002, 2006; Leuven, Lindahl, Oosterbeck & Webbink, 2007). In addition, Delgado and Stefancic (2000) write, “Once we understand how our categories, tools, and doctrines influence us, we may escape their sway and work more effectively for liberation” (p. 213).

Although there have been education finance formula changes, that have improved funding for minority children in Illinois, there continues to be large gaps between affluent

communities and majority-minority district funding (Coons, Clune & Sugarman, 1970). These funding changes occurred as a result of landmark challenges in America's courts (Hanushek & Lindseth, 2009; Koski & Levin, 2000). The solutions applied to equity in taxation may have offered some relief. However, Illinois must work harder to accomplish more. As an important component to finding solutions for gaps, formulas which now consider property must also recognize race, and those systematic issues of inequality brought on by racism (Taylor et al., 2009).

According to Delgado (1989), stories create a shared reality and agreement. In addition, a court's narrative is a story that can be used to structure opinion and disarm. This writing acts as a counter-school-finance-story and serves as cohesion for minority groups. It questions the absence of critique through the eyes of those most affected as a contributing cause for Illinois' funding policy solutions inability to make significant progress. Along with the denial of the intersection of racist systems in our school funding schematics, this research discusses the legal case, makes use of the perspectives of people of color and helps to highlight their unique common experience of persecution. The research tells stories of people who have traditionally been at the bottom of society (Alemán, 2007a; Crenshaw, Gotanda, Peller, & Thomas, 1995).

Although there have been numerous legal strategies launched and scholarly studies focused on the topic of equitable funding for public schools since the landmark case *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954) the majority of these studies have neither included the issue of race, nor have they emphasized analysis through the eyes of those most affected. Too often race is left out of the formation of policy solutions to PK-12 funding inequity. Ignoring race means minority voices and

perspectives are also ignored (Alemán, 2007a; Taylor et al., 2009). The applications used, when examining disparaging PK-12 school funding, often contain approaches that center on economic principles, conjugated formulas, analysis of traditional legal narratives, and economic measure with limited objectivity (Baker, Sciarra, & Farrie, 2010; Becker, 1964; Brewer, Hentschke & Eide, 2008 Hanusheck & Lindseth, 2009; Verstegen & Driscoll, 2008).

Unfortunately, these formulas leave out issues that matter most for minority students. These issues include the subject of race and the social, economic, and cultural issues which race brings to the discussion of PK-12 funding (Fischer, 2003; Taylor et al., 2009). Although the State of Illinois' foundational documents contain strong language concerning public provision of quality education, policy issues continue to be unresolved causing legal actions over disparity in school finance.

According to Kozol (1991, 2005); Crenshaw et al.(1995); Darling-Hammond (2000, 2011); and Taylor et al. (2009) both the finance and quality of education received in neighborhood schools showed great disparities when comparing schools with low income populations and those of wealth and influence. Deeply rooted in these disparities are origins of a historical, social, and constitutional nature (Crenshaw et al., 1995; North, Wallis, and Weingast, 2009).

Greatly affected by housing patterns, the conditions of education inequality and its effects are widely known (National Advisory Commission on Civil Disorders, 1968a). As quoted in Meranto (1970), The National Advisory Commission on Civil Disorders states, "The link between educational attainment and occupational achievement is clear. The typical professional and technical job requires a college degree or at least some

education at the college level “(p. 16). Fully disclosed in the report, the causes and effects are boldly recognizable. But yet, they remain unresolved 45 years later.

It would be difficult to find scholars who would dispute education’s key roles in both the development of the American citizen (Hochschilds & Scovronick, 2003), as well as education’s role in helping to secure a person’s place in the American dream (*Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954)). However, in spite of what is known about inequality, the state of Illinois is neither an exception to our country’s disparaging quality of education, nor is it an exception to its ongoing school finance court battle (Kozol, 1991, 2005; Ward, 1998; Taylor et al., 2009).

Chief Justice Warren may have forever solidified the importance of education in his statement during *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954). Chief Justice Warren said,

Education is perhaps the most important function of state and local governments...It is the very foundation of good citizenship.....It is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. (p. 347)

Just as Chief Justice Warren espouses the importance, conditions and ideologies of education; every state includes education as key to development and gives top priority to it as an investment in human resource for the future.

However, despite more than 50 years of struggle, the Illinois State Supreme Court has twice rejected challenges to the state’s education finance system based on the separation of powers principal (Obhof, 2004). In one such instance, their ruling of *Lewis E. v. Spagnolo* in the Illinois State Supreme Court dictated funding for schools is a policy

decision to be determined by the legislature, and not one to be decided by the courts (*Lewis E. v. Spagnolo*, 710 N.E.2d 798 (1999)). The court's decision was handed down in spite of the strongly worded convictions contained in the Illinois education clause.

Article X section 1, of the Illinois State Constitution, mandates support for the provision of a high quality free primary and secondary schools to educate the students of the state. Although it may not be specific to indicate exactly how and to what extent funding will be done, Article X section 1 remains a pivotal point in the fight for funding justice (Obhof, 2004). Although Illinois state school finance policy has its problems with clarifying the manner in which funding is to be done, scholars have little trouble tying social practice to the dilemma of school finance equity (Taylor et al., 2009).

In addition, according to Fairclough (1992), social practices are tied to specific historical contexts, which have become ingrained in our nation's common practices. Historical evidence makes it clear traditional school finance arrangements have in the past and continue in the present to create grave inequities for children in the availability of educational resources and opportunities for strong educational support systems (Crenshaw et al., 1995; Taylor et al., 2009). It is not at all surprising, in light of the enormous importance of education, that those inequities have been the source of major litigation in the State of Illinois.

While reviewing historical context and common practice, this dissertation views *Lewis E. v. Spagnolo* through the lens of CRT, as it applies to policy contained in Article X section 1 of the Illinois State Constitution. *Lewis E. v. Spagnolo* will be reviewed through the use of archival records, legal documents and professional journals. Material will be analyzed to find the elements which indicate omission of racism as an important

component to the issue of Illinois school finance equity and adequacy. In addition, material will be analyzed to discover the effects of the Illinois school finance system on majority minority school districts.

This study will use the legal case *Lewis E. v. Spagnolo* and CRT to highlight the importance of court decisions and the impact of the legal case on the future of school finance policy decisions, the conditions present in minority communities leading to litigation in their social context, and the nature of race and racial content omitted from the court case discussion. Deriving its inspiration from the American Civil Rights tradition, the analysis rationalizes CRT theorists' beliefs about racism, low socioeconomic status, and disproportionate education funding as a component in the overall lack of adequate financial support within minority districts.

Although the study makes use of the legal case which sets its facts in the context of the social, legal and a general minority context, it attempts to tell the counter story through the eyes of the poor Black women. According to Matsuda (1996) the Black women's experience is complex and cannot only be identified by its properties of race and gender, but it can also be seen through its intersecting properties held in common with and in addition to the group experiences of racial oppression.

Through implementation of CRT's methodology for challenging racial oppression, this dissertation communicates ideas by using scholarly voices from the at-promise community as a form of counter-storytelling (Taylor et al., 2009). Highlighting race and whiteness as property, as key concepts, the analysis herein recognizes the myths and socially constructed realities which effect school finance in the State of Illinois

(Alemán, 2007b). CRT concepts are reviewed and presented in an attempt to deliver a counter story from the poor Black female experience.

Finally, this dissertation notes changing the conditions of silence on the issue of race, and the use of words and counter-stories as methods to explore new approaches. In their combined usage, they become a means for creating new insight into reasons why policy solutions are not making significant progress; as well as offering an often silenced perspective from the vantage point of the poor African-American female (Austin, 1995; Ladson-Billings, 2006a; Taylor et al., 2009). It hopes to become a springboard from which to launch an opportunity for progressive review through the offering of counter story perspectives.

Importance of the Topic

On March 2, 2011 education funding was subjected to unprecedented cuts, as measures signed into law eliminated money for high-needs school district programs (U.S. Department of Education, 2011 b). This was the largest wave of cuts in funding experienced by educational institutions over the last few years. In addition to the funding crisis, large urban districts like the city of Chicago face the challenges of a growing English language learning population, large numbers of minority students, and large percentages of students of low social economic status (SES) (U.S. Census Bureau, 2012b). Illinois is an important piece of the national puzzle. According to the National Center for Education Statistics (2013), Illinois it is one of five of the most heavily populated states in the nation, and approximately 846 school districts. Most of these districts are clustered in the Chicago metropolitan area (U.S. Census Bureau, 2012a).

Unfortunately, in a listing which rates fairness for PK-12 school funding, Illinois ranks third from the bottom (Sciarra & Baker, 2012).

According to the 2007 Census, White populations have declined in more than half of the counties in the United States since 2000. This shift in the makeup of America's population means a rise in the number of communities where minorities are now the majority. Cook County in Illinois had the largest numerical decline in White population in the state. Data like these reflect the growing population of minorities and the slowing growth of an aging population of Whites (U.S. Census Bureau, 2012b).

These and other facts are reshaping the nation's demographic landscape, and are calling for a change not only in the way Illinois funds education in places like Chicago, but also in the way we look at making changes in the best interest of our children and in our educational funding practices across the state (Kozol, 2005). For PK-12 leadership in Illinois, addressing the needs for students must take on a new heightened level of advocacy and awareness, in addition to an increase in cooperative spirit to meet our financial needs in light of funding shortages (Chenowith, 2007). Leadership in today's changing PK-12 arena must take note of unique conditions of shrinking budgets, changes in population, the importance of connecting quality of education with quality of life for students, understanding how adequacy, equity and the CRT to minority populations, and finding ways to connect community (Hanushek, Clopton, Hirsch, Lindseth, Peterson, Evers, Hill, Stern, and Walberg, 2006).

Keeping student success in mind, racial scholars are looking at CRT to explore the possibilities of education reform policies that lead to better results for at-risk students. CRT reflects the long history of struggle against racism and the attempt to

create an array of approaches to examine both the subtleties and direct applications of institutional racism. Viewing at-promise communities through the CRT lens has the potential for developing strategies that ensure equitable and adequate learning opportunities including public school funding exist for all students (Crenshaw et al., 1995; Taylor et al., 2009).

Professional opinions abound on education, its significance, and what things are most important. Fortunately, after everyone weighs in and has their say on why school funding is important, there is one general consensus on what is most important in the realm of education. PK-12 educational leadership offers a discipline wide consensus on the most important objective in the field of education. That objective is to serve in the best interest of the child, and at the heart of the debate over what serves in the best interest of the child in education, is the fundamentals of school funding and finance (*Forbes Magazine*, 2011).

Although racial scholars might conclude the rhetoric does not match the efforts at creating change, at least verbally everyone is in agreement with the principle (Orfield & Eaton, 1996). With rhetorical claims creating a mismatch in efforts, racial scholars work to conceptualize, measure, and analyze race along with its related factors, using tools like CRT. In their attempt to find mechanisms, which are better suited for studying school finance and how levels of finance are assigned according to socially constructed race, the connection between property, race, and whiteness as property is undeniably obvious (Alemán, 2007a; Crenshaw, 1995).

Along with America's historic record of failure to meet adequacy and equity measures in educational finance for at-promise students (Taylor et al., 2009), the country

is experiencing a massive increase in student populations for children who are at-risk (U.S. Census Bureau, 2010a), Illinois must put finding solutions at the top of our agenda to understand how prior assumptions in Pk-12 funding research have been affected by racism in its funding policies.

The Purpose of the Study

The purpose of this study is to use the court actions and opinions in *Lewis E. v. Spagnolo* to examine Illinois State's application of the policy contained in Article X section 1 of the Illinois State Constitution as it is applied to adequate or equitable school funding. In its application of CRT to the examination or analysis of *Lewis E. v. Spagnolo* it hopes to expose the inclusionary issues or exclusionary issues of race and racism. Additionally, this study hopes to share critical perspectives on history, values and underpinned forms of knowledge (Zamundio, Russell, Rios, & Bridgeman, 2011), and outline the racial effects of Illinois State school finance policies. It hopes to do these things all from the point of view of racial scholars. As suggested by Delgado (1989), it is an attempt to tell a counter story or a story of reality, which is in fact creating it from the perspective of minorities. In his description of how a story chooses facts to paint a clear picture Delgado (1989) writes, "we decide what is, and, almost simultaneously, what ought to be" (p. 292). This writing hopes to become a means to change the mindset of present legislation in the application of school finance policy contained in Article X section I. In addition it hopes to be of benefit to minority groups, in voicing the reality of their experience; as it challenges oppression and works toward a shared reality (Delgado, 1989).

Theory to Practice

This study employs a CRT methodology to explore the inability of policy solutions to make significant progress toward adequate and equal school finance for minority populations. CRT will be applied to *Lewis E. v. Spagnolo*, as it is viewed through the policy indicated in Article X section 1, of the Illinois State Constitution. Through the usage of *Lewis E. v. Spagnolo*'s case analysis, as drawn through the CRT lens, this writing hopes to expose the presence of the denial of racism inside the legal case history, if any exists. Thematic statements contained either in the legal case or other East St. Louis, Illinois community related documents will be identified and applied using the tenets of CRT, to help form a counter story from the minority perspective.

The methodological approach integrates data-driven codes with theory-driven ones based on the tenets of CRT, to find the intersection of racist systems as a major component to policy failure. The themes which emerge will be used to help organize data relating to Illinois school finance and student achievement. These themes will guide a CRT analysis, driven by the research question, to create the approach to the study (Creswell, 2009). Framing using CRT's tenets (Matsuda, Lawrence, Delgado & Crenshaw, 1993), allows the development of themes to be situated in the context of minority viewpoints and to be heard through minority perspectives. In addition, Merriam's (1998, 2002), and Creswell (2009) are used to analysis connections between the denial of racism in Illinois' PK-12 school finance system and the impact of that denial on student achievement.

Definitions

1. Achievement- is the level of proficiency as measured by a change in student education outcomes using scaled scores from the National Assessment of Educational progress (Glenn, 2009).
2. Adequacy – is a level of resources sufficient to achieve targeted, precise educational results (Conley & Picus, 2003).
3. At-promise- children who have one or more of the following characteristics: are from low-income families, grow up in high-poverty neighborhoods or are minorities. The term draws from strengths. In addition, these children are from a nation that promises equal educational opportunity and have often not been afforded the opportunities to advance academically, culturally, or socially within their various background settings.
4. Aversive racism- is a form of contemporary racism that manifests at the individual level. It often operates unconsciously, in subtle and indirect ways. People whose behavior is characterized by aversive racism (aversive racists) sympathize with victims of past injustice, support the principle of racial equality, and regard themselves as nonprejudiced, but at the same time they possess negative thoughts and beliefs about Blacks or other groups (Dovidio & Gaertner, 2005).
5. Color-blind doctrine- unwillingness to see racism as embedded in our American system and social structure. For example Dixson (2008) and Rousseau & Tate (2003) write, the color-blind doctrine is used to maintain racial subordination and to justify keeping the status quo. For Gotanda (1991) the color-blind doctrine,

“often fails to recognize connections between the race of an individual and the real social conditions underlying litigation or other constitutional dispute” (p. 7).

6. Counter Storytelling- story telling that shows events from the minority perspective. For example; the myth contained in historical accounting, which allude to intellectual inferiority, and criminality of black people, would be counteracted with stories from the community (Muhammad, 2010; Solórzano & Yosso, 2002).
7. Critical race theory- a theoretical and analytical framework that has as a central theme the subject of race, contains skepticism towards liberal approaches to racism, and emphasizes voices and experiences of people of color as authority on experiences. It also strives to advance a social justice framework, is not immediately recognizable as theory, is typically interdisciplinary and embraces multifaceted applications, and draws upon paradigms (Crenshaw, Gotanda, Peller, & Thomas; 1995). Critical race theory sees law as part of the problem which contributes to inequitable treatment of members of disadvantaged groups (Hirsch, 1983; Bell, 2004).
8. Critical race theory in education- a theoretical and analytical framework that challenges the ways race and racism has an impact on educational structures, practices, and discourses. CRT is conceived as a social justice project that works toward the liberating the high potential of schooling (hooks, 2003; Yosso, 2005).
9. Disadvantaged groups- A historically oppressed group of people, deprived of some of the basic necessities or advantages of life, such as adequate housing, medical care, or educational facilities. In addition they lack sufficient resources to

gain access to these things. They are deprived both socially and economically and have emphasized deficiencies with respect to competitive advantage or elements and forces of opposition (Pickett, 2006; Merriam-Webster Dictionary, 2013).

10. Discourse- language use conceived as social practice or ways of using language to signifying experience from a particular social perspective.
11. De facto segregation- racial segregation, especially in public schools, that happens by fact rather than by legal requirement. For example, the concentration of African-Americans in certain neighborhoods produces neighborhood schools that are predominantly minority, or segregated in fact (de facto), although not by law (de jure).
12. De jure segregation- racial segregation which happens as a result of law.
13. Equity- is a condition present in educational environments in which district student educational outcomes are affected as little as possible by those conditions which exist outside of the in school environment. For example the students socioeconomic status (Wenglinsky, 1998).
14. Fiscal year- 12 month period at the end of which the school district determines its financial condition. It also looks at the results of operation and closes the accounting books. A traditional school year is July 1 to June 30. For example: Illinois State Board of Education's Fiscal Year (FY) 2010 is July 1, 2009 through June 30, 2010 (U.S. Census Bureau, 1999b).
15. Gardener-stakeholders are people or groups that have an investment, share, or interest in education finance, as government officials, as providers, as contributors, business, industry, or student and parental end user.

16. Majoritarian- Based on majority rule, pertaining to, or constituting a majority.
17. Nation's Report Card - informs the public about the academic achievement of elementary and secondary students in the United States. Report cards communicate the findings of the National Assessment of Educational Progress (NAEP), a continuing and nationally representative measure of achievement in various subjects over time (U.S. Department of Education, 2011b).
18. Paradigm- the philosophical intent or underlying theoretical framework and motivation of the researcher with regard to the research.
19. Racism - a socially constructed category, created to differentiate racial groups and to show the superiority or dominance of one race over another. A system of ignorance, exploitation, and power; it is used to oppress African- Americans, Latinos, Asians, Pacific Americans, American Indians and other people on the basis of ethnicity, culture, mannerisms, and color. This socially constructed belief, in the inherent superiority of one race over all others, creates the illusion of the right to dominate. The three most important points include: (a) one group determines itself to be superior to all others, (b) the group that is superior has the power to carry out the racist behavior, and (c) racism benefits the superior group while negatively affecting other racial and/or ethnic groups (Banks, 1993; Lorde, 1992; Solórzano & Yosso; 2001).
20. Social Justice- the attempt to correct or rectify inequality distribution in social hierarchies. These conditions have been created as result of social differences which have been used to create benefits for some while others have been subordinated or subjugated (Adam, Bell, & Griffin, 2007).

21. Stock Story- White majoritarian narrative which justifies keeping the status quo.

These stories support keeping the world as it is in distribution of rights, privileges and opportunities. In addition they allow the system of White supremacy to go on uncontested (Crenshaw et al., 1995; Delgado, 1993).

22. Tax base refers to total value of taxable property within district boundaries. A school district's tax base is determined by adding together the value of all taxable property whether it is vacant land, residential, or business-based.

23. Variable- a characteristic or attribute of an individual or an organization that can be measured or observed and that varies among the people or organization being studied (Creswell, 2007, p. 50).

Limitations

Limitations have been identified that may impact the validity of this study:

1. This research is limited by the availability of archived data. As a result, there may be omission of some data.
2. This research is limited by the data sources that were used. For example, student achievement, economics, geography and United States historical results were acquired from the National Assessment of Educational Progress (NAEP). These results only reflect a portion of the total population, and are reported in the form of state averages.

Although this study uses NAEP data in its analysis of the effects of conditions on student populations, NAEP assessments are considered one of the leading sources of student data as they are administered across a greater majority of states, they facilitate comparison and are used nationally to assess student progress. In addition, the “NAEP

has often been called the gold standard” of assessments and provides a common measure of student achievement across the country (National Report Card, 2009, p. 2).

Assumptions

The underlying assumption of this study is that citizen litigation for adequacy in school finance in Illinois could be identified and understood utilizing CRT (Crenshaw et al., 1995; Bell, 1980); the case *Lewis E. v. Spagnolo* and the issue, rule, analysis, and conclusion (IRAC) method for framing as outlined in Bahrych and Rombauer (1982). In addition, it was assumed the participating litigants in *Lewis E. v. Spagnolo* have similarities with or are in some way representative of those who were responsible for bringing litigation against Illinois State authorities for education funding adequacy or equity; specifically as it applies to Article X section 1, of the Illinois State Constitution. Finally, it was assumed reasons for litigation are reflective of both the community and the school district involved in the study.

Research Questions

This study seeks to explore the inclusion or exclusion of race in the *Lewis E. v. Spagnolo*, which depict the challenges and missed opportunities in application of policy contained in Illinois Article X section I of the Illinois Constitution. In its examination of legal scholarship and interpretation of rights, it explores depictions contained in the legal case for indications of the denial or exclusion of racism and classism from the dominant narrative of the court’s decision. The method adopts Merriam (1998) rational for focus on discovery, insight, and understanding from the perspective of those being studied. In this case it is school finance for the at-promise student community as viewed through the eyes of minority scholars. Following the advice of Merriam, it offers the greatest promise of

making effective, meaningful and influential contributions to Illinois school funding policy's knowledge base and practice.

CRT will be used to analyze both the court case and the Illinois State PK-12 related data in order to answer the final questions as to the actual outcomes of Illinois school finance policy. Using CRT's highlight on race and property, along with Merriam's techniques, this study allows the development of themes to be situated in the context of minority viewpoints and to be heard through minority perspectives. The method helps to include those who are most affected by poor policy solutions, as it makes an effort to help Illinois see policy choices as laying the groundwork for our reflections on what is possible.

In addition, this study recognizes CRT as a powerful tool to help illuminate how we see the world as laying the groundwork for action against ineffective PK-12 school finance policy. In hopes of expanding the discussion of racial phenomena and racism's effects on PK-12 school finance, it investigates the prospect of incorporating the knowledge of minority marginal communities to improve finance policy decisions. This study goes beyond the documentation of disparities in education finance, to help connect CRT as a conceptual model to the study's findings. To that end, the main research question to be answered is: Are Illinois school funding policies truly color blind? Research was guided by the following research questions:

- What stock story or stories from a majoritarian perspective does *Lewis E. v. Spagnolo*, 710 N.E.2d 798 (1999) tell about school funding in Illinois?
- What are the impacts, outcomes, results, and consequences of the stock story or stories told from a majoritarian perspective on Illinois students?

CHAPTER II

LITERATURE REVIEW

Introduction

Guinier (2003) writes, “in order to change the way race is understood, race has to be directly addressed rather than ignored” (p. 207). Race, which is often overlooked in school finance analysis, is intricately woven throughout the fabric of the Illinois school finance patchwork quilt. Like the quilts which lit the pathways to freedom for Black slaves, the story of school finance tells a tale of the inequities contained in Illinois school finance schematics and gives the overview of a historical struggle to provide adequate and equitable school funding to minority children, especially those who are Black (National Advisory Commission on Civil Disorders 1968a).

This accounting will be used to place evidence of common practices, implemented in Illinois public school finance, into a historical context. Failures in school finance equality point to intersectionality and emphasize the multidimensional aspects of oppression and White supremacist attitudes (Crenshaw (1989). School finance inequalities also point to the intersection of race and property rights. Whiteness as property indicates reliance on property taxes, as the major funding for public education finance, as problematic and rooted in maintenance of the status quo (Decuir & Dixon, 2004; Harris, 1993). Ladson-Billings and Tate (1995) write, property can also be reflected in the form of school district curriculum. Ladson-Billings and Tate (1995) write, “But the property differences manifest themselves in other ways. For example,

curriculum represents a form of “intellectual property” (p. 54). Ladson-Billings (2009) writes, “CRT takes to task school reformers who fail to recognize that property is a powerful determinant of academic advantage” (p. 32).

Contemporary critical race theorists and pioneer scholars alike, see CRT as critical to analysis of the multiple oppressions which are experienced by people of color. Review of issues using the CRT lens demands objectivity in the case of those outside of CRT’s discipline, and avoids myopic one dimensional approach to the complex issues faced by minorities in our world (Delgado et al, 2001). These practices help to show race, which is a permanent fixture in society, as a contributing factor to disenfranchisement and show how concepts like colorblindness and meritocracy create false positives in our social test results (Bell, 1992, 1995; Crenshaw, 1995; Matsuda, 1995) Others scholars have made connections to life time wages and conditions in education (Grogger, 1996; Hanushek, Kain & Rivkin, 2009).

In the case of school finance schematics, false positives are akin to a false positive received from a home pregnancy test taken by an over optimistic, misinformed, hopeful yet barren couple. Like the pregnancy test which only looks at one marker, the concept of colorblindness fails to see the impossibility given our history of racism and its deeply embedded consequents (Banks, 1993; Lorde, 1992; Solórzano & Yosso; 2001). Some of these deeply embedded consequences are de facto segregation, separatist tactics, and the disparaging finance of majority minority school districts (Harris, 1993).

CRT theorists help frame the understanding of how interest convergence, which seems helpful and well meaning, can sometimes yield tactics which also serve White interests (Bell, 1980; Ladson-Billings & Tate, 1995; Ladson-Billings, 2009). According

to Bell (1980), “this 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” (p. 523). In the case of school finance and the lack of equity and adequacy, it is possible the tactics which serve White interests may promote White supremacy. Bell (1992) later adds to his observations concerning interest- convergence that, “even when nonracist practices might bring a benefit, whites may rely on discrimination against blacks as a unifying factor and a safety valve for frustrations during economic hard times” (p. 7).

Additional, the interest convergence concept highlights the critique of liberalism to expose the false notion of law itself as a neutral tool. Instead, CRT sees law as part of the problem which contributes to inequitable treatment of members of disadvantaged groups (Bell, 2004; Hirsch, 1983). It highlights de facto residential segregation as a result of racially motivated laws, public policies, and government sponsored discriminatory programs (Hirsch, 2000; Roisman, 2008). In America, the existences of these conditions reflect an ongoing and blatant constitutional violation. This manifestation results in a concentration of student populations that are too often minority, most times economically deprived, inadequately and inequitably educated, and which unfortunately suffers from underachievement in many academic measurable areas (Ladson-Billings, 1999; Orfield, 2009; Rothstein, 2012; Hanushek, Kain & Rivkin, 2009; Oreopoulos, 2003; Solórzano & Delgado-Bernal, 2001; Solórzano, Villalpando, & Oseguera; 2005). Its resulting conditions make it almost impossible for these children to use education as a means for advancement.

Last, but by fare not least, this research uses the reality of composite counter storytelling to supply a minority accounting, from the perspective of a poor Black female and filtered through the lens of CRT, to replace those stock stories told by the dominant culture, and to give voice to marginalized populations. These counter stories give clarity, to otherwise complicated remedies and goal setting (DeCuir and Dixson, 2004; Delgado, 1996; Matsuda, 1995; Takaki, 2008). Complications in the goal for equal and adequate school finance include the privilege and the benefits of rights conferred or withheld based on race, the notion of colorblindness and neutrality of the law, and the acceptance of incremental change theories (Gotanda, 1991; North, Wallis, and Weingast, 2009; Williams, 1997). These practices and school finance policies place minority communities at an educational disadvantage, and institutionalize inequitable school funding for the nation and the children of Illinois (Crenshaw et al, 1995; Valdés, Culp, & Harris, 2002).

First, this literature review discusses Illinois school segregation from the historical perspective, which highlights the struggle for equal education opportunities and the long historical practice of alienation and unequal support (Alemán, 2009; Crenshaw et al., 1995; Valdés et al., 2002). In addition, this research highlights lack of concentration, or focus on the analysis of institutionalized racism practiced by Illinois State school finance policies (Ladson-Billings, 2006a. 2006b; Hanushek & Lindseth, 2009). Second, it discusses the Illinois school finance story, the ramifications of reliance on property tax and their affects on majority minority community schools (Alemán, 2009; Hanushek & Lindseth, 2009, Illinois State Board of Education, 2010; Taylor et al., 2009; Ward, 1998).

Third, this study discusses the theoretical framework of this writing, how the concepts join the usage of CRT as a lens to connect the study, how CRT is used as a tool for analysis, and how it applies to race, racism and the normalization of inequity (Banks, 1993; Delgado, 1989; Crenshaw et al., 1995; Lorde, 1992; Parker & Lynn, 2002; Solórzano & Yosso; 2001; Valdés et al., 2002). It pays special attention to CRT's tenets and the way in which they guide the study of school finance policy inequity. Fourth, it will discuss the focus categories for past research. The focus categories of past research will be divided into three main parts. They are economics of education finance, school law and legal history, and minority education, especially those who are Black.

Although much work has been done in these three categories, very little has been done at the point at which they converge. This study will contribute to that point at which they converge. It is especially true with respect to placing the intersection in historical perspective for contextual analysis of historical racist practices, power dynamics, and other factors which place minority communities at a particular disadvantage with respect to school finance policy (Alemán, 2006, 2007a, 2007b, 2009, 2011; Crenshaw et al., 1995; Hanushek, Clopton, Hirsch, Lindseth, Peterson, Evers, Hill, Stern, and Walberg, 2006; Valdés et al., 2002).

All of these concepts will be discussed in hopes of understanding how race, property rights, citizenship and the CRT concept are connected to taxes as the major source of education finance (Ladson-Billings, 2009). In addition, review is designed to fulfill four policy examination objectives. The objectives are to identify relationships between ideas and practice, to identify the main methodologies that have been used, to place the research into a historical context, and finally to relate previous findings to new

suggestions being presented in the discussion section of this dissertation (Crenshaw et al., 1995; Delgado & Stefanis, 2001; Lopez & Parker, 2003; Hart 1998).

Illinois School Segregation from Historical Perspective

The description of racism used in Solórzano, Ceja, and Yosso (2000), helps to form agreements in this study. According to Solórzano, Ceja, and Yosso (2000), the three important points on the powers of racism are as follows: “one group believes itself to be superior, the group that believes itself to be superior has the power to carry out the racist behavior, and racism affects multiple racial and ethnic groups” (p. 61). All three of these help to form the premises inside the study of Illinois school segregation from a historical perspective.

With its introduction to education in 1995 (Ladson-Billings & Tate, 1995); CRT’s insistence, on a contextual historical analysis of the law, creates the necessity to include Illinois colorful history in presentation of the facts for this study. Both historical and present reflection on American education show race and racism are topics which typically prompt hushed commentary (Roberts, 2009). In many cases conversation concerning racism and education is either silenced, or restructured in lieu of the more favorable discussion of colorblindness.

Nothing sets a better example of American misconception than the hailing of America’s election of a Black president and the notion of racism being abolished as a result. Helping to solidify false optimism, the historic election of our nation’s first African-American President Barack Obama was highlighted in newspapers and numerous American media broadcasts chiding America as a nation colorblind and void of the old race issues (O’brian, 2012). After all we had elected a Black president and made our

solidarity evident through support by our electorate vote. However, that perception would soon fade as the efforts of President Barack Obama's initiatives were met not only with comments which elicited claims of racism, but also support would show institutional racism in all its glory continues to beat at the heart of this nation (Alemán, Salazar, Rorrer, & Parker, 2011).

When looking at America's history in relationship to acts which reflect our racist past we can use the 1935 Franklin Delano Roosevelt (FDR) example. FDR's quest to create our Social Security benefit system began with a trickle of a program. It was introduced as a program design to delay benefits for years and excluded domestic workers, farm laborers, government workers, and other heavily black professions (Brinkley, 2010; Knafo, 2013). This was a necessary compromise. Exclusion of African American dominated trades and jobs was the only way FDR could win the support of southern votes (Knafo, 2013).

Proving racism continues to be alive and well in America, on June 2013 our nation's Supreme Court voted to strike a key section in the Voting Rights Act of 1965. Credited with transforming the demographics of America's political representation, these acts were instituted to assist the federal government in their attempt to control the electoral policies of jurisdictions with a historical record of discrimination. Many of the states under scrutiny were located in the South. Immediately after the court overturned the measures in a 5 to 4 decision, six southern states took advantage by reinstituting voting policies that could not or did not pass federal oversight under the previous law (Knafo, 2013).

This affectively set voter rights back forty-eight years. Knafo (2013) quotes John Lewis a Democrat from the State of Georgia. Lewis remarked, “The record clearly demonstrates numerous attempts to impede voting rights still exist.....and it does not matter that those attempts are not pervasive, widespread or rampant as they were in 1965 (p. 1).” These and other facts continue to make it imperative we look at Illinois public school finance history through a critical eye to determine how our history and ideology has lead us to this place in our policies for the finance of minority schools.

America’s ideology, with respect to racial segregation or integration, was consistent in its application (Kluger, 1975; Joint Center for Housing Studies of Harvard University, 2002a, 2002b). Education has always had a prominent position in those conditions which determine minority position in the United States. As narrated by Gates (Streeter, 2013), Pre-Civil War history contained the denial of education for African-Americans, while Post-Civil War history contains many examples which include denial of education and provision of substandard education (Streeter, 2013). Various degrees of either denial or substandard provision of education were used as methods for continued economic exploitation of blacks and the assurance minorities would continue to provide inexpensive labor (Rubinowitz, & Rosenbaum, 2000; Valelly, 2004; Watkins, 2001). Additional debate centered on a third component or the question of what type of education was most appropriate for African-Americans.

The controversy revolved around the choice of vocational education versus a liberal arts education. At the turn of the twentieth century two great leaders: Booker T. Washington favored vocational training, while W. E. B. Du Bois urged the masses to pursue liberal arts. Black people would align themselves alongside the two different

perspectives, as they eagerly pursued options to improve their lives through advanced education. White majoritarians worked in favor of limiting Black education to agriculture and the trades (Holland, 2006).

On June 11, 1963, in response to the refusal of the State of Alabama to allow Black student admission to the University of Alabama, President John F. Kennedy delivered his speech entitled the Report to the American People on Civil Rights. Unfortunately after 50 years have passed its statistics read much like those quoted today. President Kennedy (Kennedy, 1963) said,

The Negro baby born in America today, regardless of the section of the Nation in which he is born, has about one-half as much chance of completing a high school as a white baby born in the same place on the same day, one-third as much chance of completing college, one-third as much chance of becoming a professional man, twice as much chance of becoming unemployed.... a life expectancy which is 7 years shorter, and the prospects of earning only half as much. (p.1)

Depending on where the child was born in the United States of America, the current statistics which reflect academic data may be considerably worse than those recorded in the 1960's (U.S. Department of Education, 1999-2012). Commentary, such as that of President Kennedy, along with the coming of television sets in the living rooms of millions of Americans; told a counter story to that most White Americans were lead to believe. On the streets of Alabama, where Black people could be seen peacefully marching in protests of unequal treatment in America, the White majority along with the rest of America would see Black people being hosed while the force of the water brutally propelled them in the direction of brick walls. These acts were not being committed by

Blacks against innocent White victims, but by Whites against peacefully demonstrating Black victims. As new modes of social communication fill the chasms of American consciousness, it is possible many new modes of communication such as the blog may aid the 21st century's innovative internet driven home computer to assist in the proliferation of the counter story. Hofkirchner, in his preface to Fuchs' (2008) publication on the importance of internet communications in today's society, suggests the internet offers an opportunity through use of the blog for all people to participate in society. Hofkirchner (Fuchs, 2008) writes, "The internet may be interpreted as a technological catalyst of social struggle" (p. ix).

These examples in history along with research studies have proven the effects of racism and yielded statistics on educational quality, employment levels, income levels, occupational status and areas of geographic habitation. The effects have a direct relationship to wealth and race (Logan, 2002a, 2002b, 2003, 2004; Logan, Stults & Farley, 2004; Massey, 2001; Massey & Denton, 1993; McKinnon, 2003; Orfield, 2009; Orfield & Eaton, 2003; Orfield & Lee, 2006; Rubinowitz & Rosenbaum, 2000; Rusk, 2001; Squires & Kubrin, 2005). Similar comparisons are even being reviewed in Great Britain (Strand, 2008). These and other pertinent phenomenon makes it clear racism is a reality in America and helps to establish its place of importance in the field of Illinois educational finance.

White racial attitudes and social domination continue to have major control over shaping PK-12 school funding policy into the twenty-first century (Harris-Lacewell, 2003; Hu-DeHart, 2001; Stokes, Melendez & Rhodes-Reed, 2001). Conditions make it clear, that both past and present racial segregation and integration should stand as a

constant reminder to minorities of their place as second class citizens, especially those who are Black. Just as the separation of the races, and rights to property ownership had been applied during slavery, it was continuing after the Emancipation Proclamation, and *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954). It was continued in spite of the many legal victories in the fight for Black equality. An example of America's continued division is contained in the 2001 Lewis Mumford Center Report, which tells us according to U.S. Statistics, African Americans are approximately 12 percent of the nation's total population, and Hispanics are about 13 percent.

Of these populations present, ordinarily Black people live in an area 33% White, 51 % Black, 11% Hispanic and 3% Asian. The typical Hispanic lives in a neighborhood that is 36% White, 11% Black, 45 % Hispanic and 6% Asian (Logan, 2002a). The report (Logan, 2002a, p. 3) goes on to state, "On the other hand, the typical White resident of metropolitan areas resides in a neighborhood that is 80 % White, 7 % Black, 8 % Hispanic and 4 % Asian". These statistics tell us although minorities may live in minor diversity, with the majority of them living in urban area; White people in metropolitan areas continue to live apart from minorities in majority White communities. Data such as this continue to indicate the long history attached, and continued adherence to racist housing patterns contained in our society. It reveals the continuance of our fight for spaces, property ownership, and the finance of both education and literacy in America (Darling-Hammond, 2000; Joint Center for Housing Studies, 2000a, 2000b). These realities make historic patterns and present connections to racist constructs for housing a necessary component for looking at our state's reliance on property taxes as a major school funding source and its implications.

Historically, our nation's public schools system mirrored what continued to be reproduced in American society's housing patterns, with school districting and its resulting finances tied to it. We are a nation plagued by de facto segregation. According to Ladson-Billings and Tate (1995), the United States is a system "based on property rights rather than human rights" (p. 47). History indicates property ownership was reserved for White males only. In addition, we inherited from the British the idea of property ownership as a prerequisite to the right to decision making in national affairs (Ladson-Billings, 2009). This is in direct contrast to the right to participate as a benefit of citizenship.

The nation's majority population trends continued then and persistently perpetuates today the alienation of its minority student population, especially those who are Black (Dovidio, 2001; Dovidio & Gaertner, 1986, 2000, 2004, 2005; Dovidio, Kawakami, Smoak & Gaertner, 2009; Pearson, Gaertner & Dovidio, 2009; Taylor et al., 2009; U.S. Census Bureau, 2012). Unfortunately, these conditions block the path necessary to obtain the American dream (Bell, 2004; Hochschilds & Scovronick, 2003); and create a necessity for more work at equity and adequacy in school finance (Forbes Magazine, 2011; Chenowith 2007).

According to Solórzano, Ceja, and Yosso (2000), not only do groups who think they are superior actually have the power to execute racist behavioral acts against others, but also when these acts are executed they negatively affect many minority groups. Historically, Illinois had been one of the northern states which discouraged freed men and women from migrating northwards. During its early stages, industrialists employed laborers according to a theory of race, which assigned each race particular aptitudes.

Slavs, Italians, Poles, and Jews: each was considered a race, and each tended to find employment with consideration for stereotypes of which group was best at heavy work, who had dexterity and which race was best at machine operation. Before the war, Eastern and southern Europeans were assigned the worst industrial jobs. However, African-Americans were not allowed employment in industry instead they were excluded (Grossman, 1991).

However, with the outbreak of World War I factories in need of laborers ignited job opportunities in the north. Historically chronicled as the Great Migration, for the first time in U.S. history African-Americans migrated north of the Mason-Dixon Line looking for job opportunities, seeking prosperity and armed with their dream of land ownership (Grossman, 1991).

The State of Illinois became a place of major industrial activity. Unfortunately, African-Americans were not quite accepted by the White citizens of Illinois. Before the Great Migration Blacks were a small minority in these industrial hubs. However, between 1900 and 1914 the Black population tripled, which created uneasy testy tolerances with Illinois' White population. For areas such as East St. Louis, this meant between 10,000 and 12,000 African-Americans left the south bound for East St. Louis, Illinois during the period which spanned 1916 to 1917 (Grossman, 1991; Trotter, 1991). When describing the populating of Chicago, Trotter (1991) writes, "The Windy City's Black population, which in 1910 numbered 144,103, jumped to 233,903" (p. 128). These statistics not only change racial composition, but it also changed many local conditions.

East St. Louis Riot of 1917

As numbers increased Whites' tolerance of Blacks decreased and violence and mayhem accompanied racial segregation and discrimination. Blacks faced violence at the hands of some Whites (Keiser, 1972). For example, between 1900 and 1914, thousands of Black citizens were murdered by White mobs. In areas such as East St. Louis, Illinois; segregation was established across the board. Black citizens were treated in separate hospital wards of the two city hospitals and were seen by Black physicians. The work place saw plants and packing houses with separate toilet and wash facilities, they worked in segregated labor groups, ate in isolated section of the dining halls, lived in the designated ghetto at the south end of town, and of course their children went to segregated schools (Grossman, 1991; Rudwick, 1965). It wasn't until the late 1940's the issue of integrating East St. Louis, Illinois city schools was debated. Most of the city citizens were in opposition to integration. They worried it would lead to unrest, individual acts of reprisal or even worse a riot (Grossman, 1991). Their concerns were perfectly justified considering East St. Louis, Illinois had been the sight of one of 1917's bloodiest race riots of twentieth century America. In his comments, concerning the conditions in East St. Louis surrounding the riot, Rudwick (1965) writes,

The Whites were determined to maintain supremacy in a community where Negroes were a subordinate and segregated group. For more than a generation after 1917, the race riot was used as a cautionary tale to keep Negroes from altering the status quo. Not until after the Second World War did Negroes feel free to consider challenging White dominance. (p. 3)

Figure 1 depicts actions of the White mob in East St. Louis during the riot as they drag Black riders from the streetcar before beating them.

Figure 1: Mob Stopping Street Car, East St. Louis Riot, July 2, 1917 (Southern Illinois University Edwardsville, Bowen Archives, 2013)

Angry White mobs attacked the first black persons they found. At Collinsville and State Street, Whites stopped a streetcar and murdered Lena Cook's husband Ed Cook and her son 14 year old Lurizza Beard. Mob gunfire mistakenly killed a white bystander (Southern Illinois University Edwardsville- Bowen Archives, 2013). True to America's history of inequality in the justice system; although Whites, as depicted in photo 1, clearly outnumbered Blacks and Black casualties outnumbered Whites during the riots, only 9 whites were convicted and imprisoned with 12 Blacks being convicted (Southern Illinois University Edwardsville, 2013).

Figure 2 depicts the headlines as reported by the St. Louis Post-Dispatch after the riot.

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In an accounting Rudwick (1964) writes, “Three armed men shined flashlights on a Negro lying in the gutter. ‘Look at that ____, not dead yet.’ each fired a shot and disappeared” (p. 47). Sometime during the rampage, an ambulance arrived to take a man to the hospital. According to Rudwick (1964), White rioters warned, “If you pick up that skunk, we’ll kill you too” (p. 47). As the driver drove away the men threw the injured Black man into the fire. Some Black citizens made an attempt to protect themselves by fighting back, but the odds were hopelessly against them (Rudwick, 1964). Figure 3 shows Mineola McGee, who suffered an amputated arm at the hands of those hired to protect the Black citizens of East St. Louis.

Figure 3: Mineola McGee a Victim of the Riot (Southern Illinois University Edwardsville, Bowen Archives, 2013).

Mineola McGee’s right arm was amputated as a result of gunshot wounds inflicted by both East St. Louis City police officers and an Illinois National Guard soldier (Southern Illinois University Edwardsville, 2013). As Blacks were hung from telephone poles, rioters burned more than 200 Black occupied homes. While some Black corpses

were buried in a mass grave others were callously thrown into the Cahokia Creek, which ran between downtown and the riverfront rail yards. Reports, by the Special Committee on East St. Louis Riots, documented the accounts of many Black victims.

Their statements chronicled not only were the Illinois National Guard's men not effective in controlling and curtailing White violence against the Black citizens, but they were also in many cases participants themselves in violent acts committed against Blacks (U. S. House of Representatives, Special Committee on East St. Louis Riots, East St. Louis Riots, 1918). Black sentiment, concerning the riot was expressed in a memorial petition to the U.S. Congress. The citizen committee wrote (Wells-Barnette, 1917),

It was a very orgy of inhuman butchery during which more than fifty colored men, women and children were beaten with bludgeons, stoned, shot, drowned, hanged or burned to death — all without any effective interference on the part of the police, sheriff or military authorities. The riot was no sudden outburst of passion. It was... a publicly declared determination on the part of white laborers to drive colored laborers from work or kill them. There was no provocation by acts of lawless blacks, no drunkenness on the part of the whites — nothing but the deadly vindictiveness of labor trouble accentuated by hatred toward the Negro. (p. 19)

Instead of seeing the riot as an act of violence perpetrated by White citizens against Black citizens, both the local police and the National Guard saw their responsibilities as one of action for the control of Black rioters for the sake of keeping the peace and order. This historical accounting presents itself as a strong CRT example of East St. Louis' White citizenship and their perceived connected to the benefits earned as

a result of possession of Whiteness as property. The possession of Whiteness includes the possession of rights that are respected by law and default to the support of Whiteness. This happens no matter what the actual facts and circumstances surrounding the unlawful activities (Crenshaw et al., 1995). An accounting written by Wells-Bennette (1917), tells the story of Black people being forced into the Cahokia River by the mob. One person was shot and killed immediately after entering the water. Those that managed to make it back on shore were stoned to death by White children.

Wells-Bennette (1917) writes,

An Associated Press dispatch of July 10th, 1917, from East St. Louis had the following: “A man arrested by Capt. O. C. Smith, F Company, 4th Illinois Infantry, was released by the police, ostensibly” on order of the state's attorney.” Captain Smith asserted that he heard the man say: “I've killed my share of Negroes today. I have killed so many I am tired and somebody else can finish them.” When Capt. Smith went to the police station yesterday to prefer a formal charge he found that the prisoner had been released. (p. 18)

Although local employers asked Black laborers to return to work, very few came back. When the school doors opened for Black students an estimated 35 % or more of the former student population was no longer present (Ruckwick, 1982).

Unfortunately for Illinois' Black citizens conditions present in Illinois populations like East St. Louis was the norm instead of the exception. The Illinois State Commission to Investigate Living Conditions of the Urban Colored Population (1940), found conditions 30 years later to be largely unchanged. Testimony confirmed violation of state civil rights laws, discriminatory employment practices, activities exercised by police and

labor unions designed to restrict membership and the discriminatory attitudes and practices of law enforcement officials. Even today, conditions which supported and maintained separation, alienation and subordination continue to manifest themselves in the form of unequal property values in areas which continue historical patterns of racism and oppression (Guinier, 2003, 2004; Lipman, 2004). The conditions no longer exist as the result of de jour laws and regulations which support segregation. Instead, these zones of inequity have become examples of de facto racial segregation (Alemán, 2009). They continue to exist in support of social beliefs which weigh the value of an individual according to what Eurocentric value is placed on race and entitlement.

Racism is structured into the fabric of our society, and reveals the fight for spaces, property ownership, and the finance of both education and literacy in America (Darling-Hammond, 2000; Joint Center for Housing Studies, 2000a, 2000b). Racism and the fight for quality education has in the past and continues to be in the present inseparably tied together (Dubois, 1953; Harris, 1992, 1998; Moore, Monaghan, & Hartman, 1997; Prendergast, 2003; Watkins, 2001; Young, 2001).

East St. Louis, Illinois City Schools

Historical legal accountings tell us our nation moved away from *Plessy v. Ferguson*, U.S. 537-539(1896), with its hard-line toward a separate but equal doctrine; as it advanced toward the decision contained in *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954), and formed legal precedence for minority population equality (Patterson, 2001). However successful legal maneuvers and in spite of the many voices which were raised in support for integration, the strategies used to achieve the goals of integration were accomplished against major opposition. Legal victories were met with

resistance, while below the surface the doctrine of separation of the races still paced the heartbeat of a paramount problem (Bowman, 2009). Racism blurred the promise of equal education even in the Land of Lincoln (Keiser, 1972).

Contrary to popular belief, the great emancipator was not the liberal thinker he is given credit for. Abraham Lincoln himself alluded to both his own as well as White sentiments on equality of the African-American. As quoted by Keiser (1972) Abraham Lincoln, known as the great emancipator said, “Free them and make them politically and socially our equals? My own feelings will not admit of this; and if mine would, we well know that those of the great mass of White people will not” (p.313). There was no question in the mind of leadership as to the entrenchment of racial division in our social fabric then, and there should be no question of its existence today (Bell, 1980). Many Illinois examples exist in illustration of this painful fact. These examples include legal cases for both school finance and school segregation. Only a few are included in this writing in hopes of finding the connection between race, where we live, the concept of colorblindness, Whiteness as property, academic student results and the finance of public education. One example of a legal case for the separation or segregation of Black children in education is the legal case *Scott Bibb v. the Mayor and Common Council of the City of Alton* 233 Ill., 542, 1897.

Scott Bibb v. the Mayor and Common Council of the City of Alton 233 Ill., 542, 1897

History writes, on September 20, 1897 Minnie Bibb and her brother Ambrose Bibb, two African-American children in Alton, Illinois; went to the grade school which they had attended the previous school term. Instead of being allowed entry, they were told by their teachers and the principal, they were no longer able to attend their customary

school building. Instead, seven year old Minnie and eight year old Ambrose along with all other Black children were now required to attend two new racially segregated schools. Rather than the five desegregated schools that all Alton children had attended previously; Black children of Alton, Illinois would now be segregated for education. African-American citizens of Alton, Illinois saw the new policy not only as an infringement on their rights as citizens of Illinois and the United States, but also as a violation of the Illinois School Laws of 1872 and 1874 (Fortwood, 2000). As quoted in Meir and Rudwick (1967), an excerpt from the local paper detailing Black sentiment read, we “will not abide by any illegal scheme... We ask no favor of the board, all we demand is our rights” (p. 397).

Details from the court case People of the State of Illinois, ex-rel, *Scott Bibb v. the Mayor and Common Council of the City of Alton* 233 Ill., 542, 1897 shows Ambrose Bibb in his testimony about the first day of school. Portwood (2005) writes, the transcript of *Scott Bibb v. the Mayor and Common Council of the City of Alton* 233 Ill., 542, 1897 reads,

I went to the Washington school September, 1897, and the first day the teacher[s] gave us [the African American children] the cards and told us not to come back till next morning. When Ambrose and Minnie Bibb returned to Washington on the following morning, Ambrose Bibb further testified,... Mr. Laughlin and Pack, two policemen with uniform[s] and stars on, blocked the Black children’s entry to the school. (p. 1)

The Alton Schools not only refused to allow Minnie and Ambrose Bibb attendance at Washington school, but it also barred all other Black children from the five

newly designated White schools. This surprise attack signaled the segregation of the public school system in Alton, which had been desegregated for twenty-four years from 1873 to 1897 (Meir & Rudwick, 1967). Although the courts tossed the case back and forth in multiple decisions, finally during the fifth appeal in 1908, the Illinois Supreme Court ordered the integration of the Alton schools. In spite of the Illinois Supreme Court decision, Alton City officials refused to integrate the schools. Instead insisting the decision applied not to all children, but only to Minnie and Ambrose Bibb.

From September 1897 through December 1908 Black parents refused to send their children to the segregated schools. In true northern hypocritical form, the state of Illinois was proving itself to be no exception to the opposition of desegregation. When the 1908-1909 fiscal-year began, fifteen-year-old Minnie Bibb was placed in the third grade class at Washington School. She was not only the solitary African-American student in the school, but she was also nearly twice the age of her other classmates. Minnie dropped out after only a few weeks. As a result of Minnie's withdrawal, the Alton, Illinois public elementary schools continued to be segregated. It continued to be segregated for another fifty years (Meir & Rudwick, 1967).

Future scenarios would continue to play out in the state of Illinois as well as other cities like Denver, Colorado and (*Keyes v. School District No. 1, 413 U.S. 189 (1973)*). They would include the City of Chicago and the housing desegregation efforts involving Chicago's School Desegregation Consent Decree. Additionally efforts to curtail organized segregation included the 1969 *Gautreaux et al. v. CHA* and 1976 *Hills v. Gautreaux case*.

1969's Gautreaux et al. v. CHA and 1976 Hills v. Gautreaux

Finding a strategy that promoted the mixing of the races would prove to be difficult for a city traditionally plagued with divisiveness like Chicago (Donner & Dixon, 2011). Chicago's school district's practices for student building assignments were highly discriminatory (Grossman, 1991; Rury, 1999). To say the least, they were among the most blatant continuously defiant of the tenets set forth in the *Brown v. Board* decision (Devins, & Stedman, 1983; Rogers & Oakes, 2005). So clear in their defiance were the acts initiated by Chicago Public Schools, that the federal government prompted Chicago Public Schools to enter into a School Desegregation Consent Decree which lasted from 1980 to 2006 (Devins, & Stedman, 1983; *U.S. v. Board of Education City of Chicago* 80 C 5154, 2009).

Chicago Public Schools constructed goals to be achieved in cooperation with the original decree's implementation. Although integration seemed like a worthy cause in theory, not everyone shared the same degree of enthusiasm or the same degree of urgency (Orfield & Yun 1999). Open opposition was expressed by Chicago's traditionally White areas.

Unfortunately, although many problems come and go in areas such as the City of Chicago, the problem of segregation continues (Orfield, 2002; Orfield & Yun 1999; U.S. Census Bureau, 2007-2010).

Trends continue practically unchanged from 1970-2000 (Sampson, 2009).

Population characteristics are illustrated by Figure 4, which shows evidence of continuing segregation trends from 2005-2009 (Borgia, 2011).

Figure 4. Population Trends African-American Chicago 2005-2009. Source: Paul John Higgins from the Chicago Reader (2011).

The evil of racial segregation lies in its concentration of poverty. Discrimination in both its historical context and continued form, show Blacks are much more likely than Whites to be poor (Massey & Denton, 1993). Bogira (2011) who is senior writer for the Chicago Reader, writes mostly about race and poverty, and grew up on Chicago's South Side. According to Bogira (2011), Chicago's demographics show an alarming trend. Even today after years of supposed progress in racial harmony, Chicago's neighborhoods

can be divided into 77 unites. Bogira (2011) continues to write today, “fifty-five percent of Chicago’s 964,000 African-Americans live in 21 community areas, in which the aggregate population is ninety-six percent Black” (p. 1). Sampson, Morenoff and Gannon-Rowley’s (2002) longitudinal study, which focused on the verbal ability of children growing up in some of Chicago’s poorest Black concentrated neighborhoods, showed negative effects of devastating proportion. In a recent publication Sampson, Sharkey, and Raudenbush (2008, p. 852) writes, “detrimental and long-lasting consequences for Black children’s cognitive ability rivaling in magnitude the effects of missing one year of schooling” were found in the population sampling. He goes on to say “verbal ability is a major predictor of life outcomes”. Additional information, on the effects of segregated housing patterns, was made available through results of the Gautreaux Assisted Housing Program. This data confirmed the negative impact of isolation of majority minority populations in areas such as Chicago.

Although not a school finance case, 1969’s *Gautreaux et al. v. CHA* and 1976 *Hills v. Gautreaux* were both legal suites aimed at stopping construction of public housing in areas which were already predominantly African-American, unless the same number of housing projects were built in racially diverse areas. The winning case prompted a study surrounding the Gautreaux Assisted Housing Program. Eligible families were given rent certificates, or vouchers, which were used to rent apartments in neighborhoods that, were less than 30% African American. The study revealed children who participated in the program were more likely to graduate from high school, attend college, attend 4-year colleges, to be employed and to have jobs with better pay and benefits. In addition, families assigned to neighborhoods with more educated residents

were much less likely to receive Aid for Families with Dependent Children (AFDC) (Rubinowitz, & Rosenbaum, 2000; Duncan, & Ludwig, 2000).

Geographic segregation is a fact which divides this state into two distinct groups in many areas much like Chicago (Frankenberg & Orfield, 2012). They are majority or minority, and the divisions consist of the haves and the have nots. These conditions prove perplexing and with each failed attempt at diversification it creates cynicism toward planned desegregation efforts at creating equal educational opportunity. Given the racial demographics of many cities, desegregation could prove difficult within the borders of Illinois cities like Chicago. According to Orfield and Lee (2006), segregation is never only about race or ethnicity. It involves concentrated poverty, linguistic segregation, and can be connected to “many forms of tangible inequality in educational opportunity on multiple dimensions” (p. 4).

Many school districts, like that of Chicago, are being removed from judicial oversight. New schematics have replaced the old desegregation measures, as concentration on race is removed from the remedies for improvement. These new policies are very different in their objectives from those aimed at desegregation. They consist of magnet schools, smaller schools, school choice, neighborhood schools and the charter school concept. Unfortunately, charter schools do little to change the statistics present for racial segregation. Studies show attempts at segregation through other incentives often only moves children on the scale of diversity in small increments. Brown and Gutstein (2009) found that African-Americans who transferred from Chicago public schools to charters only moved on average from 90 percent Black in the public school setting, to 84 percent Black in the charter school setting. On the scale of success, using the measure of

integration, it hardly makes the grade. Other examples exist throughout Illinois which highlight failure at integration and relate to housing patterns.

Troubling in its analogy, school desegregation has become even more difficult in the wake of Supreme Court decision that barred most programs aimed at racially integrating schools. According to Orfield and Lee (2006), the plight of Chicago and its surrounding areas continues as it did in the past. Orfield and Lee (2006) write,

segregation is increasing; and in regions that were never substantially desegregated, including many metropolitan areas in the Northeast, Midwest, and West, segregation is growing in degree and complexity as the nation becomes increasingly multiracial. The resegregation of blacks is greatest in the Southern and Border states and appears to be clearly related to the Supreme Court decisions in the 1990s permitting return to segregated neighborhood schools. (p, 4)

Although desegregation is often viewed as an old and antiquated idea, one look at the demographic composition of the City of Chicago in conjunction with those approximately 70 suburban districts which are within 20 miles of downtown Chicago, and analysis show little change in segregation trends (Orfield & Lee, 2006).

Although the resegregation of Blacks has become increasingly notable in the Southern and Border States, it is important to note also the unchanged conditions which exist in the so called liberal Northern states like Illinois and in areas like Chicago. For Orfield and Lee (2006) these conditions are directly related to the Supreme Court decisions handed down in the 1990s. The decision bared further pursuit and allowed a return to segregated neighborhood schools and continuing to perpetuate the cyclical conditions between segregation, educational inequality and the disadvantage of

historically excluded groups. As the population of minority groups continues to increase and segregation becomes increasingly more concentrated for these groups, it is urgent we develop plans and policies to improve conditions. Orfield and Lee (2006) write,

The rapid growth of these excluded populations in conditions of intensifying segregation make urgent the development of plans and policies to transform diversity into an asset for all children and society, rather than continuing to separate children in a way that harms both those excluded from better schools and White students in those schools who are not being prepared for success in multiracial communities and workplaces of the future. (p. 4)

Unfortunate for those living and being educated in areas devoid of geographic opportunity, these and many other resulting factors make it clear; it not only becomes difficult to escape the self perpetuating separatist division of the races which is known as de facto segregation, but it also clarifies the cyclical effect tied to school districting, neighborhood schools, property, school funding sources, ultimate academic success rates or the lack of success rates and life time accomplishments. All of these variables can be tied to school districting finance through property taxes (Alemán, Salazar, Rorrer, & Parker, 2011; Bell, 1980; Darling-Hammond, 2000 ; Donner & Dixon, 2012; Frankenberg & Orfield, 2012; Orfield & Lee, 2006).

Illinois School Finance Story

The Property Tax Effect

Squires and Kubrin (2005) write,

real estate mantra tells us that three factors determine the market value of a home:

location, location and location. The same could be said about the ‘factors’ that determine virtually any aspect of the good life and people’s access to it in metropolitan America. (p. 47)

In addition, Squires and Kubin (2005) tell us nothing about life’s privileges can be understood without putting it into the context of where we were born, where we were reared, where we were educated and where we currently live. For those of us who live here in the United States there are a few simple facts that relate to Squires and Kubin’s thoughts on privilege and education funding.

One of those facts are; the United States of America does not suffer from a lack of overall school funding. Instead, according to the Organization for Economic Cooperation and Development (OECD) an intergovernmental organization, whose 30 member countries are committed to pluralistic democracy and market economics, we spend more of the nation’s income on PK-12 education than any other OECD country with the exception of Switzerland (OECD, 2009).

As illustrated in Figure 5, according to the Mercatus Center at George Mason University (2010), the USA spends an average of \$91,700 per student between the ages of six and fifteen (Organization for economic Cooperation and Development, 2009).

Figure 5. K-12 OECD 2009 Spending Per Student. Source: OECD 2009 Education at a Glance, (Rugy, 2010). Mercatus Center George Mason University. p.1.

In spite of the country's overall effort in school spending, the practice of funding schools by means of local and state property taxes has resulted in vast disparities in funding among states, cities and even neighborhoods (Kozol, 1991, 2005; Crenshaw et al., 1995; Darling-Hammond, 2000; Taylor et al., 2009). Like every other state, Illinois has its own formula for financing education. Although the responsibility for providing a level of funding necessary for a basic education is shared between the state and local districts, local funding is most important to public education. Unfortunately, the amounts of money schools receive from local governments vary depending largely on property values from district to district. With local property taxes playing the major role in the level of school finance, districts with small property tax bases have more trouble raising

revenue to educate their children than districts with larger tax bases (Hanushek & Lindseth, 2009). The related phenomenon makes property values and tax rates a central player in the issue of school finance reform (Greenwald, Hedges, & Laine, 1996).

Although opponents to the significance of funding to student academic results express contrary opinion (Greenwald, Hedges, & Laine, 1996); the question for common sense scholars become: how do you separate teacher qualifications, which has been associated with student academic success, from that (money) which purchases experience? The phenomenon can be accelerated by competition between districts contained in close proximity geographically. These districts may be in competition for teaching staff. In addition, there are three teacher qualifications which have been associated with student academic success. They are teacher participation in in-service professional development workshops, teacher on the job experience and teacher knowledge in their content area of expertise (Greenwald, Hedges, & Laine, 1996). Traditional school districts pay teachers according to their years of teaching experience and the highest academic degree earned (Illinois State Board of Education, 2012c). If salaries compose the larger percentage of districts costs (Illinois State Board of Education, 2012), how then do you explain a scholarship which advocates the lack of importance of money and its association to student success? In addition you must ask; have these same scholars found a source of free professional development workshops for school district staff?

As illustrated in Figure 6, the proportions shared between local, state, and federal sources in 2011; for support of student cost, were approximately 63% for the local governments, 27% for the State of Illinois, and 10% was supported by the federal government (Illinois State Board of Education, 2011b).

Figure 6. Illinois Revenues Support Levels and Relative Shares FY 2011. Source: Illinois “Financial Report”, Local Education Retrieval Network Illinois State Board of Education (2011b).

The largest portion of student education finance being supported by local taxes makes local property values and tax rates central to the issues of school funding. Since local funds are based in part on property taxes, property poor districts have more difficulty raising money to support the finance of education, than do property rich or wealthier district (Fritts, 2010). This phenomenon leaves children from poorer districts at a considerable disadvantage. Counties in poor communities must tax homeowners at a much higher rate than wealthier communities, which creates an increased strain on poverty stricken areas (Crenshaw et al., 1995). For example; in 2010 school districts with property tax rates less than 2 % generated an average of \$12,717 per pupil. These districts showed examples for property rich district. On the other hand, the districts with tax rates of 5% or more generated about \$6,063 per pupil (Illinois State Board of

Education, 2011b). Property tax rates for a low income community such as East St. Louis were 12% for 2009 (St. Clair County Tax Assessors Office, East St. Louis School District 189), which generated approximately \$1,575.57 per pupil. Illustrating, although East St. Louis tax payers are willing to carry a heavier burden, the higher tax burden continues to yield lower results in per pupil support. As illustrated in Figure 7, East St. Louis School District 189 is located in the southwestern region of Illinois.

Figure 7. State of Illinois, St. Clair County the Home of East St. Louis School District 189. Source: Illinois Interactive Report Card (2012).

These differences in per pupil generated rates reflect lower property values in the case of property poor district; and higher property values which allow property owners to pay at a lower percentage rate and yet as a community yield larger revenue streams.

Unfortunately, most communities that are property poor are also inhabited by minority populations (United State Census Bureau, 2010). The community such as that of East St. Louis are prime examples.

As illustrated in Figure 8, with a 98% African American population, a median income of \$21,070 and a 97% low income population, the community is both economic and racially segregated (Illinois Interactive Report Card, 2012a).

Figure 8. East St. Louis District 189 Racial Demographics. Source: Illinois Interactive Report Card (2012a).

In addition to local property taxes, every year the Illinois state legislature determines minimum per pupil expenditure for the next school year. This minimum per pupil expenditure is called the foundation level. The foundation level is inserted into a formula that determines general state aid. General State Aid is the major component comprising the amount of state support a school district will receive as revenue. The formula distributes funds based on the school district's ability to pay their educational cost responsibilities, the number of students in the district, and the number of students in the district which are at or below the poverty level. Districts with a lower ability to generate school revenue through their local property tax base receive more aid (Fritts, 2010). However, the additional money does not bridge the gap between property rich and property poor districts. Communities containing children of color, particularly those who

are Black, like the example of East St. Louis, Illinois; are placed at a decided financial disadvantage when compared with more affluent communities if you are looking at providing funding for greater needs.

The number of students in the district is computed using the average daily attendance. The average daily attendance (ADA) uses the highest three months of the previous year's data. The higher the district's average daily attendance, the greater the funding the district will receive. Districts with students who live below the poverty line receive additional funding. This funding source is often referred to as the poverty grant. Districts with higher concentrations of students at or below the poverty levels, receive more funding per low income student (Fritts, 2010).

Again, the money allotted for this purpose does not make up the gap in the funding which exists between lower and higher property value districts. Studies suggest local finance of education can affect both school spending and school quality, which in turn influences educational outcomes (Alemán, 2007a; Darling-Hammond, 2000). Public school districting produces highly segregated communities clustered around schools. In the case of affluence, the cluster is formed around good schools. Adversely, in communities like those of East St. Louis, it most often causes clusters formed around schools that have major dysfunction (Orefield & Eaton, 2003). This makes it extremely difficult if not impossible, for children from poorer families to get into a good school (Elmore, 2002; Alemán, 2007a). All of these conditions not only define the relationship between revenue and school district progress, but it also defines the effect of revenue amounts on spending and district variables.

Relationship of Revenue and Effect on Spending

There are three variables that show a strong relationship to educational revenue sources. They are school funding, local property tax base, and low-income pupil concentration (Hanusheck, 1997). Hanusheck (1997), as well as Hanushek and Lindseth (2009) contain illustrations of the connection between the original methods used in the design of school funding policy and considerations made to adjust levels of support according to student need. Although Hanushek and Lindseth (2009, p. xvi) are willing to admit looking at past history is necessary and “recounting of the past and present is necessary to the full understanding of the seriousness of the problems we face”, they can also be counted among those who fail to look at the problem with consideration of social equity and the historical context of racism. Although thorough in their mathematical analysis, these methods treat social equity as an external component as opposed to recognition of race and racism and its lasting effects on education funding policy (Alemán, 2009). Illinois funding data, like those of many other states, continue to indicate minority school districts are disadvantaged by its school finance policy (Taylor et al., 2009).

Illinois school district total revenue streams have a direct relationship to local property taxes. Most school districts with lower property values have lower school spending and higher poverty concentration (Fritts, 2010). Although costs have unique drivers, the use of actual expenditures do not take into account all of each district’s unique variables such as equalized assessed valuation of homes, socioeconomic levels, age of school buildings, area cost of living, teacher salaries for surrounding areas, and the effect of each district’s local policies and politics which affect spending (Fritts,

2010). The disadvantages to this method are that there is no allowance made to compensation for the uniqueness of the district or its increased demand for funding as a result of students with greater needs (Crenshaw et al., 1995).

Illinois test data shows a direct relationship between lower funding and student performance. There is a strong correlation between increasing instructional expenditures per student and academic achievement. Schools in poverty rich areas spend significantly more on teacher salaries, and employ more teachers with master's degrees than high poverty areas (Darling-Hammond, 2000; Greenwald, Hedges & Laine, 1996; Illinois State Board of Education, 2010). Although some researchers are opposed to the importance of spending in academic success (Goe, 2007; Hanusheck & Lindseth, 2009) and the data and research methods vary greatly; according to Greenwald, Hedges and Laine (1996), Crenshaw et al. (1995) and Darling-Hammond (2000), money makes a difference in the quality of education students receive in their districts. Greenwald, Hedges, and Laine (1996) write,

our analysis shows that school resources are systematically related to student achievement and that those relations are large [and] educationally important. In their previous research they also used analyses of the data to conclude low pupil to teacher ratios as well as other cost-related inputs is associated with increased pupil performance. (p.384)

In Illinois, districts from property rich, affluent communities show impressive results for students who make adequate yearly progress on test scores. However, only 28% of high poverty districts meet the standards (Illinois State Board of Education, 2012a). For instance, the following comparison shows academic results for East St. Louis

District 189 High School students when compared to the affluent district of Lake Forest High School.

As illustrated in Figure 9, academic results for the years 2010-2012 show only 9% of East St. Louis students meeting or exceeding standards in 2010; while 84% of Lake Forest High School students met or exceeded the standards (Illinois Interactive Report Card, 2012a)

Figure 9: Comparative Accomplishments for Student Academic Testing. Source: Illinois Interactive Report Card (2012a).

Unfortunately for children of color, the underfunding of education through present formulas; propagate both racial and economic segregation in communities like East St. Louis. This in turn creates community school clusters formed around schools that have major dysfunction. These districts trap children in schools that continue to fail year after year (Elmore, 2002).

Illinois State's public school system has a long history of class, racial and financial gaps in student learning (Kozol, 1991). The writings in this section have been an

attempt to present the economic background of Illinois school finance. Some of the most ardent attempts to remedy the situation, especial those targeted at increasing financial resources for disadvantaged *populations, have used the state court systems and have centered on school finance reform (Lewis E. v. Spagnolo, 1999)*. However, it is not only important to study those attempts that have targeted the very complicated landscape through legal avenues, but it is also important to look at the reform movement through the historical lens of education for children of color, especially those who are Black. In addition, exploration of the economics of education is important. In its literature review, this dissertation attempts to touch on the very micro focus of the intersection of relevant literature on the economics of education; education of people of color, especially those who are Black, and school law and legal history. All of the background research will be applied toward better understanding the phenomenon surrounding Illinois' at-promise student funding gap, as it relates to *Lewis E. v. Spagnolo, 710 N.E.2d 798 (1999)*, and as it applies to the policies mandated in Article X section 1 of the Illinois State Constitution (Lousin, 2011).

The History of Critical Race Theory

Although not yet officially entitled CRT, traces of the properties that would make up the theory was seen as early as 1787 in the work of Immanuel Kant, and 1848 in the works of Alexis de Toqueville. A French political thinker, de Toqueville explored the effects of the rising inequality of social conditions on the individual and the effects of inequality on the law. As explained by Dahl (2001), Toqueville saw America as a place where one group exercises power and control over another group. De Toqueville (1848) (as quoted in Loury, 2002) writes, “the prejudice rejecting the Negros seems to increase

in proportion to their emancipation and inequality cuts deep into mores as it is effaced from the law” (p. 6). De Tocqueville saw a clear delineation being made in social standing between the black man, Indian, and the white man. The hierarchy created by the white man was placing himself at the top and all others below him. He saw the black man’s positions in society as almost hopeless, as he writes “almost insurmountable barriers had been raised between them by education and law, as well as by their origin and outward characteristics” (de Toqueville, 1848, p. 371).

William Edward Burghardt Du Bois, commonly known as W.E.B. Du Bois, worked tirelessly toward the scholarship of emancipation of the black man. During the late 1800’s Du Bois spent time studying in Berlin, with a focus on blended studies of history, economics, and politics. This was the period of his life that united his studies of history, economics, and politics into a scientific approach of social research. Creating a scientific approach to social research, he began to see the race problems in the Americas, Africa, and Asia, and the political development of Europe as one stemming from the same source (Du Bois, 1953/2006). W.E.B. Du Bois (1899) writes in the Philadelphia Negro,

Again, the white people of the city must remember that much of the sorrow and bitterness that surrounds the life of the American Negro comes from the unconscious prejudice and half-conscious actions of men and women who do not intend to wound or annoy. (p.397)

Similar to CRT’s contentions whites do not always set out to harm; Du Bois illustrates the ways actions of whites, although hurtful, may not always be intentional. He emphasized the state of white ignorance toward their ingrained prejudice. A prejudice so

normalized it is invisible to them (Bell, 2004). Du Bois describes sadness from being divided from white society. Du Bois (1953) writes of a state which he describes as “shut out from their world by a vast veil” (p. xv). Du Bois had two additional things in common with the modern CRT writers. He used his counter stories of people’s experiences to help readers understand racist activities. In his writings he demonstrated the use of discourse analysis to examine aspects of racism, and social injustices. Both were used as a tool to highlight the ways structures are used to justify social events and hierarchy of the races (Du Bois, 1953).

Additional traces of the principles, which are representative of the theory, are seen in the 1944 observations of Gunnar Myrdal. A Nobel Peace Prize winning economist, Myrdal is best known in the United States for his study of race relations. This study culminated in his 1944 book *An American Dilemma: The Negro Problem and Modern Democracy*. His work was influential in the 1954 landmark U.S. Supreme Court Decision *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954). Myrdal (1944) (as cited in Loury, 2002) writes about racial inequality and its cycle of repetition. Loury (2002) writes,

Concerning the assumption of “ingrained racial stigma”.....Gunnar Myrdal pointed out the power of “vicious circles” of cumulative causation self-sustaining processes in which the failure of blacks to make progress justified for whites the very prejudicial attitudes that, when reflected in social and political action, served to insure that blacks would not advance. I will suggest that subtle processes of this kind are at work among us even today. (p. 6)

Gunnar Myrdal (1944) writes of White Americans, “attitudes of the Whites are of greatest importance for the growth of Negro education, as they have all the power” (p. 900). Even as early as 1944 theorists like Myrdal saw the power structures and the control, over the education of the Black man as problematic. In addition they saw white society as a difficult obstacle to overcome. Myrdal, like the authors of CRT, noted the unfortunate results of prejudice and its cyclical effects on the black man (Loury, 2002).

Although many features of the ideals which form the theory can be seen in earlier works, it wasn’t until the mid-1970s, that CRT emerged from the work of Derrick Bell and Alan Freeman. Unhappy with the pace of reform in the United States of America, these two legal scholars, one black and one white, created CRT to better illustrate the barriers present in a system claiming to be meritocratic, impartial, and fair. With the goals of transforming the racial exclusivity of the law, society, and the academics, they set out to create story lines designed to help others understand. It formed as an outgrowths of scholarly developments based on ideas initially presented as parts of the Critical legal studies (CLS) movement of the late 1970s (Crenshaw et al., 1995).

According to Dixon and Rousseau (2006), Ladson-Billings and Tate (1995) introduced CRT to the field of education research in their ground breaking article Toward a Critical Race Theory of Education. Explaining how CRT’s concepts can be applied to our understanding of educational inequity, Ladson-Billings and Tate (1995) outlines key concepts. In a later writing Ladson-Billings (as cited in Taylor et al., 2009), gave additional details to offer understanding of the concept. Ladson-Billings (Taylor et al., 2009) writes,

“CRT suggests that current instructional strategies presume that African American students are deficient.....intelligence testing has been a movement to legitimize African American student deficiency...CRT argues that the inequality in school funding is a function of institutional and structural racism. (p. 29-31)

CRT solidified a collection of 19 key articles, which laid the foundation for CRT, along with their entry into educational theory. These key work groups concepts into categories labeled CRT on education, history and evolution, affirmative action, critical race research methodology in education, race in the classroom; gender, class, and culture; white supremacy and white allies, and critiques of CRT; and places the writings from pioneers and key activist into eight categories for consideration and review (Taylor et al., 2009).

Inheriting many of its elements from civil rights scholarship and Critical Legal Studies, the CRT of today draws heavily from critical theory, as well as feminist jurisprudence. Today, prominent scholars like Mari Matsuda, distinguished law professor at the William S. Richardson School of Law and activist; Patricia Williams, professor of law at Columbia University; Kimberlé Williams Crenshaw, CRT professor at UCLA School of Law and Columbia Law School; and Richard Delgado, professor at the Seattle University School of Law, add their names and writings in support of CRT and the objective it hopes to accomplish (Taylor et al, 2009).

Knowing the historical background of CRT is crucial to understanding its development and objectives as a political movement. With its foundations in the 1970s CLS movement (Ladson-Billings, 1998), which used legal ideology and discourse to explain inequalities, CLS helped to form hypothesis on how social class was perpetuated and maintained in United States society (Tate, 1997); CRT developed as a result of what

was considered a failure to accomplish the goals of reducing class and race based differences and positions of power (Rollock & Gillborn, 2011).

Conceptual Framework

According to Creswell (2009), “one component of reviewing the literature is to determine what theory might be used to explore the question (p.49).” Ladson-Billings (1998), tells us CRT is a perfect tool for looking at school funding inequality, because it allows school reformers, who fail to recognize property as the most powerful determinant of academic advantage, to become aware they have left out a key component. In addition, Crotty (1998) tells us the framework must carefully align with both the epistemology and methodology, which is to be guided by the researcher’s theoretical views. This study uses CRT to inform the study and to present theoretical views.

This study contrasts with previous studies in Pk-12 school finance inadequacies which rarely include explicit discussions of how race impacts school funding policy, thereby disguising the systemic structures that maintain the power relationships that put minority student, especially those who are African-American at a disadvantage. CRT places minorities, especially those who are African-Americans, at the center of a unique history of oppression and discrimination in this country (Dubois, 1953). As part of a very small group of people which were brought to this country in chains, African-Americans have a very distinct historical background. CRT scholars recognize their unique history as a contributing factor to racially disadvantaged minority experience and a distinct cultural identity in America. This history of oppressive factors and racist practices continue to affect the lives of African Americans in this country (Cross, 1991; Delpit,

1995; Ladson-Billings, 2000; Lewis, Lewis, Daniels, & D□Andrea, 2003; Parker & Stovall, 2004).

CRT asserts racism is part of our everyday lives, and as such is so prevalent it has become normalized. Taking the new and more difficult to fight form of aversive racism, Dovidio (1986) describes modern racism as a subtle and very real bias for many White Americans. Dovidio (1986) believes aversive racism can sometimes be both subtle and often unintentional bias. He recognizes it as the driving force for the cyclical racism in both the institutions, and societal views of in the United States of America. Dovidio (1986) believes more work is necessary to help us understand our prejudices.

Much like Dovidio's (1986) belief in awareness as the key to change, Ladson-Billings (1998) is convinced without a commitment to redesign funding formulas; one of the basic inequities of schooling will remain in place and virtually guarantee the reproduction of the status quo. She thinks the answers can be found within CRT's framework. In addition, Alemán (2006, 2007a, 2007b, 2009) highlights the relationship between race, property in the finance of public schools and critical perspectives on history racism, and their effects on school finance policy. Recommending CRT as a methodology for analyzing at-promise populations, Alemán (2007a, p.526) writes, traditional policy analysis "lack a contextual analysis of historically racist practices, ignored the power dynamics that disadvantage communities of color, and failed to insert a critical analysis of the winners and losers of a given policy." Therefore this study uses CRT as a tool to explore *Lewis E. v. Spagnolo*. In addition, it addressees educational finance disparity and helps to frame research policy questions which explore the impact of viewpoints contained in the legal case. The analysis focuses on the exclusion or the

absence of recognition of racism, if any is found present in the case, as a contributing factor to school finance disparity. In addition it searches for the characteristics which describe majority minority school districts, especially those that are Black; and their connection to funding disparity.

Definition of Critical Race Theory

Mari Matsuda (1991) writes critical race theory is,

..... the work of progressive legal scholars of color who are attempting to develop a jurisprudence that accounts for the role of racism in American law and that work toward the elimination of racism as part of a larger goal of eliminating all forms of subordination. (p. 1331)

At the center of the issue of informed leadership, and exposure to the experiences of people of color, are the tenants of the CRT and its objective to advance a social justice framework. It not only wishes to explain how race organizes and racism operates, but it also strives to restructure social inequality. In the case of school finance it strives to restructure the social inequality of disparaging school finance (Taylor et al., 2009).

According to Taylor et al. (2009), CRT typically referring to a specific set of practices and theories. These theories act on the assumption that institutions or organizations have standard operations that hurt members of one or more races in relationship to members of the dominant race. CRT is the belief that institutional culture, rules, habits, symbols, and society in general create something similar to institutional racism. However, it exists on a broader level for society. The dominant or prevailing culture has assumptions, norms and concepts that form habits to benefit the dominant

group over other groups. As time goes on these norms, formed by the dominant race or culture, are seen as normal or natural. When, in fact they are socially constructed.

These norms are constructed overtime by the dominant society to reflect what the dominant society sees as normal. Although these ways of being are normalized, they can have incredibly damaging effects on other cultures. Critical race theorists believe our entire system of legal education and scholarship was built by and for White men of privilege. It theorizes that as a result racism continues to pervade our society, institutions, and the American way of thinking. Unfortunately, as a result it creates imbedded racism (Tate, 1997; Ladson-Billings, 1998; Delgado & Stefancic, 2001; Gillborn, 2008).

Embedded racism is a socially constructed view point. It creates favor and preference which looks neutral, when in fact it uses the possession of white skin to own, dispose, use and enjoy all those things which benefit the individual. Along with the right of exclusion, whiteness as property has been fixed in the mind of people, reinforced and perpetuated by institutions and ingrained in our legal proceedings. Although in some cases it is not verbalized, its subtleties perpetuate the same exclusionary tactics lodged in American culture. A distortion of reality, the negative consequence for those that are Black, is that African-American cultural values and knowledge, that are not the same as those held by the dominant culture, are seen as not normal or they are devalued (hooks, 2003; Solórzano & Delgado Bernal, 2001). Devaluation, of the African-American culture, leads to distortion in the lives and experiences of African-Americans (Ladson-Billings, 1998).

Focusing on the intersection of race, law and power, CRT is an analytical social movement tool that puts race at the center of critical societal analysis. According to Crenshaw et al. (1995), CRT looks at the intersection of race, law and power. It is an

analytical social movement tool that puts race at the center of critical societal analysis. Although there are no concrete methodologies which define CRT, scholars who write within its guidelines share two very broad view points. Crenshaw et al. (1995) gives a description, of what CRT scholars define the theory to be. They write, “there is no canonical set of doctrines or methodologies to which we (CRT scholars) all subscribe” (Crenshaw et al., 1995, p. xiii). However, these scholars are unified by two common interests. Crenshaw et al. (1995) write,

The first is to understand how a regime of White supremacy and its subordination of people of color have been created and maintained in America, and in particular, to examine the relationship between that social structure and professed ideas such as “the rules of law” and “equal protection.” The second is a desire not merely to understand the vexed bond between law and racial power, but to change it. (p. xiii)

Rejecting conventionality, these scholars aim to use their definition to understand, challenge and change the bond that exists between law and racial power.

These two broad view points are exhibited in CRT’s usefulness as an intervention into civil rights activities, the study of the movement, as well as in the manner in which CRT describes the concepts which are involved between what societies generally think are race-neutral ideals, and the reality of these social concepts.

Basic Tenets of CRT

In an attempt to help others understand the impact of race in our society, CRT has three main purposes. They are to enlighten people about the constraints that exist and are a part of our system, which professes to be impartial and fair; to develop and design

approaches and standards for addressing racism which eliminate racism; and to change the arrangement and organization of current structures to make them more applicable to all of the people (Taylor et al., 2009). As cited in Rollock and Gillborn (2011, pp. 2-3), CRT can be seen as containing centrality of Racism (Delgado & Stefancic, 2001). In its purpose, CRT has basic tenets which guide policy analysis. Matsuda et al. (1993, p. 6) outlined six unifying themes for its guidance and analysis of policy failure for the at-risk student population, and through creating a framework for views and construct. CRT notes the centrality of Whiteness and recognizes racism as endemic to American life. Posing a challenge to dominant ideology, it expresses skepticism toward dominant legal claims of neutrality, objectivity, colorblindness, and meritocracy. CRT's race scholars also challenge historicism and insist on a contextual or historical analysis of the law. Additionally, it presumes racism has contributed to all contemporary manifestations of group advantage and disadvantage. Also, it insists on recognition of the experiential knowledge of people of color and our communities of origin in analyzing law and society (Zamudio et al., 2011).

Finally, in its commitment to social justice, it is interdisciplinary and works toward eliminating racial oppression as part of the broader goal of ending all forms of oppression (Matsuda et al., 1993). All of CRT's basic tenets combine, when applied to the field of education finance, to design methods to eliminate racism. In addition, they help to form new paradigms required in response to structural racism's contemporary influences over PK-12 education finance.

Although all tenets will be used in presentation of the study, the emphasis in analysis is on both the centrality of Whiteness and CRT's skepticism toward the legal

system. First, the centrality of Whiteness contends White ideology, values and interests are at the center of all aspects of America's dominant culture and its policies.

Particularly, they are at the heart of America's education finance system and contribute to group advantage and group disadvantage. Second, skepticism toward legal claims of neutrality challenges the dominant ideology of the purity of our justice system. CRT counters dominant society's claims that see the legal system as just. Specifically, it contests claims of a colorblind, race neutral public education system and a colorblind, race neutral legal system which functions to support equality in education funding (Alemán, 2007a; Bell, 2004; Crenshaw, 1995; Delgado, 2001; Harris, 1993; Ladson-Billings & Tate, 1995; Lawrence, 2002, 2006; Matsuda, 1995, 1996; Williams, 1997).

Centrality of Whiteness Racism Endemic to American Society

Used as a framework for the first time in 1994, CRT's basic tents form the tool for analysis. First, CRT recognizes the centrality of Whiteness. In all aspects race and racism in society are permanently ingrained in American's social, legal and political landscape (Ladson-Billing & Tate, 1995). Derrick Bell (1992, p. 13) writes, "racism is a permanent component of American life." For Ladson-Billing and other CRT proponents fighting for the rights of minority children education means not only adopting strategies which fight for social justice, but also using tactics which exposing racism (Taylor, Gillborn, & Ladson-Billings, 2009). According to Jones (1997), racism involves not only negative attitudes and beliefs, but also it contains social power that translates attitudes into outcomes. These outcomes lead to disparaging degrees of disadvantage for one race while other races are offered advantages at the expense of others.

Even where there are no open displays of the practice of forcibly separating people based upon their race or ethnicity as explicit racism, there are often far more harmful subtle forces that hinder access to equality, and result in the racial separation that occurs. It happens as a result of one group of individuals being dominated by another particular race, and is assumed to have been caused by some form of racism. These causes of racial separation are for example, the effects of historic discrimination, causes for limited opportunity, economic disadvantage, political disadvantage, social disadvantage, and last but not least disproportionate school finance (Taylor et al., 2009).

Also known as the notion of White Supremacy, it normalizes White privilege, is central to the CRT lens, exposes racial inequality, and helps to maintain or reinforce racial subordination (Crenshaw et al. 1995). This kind of White Supremacy does not refer to the cruel and obvious force which characterizes hate groups like the KKK, instead it refers to the subtleties that are present in society (Ansley, 1997). Ansley (1997) writes,

[By] 'White supremacy' I do not mean to allude only to the self-conscious racism of white supremacist hate groups. I refer instead to a political, economic, and cultural system in which whites overwhelmingly control power and material resources, conscious and unconscious ideas of white superiority and entitlement are widespread, and relations of white dominance and non-white subordination are daily reenacted across a broad array of institutions and social settings. (p. 592)

CRT provides a lens through which to examine the factors and conditions that impede fair and equitable finance of schools, and thereby makes it extremely difficult if not impossible, for children from poorer families to get into effective schools. Examining factors in America requires taking a look at conditions which influence the way we see

individual groups of Americans, and the distortions in the way we reason away their negative conditions (Turner, 1994; Wilson, 1987). It requires looking at its minority population. In particular it requires an investigation of how we see its Black citizen population. Gillborn (2008) says,

A critical perspective on race and education highlights that- whatever the rhetoric race-inequity is a constant and central features of the education system...Until we address the presence of racism, as a fundamental defining characteristic of the education system, the present situation is unlikely to change in any meaningful sense, irrespective of superficial rhetorical comments to inclusion, civil rights, and social justice. (p.117)

Using the taxonomy of CRT, to inform and supplement the study of America's fight for equity and adequacy in our PK-12 public schools, is required to fully understand the major issues caused by funding inequity and its resulting disenfranchisements (Gillborn, 2008).

Whiteness as Property Historical Connections of Property Ownership

As written by Ladson-Billings and Tate (1995) land and its equivalence to Whiteness as property transfers from generation to generation prepositioned on property rights not human rights. In part, the racial disparity in land ownership and wealth can be traced back to a number of federal policies which allowed historical racial discrimination, and allowed favoritism of those already in affluent positions. The power of affluence and influence goes contrary to the concept of meritocracy. An example of one of these federal policies is the Homestead Act of 1862, which provided up to 160 acres of land to families willing to move to the West. The end result was approximately 500 million acres between

1862 and 1904. To help in the conception of how much land this encompassed, we can look at the land mass as equivalent to Texas added to the state of California and then some. Although history tells us much of the land was allots to speculators, cattlemen, miners, lumberman, and the railroad, and only 80 million acres went to homesteaders; today some of the land granted to homesteaders has culminated into citizens who are now living descendants of benefiting families. These White families continue to benefits not only from property ownership, but also from other past federal policy decision. This land transfers has a relationship to Whiteness as property and multi-generational property asset ownership and entitlement. Opportunity which favored Whites over minorities was supported by federal law. It should be noted this law restricted Blacks, Mexicans, Chinese and Indians from participation in this program (King & Smith, 2005, National Archives & Records, 2013a).

President Franklin Delano Roosevelt's New Deal Campaign of 1932 was revolutionary in its time. It advocated a new and better America through programs which changed for the better governmental support for the social welfare of Americans. Unemployment insurance, social security, federal support for the unions through the Wagner Act of 1935, and the establishment of the Federal Housing Administration (FHA) through the Housing Act of 1937; were all programs which stemmed from this era. The Social Security Act was designed to combat the widespread poverty among senior citizens through provision of income to retired workers. Unfortunately for people of color these programs did not offer the same benefits as for Whites. King and Smith (2005) write,

To sustain his New Deal coalition and his own centrality, Roosevelt let many New Deal programs be structured in ways that placated and even strengthened white supremacists. But he did not share their aims; so he sought to extend economic relief to black Americans, to support their legal causes, and to appoint them to higher offices when he could. (p. 76-77)

Both unemployment and the Social Security Act of 1935 excluded domestic servants and agricultural workers from receipt of benefits. Domestic servant trades were predominantly Black as were the agricultural trade workers who were located in the southern states. As for union membership, Black Americans were prohibited union membership until 1955. In addition, both the rights of earning benefits under unemployment insurance and social security had a huge impact on living wages.

All though these policies look as if they are being applied equally, they were unequal in their construct. They leave out portions of the population who are historically Black and minority; just as the postponement of eligibility for union membership directly excluded Blacks from the benefit of organize labor movements. These benefits not only controlled wage rates, but they also insured quality of work life. Black exclusion from union membership in some cases meant the few Blacks that were allowed inside, would be displaced by white union members. Arguable, it was the Federal Housing Administration actions that may have been the most detrimental to Blacks (King & Smith, 2005; National Archives & Records, 2013b).

Having the most enduring effect on the places and spaces in which Blacks live, and helping to continue the trend toward White property ownership; the FHA's Housing Act of 1937, which was designed to regulate mortgages and housing conditions, allowed

local authorities like those in the City of Chicago to use tax-free bonds to build public housing projects. Housing projects sprouted up in Chicago areas east of the expressway which were designated for Blacks (Bogira, 2011). These housing tracks created areas of concentrated poverty (Orfield & Lee, 2006; Massey, 2001). Redlining policies allowed in the administration of FHA loans cordoned off neighborhoods of predominantly Black populations from eligibility. While administration supported homes purchased with low down payments and favorable amortization for Whites across the board, the design of the loan program favored new suburban housing over urban or rural existing housing (King & Smith, 2005; National Archives & Records, 2013b). These rules made it easier for Whites to create new housing developments in suburban areas, which created predominantly White places and spaces all over America. For Areas such as Chicago, this meant new suburbs flourished outside of the city limits (Bogira, 2011). All over America these rules accompanied by redlining created favorable conditions which made suburban home ownership the route to take for Whites, while Blacks were relegated to become renters either in areas not excluded by redlining or in Federal Public Housing units.

Although all of these events happened in the past and are now part of history, the effects of these restrictive policies continue to play out in the lives of African American descendents in areas all over America. Social welfare policies which offered safety nets to Whites were withheld from Blacks. Restricted from unemployment insurance, Blacks were allowed to languish unaided as they faltered during periods of joblessness in the case of unemployment insurance. Union policies robbed minorities of comparable earning potential, and the inability of some trade memberships stopped Blacks from being a part of the social security system. Last but most important for this research,

housing policies which supported home ownership opportunities were withheld from Blacks (King & Smith, 2005; National Archives & Records, 2013b). Instead Blacks were funneled into renting in areas of concentrated poverty and redlined housing communities. The effects of these patterns set the stage for Whiteness as property and its connection to property ownership. King and Smith (2005) write, “Racial” institutional orders seek and exercise governing power in ways that predictably shape people’s statuses, resources, and opportunities...” (p. 78).

In CRT’s analogy of racism as a permanently ingrained element of American life, laws which supported favoritism for Whites, illustrates how occurrences from the past continue to influence the future for minorities. Property ownership policies and practices that we think of as old, antiquated, and just parts of history continue to shape American contemporary realities. King and Smith (2005) write, “many of the institutionalized inequities in schooling, jobs, education, and political offices created by the Jim Crow order still endure, this opposition helps maintain many superior white statuses and privileges for the near term...” (p. 83). Historical roots continue to have present day contemporary consequences which continue to perpetuate racism in property ownership and ultimately affect not only the places and spaces in which we live, but also the places and spaces in which we educate our children (Crenshaw et al., 1995; King & Smith, 2005; National Archives & Records, 2013b; Taylor et al., 2009).

CRT Connects Whiteness as Property

CRT sees whiteness as property. Harris (Crenshaw et al., 1995) used the *Plessy v. Ferguson*, 163 U.S. 537, 16 S. Ct. 1138, 41 L. Ed. 256 (1896) case to give credence to

the function of whiteness as privilege and valued property. Harris (Crenshaw et al., 1995) writes,

Whiteness defined the legal status of a person as slave or free. White identity conferred tangible and economically valuable benefits, and it was jealously guarded as a valuable possession, allowed only to those who met a strict standard of proof. Whiteness-the right to white identity as embraced by the law-is property if by “property” one means all of a person’s legal rights.... When the law recognizes, either implicitly or explicitly, the settled expectations of whites built on white supremacy, it acknowledges and reinforces a property interest in whiteness that reproduces Black subordination. (p. 280-281)

Seeing whiteness as property helps set the stage for understanding its underlying complications for people of color, and its resulting school district inequity.

True to CRT’s usage of dialogue, Gillborn (2008) summarizes and illustrates his position on CRT, and the desperately needed perspective of American educators into the problems inside the system. He does this through usage of a table conversation between a professor and Steve, a student. Gillborn relates from the conversation statements made by Steve. Steve says, “patterns of race inequality are wholly predictable” and unfortunately, the condition continues unchecked and unchallenged neither by administrators nor by United States of America’s government policymakers (Gillborn, 2008, p.8). Teachers do not deliberately set out to systematically disadvantage children of color. “It’s not a conspiracy; it’s worse than that (Gillborn, 2008, p.9)!” The invisibility of Whiteness at the heart of America’s education system is acute: “Whiteness relates to the ways of

knowing and being, the assumptions and actions that characterize White people in this Racist society” (Gillborn, 2008, p.9).

Property is not only concrete, but it can also be intangible. Rights and privileges can be transferred onto intangible objects as well as tangible goods (Harris, 1993).

Although as an intangible object something cannot be touched or seen with the naked eye, like an intangible asset it can still hold value. Take for example the concept of goodwill. It is intangible. However, as an accounting concept it has value much like a person’s reputation can have social value. In the example of Whiteness as property, its resulting advantages can take the form of school district curriculum (Ladson-Billings, 2004; Ladson-Billings & Tate, 1995). Harris, as written in Crenshaw et al. (1995), explains Whiteness in its operation as property has three levels. They are the right to possess, the right to use, and the right to distribute or disposition. These rights and the exercise of them are clear when looking at the comparisons of actual district builds and grounds as property. However it takes critical observation to see it through access or gate-keeping methods.

Access to high quality curriculum has been used as a way of gate keeping in the acquisition of a good education. For example tracking, which includes honors and gifted placement have been portions of curriculum exclusively reserved for white students in the past (Ladson-Billings & Tate, 1995). Even in district where multiple races attend school together, schools have succeeded in re-segregating its student population through employment of methods that almost guarantee students of color will not be admitted (Solórzano, D. G., & Ornelas, A. (2002). Unfortunately, possession of Whiteness as a property value has been normalized in the form of rights. Harris (1993) writes, “the

status quo as a neutral baseline.....masking the maintenance of white privilege and domination” (p. 1715).

Skepticism Toward Legal Claim of Neutrality

Harris-Lacewell (2003) writes, researchers who look at society and determine their value system on race and creed are neutral or colorblind, have failed to recognize the impact of inherent racism in American construction of individualism and meritocracy. Additionally Harris (1993) writes, “The law has accorded ‘holders’ of Whiteness the same privileges and benefits accorded holders of other types of property” (p. 1731). As CRT expresses its skepticism toward legal claims of neutrality, objectivity, colorblindness and meritocracy; it describes the concepts which are involved between what societies generally think are race-neutral ideals, and the reality of social concepts. For example its critique of liberalism exposes the flaws surrounding three basic notions. These complicated flaws include the privilege and the benefits of rights conferred or withheld based on race, the notion of colorblindness and neutrality of the law, and the acceptance of incremental change theories (Gotanda, 1991; Williams, 1997). In addition, it sees law itself not as a neutral tool, but instead it sees law as part of the problem.

For example, the rights to confer or withhold are entitlements which are transferable to property ownership. In addition it includes the right to exclude ownership of levels of property, or property contained in geographic areas of the privileged. The biggest and the best spaces and properties are considered reserved for Whites. This reservation comes with the right to absolutely exclude minorities from occupation. In addition, complications include the use of law to preserve the status quo. These uses of law include the critique of liberalism, which is associated with colorblindness as a

technique adopted to justify ignoring race based politics. Liberalism excuses leadership from its obligation to address social inequality by denying the connections of inequality to law (Gotanda, 1991).

All of these conditions help to draw relationships between Illinois school funding systems, the usage of real-estate property taxes as a major source for school funding, school district education quality, and racial stratification (Matsuda et al., 1993). Additionally, it sees law as an instrument which accords the holders of whiteness privileges which are also attached to ownership of and access to real-estate property (Harris, 1993; Crenshaw et al., 1995; Alemán, 2007b).

Research has shown the relationship of housing and race (Joint Center for Housing Studies of Harvard University, 2002a, 2000b). The state of the nation's housing patterns show past and present evidence that even when government programs are instituted to help the underprivileged gain access to housing areas of the privileged, discrimination can hamper access to property (U.S. Department of Housing and Urban Development (HUD), 2012). Unfortunately; Housing Choice Vouchers, which is one of the program instituted by HUD to offer better housing choices to families, are not part of a protected class under federal law. Although twelve states prohibit discrimination in housing based on source of income, Illinois is not one of them.

The ills of discrimination in housing have been highlighted as early as 1968's Kerner Report (National Advisory Commission on Civil Disorders, 1968a). The document states,

Segregation and poverty have created in the racial ghetto a destructive environment totally unknown to most white Americans...What white Americans

have never fully understood--but what the Negro can never forget--is that white society is deeply implicated in the [existence of] the ghetto. White institutions created it, white institutions maintain it, and white society condones it... (p. 1)

Where our children are allowed to live directly influences where they attend school and where they attend school directly affects the quality of their education (Delgado & Stefancic, 2012)

Colorblind Myth

History notes the lone dissent in the *Plessy v. Ferguson*, 163 U.S. 537 (1896) case and his clever set up of false premises attached to what would later become known as the colorblind myth. Associate Justice Harlan (*Plessy v. Ferguson*, 163 U.S. 537 (1896)) wrote,

[T]he white race deems itself to be the dominant race in this country. And so it is, in prestige, in achievements, in education, in wealth, and in power. So, I doubt not, it will continue to be for all time, if it remains true to its great heritage, and holds fast to the principles of constitutional liberty. But in view of the constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. (p. 163 US. 560)

Refusing to acknowledge the social differences caused by racism in America, helps to confirm the absence of techniques aimed at addressing issues. These issues have damaging affects for minorities (Crenshaw et al., 1995).

In an article, which highlights the damaging traits of colorblind ideology, Dovidio and Gaertner (2005) explain how the myths contained in concepts of colorblindness have lead to a new much more damaging kind of racism. Characterized by widespread racial prejudice and labeled aversive racism, it has become much more difficult to detect and even harder to battle. Although subtle and indirect, aversive racism is operationally widespread and shows the need for devising new techniques for battling this new brand of racisms in our school finance policies.

Liberal notions also exist in options offered for change. America offers minorities hope in the form of incremental, timely measures. Similar to the high interest payments offered the poor for tangible good, which minority buyers cannot afford to purchase outright, these incremental payments are tied to higher price tags, threats of repossession, and astronomical interest rates. In the long run, the liberal notion of incremental change offer little likelihood of attainment during the lifetime usefulness of the good. Likewise, there is little hope for sweeping change to address inequality without looking at race issues. Myths have been a key ingredient in majoritarian stock stories (Bonilla-Silva, 2009; Lopez, 2001; Trumbull, Rothstein-Fisch, Greenfield, & Quiroz, 2001; Yanghee, 2009; Zuberi & Bonilla-Silva, 2008). These majoritarian stock stories which contain stereotypes have been around for ages. They are the descriptions of events and phenomenon which have been used to support the mythical divisions of race, and the imaginary factors that make psychological division possible (Beecher-Stow, 2005; Takaki, 2008). These stories can be described as the greatest mastermind of brainwashing propaganda of all time. They create perpetuating deficiencies and convince the listener to believe the status quo should continue uninterrupted by policy change (Bell, 1992, 2004;

Crenshaw et al. 1995; Delgado & Stefancic 1995, Dovidio, 2005; McKay, Doverspike, Bowen-Hilton & Martin, 2002; Steele, 1997; Steele, Spencer & Aronson, 2002; Takaki, 2008).

Recognition of the Knowledge of People of Color

In an attempt to help others understand the impact of race in our society, CRT presents the concept of centrality of experiential knowledge. It emphasizes and recognizes the experiences of people of color. In the case of education finance, these experiences expose others to a constraint that exists. Through the voices of people of color, others are able to recognize the things that are a part of our everyday system which denote racism. Because these inequalities are normalized by the majority, they might otherwise go unnoticed without the insight and voices of people of color. Giving insight into the inner workings of communities which people of color are from, these voices make it possible to look at law and society through CRT's lens. In addition the voices put experiences of everyday life, in the skin of those who cannot escape the foils of racism, into relatable terms for analysis of law and society. Indiscretions and negative experiences, spoken through the voices of color, help shed light on conditions which professes to be impartial and fair. Voices of color help to create knowledge from life's experiences. This knowledge helps to develop and design approaches, standards, and tactics for addressing racism. CRT works to help inspire changes in present day organizations, structures, policies and mindsets to make social interactions beneficial to all of the people; not just a chosen few (Matsuda et al., 1993; Taylor et al., 2009; Zamundio et al., 2011).

According to Matsuda (1996), CRT is perhaps defined most clearly by its recognition of law as “both a product and a promoter of racism” (p. 22). For Crenshaw et al. (1995), both “the rule of law”, and “equal protection” can all be used as a canvas for the structures and beliefs which paint supporting pictures in the concept of racism (p. xiii). In its application toward the concept of adequacy and equity for issues of school finance, CRT can be used as both a tool to spark racial consciousness, and as a tool to aid in legal intervention. It can direct the ways people interpret law and racial discourse, as we seek to transform America’s key social structure for education and to elevate “an ethical commitment to human liberation” (Crenshaw et al., 1995, p. xiii).

Counter Storytelling

Solorzano and Yosso (2002) write counter-storytelling is “a method of telling the stories of those people whose experiences are not often told (p. 26).” According to Delgado (1989) and Solórzano and Yosso (2001), stories which refer to the lives of subordinate people are incomplete unless the voices of the population which has lived the experiences have been included. Ladson-Billings and Tate (1995) write,

“Stories by people of color can catalyze the necessary cognitive conflict to jar dysconscious racism.....Without authentic voices of people of color (teachers, parents, administrators, students, and community members) it is doubtful that we can know anything meaningful about education in their communities.(p. 58)

Delgado and Stefaniec (2001) see counter-storytelling as a method of telling life’s stories that “aims to cast doubt on the validity of accepted premises or myths, especially ones held by the majority” (p. 144). Keeping the view points of marginalized people inside stakeholder discussions plays a key part in dispelling stock stories which reflect

unrealistic conditions. Delgado and Stefanic (2001) write, counter-storytelling “help[s] us understand what life is like for others, and invite[s] the reader into new and unfamiliar world” (p. 41). For Solórzano and Yosso (2002), counterstories come in many forms which include personal narratives and stories that are twice told or composite stories. Composite stories are those that were told to a person which are then shared with others. Race scholars within the CRT discipline tell us counter-storytelling is a tradition within both the African and the African-American culture. For minorities, these stories have not been told properly, have not been focused on often enough and have not been included in the literature of education, lay, or any other scholarly discipline (Lawrence, 1995; Yosso, 2006). This research follows the format of the composite story.

As this research study looks at the intersection of the three broad areas of school law and legal history, economics of education finance, and minority education, especially those who are Black; it keeps with CRT’s mission to hear the voices of race scholars that are part of the at-risk community. It attempts to highlight scholarly opinions, on at-risk school finance, from the vantage point of professionals who are also voices from the community. According to Yosso, (2006) and Yosso, Parker, Solórzano and Lynn (2004), Counter-stories which are told from the perspective of marginalized people deconstruct the master’s stories, to provide a platform for confronting dominant ideologies. Unchallenged, these dominant ideologies continue unchanged and drive policies in education finance using deficit model perspectives. Lawrence (1995, p.341) writes, “We must describe other subjects in our stories and by presenting multiple points of view, subvert the closed, coherent, noncontradictory world that makes us objects.”

It insists on the recognition of knowledge of people of color and their communities of knowledge as valid components for experimentation. It also brings in others as it describes the black experience, allows contributions contained in this research to form along the lines of the best interests of minority children and the communities they represent, and help to reflect on the interactions of minorities and majorities. In addition, it recognizes this research contribution as the most vital resource for PK-12 public school funding policy formation (Delgado & Stefanic, 2001; Ladson-Billings & Tate, 1995; Yosso, Parker et al.2004).

Interdisciplinary Perspectives

Interdisciplinary perspectives insist CRT theorist's study of problems be placed in both contemporary and historical context. It promotes recognition of perspectives, historical view points, and conceptual ideologies of people of color. In addition it is intertwined and interconnected with other discourse. Racial scholars value the knowledge base of those who are part of the minority community. They insist on including the views of the minority community and its people in the analysis of law and how it is applied to social problems. In addition, they insist on inclusion of minorities when decisions are made regarding how analysis of law is applied to policy decisions. CRT not only insists on inclusion of minority viewpoints, but it also challenges the historical information contained in our laws. It does this while analyzing legal history in its context (Alemán, 2006, 2007a, 2007b; Delgado & Stefanic, 2001; Ladson-Billings & Tate, 1995).

Eliminating Racial Oppression or a Commitment to Social Justice

Its fifth tenet emphasizes the purpose or commitment to social justice. CRT has as its major purpose to put an end to or to eliminate racial oppression. This objective not

only applies to racial oppression, but it also extends toward the elimination of all forms of oppression.

Intersectionality

Finally, a phrase coined by Crenshaw (1989), intersectionality helps to form a platform for discussion. Intersectionality grew out of Crenshaw's attempt to understand "how the law responded to issues where both race and gender discrimination were involved" (Thomas, 2004, p. 6), Crenshaw helps us understand how forms of multiple exclusion can injure and cause harm to those who possess more than one prejudicial trait. Crenshaw (1995) writes,

women of color are frequently the product of intersecting patterns of racism....Because of their intersectional identity as both women and of color within discourses shaped to respond to one or the other, women of color are marginalized within both. (p. 358)

According to Delgado et al (2001, p.51), "Intersectionality means the examination of race, sex, class, national origin, and sexual orientation, and how their combination plays out in various settings." Intersectionality emphasizes the multidimensional aspects of oppression. It points out race alone cannot account for the lack of empowerment. This is an important tenet because it points out that CRT is critical of the multiple oppressions which are experienced by people of color. It does not allow objectivity to use a myopic, one dimensional approach to the complex issues faced by minorities in our world (Delgado et al, 2001).

Holding distinguishing features, CRT strives to advance a social framework, as its scholars write with multiple audiences in mind and embrace multiple disciplines in

their work to eliminate racial oppression (Matsuda, 1996). This requires using a broader definition of social science and humanities as well as the intersections between them. CRT theorists recognize race and racism works with and through gender, ethnicity, class and or nationality as systems of power. It makes use of the perspectives of people of color which is characterized by their unique common experience of persecution and tells stories of people who have traditionally been at the bottom of society (Crenshaw et al., 1995).

Interest Convergence

Bell (1980) writes, “the interest of blacks in achieving racial equality will be accommodated only when it converges with the interests of whites” (p. 523). Race scholars tell us history tells the story of an American experience filled with examples which support Bell’s contention (Bell, 1980; Delgado & Stefancic, 2001; Gillborn, 2008). Race scholars, who have examined the historical track record of court decisions for racial equality, have connected victories to self-interests of White politically power groups (Delgado & Stefancic 2001; Gillborn 2008).

Perhaps the most important tenet for this writing lay in the topic of interest convergence. Interest convergence offers the possibility for finding different methods to accomplish social justice. These can be offered as common ground or as an incentive to change the bases for education funding.

Using Tenets to Frame the Study

Both the tent of centrality of Whiteness and the challenge of dominant ideology will be used to explore the legal issues contained in *Lewis E. v. Spagnolo* and to examine their relationship to the lack of concentration on race. In addition, these tenets will be

used to gain insight into the complex nature of district characteristics. An attempt will be made to find relationships as contributing factors to huge and damaging disparities in school district finance and the inequalities they cause.

While the two key tenets of centrality of Whiteness and the challenge of dominant ideology will be used in the analysis of data, the three key tenets of insistence on contextual history analysis of the law, recognition of the knowledge of people of color and interdisciplinary perspectives will be used to present background information and historical perspectives.

Critical Race Methodology

Introduction

The goals of CRT challenge conventional accountings of education and the institutions which support the education of all children. This includes the laws and formulations which surround the finance of education as well as the legal structures which support equity and adequacy (Delgado & Stefancic, 2001; Guinier & Torres, 2002; Lipsitz, 1998). Drawing on the framework of CRT, this writing attempts to ask the far reaching question; Are Illinois school funding policies truly color blind (Gotanda, 1991)?

Exploration includes the considerations of race and racism that are shared as part of the minority experience, especially for those who are Black. With its unique historical place in America's history, as one which traces back to slavery and second class citizenship, the African American experience in the United States begs the necessity to explore the inclusion or exclusion of race in our processes (Crenshaw et al. (1995). For this dissertation, the process includes a critique of the *Lewis E. v. Spagnolo* case and its fight for at-promise school funding. The case depicts the challenges and missed

opportunities in application of policy contained in Illinois Article X section I of the Illinois Constitution.

In its examination of legal scholarship and interpretation of rights, this dissertation explores depictions contained in the legal case for indications of the denial or exclusion of racism from the dominant narrative of the court's decision in the form of majoritarian stock stories. In its analysis, it applies the tenets of CRT. They are the permanence of racism, whiteness as property and its centrality to ideology, values and interest; the critique of liberalism, and the challenge of the colorblind myth with its legal system implications for justice; and the value of counter storytelling (Alemán, 2009; Bell, 1992; Crenshaw, 1995, 1998). Through the applications of counter storytelling, the proceedings of *Lewis E. v. Spagnolo* illuminates, qualities or condition of race and racism that stands out relative to conditions in the finance of education for majority minority school districts in the State of Illinois. Although this analysis focuses on the accountings and the experience of a single case in the history of the fight for equity and adequacy in public school finance, it is assumed this case demonstrates the pervasiveness, subtleties, and covert practices of racism in Illinois' school finance policies and minority's fight for equitable and equal finance (Alemán, 2009; Delgado, 1996).

The tenets of permanence of racism, whiteness as property, critique of liberalism, among others are used to form examples of the ways in which race and racism can be illuminated through counter stories in the fight for Pk-12 education funding equity and adequacy in Illinois school finance for at-risk populations (Alemán, 2009; Matsuda, 1995; Lynn, Yosso, Solórzano, & Parker, 2002). In addition, the tenet of intersectionality and interdisciplinary approaches, and interest convergence will be used to offer solutions

for future uses of CRT in finding solutions for the underfunding of school districts in Illinois which contain majority minority populations, and housing patterns which encourage concentrated poverty zones (Bell, 1980, 2004; Crenshaw, 1995; Solórzano & Delgado Bernal, 2001; Roisman, 2008).

Focus Categories for Past Research

Although the three main focus areas of economics of education finance, school law and legal history and minority education are very large; and there is much work being done in the broad areas, the intersection of the three is very small, and there is very little work being performed at the intersection of all three categories of school law and legal history, economics of education finance, and minority education. In addition to the small intersection of all three topics, this writing takes the position of Crenshaw et al. (1995), Lawrence (2002) and Solórzano, Villalpandro and Oseguera (2002). These scholars do not believe the stories which surround minority education disenfranchisement and education have been told properly, nor do they believe the stories have been told in their entirety, if they have been told at all. In their work for equality they use counter-storytelling as a tool to help others understand the implications of conditions.

For Delgado and Stefanic (2001) counter-storytelling is a method of telling a story that “aims to cast doubt on the validity of accepted premises or myths, especially ones held by the majority” (p. 144). Much like the work of Alemán (2007, 2009a, 2009b), who investigates the phenomenon of school finance inequality from the issues of law, race and racism, this writing takes off at the convergence point and focuses at the center of all three areas of concern. Its methodology uses CRT to help present the mis-finance of education in a manner which highlights issues of marginalization along racial lines. This

is done to expose the living experiences of people of color. When applied to the field of education, Solórzano and Yosso (2002) tell us counter stories have multiple forms. These forms include personal narratives or stories and composite narratives or stories which include others of like cultural experience.

For Alemán (2009), exposure to the experiences of people of color is essential to the preparation of new and effective leadership. Effective change requires informed new leadership. Helping to seed growth of policy change also requires setting agendas and priming processes. The benefits are reaped in the positive affects of political judgment (Shaefer, 2007). If we fail to educate informed leaders then power, privilege, and racially unconscious school leaders and finance systems remain intact (Alemán, 2006, 2007a, 2007b, 2009).

Creswell (2007) emphasized the importance of illustrating the research approach as an aid to effective communication and as a tool to increase the validity of social research.

Figure 10 illustrates the point at which this study joins the work of Alemán (2006, 2007) and other CRT scholars.

Figure 10: Convergence of Broad Topics in the Discussion of Equity and Adequacy. Shows the study convergence in school finance for minorities, particularly those who are Black.

Economics of Education Finance

The first of our three major categories of focus is economics of education finance. Most economic education finance literature uses traditional economic measures to examine the challenges of finding what things are appropriate for state funding reform. For the most part they use quantitative methods to find solutions (Hanushek & Lindseth, 2009; Koski & Levin, 2000). In contrast, and according to Merriam (1998), research methods may be especially useful in answering questions that are relevant to practice but

are difficult to address using experimental or quantitative designs. One such quantitative measure describes finance reform impacts in the form of methodologies of cost-benefit analysis. These studies argue increased funding will create better academic results for at-promise populations (Baker, 2012; Baker, Sciarra, & Farrie, 2010; Chambers, Levin, & Parrish, 2006; Taylor, 1998; Chambers & Parrish, 1982). Others argue the most effective solutions can be obtained through implementation of the most cost effective means in relationship to productivity (U.S. Department of Education, 1999).

Other studies like that of Card and Payne (2002), use mathematic formulas to measure samples of ACT scores. They then measure whether changes in spending inequality affect the gap in achievement between different family background groups. While other's like Coons, Clune and Sugarman (1970), further supplied research on the failure of the finance formulas to supply equitable or adequate funding for at-promise districts with very little property or property with lower wealth to tax. The conditions brought on by property poor pockets of real-estate persist in spite of a variety of state aid formulas designed to compensate for deficiencies. In contrast property rich districts have ample funding.

Some research projects which use mathematical tactics contain confusing results. For example, Leuven, Lindahl, Oosterbeck and Webbink (2007) found there was no positive effect related to two cases of increased funding to at-promise populations. However, two additional studies, preformed by the same group, found increases in funding caused higher academic results. Roy (2011) revealed a formula which reduced inter-district spending disparities, while increasing academic achievement in at-promise districts. Designated Proposal A, it significantly increased state aid to the lowest-

spending school districts, while limiting future increases in spending in the highest-spending districts, and abolishing local discretion over school spending. These gains were measured through the usage of state tests.

Although they also use mathematical based arguments, contrary to other literature, Hanushek and Lindseth's (2009) book, supports the belief money is not the solution to the problems of academic achievement, and the courts should stay out of the argument.

Finally, a study published by Corcoran, Evans, Goodwin, Murray, and Schwab (2004), produced results which focused on the economics of equity, adequacy, and the legal history of school finance reform. This historical accounting covers a period from 1972-1997, and has been added to the measures which look at redistribution of State and local funding for school funding reform.

Literary works on education finance are not composed in isolation. Instead, they materialize through a network of interlocking conditions which support arguments. In the case of education funding, networks are influenced by beliefs about what is valued in education and what policies dictate solutions for the problems of funding inadequacies for minority students (Taylor et al., 2009). Extending the examination of school funding beyond the traditional framework places the issue into racial, cultural, and contextual understanding and creates a critical policy analysis of the phenomenon (Taylor et al., 2009).

School Law and Legal History

The second major focus of our three main categories, school law and relevant legal cases, should be no surprise given the State of Illinois is one of the four most

segregated states for Black children in PK-12 school systems in the nation. Additionally, Illinois is ranked as one of the states with the largest funding gaps in the nation for low income schools (Ladson-Billings, 2006a). Ladson-Billings (2006a) points to the two unfulfilled interventions, which have never received full and sustained hypothesis testing, of school desegregation and funding adequacy or equity. America has refused to address both issues, which have been the themes of the two major ground breaking legal cases *Plessy v. Ferguson*, U.S. 537-539(1896), and *Brown v. Board of Education of Topeka*, 347 U.S. 483(1954). In Ladson-Billings analogy, we can point to little evidence that we really gave these two legal victories a chance. America in its unwillingness to desegregate our schools and unwillingness to fund them equitably, are backing away from Brown and not even taking Plessey seriously (Ladson-Billings, 2006a). Ladson-Billings emphasizes key indicators of failure in the legal history of school finance and the pursuit of equity.

Although the landmark case of *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954) was won more than 50 years ago (Minorini & Sugarman, 1999); income level segregation of student populations, and the resulting disparities (Kozol, 2005); causes litigations which form around the context of equity and adequacy (Minorini & Sugarman, 1999). Court battles, which challenge the constitutionality of policies on educating poor and minority students in the state of Illinois, continue to tell the story of a nation at risk, as it sounds the horns for a peoples cry for help (Guinier and Torres, 2002; The Oyez Project at IIT Chicago-Kent College of Law, 2011). Guinier and Torres (2002) write,

Those who are racially marginalized are like the miner's canary: their distress is the first sign of a danger that threatens us all. It is easy enough to think that when

we sacrifice this canary the only harm is to communities of color. Yet others ignore problems that converge around racial minorities at their own peril, for these problems are symptoms warning us that we are all at risk. (p.11)

From early laws which made it illegal to educate the Black man, or a crime punishable by death; to later laws which sanctioned the separation of the races as a prerequisite to educating the masses, and later to a push for national integration forced by federal law; the United States has kept minority students, especially those that are Black, locked into a system of inferior education (Patterson, 2001). Unfortunately as pointed out by John Coleman's research, now known as the famous Coleman Report, as early as 1966 America's history showed creation of two separate school systems (Coleman, Campbell, Hodson, McPartland, Mood, Weinfield, and York, 1966). Likewise, according to Alemán (2007a); Crenshaw et al. (1995) and Kozol (1991) the nation has in the past and continues to maintain two separate and unequal school systems, one for poor minority children and another for the more affluent. Although the evolution of America's educational system continued to be intermittently changed by challenges brought on by the justice system, and constantly influenced by the history of events (Mondale & Patton, 2001), as a nation we continue to face the dilemmas of disenfranchisement (Valelly, 2004).

San Antonio Independent School District v. Rodriguez

A historical look at education funding litigation would be incomplete without the mention of *San Antonio Independent School District v. Rodriguez*. Litigating for equal education rights and relying on the federal Equal Protection Clause, 1973 brought the U.S. Supreme Court ruling on *San Antonio Independent School District v. Rodriguez*. As

litigation in the era of supervised school desegregation and integration cases almost end, the United States Supreme Court in *San Antonio v. Rodriguez*, ruled inequities do not violate the equal protection clause of the Fourteenth Amendment (*San Antonio v. Rodriguez*, 411 U.S. 1 (1973)).

Like most states in the union, Texas public schools are awarded state funds that are designed to establish a minimum educational threshold for every district. Common also to most states in the United States, Texas funds a major portion of school district's resources on local property tax revenue. Acting on behalf of students whose families reside in disenfranchised districts, the San Antonio Independent School District (SAISD) litigated against funding policies by charging the states policy, of relying on property taxes collected from areas that were blighted or that had substantially lower property tax revenue, put underprivileged students at a disadvantage against other districts with more substantial property values. SAISD charged reliance on assessed property values to fund schools caused severe inter-district disparities in per-pupil expenditures.

The United States Supreme Court was charged with addressing the question, Did Texas' public education finance system violate the Fourteenth Amendment's Equal Protection Clause by failing to distribute funding equally among its school districts. The three major issues placed before the courts were; should wealth be treated as a suspect class group, should the federal constitution protect education as a fundamental right similar to freedom of speech and rights to privacy, and should federal courts have the authority to rule or review a state's education policy?

For the first question, which was should wealth be treated as a suspect class group; the question would be answered while meeting a series of criteria. These criteria

measured whether or not students were likely to be subjected to discrimination similar to race or gender.

In a 5 to 4 vote for the San Antonio Independent School District and against the students Justice Powell determined, “the Equal Protection Clause does not require absolute equality or precisely equal advantages” (*San Antonio Independent School District v. Rodriguez, 1970*). Effectively, the decision removed school finance and litigation for relief from the federal court system and leaving litigants no choice but the state courts for litigation (Koski & Levin, 2000). Many such cases would follow as the quest for equality in public school resources called for adequacy relief for the poor districts. In 1989 *Rose v. Council for Better Education, Inc* became one such case which asked the courts to offer relief for a troubled districts.

Rose v. Council for Better Education, Inc.

According to Thro (2010), 1985 brought efforts of poor school districts in Kentucky, asserting the state’s systems for financing education failed to provide the level of quality education mandated by the state’s constitution, on behalf of 66 rural districts who were petitioning the State Supreme Court for relief in *Rose v. Council for Better Education, 790 S.W.2d 186, 60 Ed. Law Rep. 1289 (1989)*. Amidst calls for adequacy relief for the poor districts, which lacked the ability to raise sufficient revenue to meet the needs of quality education for their children, *Rose v. Council for Better Education* accused the state education finance system of violating the state constitution. The final ruling, which came in 1989 against the state of Kentucky, declared the entire system of common schools unconstitutional.

This decision marked the first time courts would invalidate an educational finance systems not because the expenditures were unequal or because it went against the equity theory; but instead they would rule against the system using the adequacy theory. The adequacy theory contended the schools lacked the money to meet minimum standards of quality (Thro, 2010). Kentucky was ordered to provide funding that would provide each child in the Kentucky public school system an adequate education. In an unprecedented move, the Kentucky Supreme Court created a set of guidelines or benchmarks for knowledge and skills by which to measure student achievement (Hoff, 2005). In addition, the state was ordered to reform the property tax system. In an effort to make concrete their demands, the court defining an adequate education, by establishing seven learning goals, which have served as a benchmarks for other courts deciding similar cases ever since (Hoff, 2005).

As many other courts have done subsequently, the Kentucky court concluded that the amount of school finance matters and that a state's responsibility for public education cannot be ignored by issuing claims that local control should be recognized first and foremost, in lieu of state action (Thro, 2010). Kentucky recognized differences in financial support levels, as well as key educational system components make a difference in student outcomes. Although the courts made landmark progress with the setting of learning goals, much work remains to be done (Kozal, 2005). *Rose v. Council for Better Education* serves as a stepping stone to be used by courts to decide similar cases. Nowhere else had specific goals been included and spelled out. These goals included adequate oral and written skills to enable student functioning in society; adequate knowledge of systems, including political, social, and economical, to permit students

opportunities to generate educated choices; and adequate understanding of government to help student understanding of aspects relating to community, state, and nation (Thro, 2010). This case supports requirements noted for accomplishments for both the American dream and the common school concept (Cremin, 1951; Hochschilds & Scovronick, 2003; Mouffe, 1995), and lays the ground work for America's step in the right direction in the path to equity in education finance.

Illinois Court Battles

Introduction

Illinois uses strong wording when giving details of expectations for educational development. Unfortunately, ambiguity has made the attempt at equity and adequacy a source of legislation and litigation (U.S. Department of Education, 2011a). Illinois' legal court history in school law tells us efforts to reform state school finance systems have been futile. According to Verstegen and Driscoll (2009), equal opportunity and justice in the area of education finance and the fiscal aspects of education policy at the state level remains inadequate and antiquated in spite of policy contained in the constitution.

According to Colwell (1998), contained in the wording of the Illinois State Constitution is a major key to the public insistence on quality in public school education in the state of Illinois. In Illinois' constitution's description, it dictates "high quality public education institutions and service" (Illinois State Constitution Article X, section1). It goes on to say "the state has the primary responsibility for financing the system" (Article X, section1) (U.S. Department of Education, 2011, 2012). Unfortunately, according to Colwell (1998), despite the strong wording contained in the clause, the Illinois Supreme Court rejected challenges to the education finance system. First,

rejecting the petition for relief under the separation of powers principal as contained in the *Committee for Educational Rights v. Edgar*, 672 N.E.2d 1178 (Ill. 1996), and later rejecting the petition *Lewis E. v. Spagnolo*; the court refused to determine the issues of school funding reform. Instead they said the issue should be addressed in a legislative forum, and school funding should be assigned to the part of the government with the responsibility of making new laws and carrying out decisions, and not the court system; as stated in the brief (Colwell, 1998).

Qualitative researchers often review records to obtain information on conditions prior to the study and changes over time (Merriam, 1998). One such form of records will be used in the form of legal cases pertinent to Illinois' school funding evolution. While the two cases of *McInnis v. Shapiro* 293 F. Supp. 327 (N.D. Il. 1968), and the case *Committee for Educational Rights v. Edgar*, 672 N.E.2d 1178 (Ill. 1996), are reviewed for historic and background content; the feature case of *Lewis E. v. Spagnolo* 710 N.E.2d 798 (1999), will be studied in detail. They are included not only for their informational content, but also as an effective strategy to increase the validity of this social research (Creswell, 2009).

Before the *Committee for Educational Rights v. Edgar*, or *Lewis E. v. Spagnolo*; another case, *McInnis v. Shapiro* 293 F. Supp. 327 (N.D. Il. 1968), would ask the Illinois courts to decide the issues of inadequate funding.

McInnis v. Shapiro

According to Ladd, Chalk and Hansen (1999), the *McInnis v. Shapiro* 293 F. Supp. 327 (N.D. Il. 1968) suit was filed by several high school and elementary school students, on behalf of the students and other students of similar circumstance. All

students attended school within four school districts of Cook County, Illinois. An early adequacy case, the question asked in this litigation was how much spending does any child or class of children need? Unfortunately the inability to set standards for necessary levels of spending, and exact outcomes made it impossible for the courts to address the legal issues. The court said, “the lack of judicially manageable standards made non-justifiable a controversy as to the constitutionality of Illinois statutes permitting wide variations in expenditures per student from school district to school district” (*McInnis v. Shapiro, 1968, Supp. 329*). In addition it stated, “the fourteenth Amendment does not require that public school expenditures be made only on the basis of pupils’ educational needs” (*McInnis v. Shapiro, 1968, Supp. 329*). The problem was an inability to identify acceptable constitutional principles for courts to use in application. In addition, there wasn’t enough clarity to allow the claimant any relief under the equal protection clause (Ladd et al., 1999).

The 1968 Illinois case was the first of its kind. Heard in federal district court, it was rejected on the ground that the court was unable to find judicially manageable standards to measure students’ needs, and therefore the court was unable to discern whether or not these needs were being met. According to LaMorte (1996) the case was dismissed and the court ruled a “need standard is impossible for judicial measurement or implementation due to a lack of manageable standards” (p. 341). The Court ruled equal educational opportunity was not a constitutional requisite and the court could not decide the issue. Court cases like this one prove CRT’s contention that the study of underrepresented populations requires going outside of the traditional constructs. Researchers must be provided the opportunity to carve out a space to engage in research

outside the boundaries of European traditional scholarship (Ladson-Billings, 1998). The case was appealed to the United States Supreme Court, where it was affirmed. Although *McInnis v. Shapiro* did not question the constitutionality of tax limits, it spurred on the next legal challenge to taxing for school finance (LaMorte, 1996).

Committee for Educational Rights v. Edgar

In the case of the *Committee for Educational Rights v. Edgar*, 672 N.E.2d 1178 (Ill. 1996), which followed *McInnis v. Shapiro* in a continuum, the plaintiffs sued not only under the education article of the Illinois Constitution or Article X, but also under the equal protection provision or Article I, section 2 (National Center for Education Statistics, 2012).

A lawsuit brought on by school districts, parents, and students in the State of Illinois; the legal case *Committee for Educational Rights v. Edgar*, 672 N.E.2d 1178 (Ill. 1996), brought suit against Governor Jim Edgar and the Illinois State Board of Education. The plaintiff alleged school funding in Illinois violated Illinois State Constitution's section 1 of article X and the equal protection provision or Article I, section 2.

Counsel argued property wealthy districts, or those privileged school districts with high levels of assessed property value and per student levels of finance, were better able to raise money to fund schools than property poorer school districts, or those districts with low levels of assessed value per student; the court discussed how the State of Illinois finances its schools. In addition, the plaintiffs argued against the State's provision of an efficient system of education. They brought special attention to the states disparities in the level of funding, which resulted from its reliance on disparaging property values. The plaintiffs also pointed out the disparaging qualities of education

provided by Illinois school districts, reminding the court many of these districts were providing poor quality instruction. Again the plaintiffs point to funding inequities as a result of property tax reliance (National Center for Education Statistics, 2012).

Deciding against the plaintiffs, the court ruled the question of what constituted a high quality education could not be decided by the courts. Instead, the matter should be left to the Legislature and the people of Illinois to decide. The dissenting judge accused the majority of avoiding the issue (National Center for Education Statistics, 2012).

Lewis E. v. Spagnolo, 710 N.E.2d 798 (1999)

The case painted pictures of a horror story in education. Local elementary schools with basements full of sewage water. A school building in such disrepair it was literally sliding down a hill. All of this occurred not in a third-world country, but in the state of Illinois. Merriam (1998) tells us insights into aspects of educational practice, like the *Lewis E. v. Spagnolo* case, can have a direct influence on policy, practice and future research.

Lewis E. v. Spagnolo, which was executed through the parents of 11 children who attended elementary or secondary schools in the district, represented children residing in East St. Louis School District 189 (National Education Access Network, November 1998). On April 12, 1995, plaintiffs filed a complaint charging the State and local defendants with violating education article of the Illinois Constitution (Ill. Const.1970, art. X, § 1), the due process clauses of the Illinois Constitution (Ill. Const.1970, art. I, § 2), and the United States Constitution (U.S. Constitution, amendment V), the School Code (105 ILCS 5/1-1 (West 1992), and Illinois common law.

Parents obtained the legal guidance of Geraldine Jenkins, David E. Lieberman, Sonnenschein, Nath & Rosenthal, Susan Wishnick, the Roger Baldwin Foundation of the ACLU, Inc. of Chicago; Thomas E. Kennedy, Alton, for Lewis E. and William A. Morgan, Austin, Chicago, for Amicus Curiae, NAACP. The formidable team executed the case with hopes of distinguishing *Lewis E. v. Spagnolo*'s decision from prior court claims which used the equity concept.

The courts characterized the case as one seeking adequacy. However, the judges saw the case as continuing to ask the court to enter the arena of Illinois public school policy. The Illinois State Supreme Court reversed an appellate court ruling by dismissing it. The court stated, "the plaintiffs could not state a claim based upon violation of the education article of the Illinois constitution." They referred questions relating to the quality of education to the legislative branch (186 Ill. 2d at 210, 710 N.E.2d at 805).

Although the legal terminology of East St. Louis' student legal representation may have been void of language specific to racism, scholarly review proved the circumstances surrounding the case to be quite the opposite. Ryan (1999) described the case as one which on the surface had little to do with race. However, close review of the claims revealed more than just a casual connection. Additionally, when viewing this school finance litigation and its lack of legislative reform, Ryan (1999) found a correlation between historical patterns of desegregation and legal scholars advocating the abolition of segregation.

From the perspective of race, Ryan (1999) compared the results of school finance litigation of non-minority school districts to minority district attempts. While comparing thirty-six state Supreme Court decisions on school finance, which included that of *Lewis*

E. v. Spagnolo, he made three major conclusions. First, even when the language used to bring the action before the court does not contain racial language, the public view of legislature reform in racial terms. This happened even when they were given information to the contrary. Second, the dynamics of race relations, school desegregation, and historical patterns showed when minority school districts were the only plaintiffs included in the legal action; the group acting alone did much worse than the White districts. Finally, the study showed even when the minority urban school was successful in their legal suit, the district encountered stubborn resistance to court authority. When comparing law suits brought on by minority districts to white districts; Ryan (1999) writes, “they (minority districts) districts have encountered legislative recalcitrance that exceeds, in both intensity and duration, the legislative resistance that successful white districts have faced” (p. 433).

He urges school finance scholars and practitioners to begin a dialogue to discuss the impact and the potential effect of race on the legal fight for equal and adequate school finance. When placed within the national context, this Illinois case gave undeniably strong reasons to believe that racism and the racial demographics of the school district played a determining role in the success or failure of this Illinois State Supreme Court school finance case.

While Ryan (1999) is clear in his analogy of racism in *Lewis E. v. Spagnolo*, Verstegen and Driscoll (2008). Verstegen (2011) is clear on how Illinois measure’s equity in statewide school funding and the disparity’s connected to wealth and class. As a component of their review of *Lewis E. v. Spagnolo*, they looked at weighted comparisons for fiscal Illinois school funding support. Overwhelmingly, they found data combined for

the state as a whole indicate Illinois does not fund education equitably. In the opinion of Verstegen and Driscoll (2008) funding conditions are, “an affront to equal opportunity for children in the state of Illinois” (p. 339).

In their reviewing of *Lewis E. v. Spagnolo*, Verstegen and Driscoll’s (2008, 2009) research found, although the plaintiffs could show the inadequacy of the education provided to the children of East St. Louis, the unsafe building conditions, numerous building fire hazards, bug and rodent infestation, and chronic flooding; according to the courts determination it was not cause to make changes through the Illinois State Supreme Court. The court reaffirmed its decision to continue to turn a blind eye to the appalling conditions of inequality and substandard provisions. Instead they would recommend it be a decision addressed by the circuit court. Verstegen and Driscoll (2008) writes, “Currently the state has abdicated its primary responsibility for funding schools to local districts” (p. 350). They conclude the legal case demonstrates the quality of education, for the children of Illinois, is a function of the wealth of his or her parents. In addition school funding is tied to the area in which the students live and the neighbors which surround them.

Verstegen and Driscoll (2008, 2009) recognize this case and its example of the effects of disparity in wealth that lead to areas of community space and race, and ultimately segregate us in where we live. In addition, they include its example as a confirmation of the existence of housing patterns which place children of the wealthy in communities separate and distinct from those of the poor, and ultimately affect the level of educational funding through dependence on Illinois property tax revenue. Using this case as an example of assertions about classism, Verstegen and Driscoll (2008, 2009)

offers it as an example of violation of the third equity principle of equal opportunity. Verstegen and Driscall (2008) write this principle “holds that the quality of a child’s education should not be a function of wealth” (p. 334). In addition, Verstegen and Driscall (2008) say using the assertion that school quality is dependent on funding, wealth and local property values, the third principle means “there should be no relationship between assessed value among school districts and funding for a child’s education” (p. 334).

Verstegen and Driscall (2008) use the case to show Illinois State Supreme Court, the highest court in the State of Illinois, is not immune to the effects of institutionalized classism, and demonstrates Illinois court’s hand in the maintenance and reproduction of class inequalities. While ignored the larger social, political, and economic context which affect America’s education system; they placed a stamp of judicial approval on the inequitable and inadequate finance system in Illinois.

While Verstegen and Driscall (2008, 2009) focused their analysis of *Lewis E. v. Spagnolo* as a condition of funding contingent on wealth and class, Ryan’s (1999) analysis focuses on the conditions of the case as a function of racism. Both scholars help reinforce theory on the development of the United States’ educational practices for the Black child, and bring three glaring dispositions in to sight. First, where you live, which determines housing values, locks in funding streams for education (Hanushek & Lindseth, 2009). Second, historically speaking, who you are determines where you live (Minorini & Sugarman, 1999). Third, race has been a major determining factor in variables which not only decided where you reside, but also provided for segregation according to class (Crenshaw et al. (1995). However different the focus, both the observations of Ryan (1999) and the analysis of Verstegen and Driscall (2008) indicate

the importance of both the challenges and the opportunities made available through the study of legally contested school finance case analysis. Scholars and theorists may not be in complete agreement about the defining characteristics of this case. However, interventions that support policy development will depend on looking into conditions which sparked legal action and how the courts apply Article X section I of the Illinois State Constitution.

Chicago Urban League v. State of Illinois

Like a dog that is chasing its tale, this brings us full circle. Where you live determines school finance levels, and historically where you live is affected by race. *Lewis E. v. Spagnolo*, is just one example of many that have been fought in the quest for minority education. American legal history shows elements of the struggle for education of the Black child as early as 1787 in documents from the State Legislature of the Commonwealth of Massachusetts Bay. As concerned parents ask for educational benefits for their children; Kluger (1975) quotes from the document,

.... we are of the humble opinion we have the right to enjoy the privileges of free men. But that we do not will appear in many instances, and we beg leave to mention one out of many, and that is of the education of our children which now receive no benefit from the free school in the town of Boston, which we think is a great grievance, as by woeful experience we now feel the want of a common education. We, therefore, must fear for our rising offspring to see them in ignorance in a land of gospel light when there is provision made for them as well as others and yet can't enjoy them, and for not other reason given they are black.....We therefore pray your Honors

that you would in your wisdom some provision would be made for the free education of our dear children. And duty bound shall ever pray (p. iii).

This 1787 example has been used to illustrate the continued theme in this country as minorities fight for their rights to a free education through the court system. From 1787's State Legislature of the Commonwealth of Massachusetts Bay, to 1999's *Lewis E. v. Spagnolo*'s court battle the prevailing commonality has been race. Although more than two hundred years have passed between the events of the State Legislature of the Commonwealth of Massachusetts Bay and *Lewis E. v. Spagnolo* this country and the State of Illinois continues in a state of inequality for school funding. It is not surprising that with Illinois being among the states with the most disparities in funding between districts, and the dismissal of *Lewis E. v. Spagnolo*, that the next generation of legal suites in Illinois would bring the *Chicago Urban League, et al. v. State of Illinois* 08 CH 30490.

The first lawsuit that alleged the funding disparities violate the civil rights of minority students under the State's 2003 civil rights law, *Chicago Urban League, et al. v. State of Illinois* 08 CH 30490, hired pro bono lawyers from Jenner & Block. The Chicago Urban League to sue the State of Illinois and charged the state of Illinois with funding Illinois schools unequally and violating the Illinois Civil Rights Act of 2003. It charged the State of Illinois with using an education finance system which goes against the express writings of the state constitution. In this case it refers to that portion which guarantees all students a high quality education. It considers the fact that African-American and Latino students usually live in property poor areas where property values tend to be lower. Because victims of the finance practices are minorities, it alleges it also

discriminates against families based on race in violation of the Illinois Civil Rights Act of 2003.

Although other counts were dismissed, Cook County Circuit Court Judge Martin Agran allowed the case to proceed on the discrimination charge brought under the 2003 law. The other counts were dismissed based on Illinois Supreme Court prior decisions on the issues. Judge Agran cited the ruling in his decision to dismiss those claims based on Illinois Supreme Court prior decisions on the issues. The Illinois Supreme Court pushed the issue into the laps of the legislature in its 1996 ruling in the Committee for Educational Rights vs. Edgar (Garcia, 2008; Access Quality Education, 2012). Illinois education funding policy remained intact and conditions of disparity in funding remained unchanged.

Many other State Supreme Courts like that of the State of Kentucky have concluded that the amount of school finance matters and that a state's responsibility for public education cannot be ignored by issuing claims that local control should be recognized first and foremost, in lieu of state action (Thro, 2010). Illinois continues to ignore its responsibilities toward all students. In spite of the examples set by states like Kentucky, which recognizes the differences in financial support levels, as well as key educational system components make a difference in student outcomes, Illinois stands stubbornly behind its funding scheme. With other states courts making landmark progress with the setting of learning goals, for the State of Illinois much work remains to be done (Kozal, 2005).

Carr v. Koch

Although the challenge in *Chicago Urban League, et al. v. State of Illinois* 08 CH 30490 left Illinois funding scheme untouched, much like state supreme courts in 27 states ruling school financing law suits under provisions of their state's constitution, *Carr v. Koch*, 2012 IL 113414 focused on disparities in school finances (Hanushek & Lindseth, 2009). Illinois citizens would try again in *Carr v. Koch*, 2012 IL 113414. Plaintiffs in the case were Paul Carr, a high school counselor who resided in Chicago Heights, Illinois and Ron Newell, a retired teacher who resided in and owned property in Cairo Unified School District I in Cairo, Illinois. These two individual taxpayers reportedly worked with the public interest advocacy group Business and Professional People for the Public Interest (BPI). The equity suite claiming Illinois' education finance system violates the state constitution's equal protection clause. *Carr v. Koch et al* 113414 672 N.E.2d 1178 (1996) stated,

In short, the State education funding system imposes substantially greater burdens on taxpayers who reside in property-poor districts than it does on similarly situated taxpayers who reside in property rich districts. (p.2)

It also brought to the attention of the court the disparaging rates for property taxes, by saying the residents of their property poor K-8 school districts pay a property tax rate that is 23% higher than that paid by similarly situated taxpayers in a property-rich K-8 districts. Additionally, per-pupil spending in the property-poor districts is 28% lower than in the property-rich districts. They are asking the court to declare the present education finance system unconstitutional.

The unusual case aims to ensure increased resources for students in at-risk school districts. As a result of the plaintiffs being two taxpayers, who are neither students nor parents, any relief that may result from this case will be awarded taxpayers in property poor districts and not students. The plaintiffs hoped to change the Illinois school finance system by highlighting the disparities and their impact on the tax payers (Garcia, 2009; Access Quality Education, 2012). Unfortunately, the Illinois Supreme Court determined the plaintiffs had no standing to bring claim. They affirmed the appellate courts judgment, affirming the judgment of the circuit court and dismissing the complaint.

Like all of the complaints which came before it this judgment, which was filed November 29, 2012, allowed the Illinois State public school funding formula to continue uninterrupted and continued to allow the removal of education finance from the (*Carr v. Koch, 2012 IL 113414*).

Understanding Issues Underlying Equity and Adequacy

The deep roots of disparities in educational practices and their origins of historical, social, and constitutional nature (North, Wallis, & Weingast, 2009) help bring clarity to the more than 35 years of litigation for equity and adequacy in educational funding. Although a walk through history helps to make the elements clearer; it fails to ease the disappointment felt as a result of not only the barrage of continued challenges to the constitutionality of our PK-12 school finance policies (Reed, 1996); but also as a result of the failure of battles waged under adequacy and those that used equity as a goal.

During this period of litigation history, 37 states have had their education funding systems challenged on constitutional grounds. In 25 of these states, the school financing

system has been ruled unconstitutional in multiple court challenges. Taken together, these school finance equalization rulings (SFEs) represent perhaps the most important reform movement in American public education since the end of racial segregation in schools. Since *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954), the United States has been enthralled in court battles which challenged the constitutionality of its policies on educating poor and minority students. Although this landmark case put an end to the practices of segregated school on the basis of race, we continue to fight the issues of schools segregated on the bases of income levels and economics (Minorini & Sugarman, 1999). As a result of income level segregation of student populations, and the resulting disparities (Kozal, 2005); litigations form around the context of equity and adequacy (Minorini & Sugarman, 1999).

Understanding today's controversies over equity and adequacy requires an understanding of yesterday's debate, underlying discussions, judicial precedence, and litigation to remedy inequalities (Kluger, 1975). At the center of equity and adequacy conflict, arousing the passions of Americans for many decades, are the issues that form the controversial topic and its solutions for remedies. In addition to helping establish the framework, of a foundation for discussion of the inequalities of school finance, the study requires a historical review of the concept of both the common good and the common school, the American dream, state constitutions, establishment of property tax as a funding source for education, the precedence of major school finance cases, and the impact these cases have had on the adequacy versus equity dichotomy (Reed, 1996).

History of Politics and the Common Good

The Jacksonian era marked an emphasis on America's restoring the voice of the people. With his preparation for election as America's seventh president, Andrew Jackson argued for a government more democratic and less subjected to elite manipulation (Parsons, 2011). Parsons (2011) writes, "Jacksonianism meant for most Americans the lifting of the political, social, and economic restraints that had stifled previous generations" (p. xvii). The call was to advance the understanding of government as a forum for deciding which things promoted the public common good.

However, in direct contrast, Jackson's brand of politics became something else totally different. It became an exercise in mudslinging manipulation of the people's trust (Parson, 2011). According to Waldstreicher (2009), a professor of history at Temple University, it should also be noted where the concept of "all men are created equal" was concerned, America's definition of all men and the term we the people referred to white male adult land owners. Answers about the early American leadership's opinion on slavery were often ambiguous. Opinions of early American politicians can be viewed through Waldstreicher's (2009) writings. He said, for early American politicians their viewpoint was, "Slavery might be wrong, but slaves themselves were something worse: an enemy within" (p.57).

On the condition of African American intelligence, Waldstreicher (2009) illiterates through the writings of Thomas Jefferson, one of America's founding fathers. Quoting Jefferson, Waldstreicher (2002) writes, "I advance it, as a suspicion only, that the blacks, whether originally a distinct race, or made distinct by time and circumstances,

are inferior to the whites in the endowments both of body and mind” (p 180). As editor of Jefferson’s book Waldstreicher (2002) writes of Jefferson’s opinion,

He insisted that the American Revolution was an important step toward meaningful human equality. At the same time in comparing Africans and Native Americans to plants and Animals and placing them lower than Europeans and Americans in a hierarchy of developing civilization, he helped open the door to modern scientific racism, the idea that some people, marked by race, are genetically inferior... (p. v)

Thomas Jefferson, one of the founding fathers of the United States, a member of the Constitutional Convention, and one of the drafters of the Constitution of the United States of America; not only played a central role in shaping America’s new nation, but he also played a part in shaping America’s opinions. In his vision of America, the citizens would all be seen as equal under the law. However, for him, equality was limited to white males. Unfortunately, there was no equal place in Thomas Jefferson’s nation for the black man. The black man, as quoted by Waldstreicher (2002), who Jefferson had established in his writings as “inferior to the whites in the endowments both of body and mind” (p. 180), had no stake in the American dream of the common good (Kaestle & Foner, p. 92). Instead, the African American was relegated to a position of inferiority.

The Education Movement

The concept of the common good could have easily evolved into the objectives of the common school. Mouffe (1995) writes,

In a democracy, the source of all authority -- the legitimate basis of all power -- is the collective body of the people, the citizens of the polity. There is popular

sovereignty of the citizens and thereby government by consent of the governed. A citizen is a full and equal member of a polity, such as a democratic nation-state (p.217).

In Mouffe's description of democracy the power is held by the people collectively, and in a democratic America the power is exercised through the vote. Likewise, the system that helps to prepare the collective for power must be as equal as the members of the polity Mouffe (1995) talks about.

In his definition of education Cremin (1988) writes, education is "the deliberate, systematic, and sustained effort to transmit, evoke, or acquire knowledge, values, attitudes, skills, or sensibilities, as well as any learning that results from the effort, direct or indirect, intended or unintended" (pp. ix-x). From his definition of education to his writings on the common school concept, he helps to give the world a front row seat from which to view America's educational evolution. From those writings, we know Cremin (1951) sees the common school concept as one which dictates all citizens are entitled to a free public education. This education is necessary in order to gain sufficient knowledge to govern ourselves and to contribute to a productive economy. It is a foundation principle of our democracy. In Cremin's (1951) explanation of how America got to where we are today in education, he gives a description of our social growth evolving from a culture calling for equality or "equilibrium" (p. 28); which later moved toward the state's creation of an educational system he calls "a new functional and positive conception" of the common school (p.47). In summation Cremin (1951) writes,

The proponents of the common school were seeking the nurture of a common core of sentiment, of value, and of practice within which pluralism would not become anarchy. They were seeking, in a sense, a means of constant regeneration

whereby the inevitable inequities arising out of freedom would not from generation to generation become destructive of its very sources....They were seeking to build and inculcate a sense of community which would function, not at the expense of individualism, but rather as a firm framework within which individuality might be most effectively preserved. (p. 221)

From supporters of the common school concept came the call for uniformity, and equal access to those things that would give America an endless stream of citizens who would be both knowledgeable and productive (Taylor, 1837).

According to Taylor (1837), reformers promoted schools to be tuition-free and open to everyone. Schools would be institutions “where the rich and the poor meet together on equal terms, where high and low are taught in the same house, the same class, and out of the same book, and by the same teacher” (p. 41). After all, a government “of the people, by the people, for the people,” meant America’s future would be in the hands of the collective (Jefferson, 2002). Or would it? As Hochschilds and Scovronick (2003) points out, in their book about America’s school concept, there was neither a place for black Americans in the ideology of the common good for our nation, nor was there a niche carved for black Americans in the concept of the common school. From early laws which made it illegal to educate the black man, to later laws which sanctions the separation of the races as a prerequisite to educating the masses, and later to a push for national integration forced by federal law; the United States has kept black Americans locked into a system of inferior education (Patterson, 2001).

So what of the right to vote, that which Jackson mentioned as restoring the voice of the people (Parsons, 2011)? Americans of the darker hue were not allowed the right to

vote by our nation until the 15th Amendment to the Constitution (Eliot, 2001), (section106). Although it was ratified on February 3, 1870, the promise of the 15th Amendment would not be fully realized for almost a century. It would take the passage of the Voting Rights Act of 1965 before the majority of African Americans in the South were registered to vote. Even then, in many places in the south, blacks were intimidated into not participating in the vote (Valelly, 2004).

So how does the historical view of the basic right to vote, the common school concept, the right to an education and the American Dream fit into America's historical view for black Americans? Hochschild and Scovronick (2003) write of the American dream and how it fits into the concept of the common school. They write,

The American dream is a powerful concept. It encourages each person who lives in the United States to pursue success, and it creates the framework within which everyone can do it. It holds each person responsible for achieving his or her own dreams, while generating shared values and behaviors needed to persuade Americans that they have a real chance to achieve them. It holds out a vision of both individual success and the collective good of all...The American dream is surprisingly close to what most Americans have believed through most of recent American history. Public schools are where it is all supposed to start—they are the central institutions for bringing both parts of the dream into practice. (p. 1)

State Constitutions

According to the Constitution of the United States of America our country divides its sovereignty by establishing two orders of government. These two sovereignties, the state government and the federal government, each have its own direct relationship with

the people, and its own set of mutual rights and obligations. Since its inception, the United States of America's conflicting interests over the balance of power between the state and federal government has caused problems. In many cases the difficulties have a direct link to issues surrounding race and equity (Mason, 1972; Mount, 2010).

Mason (1972) says early history brought disputes over states' rights centered on the issue of slavery. From the 1870s to the 1930s, economic issues shaped the debate. Unfortunately, even the economic issues grew out of racial issues of hierarchy, the southern states loss of status, and forfeiture of preference as a result of reconstruction. The 1950s brought struggles between federal and state power. These issues took shape around disputes of racial segregation. The 1960's brought the Civil Rights Movement. Again, as the country struggled through resolution of issues of race and equality, the issue of state power was reconfirmed. By the 1970s economic and political conservatives were working towards reduction in the power and control of the federal government, and for greater control at the state level (Mason, 1972).

The Tenth Amendment authorized the states' rights to power through the federal government. Added to the Constitution, as part of the Bill of Rights, according to Mason (1972) the amendment states the following: "powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people" (p. 202). As a result all state constitutions contain provisions for educating children, State courts view the provisions as giving fundamental rights to education, and provisions are now being used to measure litigation on educational funding. In addition they are used to test constitutionality under state education and equal protection laws (U.S. Department of Education, 2011a).

When the Constitution of the United States of America was originally drafted, it was the intention of our founding fathers to allow each state the power to levy taxes on its own body of citizens. Since schools were to be the responsibility of the community and property taxes benefit local residents, it naturally followed local tax payers would be responsible for providing that benefit. The federal government was designed not to play a big role in how each state used its property taxes or how states taxed its residents, as long as states did not violate federal laws, and as long as Constitutional rights were not violated. Additionally, the system was designed for federal government abstention from imposition of property taxes on residence, and to allow each state to design and implement its own property tax laws. As time passed, states shifted the power to local governments and allowed local county or city governments to implement their own local property taxes (Stanley, 1993).

The belief that local communities should control the education of youth supported the method of funding public schools. Originally considered a local responsibility, the funding of schools became directly related to the wealth of the local population. Differences in property values from wealthy areas to those stricken by poverty control the level of funding support for neighboring school districts (Hanushek & Lindseth, 2009). These variations in levels of support created and continue to cause disparaging educational quality in our public schools (Kozal, 2005). Not only is it important to look at the disparaging financial support, but also it is wise to note the contributions for thought offered by writings such as DuFour, Eaker, DuFour, and Karhanek, (2004). DuFour et al. (2004) make it clear, as a precursor to finding solutions for effectively educating our

student populations; we must always be conscience of America's beginning. DuFour et al. (2004) writes,

Public school educators in the United States are now required to do something they have never been asked to accomplish; ensure high levels of learning for all students. This mandate is not only unprecedented; it is at odds with the original goal of schools. The notion of all students learning at all levels would have been inconceivable to the pioneers of public education. If contemporary educators are to make significant progress in meeting this new challenge, they must first recognize that the institutions in which they work were not designed to accomplish the task of learning for all. They must acknowledge the need to make fundamental changes in both the practices of their schools and the assumptions that drive those practices. (p. 2)

State courts often use the Supreme Court's analysis and interpretation of the federal constitution to guide application for their state law. In this way, state constitutions have been used to pursue litigation on equity and adequacy. In the case of Illinois' strong wording of the constitution, when giving details of expectations for educational development, the words do not lend themselves to consensus on the Illinois education finance system. Both litigation brought under the *Committee for Educational Rights v. Edgar*, 672 N.E.2d 1178 (Ill. 1996), and the petition *Lewis E. v. Spagnolo*, 710 N.E.2d 798 (1999); brought court refusal to determine the issues of school funding reform. Instead it was decided the issue should be addressed in a legislative forum, and school funding should be assigned to the part of the government with the responsibility of making new laws and carrying out decisions, and not the court system (Colwell, 1998).

Equity Verses Adequacy the Courts Choose

The issues of equity and adequacy have been the focus of many court proceedings. Although the *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954), desegregation decision ended legally sanctioned segregation along the lines of race, the decision did not bring equity. Additionally, it did not resolve issues of financial disparities between property rich district and those districts that were poor. For the United State of America, meeting the burden of assuring all communities, whether rich or poor, have equal access to similar amounts of educational resources has continued to be a task that has tested our sense of justice, in PK-12 education systems, through more than 35 years of litigation on equity and adequacy (Reed, 1996).

Challenges to our legal system experienced a shift in focus, on both educational policy and school finance, from equity to adequacy. Sparked by the emerging emphasis on new higher standards for student accomplishments or outcomes, the adequacy model has developing as a measure to help insure all students get adequate levels of education (Clune, 1994). According to Reed (1996) the United States Supreme Court shifted its decisions from judicial supervision of school desegregation and integration at the national level, to equity and adequacy in public funding of education at the state level.

At the center of the equity issue is the dilemma of property values and district funding. Property values fluctuate from district to district. Unfortunately, state funding formulas do not take into account these fluctuating disparities when assigning costs and appropriations. As a result state public school budgets contain gross inequities (Clune, 1994). Equity's focus at the school district level, asks whether districts have the same resources at a particular level of effort by local taxpayers. Equity at the student level asks

whether students in each district have access to the same level of funding, regardless of local levels of tax revenue per district. While equity concentrates heavily on inputs, the measures of adequacy focus on outcomes (Clune, 1994, p. 377).

The concept of adequacy begins with the idea of adequate performance by students, or the measurement of student outcomes and those results produced by educational programs in the area of student achievement. It can weigh dollar amounts that constitute sufficient educational support for student success. Clune (1994) uses the following example:

Courts would normally say, children throughout a state should have the same opportunity to make effective use of educational resources (Edgewood

Independent School District v Kirby, 1989; *Helena v. Elementary School District No.1 v. State*, 1989; *Serrano v. Priest*, 1971, 1976). (p.377)

According to Hanushek, and Lindseth (2009), the adequacy concept challenges the state's constitutions and can require the district attain a certain measurable, definable level of quality. In addition it can demand a measure of whether or not there is an opportunity to obtain an education of the measurable, definable level of quality for all students. These cases are usually based on the education clauses of state constitutions. For example, adequacy lawsuits are often based on costing-out studies. Costing-out studies are comparative studies compiled by school finance consultants (Hanushek & Lindseth, 2009).

State supreme courts in 27 states have tried and ruled school financing law suits under provisions of their state's constitution. These court cases differ from the early cases

in that they focus not along racial desegregation lines; instead they focus on disparities in school finances (Hanushek & Lindseth, 2009).

Pivotal Court Cases in Equity v Adequacy

Medley (2003), a winner of one of the 2001 and 2002 Louisiana Endowment for the Humanities' Publication Initiative Grants, writes about *Plessey v. Ferguson*, 163 U.S. 537, 16 S. Ct. 1138, 41 L. Ed. 256 (1896). Describing the 1896 United States Supreme Court decision, Medley (2003) writes, the state of Louisiana passed a law that required separate railway cars for blacks and whites. In 1892, Homer Adolph Plessy, who was seven-eighths Caucasian, sat in a passenger car marked for whites only in a Louisiana train. Not mere coincidence, but a carefully planned exercise in civil disobedience; Mr. Plessy refused to move to the car reserved for blacks and was arrested. In Plessy the Court deliberated whether a Louisiana statute, which made distinctions based on race, destroyed the legal equality of the races. In a seven to one vote against Mr. Plessy the court decided the separate but equal laws did not violate the Fourteenth Amendment, as it upheld state imposed segregation. This statute requiring separation of blacks and whites in a railcar was judged constitutional (Medley, 2003). The United States Supreme Court declared the following:

We cannot say that a law which authorizes or even requires the separation of the two races in public conveyances is unreasonable, or more obnoxious to the Fourteenth Amendment than the acts of Congress requiring separate schools for colored children. (*Plessey v. Ferguson*, 163 U.S. 537, 16 S. Ct. 1138, 41 L. Ed. 256(1896)., The Oyez Project, 2011)

Descending from the vote, John Marshall Harlan a former slave holder, refused to agree with his fellow justices. As cited in Patterson (2001) in Harlan's dissent he wrote, "Our constitution is color-blind, and neither knows nor tolerates classes among its citizens" (p. xxii)

Although initiated as a case against separate rail cars for the races, the United States Supreme Court not only concluded the statute did not violate the Fourteenth Amendment of the United States Constitution, but it also issued a statement which sanctioned the separation of children in schools according to race. Plessy was later overturned. However, the United States continued to struggle with school and the equality issue.

The 1960's ushered in action from civil rights advocates all over the United States that brought into question the constitutionality of local financing for public schools (Elmore & McLaughlin 1982; Minorini & Sugarman, 1999). Similar cases, which apply to school finance in America, would show up on the court dockets from all over the country. They would align in three stages according to Thro (2011). Early court cases, which litigated for equal education rights, relied on the Federal Equal Protection Clause and in some cases they also used the substantive rights under the Due Process Clause. They are labeled federal equality litigation. In these cases, the plaintiffs made two claims. They said all children were entitled to have the same amount of money expended on their education, and all children were entitled to equal educational opportunities.

Thro (2011), tells us the second group of cases spanned New Jersey Supreme Court's decision in *Robinson v. Cahill* 69 N.J. 133, 351 A.2d 713 (N.J. 1975), through early 1989. Although this second group of cases continued to pursue the equity theory,

they focused on Equality Guarantee Clauses of the State Constitutions in combination with the state constitutions' education clauses, which require the states to provide educational services to school aged children. This second grouping is labeled state equality litigation (Thro, 2011).

According to Thro (2011), the third group which continues through the present, spans Kentucky, Montana, and Texas decisions in 1989. These cases involve the adequacy theory of school finance litigation, and are called state adequacy litigation. Under the adequacy theory the litigants rely on the State Constitutions' Education Clauses. These cases argue against the state school finance system, and charge the funding systems with being unconstitutional. Based on the disparaging results of taxable real-estate property, these charges contend some schools, which are located in property poor areas, lack the money to meet minimum standards of quality (Thro, 2011).

As indicated by the writings of Augenblick, Myers, and Anderson (1997), a fourth category may be applicable. The fourth category distinguishes itself by asserting some children may need even more financial support than others depending on their needs. These needs based adequacy cases would ask schools to provide even greater financial resources if the student population had more demanding financial needs (Evans, Murray, and Schwab, 1997). Augenblick et al. (1997) uses the example of *Abbott v. Burke*, 119 N.J. 287, 575 A.2d 359 (N.J. 1990) to make their case. In the example given, the request would not only be based on what has been determined to be the best solutions for the highest quality education attainable in the best case scenario, but it would also be based on what special applications may be needed in addition to those required. In this

comparative case, to fully fund the resources schools need to meet their educational goals, some schools may require more.

As previously mentioned, the U.S. Supreme Court ruling on *San Antonio Independent School District v. Rodriguez* No. 71-1332, 411 U.S. 1; 93 S. Ct. 1278 (U.S. 1973), brought litigation in the era of supervised school desegregation and integration to an end. The United States Supreme Court's ruling deemed inequities not a violation of the equal protection clause of the Fourteenth Amendment (Hanushek & Lindseth, 2009).

This case marked the end of school finance challenges to be heard in federal court. As a result, advocates for equal funding under the equity umbrella, switched from filing in the federal court system to the state court system. The strategy was changed from seeking equitable funding across all school districts to assuring all districts have sufficient funding to provide an adequate education (Hanushek & Lindseth, 2009).

Serrano v. Priest

Also litigating for equal education rights and relying on the federal Equal Protection Clause; *Serrano v. Priest* 5 Cal. 3d 584, 487 P.2d 1241, 96 Cal. Rptr 601 (Cal.1971) brought John Serrano, the parent of a Los Angeles public school student, together with other student representatives to initiate the Superior Court case against the state of California in 1968 (Hanushek & Lindseth, 2009). The three cases, decided by the California Supreme Court, known as Serrano are as follows: *Serrano v. Priest* 5 Cal. 3d 584, 487 P.2d 1241, 96 Cal. Rptr 601 (Cal.1971), otherwise known as *Serrano I*; *Serrano v. Priest* 18 Cal.3d 728 (1976) also known as *Serrano II*; and *Serrano v. Priest* 20 Cal.3d 25 (1977) also known as *Serrano III*.

Hanushek and Lindseth (2009) write, the case originated in Los Angeles County Superior Court as a class action suit, and litigated on behalf of all California public school children. Labeled the first modern school finance litigation, it was positioned on two main standings. First, it saw education as a fundamental right. Second, it charged the wealth of a school district may not be a valid classification for funding support. While charging all California public schools with violation of equal protection under the law and bringing into question California's formula for computing per-pupil expenditures, the law suit charged the state with creating huge differences in financial support for schools that varied general funds from one district to the other within the state of California. The litigant charged California's disparaging foundations for school funding was as a direct result of financing structures that depended on a school district's taxable real-estate base (Hanushek & Lindseth, 2009).

Hanushek and Lindseth (2009) writes, California's Supreme Court declared its school finance system unconstitutional. The court ruled disparity of funding, as a result of relying on real-estate property values in the community, caused the students quality of education to be dependent on the property wealth of his community. The 1971 decision led to changes in the state's school finance formula which, according to the 1976 decision, were found to be inadequate (Hanushek & Lindseth, 2009).

California's highest court ruled that a child's education could not depend on the wealth of the child's parents or neighbors. This caused a land slide in cases all over the nation where states faced legal challenges to their systems for funding public school districts (Hanushek & Lindseth, 2009). The landmark case was the first major decision, against a state's school finance program, brought on basis of violation of equal protection

for all pupils of a state. It established judicial standards for other states, as more states followed with similar rulings (Hanushek & Lindseth, 2009)

As a result of Serrano, California's Supreme Court ruled California's existing system for financing schools unconstitutional. In violation of the equal protection clause, it was now possible to choose funding methods. Even the state of Illinois, in response to Serrano, would now choose between two methods of funding, the Strayer-Haig wealth equalization formula or an Updegraff-Coons resource equalization formula. This decision prompted states like Illinois to not only look at present funding formulas, but in some cases to also make changes (Slemrod, 1999).

McInnis and Rose Cases for Adequacy

McInnis v. Shapiro 293 F. Supp. 327 (N.D. Il. 1968) was an Illinois case and is explained in further detail in the section of this study designed to address Illinois' special circumstances. However, it is noted in this section because of its place of importance as an adequacy case. According to Ladd, Chalk and Hansen (1999), it was an early adequacy case questioning the amount of spending needed to meet student needs. The courts claimed an inability to set standards for what was deemed necessary. In their view, this made it impossible for the courts to address the legal issues (Ladd, Chalk and Hansen, 1999). The end result was a determination of the inability to measure needs to compare with objectives and measure success. The actions of the court might make a rational person wonder what the State of Illinois has been doing all this time with testing, comparison measures and Illinois State standards.

Like *McInnis v. Shapiro*, which has been discussed in detail in a featuring section, *Rose v. Council for Better Education*, 790 S.W.2d 186, 60 Ed. Law Rep. 1289 (1989) has

also been discussed elsewhere in detail. However, it is included in this section for an emphasis on its calls for adequacy relief for the poor districts which lacked the ability to raise sufficient revenue to meet the needs of quality education for poor school districts in Kentucky. This places it also in the category of adequacy. Of similar impact, in 2003 the Kansas District Court case of *Montoy v. State, No. 99-C-1738, 2003 WL 22902963* helped to reaffirm the fact that “money matters in education” as a component to quality education (Rebell, 2007, p. 1484).

Montoy v. State, No. 99 C 1738, 2003 WL 22902963

Confirmed in 2005, the Kansas District court decision *Montoy v. State, No. 99 C 1738, 2003 WL 22902963* determined school finance as an important element to student success. Rebell (2007) quote the court document as saying,

there is a causal connection between the poor performance of the vulnerable and/or protected categories of Kansas students and the low funding provided their schools...Accordingly, the Court finds as a matter of fact and law that the funding scheme presently in place and as applied in Kansas by its underfunding in general and by its mid and large-school underfunding specifically, clearly and disparately injures vulnerable and/or protected students and thus violates both Article 6 of the Kansas Constitution and the equal protection clauses of both the United States and Kansas Constitutions. (p. 1484)

The State of Kansas follows a system for educational finance, which takes its direction from the School District Finance and Quality Performance Act (SDFQPA). Using a per pupil base or foundation rate, the state creates a weighted adjustment which takes into consideration student characteristics. The disputed weighted formula contains

adjustments for bilingual and at-risk students, declining student enrollment, new facility costs, transportation, and student enrollment in vocational programs. As a supplemental revenue source, Kansas makes allowances for budgetary spending through a local option budget (LOB) which sanctions an addition to the tax levy. Much like the State of Illinois, Kansas places a cap on tax levies.

Districts with lower property values raise smaller funding streams of revenue. These districts receive state supplemental aid. Also much like Illinois, the supplemental aid does not bring most property poor district up to the level of property rich areas. Plaintiffs charge the funding formulas result in unconstitutional disparities in educational expenditures per pupil. In addition, they contend state levels of funding failed to provide an adequate education for certain groups of students.

Although the court determined the Kansas education finance system to be unconstitutional, the final order was delayed to allow the state legislature time to work out solutions for its problems. This court action is important because it expressly goes against the argument offered in favor of local control as a justification for funding disparities offered in the *San Antonio v. Rodriguez*, 411 U.S. 1 (1973) trial. Unlike *San Antonio v. Rodriguez*, 411 U.S. 1 (1973)'s United States Supreme Court decision, which squandered its chance to challenge the funding schemes and "to condemn the State's judgment in conferring on political subdivisions the power to tax local property to supply revenues for local interests" (*Rodriguez*, 411 U.S., 40); Kansas took the initiative to recognize problems.

In January 2005 the Kansas Supreme Court reversed the district court's decision that the Kansas school finance system violated the equal protection clause. Determining

the legislature had complied sufficiently with court ordered concerns; on July 28, 2006 the Kansas Supreme Court lifted the stays on the unconstitutional findings and dismissed both the appeal and the underlying case. Although this legal action may have prompted raises in educational support, the system of public school finance continues to contain major inequalities. This court showed unprecedented bravery, determined education to be a fundamental right and set the stage for increasing legal scrutiny of future challenges. In addition, the Kansas Supreme Court showed initiative in delegating powers to private consultants for impartial studies targeting cost bias. (Stegall, 2011).

Robles-Wong et al. v. State of California 2011

According to Driscoll (2010), *Robles-Wong et al. v. State of California No. RG-10515758* takes adequacy to a new level by tying the state's outcome standards to its obligation to provide financing in support of the requirements. Based on the principle that states should provide enough funding for all students to be able to meet academic expectations, and using the State of California's definition of educational rights through state adoption of academic content standards, this legal adequacy case brought legal suit against the State of California and Governor Schwarzenegger. The legal suit includes more than 60 individual students and their families, nine school districts from throughout the State, the California School Boards Association (CSBA), California State PTA, and the Association of California School Administrators (ACSA).

The plaintiffs allege the State of California have established standards that according to California education code are "based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century" (California Education Code §60605 (a), 2008). In addition, the plaintiffs allege

the State of California has established a measure for adequacy. These adequacy measurements are establish through curriculum, instructional materials, teacher training, assessments and accountability measures all of which have been aligned with California's academic standards. The plaintiffs argue by establishing a standards based education program, the State of California has clearly defined what all California schools must teach and what all students are expected to learn. In addition, California's Constitution (Cal. Const. art. XVI, 1880) states, "from all state revenues there shall first be set apart the monies to be applied by the state for the support of the public school system ... intentionally and rationally...support costs of its mandates" (Section 8) (California Department of Education, 2008). According to the plaintiffs, this statement sets precedence in public finance which requires the State to apply priority status to the financial support of California's public schools.

The lawsuit wishes to hold California's school finance system accountable for the ability of districts to educate children through making a connecting with what is expected of schools and its students, and the provision of funding in order to meet standards based adequacy measures and expectations. The lawsuit asks the courts to hold California accountable to the wording of the State Constitution, and to declare the State's school finance system unconstitutional. In addition, they asked an injunction be ordered that requires the development and implementation of a constitutional finance system. This finance system must support the California State mandated education program. It must also be tied to the learning needs of all of California's students. The plaintiffs were clear they were not asking the court to mandate a particular school finance system, order

specific allocation methods, or determine the amount of money that the state should spend on public education. The case remains in litigation.

The Tides that Bind

When Americans enter into an agreement, in the form of a contract, constitutional decree, or accountability measures set by standards based curriculum with American society, these agreements form ties which bind all of us to keep our promise and to honor our obligation. On the other hand, when we deliberately turn our backs on those binding promises members of society do not feel good about that lack of commitment. In the case of a legal contract, the courts are used as recourse to bring compliance for those who refuse to honor those obligations. Unfortunately, as stated by Gates during his narration for Streeter's (2013) historic DVD, "America's minority citizens, historically and in the present must continue to hold our nation to its ideals. Even when our nation abandons us!"

Helping to understand the concepts of both equity and adequacy, the beginnings of common-school advocacy clarify legal uses of their strategies. These diehard advocates believed that common schooling could create good citizens and unite society with one form of education for all. As a result, free public education at the elementary level became available for all American children (Cremin, 1951). Unfortunately, for the Black man there would be little inclusion in the concept of quality education neither for himself nor for his children (Kaestle & Foner, 1983). Early comments helped solidify views on both the right to participation and the level of intelligence of the Black man. These comments, from early leaders like Thomas Jefferson, would not only reinforce dominant society's view of the Black man as less than an equal person of citizenship, but

it would also form images of him closer to an animal, and an enemy within the nation (Waldstreicher, 2002).

A historical review of the concept of the common good, the common school, state constitutions, establishment of property taxes as a funding source for education, the precedence of major school finance cases, and the impact these major school finance cases have had on the adequacy versus equity dichotomy of public education; reveals major flaws in the institution that can transform ideals into a reality for the African-American and other minority students (Kozol, 2005).

The responsibility of the states and individual school districts, American education continues to face a barrage of legal challenges (Reed, 1996; Rebell, 2004, 2007). In spite of 35 years of litigation for equity and adequacy in educational funding, efforts aimed at equalizing educational opportunities for minority students, particularly those who are Black, have yet to be realized. The degree of school segregation has been used as a measure of fairness in conditions, while both adequacy and equity is used as a measurement for fairness in school finance litigation (Reed, 1996).

The American dream holds, as one of its major components, the idea of using free public education as a means to make the American hopes of prosperity come to fruition (Hochschilds & Scovronick, 2003). In addition, having an equitable public school system means creating learning opportunities that offset any of the conditions that would otherwise prevent children from becoming full participant in our society (Cremin, 1951). With hopes of creating adequacy that helps to insure equalizing resources would also equalize performance and life outcomes, America added new objectives. These new objectives, which were made more concrete by the *Rose v. Council for Better Education*

litigation, specify learning goals that serve as a standard for other courts deciding similar cases. However, major change across the country remains to be seen (Kozol, 2005; Reed, 1996). Although not yet realized, the standards proposed in *Rose v. Council for Better Education* may lay the ground work for Illinois' step in the right direction.

Minority Education

The third bridging category to be explored in this dissertation is the study of minority education. Policy decisions have given scant attention to issues of at-risk education as seen through the eyes of scholarly membership. The courts, as represented by our nation's Supreme Court in *Brown v. Board of Education*, may have best captured the connection between education and a person's quality of life with its stance on the importance of education for individuals. Chief Justice Warren in *Brown v. Board of Education*, 347 U.S.483, 1954 said,

Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. (p. 494, U.S. 493)

This statement issued by our nation's highest court emphasized the importance of support for the expenditures of education and highlight the need for discussions which support equity and adequacy in school finance.

In addition, Baker and Corcoran (2012) write,

Education has been called the passport to the future. It has been defined as the great equalizer and lauded as being a key to unlocking the American Dream. Yet

too many children—often low-income and minority children—are denied access to high-quality education because they attend schools that are underfunded and under-resourced. The sad reality is that gross funding inequities continue to exist in this country, and too often the schools serving students with the greatest needs receive the fewest resources. (p. 1)

The creed of scholars like Derrick Bell (1980), law professor and master of inspiration for popular support for CRT storytelling in the early 1990, construct support for the necessity to reveal the reality of education finance through real stories told from the vantage point of minorities. Darling-Hammond (2010) and Crenshaw (1998), who work to construct quality educational support for minority students that are culturally responsive, continue in the Bell tradition of storytelling as a tool to reflect on the experiences of minority populations in education.

For researchers who place an emphasis on studying phenomena in context, qualitative research methods can be especially helpful in addressing cultural issues relevant to school finance interventions, and the study of minority education. According to Merriam (2002), culture specificity indicates that critical elements of the observation contain attributes relevant to the targeted culture. These observation techniques not only make use of the language of the population, but also reflect the values and beliefs of the members of the culture. Merriam (2002) also suggested that such techniques help avoid “maintaining or reproducing class inequalities through placing blame for financial failure on student learners and ignoring larger social, political, and economic context” (p. xiii).

The significant contributions of scholars are a valued tool for understanding and exploring the policy of equitable and adequate funding using the CRT lens. These expert

opinions will be used to highlight and reinforce concepts which define theory, position the variables and connect independent and dependent variables to build theory (Creswell, 2009). While the emphasis is placed on the at-promise viewpoint as seen through the eyes of the Black female, this dissertation will attempt to present relevant support from outside the at-promise academic expert policy discussion. This measure hopes to place an emphasis on interest convergence; as it helps to change the mindset, so often used when studying America's social problems. This mind set of ignoring racism and blaming the victim, for situations beyond their control, has been the cause of our inability to solve social problems and our inability to view them through realistic lens (Alemán, 2007a; Ryan, 1976).

Although Illinois state and local governments invest significant resources toward Pk-12 education, it has faced litigation aimed at both increasing school funding for minority schools and desegregation. Such cases have focused on the district inequalities that stem from the state's reliance on local property taxes, without looking at historical patterns which point to racism, and segregating housing patterns as part of the problem. Some law suites also target constitutional requirements and differences in levels of educational opportunity. For the State of Illinois, action has proved difficult for our courts to properly mediate judicial review.

The areas of school finance litigation have proven to be perplexing. The cases offered for review are notable not only for their practical impact but also for their jurisprudential extremes. For example, the State of Illinois highest court, the Illinois State Supreme Court has been hesitant to provide even adequate judicial review in the case of school finance. Refusing to act on opportunities to explore possibilities to make a change,

inhibited in their willingness to act and reluctant to assist with educational fiscal policies; the Illinois State Supreme Court has twice rejected challenges to the state's education finance system based on the separation of powers principal (Obhof, 2004). In one such instance, like their ruling of *Lewis E. v. Spagnolo*, the Illinois State Supreme Court dictated funding for schools is a policy decision to be determined by the legislature, and not one to be decided by the courts (*Lewis E. v. Spagnolo*, 1999).

Acts exercised by our court systems are tied to specific historical contexts which have become ingrained in our nation's common practice. Developed out of legal scholarship, CRT joins in to add our legal systems to one of the forces which help to perpetuate power structures, help to keep the status quo, perpetuates the marginalization of people of color, and does little to help with neither adequacy nor equity in school finance (Ladson-Billings, 2006a, 2006b). Historical accountings of our legal activities bring questions surrounding legal discourse, which says that the law is race neutral or colorblind. In addition it helps to spark the questioning of Illinois public school finance policies. Are Illinois school funding policies truly color blind?

These cases illustrate the importance of race and racism over the power of the written law of the land in the fight for minority student quality education. Each one shows the strength of racial prejudice and popular opinion of the majority outweighs the law. Even in those cases where the law, the judicial system, and the courts proved just, neither the state authority nor local administrators were brave and powerful enough to rise above the ingrained popular sentiment of racism and racially biased leadership. It may have been a new day, but an old truth for minority students in Illinois show the

promise of equality and integration continues to be locked in the old realities. Many efforts to effect change would follow in the fight for equity and adequacy.

When considering viable options to policy failure, the points at which this study finds convergence and illuminates the gap includes the study of Illinois court battles which challenged the constitutionality of its policies on educating poor and minority students equitably and adequately. As written by Alemán (2007), this gap specifically lacks concentration on a perspective which

....situates school finance inequity as a political, social, and historical process in which the normalization of inequity, subjugation or marginalized groups, and oppression of communities of color exists via the institution of a racist school finance system. (p. 527)

Filling these gaps require looking at multiple phenomenon while making decisions about Illinois' minority student population. Although there may be a Supreme Court decision on record which outlaws racial segregation in its most obvious form, the practices of de facto segregated school on the basis of race and class continues. Segregation issues, which surround both housing patterns and class structure, have been the major focus of many scholars who study the issues facing education of the at-risk student (Orfield & Lee, 2006).

Gap Analysis

Research on school finance adequacy and equity has centered on quantitative traditional methods of computation. Former research often contain approaches that center on economic principals, conjugated formulas, analysis of traditional legal narratives, and economic measure with limited objectivity (Hanusheck & Lindseth, 2009).

Unfortunately, these formulations leave out issues that matter most for children of color, especially those who are Black. These issues include the subject of race and the social, economic, and cultural issues it brings to the discussion of equitable PK-12 funding (Fischer, 2003). Studies focused on rational approaches, which leave out social and cultural issues (Hanusheck & Lindseth 2009). These projects which lean on economic theory, examine inputs in relationship to outputs (Becker, 1964; Brewer, Hentschke & Eide, 2008). For the state of Illinois, these research projects also include concentration on strategies like the Strayer-Haig wealth equalization formula, which advocate distribution of equal aid irrespective of district property wealth; and the Updegraff-Coons resource equalization formula, which advocate equal expenditure for equal effort, and the study of composites of the full gambit of formulas offered as solutions to Illinois' foundation levels and poverty grant methodologies (Wiggall, Chaudhari & Hickrod, 2000).

While research centered on improving school finance methods, through mathematic extrapolations, prompted states like Illinois to not only look at present funding formulas, but also in some cases to make changes (Slemrod, 1999); they did not look at the historical patterns of educating minorities, in conjunction with the legal history of educating African-Americans. Both of these are key components when looking at solutions for at-promise populations. At-promise students make up the majority of communities where education funding is at issue (Taylor et al., 2009).

Studies that are composed of mathematic formulas to solve the funding problem continue to be offered, as the discussion of legal history and the circumstances surrounding the litigation are neglected. Unfortunately, it leaves a gap in the investigation of prevention of litigation for equity in Illinois school finance. According to Irving

(1985), the research process is an integral part of our everyday lives. Because it is directly linked to life-long learning and problem solving, research requires first recognizing and understanding the root cause, or the most basic reason for the problem. Wagner (2009) reminds us that for the Black man being an American means living in a society where most times you are invisible, or at your best you are someone misunderstood. Because for most minorities the root cause of the problem is not discovered, researchers are merely treating the symptoms (Irving, 1985; Wagner, 2009).

Determined to recognize the root cause between racism, disparaging school funding, and the lack of equity for Illinois' minority students; especially those who are Black, this dissertation looks at what is missing from the study. Overwhelmingly, three themes stand out as deficiencies. They are the economics of education finance in the State of Illinois and how they apply to the at-risk community, school law and relevant legal history; and minority education. These three themes have been viewed through the methodology of CRT, as problem solving and inquiry techniques.

Legal history and circumstances surrounding the initiation of legal proceedings for remedies of Illinois school funding equity and adequacy are an important component in the fight for minority education. This writing uses the functional aspect of CRT as an alternative method for centering the discussion around race, and to help provide a more complete picture of issues, context and history surrounding *Lewis E. v. Spagnolo*. The decision of the court may have been complicated by the inability to find a consensus on the perimeters of provision of an adequate education (Reschovsky&Imazeki, 2000; Odden & Picus, 2004). However simplification will be attempted through the usage of equity as a research tool. Additionally, as written by Costrell (2005), America's priority

giving philosophical concept indicates we are a society which gives credence to the notion PK-12 funding being distributed equitably.

Qualitative data sets are organized and applied using CRT's six key themes as noted by Matsuda, Lawrence, Delgado, and Crenshaw (1993); while the methodology uses technique which focuses on four main areas of concentration. As a guide for the study, these main areas of focus are the lack of concentration on race in prior school finance research, the role of school finance legal proceedings in propagating racist ideologies, the role of law in maintaining conditions of inequity in school finance, and the intersection of race and school funding inequality(Harris, 1993). Matsuda (1995) writes,

Those who have experienced discrimination speak with a special voice to which we should listen...the perspective of those who have seen and felt the falsity of the liberal promise ...can assist critical scholars in the task of fathoming the phenomenology of law and defining the elements of justice. (p. 63)

In addition to Matsuda's suggestion of listening to voices of experience to gain perspective, and her suggestion to include the perspective of those who in past have been excluded or silent; Creswell (2009) suggests illustrating the research approach to increase the validity of social research. All these parts have been incorporated in an attempt to bring pieces of the puzzle together in hopes to create a recognizable picture to assist in policy formation in PK-12 school finance reform.

Conclusion

Literature presented in this dissertation is contained in three main categories. They are to be applied to viewing the background of the problem and history of Illinois State PK-12 funding. Additionally, it is to be applies to the policies contained in Illinois'

Article X section 1, of the Illinois State Constitution (Lousin, 2011). The three main categories providing a framework are economics of education finance, school law and legal history, and minority education, especially those who are Black. All three are utilized to explore research relevant to the disproportionate access to equitable and adequate school finance; and the advantages adequate and equitable finance brings in academic achievement.

In its discovery of important variables relevant to the topic, the review pays close attention to where these subtopics converge. This allows fulfillment of four policy examination objectives. The objectives are to identify relationships between ideas and practice, to identify the main methodologies that have been used, to place the research into a historical context, and finally to help relate previous findings to new suggestions being presented in the discussion section of this dissertation (Crenshaw et al., 1995; Delgado & Stefanis, 2001; Lopez & Parker, 2003; Hart 1998).

All of this is done in the context of analysis of *Lewis E. v. Spagnolo*, as it uses the methodology of CRT to operationalize variables and to draw conclusion. It examines and investigates the inclusion and exclusion of race from the argument of adequate and equitable school funding, and looks at the policy contained in Illinois' Article X section 1, of the Illinois State Constitution, and its application to Illinois public school funding policies.

The three main categories providing a framework are economics of education finance, school law and legal history, and minority education. These key elements explore research which makes use of past qualitative and quantitative studies, while viewing historic research in the form of legal case studies, drawing from textual analysis

by scholars, and forming concepts on the minority education history of school finance. All three categories help to inform both qualitative and quantitative analysis of school finance policy. The samplings were used to support Creswell's (2009) suggestion for an effective qualitative strategy which increases the validity of the research. In addition, according to Hodder (2000), historic research draws on qualitative methods.

Historians often only have access to recorded histories as documentation of human experiences, which puts these written documents at the heart of the subject. When the researcher helps the reader to understand the context of these writings, helps the reader to view those things which have occurred surrounding the history, and assists the reader by finding historic documents which have stood the test of time as legitimization of power; the researcher helps to convey important components of the issues being studied. Hodder (2000) writes, "Text and content are in a continual state of tension, each defining and redefining the other, saying and doing things differently through time (p. 704).

In addition, Merriam (1998) emphasized the important complementary role that qualitative research methods can play in the development, implementation, and evaluation functions of research. A researcher must choose a research design that patterns analysis, uses contrasting stories, and helps the researcher gain rich data by asking additional questions. Inclusion of legal cases not only adds insight into contrasting stories from both sides of the legal action, it also helps to guide development of new questions.

Similar to literary works, legal battles for school finance and contemporary actions do not exist in isolation. In the case of text which composes Illinois' legal history of school law, the cases tell us although efforts to reform Illinois State's finance system

have been ongoing, according to Verstegen and Driscoll (2009), equal opportunity and justice in the area of education finance and the fiscal aspects of education policy at the state level remains inadequate and antiquated.

More than 50 years have passed since *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954). Unfortunately, in spite of numerous attempts to solve the policy problems of school funding through litigation, America continues to fight the issues of schools segregated on the bases of income levels and economics (Minorini & Sugarman, 1999).

The significant contributions of scholars who are members of the at-promise culture and their writings are a valued ingredient to understanding and exploring the phenomenon of equitable and adequate funding using the CRT lens. Additionally, there are others who come from outside the cultural who have added to our knowledge base for solutions. While trying to hear the voices from within, this dissertation will present representation of relevant support from outside the at-promise cultural membership academic scholarship as well.

CHAPTER III

METHODOLOGY

Posing a question to all researchers contemplating complex social problem research topics, Creswell (1994) writes,

if a researcher used an inductive, emerging qualitative stance in a study, does this mean that he or she must use qualitative data collection approaches such as observations and interviews? Alternatively, should a deductive, theory-driven study in the quantitative paradigm always be linked with quantitative data collection procedures such as surveys and experiments? [Furthermore] can aspects of the design process other than methods— such as the introduction to a study, the literature and theory, the purpose statement, and research questions— also be drawn from different paradigms in a single study? (pp. 175-176)

In this research, CRT is used as a methodology for exploring the phenomenon of racism and racism's contribution to inequitable and inadequate PK-12 Illinois school finance for at-risk populations. The conceptual framework of CRT uses historical documents and visual historic images, as well as text in the form of a legal case, to develop themes, patterns and interpretations. These elements are analyzed to create a pattern (Creswell, 2009).

The study reviewed existing historical data and previous literature. These elements led to the research question: Are Illinois school funding policies truly color blind?

To this end, the design makes use of a legal case analysis to illustrate the courts views on education finance and equality in funding. Howe in his forward of Heubert's (1999, p.vii) edit writes; "the barriers to equal opportunity in education had their source in law". In keeping with that theme, an analysis of *Lewis E. v. Spagnolo*, 710 N.E.2d 798 (1999), will be used as an aid in understanding contemporary law concerning school finance policy

Research Objective

Although there have been numerous legal strategies launched and scholarly studies focused on the topic of adequate and equitable funding for public schools, the majority of scholarly studies have neither included the issue of race, nor have they emphasized analysis through the eyes of those most affected. With race being omitted from formation of policy solutions to PK-12 funding inequity and minority voices, minority perspectives continue to be ignored (Taylor et al., 2009; Alemán, 2007a). This research bridges the gap to present conditions from the perspective of a poor Black female. In hopes of adding to writings like those of Ladson-Billings and Tate's (1995) notable article, which introduced CRT to education, this study aspires to use CRT as a conceptual framework to be "applied to our understanding of educational inequity" (p. 55), and to show the connection between the colorblind concept and Illinois court's refusal to act on issues of financial inequality and adequacy issues.

Specifically, given Illinois' history on race and education, the objective is to examine *Lewis E. v. Spagnolo* to see how race was included or excluded in the case narrative. In addition to the legal case, the study looks at student academic results in comparison to school district racial composition to see how relationships, which may be

interpreted as racial, effect Illinois student learning objectives. Through the use of CRT's emphasis on looking at the case in a historical context, it delineates a rational for understanding Illinois PK-12 school finance as a racial event.

Using CRT to look at the influential practices in Illinois public school finance patterns is an appropriate method, because CRT uses race as a major focal point. It is not only appropriate, but it is also vital because of CRT's importance in the fight for minority equality, and because both historic and archival tools are applicable for the techniques used by CRT race scholars (Alemán, 2007b; Bell, 2004; Darling-Hammond, 2010; Ladson-Billings, 2000, 2006a).

This is a study of the inclusion and exclusion of race in *Lewis E. v. Spagnolo* as recorded through formal legal writings. *Lewis E. v. Spagnolo* is representative of the Illinois' court refusal to act on issues of school finance where conditions of inequality and inadequacy exist. The legal case is used as a representation of historical record and communication for thought and action of Illinois' court system. Through their action, which include recorded verbal conversation, amicus briefs of the legal case, and other recordings, the Illinois courts conviction have been represented.

While qualitative methods will be used to direct analysis of Illinois school funding policy discourse, which is exemplified by *Lewis E. v. Spagnolo*, quantitative data will be used to illustrate resulting conditions of policy failure. Policy failure will be measured as indicated by student achievement. These quantitative measured will be analyzed in direct proportion to majority-minority student populations served as compared to those students attending districts which are not of majority-minority in composition. As indicated by Gorard and Taylor (2004), numerical data can be very

persuasive when presented to policy-makers; while the qualitative method's use of language or stories can be more easily remembered and repeated by policy-makers for illustrative purposes.

This study uses the legal case to show those things which are both included and excluded from Illinois' dominant narrative for equity and adequacy in school finance. In particular it identifies factors which contribute to the depiction of race or the absence of race as a race neutral concept. For critical race theorists the concept of ignoring race as a factor is known as the color-blind doctrine. As tools, the study uses CRT's depiction of the stock story as told from a majoritarian perspective. It analysis *Lewis E. v. Spagnolo* and the courts stock story to illustration the courts views on school funding in Illinois. Counter storytelling techniques will then be used to gain insight on the effects of the courts viewpoints. In addition it uses academic, as well as other results, for Illinois minority student populations contained in Illinois Public Schools to show resulting effects of the color-blind policy.

Research Questions

According to White (1985),
the law can be seen, as it is experienced, not as an independent system of meanings.....At its heart it is a way of telling a story about what has happened in the world and claiming a meaning for it by writing an ending to it. (p. 36)

This dissertation studies the inclusion and exclusion of race in the *Lewis E. v. Spagnolo* case. It is a case that exemplifies the policy discourse of Illinois PK-12 school finance. The study looks at how the conversation concerning PK-12 finance is structured. Particularly it looks at what is missing from the predominant narrative to highlight

Illinois' discourse on the subject of PK-12 school finance disparity. It hopes to identify narrative factors that contribute to the way in which race is or is not depicted in the legal case. The technique is applied in an attempt to understand how current policies and their resulting discourse ignore race in legal action for relief. This is of particular concern in the State of Illinois where major funding disparities exist between affluent majority population districts and poor majority-minority school districts. In its examination of discourse, this study will include the social context which encourage and promote the growth or development of the legal case, Illinois State policy documents, and social media language. This analysis will be guided by the major research question: Are Illinois, school funding policies truly colorblind? Research was guided by the following research questions:

1. What stock story or stories from a majoritarian perspective does *Lewis E. v. Spagnolo*, 710 N.E.2d 798 (1999) tell about school funding in Illinois?
2. What are the impacts, outcomes, results, and consequences of the stock story or stories told from a majoritarian perspective on Illinois students?

These questions are asked and explored, within the CRT framework, using the tenets of CRT to frame both the qualitative research surrounding the case and using CRT to explain the quantitative results of policy failure. Research questions were designed following Creswell (2009) suggested research process framework. According to Creswell (2009), research questions are "those questions that the investigator would like answered in order to understand or explain the problem" (p. 98). In addition Crotty (1998), tells us theoretical perspective must be contained as a necessary part of the research questions. In this study the theoretical perspective includes CRT as a way of explaining why Illinois

School finance policy continues uninterrupted by legislature or law. CRT also has as a major perspective the concern of race and those school finance implications accompanied historically and presently by the factors which relate to race.

Research Framework

Crotty (1998) indicated four elements of the research process. Creswell (2003) developed his research framework on Crotty's four elements of epistemology, theoretical perspectives, methodology, and methods. Creswell (2003) indicates these four elements as leading toward a quantitative study, a qualitative study, or a mixed methods story. Deciding, which one of the quantitative, qualitative, or mixed methods to apply to the study, will depend on the researcher's original view of the nature of the information. Creswell (2003) writes,

Crotty's (1998) ideas established the ground work for this framework. He suggested that in designing a research proposal, we consider four questions. They are what epistemology... informs the research, what theoretical perspective... lies behind the methodology, what methodology...governs our choices, and what methods...do we propose to use? (pp. 4-5)

Development of the study followed Crotty (1998) suggested techniques for aligning research methodology with epistemology as illustrated in Figure 11.

Figure 11: Illinois School Finance Disparity. Source: Crotty (1998) Research Process (p.4)

Epistemology

According to Creswell and Plano-Clark (2007), this research study claims knowledge through a transformative approach. This method is characterized by study components which contain questions of inequality and injustice. In addition the problem forms around issues which shape a power and privilege reality; it contains a culturally competent CRT qualitative methods approach. CRT's qualitative methods unveil processes, while quantitative methods describe outcomes.

This analysis uses the voices of the race scholars to advance change. As Creswell (2003) writes, "Within these knowledge claims are stances for groups and individuals in society that may be marginalized or disenfranchised" (p. 10). This study looks at *Lewis E. v. Spagnolo*, which is a legal case depicting the plight of minority student populations and the attitudes of Illinois courts concerning the issue of school finance equity and adequacy. The case is representative of student populations which are both marginalized and disenfranchised. Laying the groundwork for analysis, CRT tenets are implemented in the

study analysis. CRT scholars believe in the centrality of experiential knowledge. This knowledge is not only an appropriate application, but it is also an integral part of analyzing and understanding racial inequality (Alemán, 2007b; Bell, 1992; Goldberg, 2000; Ladson-Billings, 1995). Allowing the initial introduction of the study to include the assumptions of CRT and the tenets, which form the philosophical assumptions, not only reflect the nature of epistemology, but it also forms the way of collecting and interpreting data, or structuring the methodology for this study. In this way analysis is centered on the tenets of CRT.

Ladson-Billings and Tate (1995) introduced CRT to the field of education, and noted inequalities in education "... a logical and predictable result of a racialized society in which discussions of race and racism continue to be muted and marginalized" (p. 47). Ladson-Billings and Tate's intent was "...to theorize race and use it as an analytic tool for understanding school inequity" (p. 49). This epistemology uses CRT and focuses on the intersection of race, law and power. CRT is an analytical social movement tool that puts race at the center of critical societal analysis. According to CRT scholars Alemán, Salazar, Rorrer and Parker (2011),

Race and racism are topics typically silenced, muted, or reframed toward a discussion of colorblindness.... However, the notion that the salience of race and racism, and the idea that we live in a so-called postracial society....is naïve and shortsighted at best, and potentially detrimental to efforts that attempt to critically address the historical, structural, and institutional nature of inequity. (p. 479)

Although it is a social construct CRT's framework emphasizes the centrality of race and racism in society, its permanence, racism's historical presence in American life and in

addition it emphasizes the presence of racism in the discourse of school finance policy (Alemán, 2007a; Bell, 2004; Darling-Hammond, 2010; Ladson-Billings, 2000, 2006a). According to Bell (1992), “racism is a permanent component of American life” (p. 13). Ladson-Billings and Tate (1995) write,

Race continues to be a significant factor in determining inequity in the U.S., U.S. society is based on property rights, and the intersection of race and property creates an analytic tool through which we can understand social (and consequently, school) inequity. (p. 48)

Ladson- Billings and Tate made it clear that race has in the past and continues in the present, to be a determining factor forever connected to education. They (Ladson-Billings & Tate, 1995) write, “...the intellectual salience of this theorizing has not been systematically employed in the analysis of educational inequality” (p. 50). This study applies race as a key component, in the lack of equity and adequacy, in Illinois PK-12 school finance for minority students in majority–minority school districts.

Theoretical Perspectives

Anzaldúa (1990) writes,

Theory, then, is a set of knowledges. Some of these knowledges have been kept from us...entry into some professions and academia denied us. Because we are not allowed to enter discourse, because we are often disqualified and excluded from it, because what passes for theory these days is forbidden territory for us, it is *vital* that we occupy theorizing space, that we not allow white men and women solely to occupy it. By bringing in our own approaches and methodologies, we transform that theorizing space. (p. xxv)

In recognition of how race and racism has shaped the debate on educational equity and adequacy; race scholars like Anzaldúa (1990) and Ladson-Billings (2000) emphasize the value contained in theory, which recognizes the knowledge of minority groups. Like CRT's tenet of the centrality of Whiteness, they all recognize racism as one of America's key education problems (Yosso, 2005). Zamundo, Russell, Rios, and Bridgemen's writing (2010) highlights the damaging impact of race and racism on education finance by highlighting the effects of the colorblind theme and the advancement of meritocracy as a majoritarian formula for success.

Together critical race theorist such as Crenshaw, Delgado, Gotanda, Ladson-Billings, Lawrence, Matsuda, Peller, Solórzano, Thomas and Yosso as well as others, form the theoretical perspective for this analysis. Solórzano and Yosso (2002) write,

We argue that critical race theory advances a strategy to foreground and account for the role of race and racism in education and works toward the elimination of racism as part of a larger goal of opposing or eliminating other forms of subordination based on gender, class, sexual orientation, language, and national origin. (p. 25)

In keeping with those principles advanced by Creswell (2003, 2009), this perspective was used to share the researcher worldview. CRT scholars help us to understand the interworking of race, policy, power, education and law. As a theoretical lens, it is a valuable tool in the analysis of a legal case, which decided the fate of at-risk children in the finance of PK-12 education in the State of Illinois.

According to Creswell (2003), "Research uses a theoretical lens as an overarching perspective within a design..." (p. 16). CRT's theoretical framework

connects power, the ideology of whiteness as property, and the possession of rights that are upheld by law. Upheld by our legal system, these possessions include Whiteness and the entitlements it contains or elements which bring legal, social, economic and political decisions which revert to the support of White interests. In America, these decision most often default first toward the favoritism of Whiteness.

CRT's tenets illustrate how whiteness is perpetuated in society to maintain the status quo. For CRT race scholars, race is understood through behavior and the exclusive right to possess, the right to use, the right to distribute and the right to exclude (Harris, 1993). According to Harris (1993), Whiteness has a value equitable to the value of property. Harris (1993) writes, "The law has accorded 'holders' of whiteness the same privileges and benefits accorded holders of other types of property" (p. 1731). CRT scholars direct the understanding of racialized issues in PK-12 school finance issues.

For African-Americans, the historical example of 1865's mentality explains how the idea of Black land ownership or home ownership has for Black people been the equivalent to crossing the psychic dividing line between slavery and freedom. Home and land ownership, for Black populations of the formerly enslaved, represented a free and human identity. When added to decades of myths; which developed around meritocracy, colorblindness, neutrality of law, equality attainment, attainment of education as the great equalizer, and the myth of home-ownership as the key component to civilized participation in society, it created a formula for attaining equality that could never be reached. It could never be reached because whatever the material or social upward mobility gained, the one unattainable property which holds the greatest key to advantage is Whiteness. For Blacks, Whiteness is and will always be impossible to attain (Banks,

1993; Bell, 2004; Delgado, 1989; Ladson-Billings & Tate, 1995; Lorde, 1992; Solórzano & Yosso, 2001).

In direct relationship to Whiteness as property, CRT's theoretical perspectives direct the study of discourse contained in the legal case for PK-12 funding. In addition, decisions which direct the design of this study followed Creswell (2009) suggestions. Creswell (2009) writes, "World view assumptions the researcher brings to this study" include the "procedure of inquiry... methods of data collection, analysis and interpretation" (p. 3). In this case, the study makes use of a historical analysis of discourse contained in the legal case *Lewis E. v. Spagnolo*. It uses the historical case to find depictions in the writings which indicate manners in which race is discussed or left out of the discourse on the case. Finally, the data is interpreted using the tenets of CRT as a guiding premise. In particular, it forms around the major question of colorblindness. The application of CRT offers a challenge to the dominant ideology. Solórzano and Yosso (2002) write,

A critical race theory challenges the traditional claims that educational institutions make toward objectivity, meritocracy, colorblindness, race neutrality, and equal opportunity...scholars argue that these traditional claims act as a camouflage for the self interest, power, and privilege of dominant groups.... A critical race methodology in education challenges White privilege...and exposes deficit-informed research that silences and distorts epistemologies of people of color. (p. 26)

According to Ladson-Billings and Tate (1995), CRT's theoretical perspective believes using historical narratives is a valid format for presenting evidence which

documents the inequalities of Illinois school finance for at-risk students. They (Ladson-Billings & Tate 1995) write, “the voices of people of color is required for a complete analysis of the educational system” (p. 58). It can be used as an analytic tool to aid in the understanding of the role played by race and racism in PK-12 school inequalities (Ladson-Billings, 1999; Ladson-Billings & Tate, 1995; Lynn, Yosso, Solórzano & Parker, 2002).

CRT’s tenets include its commitment to social justice, centrality of race and racism, the challenge to dominant ideology, the centrality of minority experiential knowledge, its interdisciplinary perspectives, and its work to eliminate racial oppression as a broader goal to end all oppression (Matsuda, 1993). This usage of CRT, as a detailed in-depth analytical tool, hopes to draw a road map clearly outlining the structures and avenues leading to understanding the dominating hand of racism that operates under the surface of our culture, and how it influences Illinois school finance for at-risk students.

Addressing Deficiencies in Past Research

History proves attitudes deeply ingrained in our social, legal, political, and educational structures drive inequality. In the past, the problems associated with inequality in school finance were conceptualized, measured, and analyzed using tools which were incomplete for studying some of the problems. Limited in their scope, they masked the root causes of the problems and obscured solutions. Blurred vision hampered our ability to direct applications toward remedies. The applications then failed to treat the ills associated with the problem. Instead they only treated what appeared to be the symptoms (Bell, 2004). When discussing problems such as segregation, Bell (2004)

writes, racial segregation was merely a symptom, not the disease; that the real sickness is that our society in all its manifestation is geared to the maintenance of White supremacy” (p. 96). Analyses which are devoid of understanding the real sickness leave out the importance of viewing funding as a connection to race related problems. As they fail to see the problem from the viewpoint of the at-risk community they diminished our ability to propose remedy’s based on the resultant knowledge. For example, research and interventions have in the past emphasized student, parent, and neighborhood deficiencies (Ryan, 1976). These methods often times blame the victims of racism, without consideration for forces beyond their control (Orfield, 2002). It focuses the lens toward things such as parental deficiencies. These skewed viewpoints unfairly label parents of minority children. In the opinion of Barton, Drake, Perez, St. Louis and George (2004); parental involvement is described as,

Parental engagement is a desire, an expression, and an attempt by parents to have an impact on what actually transpires around their children in school and on the kinds of human, social and material resources that are valued within schools (p. 11).

Sometimes what is left out of the formula is the responsibility of the school’s environment to create spaces which nurture family involvement and promote parental engagement.

Additionally, overconfidence in the objectivity of research can prevent researchers from investigations which inquire about prior assumptions on research, and too often ignore the need to challenge the dominant ideology. These tools ignore the centrality of minority experiential knowledge and fail to concentrate on understanding the

role played by race and racism in PK-12 school inequalities (Ladson-Billings, 1999; Ladson-Billings & Tate, 1995; Lynn, Yosso, Solórzano & Parker, 2002).

Qualitative Data Usage

Qualitative research, using the tenets of CRT, allows detailed exploration of factors taken in historical context. In addition it facilitates the use of specific conditions as examples. These conditions are part of the discourse contained within the legal case *Lewis E. v. Spagnolo*. Structures which support equitable and adequate school finance in Illinois are influenced by deeply ingrained racism. Educational outcomes, which are the products of knowledge about at-risk populations and disparities in educational finance, have reaped the benefits of very little race based analysis (Ladson-Billings, 1999; Ladson-Billings & Tate, 1995; Lynn, Yosso, Solórzano & Parker, 2002). Many research projects lack clarity about the nature of racial divisions in society. These divisions have as a driving force power or socio-economic status (Bell, 2004).

Case data consists of textual analysis from historical documents such as amicus briefs and court room briefs for *Lewis E. v. Spagnolo*. In keeping with CRT's objective of historical context, newspaper articles, journals and other written media will be used from the relevant time period of the legal case. In addition, African-American female oral accountings will be used to gain insight in the form of data obtained from East St. Louis Photo Gallery and Blog (Gomez, 2013). Fuchs (2008) describes this kind of media as a social network online platform which allows users to upload pictures and text. The Gomez (2013) blog is a discussion forum used by interested parties as a message and information sharing vehicle for East St. Louis present and former residents. In an attempt to present this research through the eyes of the poor Black female, only those respondents

easily identifiable as female will be used from the blog. Unless female respondents identify themselves as coming from other races or ethnicities, it was assumed they are Black. This assumption is made because East St. Louis's population has in the last 13 years continued to be greater than 96% African-American (U.S. Census Bureau, 1999b). Blog correspondences included in this research cover the July 25, 2005 to November 7, 2013 time period. November 7, 2013 was used as a cutoff point because data set compilations began on November 14, 2013, and at that time November 7, 2013 was the most current post to date.

Information from qualitative data sets was used to draw relationships between CRT tenets, the law, Whiteness as property and Illinois PK-12 school finance practices. In addition oral accountings were used, which have been recorded as a component of the East St. Louis Oral History Project. The East St. Louis Oral History Project was executed by researchers from the University of Illinois at Urbana Champaign (2001). This research attempts to tell a counter story from the perspective of the poor Black female. For that reason only those select oral responses received from female members of the community will be used.

All data sets are used to find answers to the relationships which exist between racism, student outcomes and Illinois PK-12 school finance practices. In addition, it recognizes all these factors as key issues in the discussion of those things which affect the race centered discussion of Illinois PK-12 student finance, both now and into the future.

Data sets also use CRT's tenets to draw relationships between the effects of racial oppression and subordination of minority groups. These effects are viewed through CRT's examination of student outcomes and student conditions. Conditions include, but

are not limited to; curriculum as property, disparaging school funding, school buildings and grounds, teacher qualifications and teacher attrition (Alemán, 2007a; Ladson-Billings & Tate, 1995; Solórzano & Ornelas, 2002; Verstegen & Driscoll, 2008, 2009, 2011; Wilson, 1987).

Information for the state of Illinois was obtained using the National Center for Education Statistics (NCES) data collection system and the ISBE Data Analysis and Accountability Division. This system collects information on school attendance boundaries for public schools in the 50 states and the District of Columbia. Information gathered consists of demographics, social characteristics, and economics of children and U.S. school districts (National Center for Education Statistics, 2013b). For example, this quantitative data is used to illuminate patterns which may emerge from the qualitative data on disparaging school funding results. In addition, present data help make it easier to conceptualize what the resulting qualitative analysis illustrates. Present the qualitative data through the eyes of the Black female, these techniques add to the pictures painted using qualitative results and allow more detailed interpretation of the legal case data. The Black female point of view is an important part of this study, because it helps to illuminate the conditions present in at-risk populations and the differences in financial support for the education of minority children in Illinois.

In its attempt to answer the question; What are the impacts, outcomes, results, and consequences of the stock story or stories told from a majoritarian perspective on Illinois students; student population data, which include secondary data for student achievement, school district descriptive data like demographics and student outcomes have been gathered.

This social science research attempts to tell a counter-story which accurately reports the funding phenomenon present, in Illinois State's at-risk Public School Districts, as it works to document the levels of different funding characteristics and their effects from the perspective of the Black female.

Critical Race Theory Methods Research

As written by Anzaldúa (1990), a critical race theorist who prompts race scholars to change the study of both sources and knowledge,

Necesitamos teorías [we need theories] that will rewrite history using race, class, gender and ethnicity as categories of analysis, theories that cross borders blur boundaries-new kinds of theories with new theorizing methods..We are articulating new positions in the "inbetween," Borderland worlds of ethnique communities and academies.... social issues such as race, class and sexual differences are intertwined with the narrative and poetic elements of a text, elements in which theory is embedded. In our mestizaje theories we create new categories for those of us left out or pushed out of existing ones. (pp.xxv-xxvi)

Solórzano and Yosso (2002) suggest, Anzaldúa's writing was meant to "challenge us to develop new theories that will help us better understand those who are at the margins of society" (p. 23).

In addition, these methods combined with theory should inspire research that addresses race and racism in manners which fill the gap left by traditional methods (Solórzano & Yosso, 2002). CRT, as a lens through which to view dependency on property taxes for major funding streams; help to form around viewpoints that will help us better understand. Not only should we use new methods, but we should also be

looking ahead to find new ways to implement them for positive change. Yosso et al. (2004, p.18) write, “proactive framework can be used in the ongoing battle to provide equal educational access and opportunity to historically underrepresented students.”

This study accepts the challenges of Anzaldúa (1990), and sees methodology in much the same way Solórzano and Yosso (2002) interpret its usage as a tool to address racism. Others, like Walter (2006) argues methodology is not only a frame of reference for the research, but it is also situated in and influenced by the “paradigm in which our theoretical perspective is placed or developed” (p. 35). In this way, this study structures the tenets of CRT around the writings contained in *Lewis E. v. Spagnolo*. These tenets are the centrality of Whiteness, the challenge to dominant ideology, the centrality of experiential knowledge, interdisciplinary perspectives and commitment to social justice.

Looking at the inclusion and exclusion of race, as depicted in the *Lewis E. v. Spagnolo* case and executing its analysis using the two key tenets centrality of Whiteness and the challenge to dominant ideology, the study hopes to find indications of how race is or is not used in case discourse.

CRT creates the real possibility of multiple applications for the many aspects of life’s experiences from which to see the problem and its solutions. Anzaldúa (1990) posits,

Theory, then, is a set of knowledges. Some of these knowledges have been kept from us—entry into some professions and academia denied us. Because we are not allowed to enter discourse, because we are often disqualified and excluded from it, because what passes for theory these days is forbidden territory for us, it is *vital* that we occupy theorizing space, that we not allow white men and women

solely to occupy it. By bringing in our own approaches and methodologies, we transform that theorizing space. (p. xxv)

Bringing CRT's lens into the methodology helps to connect researcher ideology, as it looks at the world in a way that opens the viewpoint of others to see the problems of majority-minority school finance in a different light.

CRT the Voice of the People

Because CRT is a theory which uses the voice of people in an attempt to name their own reality, Creswell (2009) suggests qualitative research approaches are used to see the problem of practice from a holistic perspective. It is an attempt to gain an in-depth understanding of the situation and its meaning for those involved. Additionally, as written by Lawrence in (Taylor et al., 2009) this writing is an attempt to use the voices of minorities to name "ones's own reality with stories" (p. 24), to foster understanding of the realities of the at-promise culture's plight in education finance. In addition, according to Merriam (1998), qualitative methodology allows the researcher, as the primary instrument for data collection and analysis, to express the thoughts and meanings people have expressed. The steps involved in the method require focusing on process, meaning, and understanding; and result in the production of a rich descriptive product.

Data Collection

Tenets of CRT as a Methodology for Case Analysis

According to Mertens (2005), research investigations collect data, analyze it and interpret it in an effort to "understand, describe, predict or control an educational or psychological phenomenon or to empower individuals in such contexts" (p. 2).

Characterized by an initial phase of qualitative data collection and analysis of *Lewis E. v.*

Spagnolo, the study sorts depictions contained in the amicus brief, the majority and dissenting opinions from judges, and deposition for indications or thematic strands indicating concentration on race or the absence of the focus on race in the case for the creation of stock stories as told from the majoritarian viewpoint. When possible, oral accountings are also used, which record components of the East St. Louis Oral History Project. The East St. Louis Oral History Project was executed by researchers from the University of Illinois at Urbana Champaign (2001). In conjunction with historical patterns in Illinois, which surround the education of minority students and conditions which determine where they live, the study views and analyzes *Lewis E. v. Spagnolo*.

Lewis E. v. Spagnolo, will be explored using the CRT's tenets to create a comprehensive, clearly organized, legal analysis of stock stories from a majoritarian perspective for data collection. It is a method for framing or organizing information contained in a legal case which helps to spot the perspective on facts that raise foundational issues in the case (Delgado, 1989; Yosso, 2005). The storytelling method enables challenges to majority stockstories and majoritarian expressions of reality, by offering a counterstory (Delgado, 1989). According to Solórzano and Yosso (2002, p. 172) a "story" can refer to a majoritarian story or a counterstory. It is a counterstory when it incorporates elements of CRT and includes minority perspectives. This method will be used to organize thoughts into a written format.

For example, it uses depictions offered by race scholars like hooks (2003), who reject the notion that the legal system has achieved racial neutrality. She notes; just because statutes and regulations do not mention race, does not mean it does not have inequality built into its fabric. For hooks the law and the legal system are one way that

American society regulates race and wealth disparities. Even those legal workers who may be employed, to see differences and to work toward remediation have in the past seen no place for such considerations in their education or practice (hooks, 2003).

Additionally, a component for analysis Whiteness was tied to descriptions and rational in the legal case. These descriptions are used to highlight Harris' (Crenshaw et al., 1995) three levels of function, which include the right of use and enjoyment, the right of possession, and the right to disposition. Legal analysis of *Lewis E. v. Spagnolo* and research of district factors contained in NAEP data will be analyzed as a contribution to the understanding of school finance and its relationship to student outcomes.

In its attempt to show consequences of Illinois school funding by race; student population data, which include secondary data for student achievement, school district descriptive data like demographics, data on housing population patterns, and student outcomes are gathered. Quantitative data sets will also use CRT's tenets to draw relationships between effects of racial oppression and subordination of minority groups. These effects will be viewed through CRT's examination of student outcomes and student conditions. Conditions include curriculum as property, disparaging school funding, school buildings and grounds, teacher qualifications and teacher attrition (Alemán, 2007a; Ladson-Billings & Tate, 1995; Solórzano & Ornelas, 2002; Verstegen, 2011; Verstegen & Driscoll, 2008, 2009; Wilson, 1987).

This descriptive research uses both quantitative and qualitative measures to show the effects of barriers to adequate and equitable funding in education. It involves collections of quantitative information, like the measurement of poverty levels in at-risk populations, as a means for determining how funding is distributed. These

measures play an integral part in making use of studies on school funding. For example, the most common usage for this measurement is the determination of eligibility for the federally-funded free and reduced lunch program (U.S. Department of Education, 2009). Data can describe categories of information such as gender, patterns, and other sample group characteristics.

In its concentration on the measurement of phenomena, this study investigates student achievement, reports and analysis school district descriptive data like demographics, housing population patterns and per pupil spending levels. However, unlike a mere report on data, this study attempts to use these measurements in evaluating specific conditions concerning these differences and their relationship to race.

Issue, Rule, Application, Conclusion Method for Case Analysis

Lewis E. v. Spagnolo, was explored using the IRAC format to create a comprehensive, clearly organized, legal analysis. IRAC is an acronym for issue, rule, analysis, and conclusion. It is a method for framing or organizing information contained in a legal case which helps to spot the facts that raise foundational issues in the case (Bahrych and Rombauer (1982). It was used to organize thoughts and written format.

First, *Lewis E. v. Spagnolo* was explored using the issue, rule, application, conclusion (IRAC) format to create a comprehensive, clearly organized, analysis. It is a method for framing or organizing information, contained in a legal case, which helps to spot the facts that raise foundational issues in the case (Bahrych and Rombauer (1982). It was used to organize thoughts and write a format for organizing data to be analyzed in the formation of the stock-story. After reading the *Lewis E. v. Spagnolo* case, a briefing

template was used to discover the facts, procedural history, issues, holding, reasoning, disposition and rule of law. Table 1 illustrates the format used for the briefing template.

Table 1: *Lewis E. v. Spagnolo* IRAC Template

Title	<i>Lewis E. v. Spagnolo</i> , 710 N.E.2d 798 (1999)
Facts	
Procedural History	
Issue	
Rule	
Analysis	
Conclusion	

This method is used to help find those elements key to the case. For example, the case was read while keeping a legal dictionary on hand to assist in understanding the legal and procedural terms that signal language which indicates important stock story issues.

These methods are employed to outline the key categories of description contained in *Lewis E. v. Spagnolo*. Procedures include investigation of the facts, procedural history, issues, rules of law, and analysis and conclusions. In the legal analysis of the case, the elements suggested by Bahrych, and Rombauer (1982) are explored and questions are asked.

CRT Application to IRAC Method

Next, CRT is used to explore the design of questions that are asked in the case. This helps bring out stock story themes. In addition the facts are examined as presented in the case for the same purpose. They will encompass issues suggested by the facts

contained in the case, the event that has occurred, and the facts relevant to the rule as viewed through the CRT lens.

Issue

Procedural history questions explore court authorized proceeding, and support exercises which glean from the case history. The issue portion of analysis involves facts which state the controversy. In addition it involves sorting out those facts that are not considered by the court to be issues. A key issue involves discovery of the specific debated issue, as well as the facts or circumstances which compelled the parties to come before the court in this school finance case. Specifically it involves finding out what the law has to say about the particular topic or topics.

Rule

The phase labeled rule involves finding the legal rule which governs the issue of school finance, the elements of the rule which must be proven in order for the rule to hold true, the public policies which can be applied to the rule and the defenses for the public policies, the consequences of applying the rule or social considerations in the case, and the known exceptions to the rule, or limitations.

Analysis

The analysis phase requires application of the rules to the facts, and making a judgment call as to whether or not the rule applies to the unique facts contained in the case.

Conclusion

The conclusion phase requires application of the rules and later deciding what the outcome of the case was, if the courts holdings modify the rule of law in anyway, and if the analyst agrees with the court decision.

A paragraph or more is included which outlines each issue. In addition, a written analysis outlines the events that led to the case and map the issues. These facts inform the reader on pertinent events leading to the case. A concluding paragraph or paragraphs is used to summarize all of the important elements and key issues of the case. Following IRAC's six step strategy, as suggested by Bahrych and Rombauer (1982) for analysis, helps make the legal preceding clear and bring out those indicators to be noted in a CRT analysis of the case for discovery of stock stories as told by the white majority.

Qualitative methods, as applied to the legal case, will allow detailed exploration of factors taken in historical context using specific conditions. According to Creswell (2007), the nature of exploration makes qualitative research a frequently used technique to hear silent voices, to investigate those mysteries containing variables that are difficult to measure, to investigate situations where inadequate theories exist for certain populations, and to capture data where existing theories are not adequate for capturing the complexity of a problem. In this case silent voices are representative of poor or minority families who are often unheard or go unnoticed. Difficult to measure variables may be seen through the disadvantages brought on by minority marginalization, distortion, and erasing of the Black experience (Ladson-Billings and Tate, 1995).

Court documents are both deemed important by dominant society and recognized as official recordings of the past. Selected because of its historical precedence, *Lewis E.*

v. Spagnolo is both typical, in that the legal case involved students from a disadvantage community and unique because of the extreme picture it painted. Earning its historical place in Illinois state school funding litigation, *Lewis E. v. Spagnolo* helped to bring glaring disparities to the forefront of Illinois consciousness.

Using qualitative perspectives found in CRT to structure data obtained from the IRAC process and to structure it into data sets, the emerging data collected from *Lewis E. v. Spagnolo* is developed into themes. In its qualitative analysis it looks at the contents of the legal case, develops themes, and frames these themes around the tenets of CRT. The analysis looks for indications of the concept of racism and its endemic properties in American society, the permanents of its ingrained presence in our legal and social systems, and skepticism toward legal claim of neutrality, objectivity, colorblindness, and meritocracy. All of these properties indicate presence of stock stories told from a majoritarian perspective.

In addition, research analyzes for indications of the race-neutral concept in the application of the case discourse and its findings. More complete pictures include quantitative data obtained from sources like the NAEP and ISBE, to show the effects of the so called race neutral policy on minority student outcomes.

Data Analysis and CRT Applications

Table 2 contains examples, of how information has been sorted, gathered and used in the identification of relative data from the legal case. The study uses qualitative artifact research strategies to draw conclusions from *Lewis E. v. Spagnolo*.

As illustrated in Table 2, this research uses coded procedures to generate themes.

Table 2: Applied Critical Race Theory Model for Qualitative Legal Case Analysis

CRT Ideology	Legal Institutional Bias	Narrative	Applying CRT Tenets	Importance to Framework of CRT
Centrality Of Race and Racism in Society	Implicit Bias: For example: inequality reproduced, permanent component			
Challenge to Dominant Ideology	Institutional Racism For example: inequitable outcomes For non-white groups			
White Supremacy	Victim must bear the legal burden of proving racist intent			
Centrality of Experiential Knowledge	Victims experiential knowledge must be proven appropriate			
Interdisciplinary Perspective	Historical analysis emphasis the dominant cultural viewpoint-law reverts to whiteness			
Commitment to Social Justice	Racism exists within the fabric of our legal justice system and is pervasive in the dominant culture			

The method of recording data consists of textual analysis from historical documents such as amicus briefs, attorney general opinions, parties' legal briefs and court room briefs for *Lewis E. v. Spagnolo*. Data Sources include the *Lewis E. v. Spagnolo* case, Black female community views from accountings of the East St. Louis Photo Gallery and Blog (Gomez, 2013), and community information from the University of Illinois at Urbana-Champaign's Action Research Project (East St. Louis Action Research Project, 2011).

Validation strategies include insuring data are of the finest possible quality and integrity. For example, the study uses sample data obtained from NAEP assessments, which are considered one of the leading sources of student data as they are administered across a greater majority of states. They are recognized by the U.S. Department of Education as reliable, facilitate comparison and are used nationally to assess student progress. This data provides a snap shot of the student outcomes under study. The information from the situation analysis comes from a variety of sources which not only include data from NAEP and ISBE assessment, but also include historical documents in the form of court records. U.S. Census Bureau Statistics are also used to obtain, collect and analyze information from the Chicago Public School District populations. This data can describe categories of information such as; but not limited to, race, gender or patterns in sample group situations and characteristics.

Qualitative exploration of the legal case uses events in history to analyze and frame the study of occurrences through a CRT lens, in an effort to find evidence as to whether race has played a role in the case and the discovery of stock stories. According to Allison (1984), event history analysis can support the study of multiple events, and can be used to provide insight into future policy analysis of a state where multiple court decisions have occurred. Taking the form of a legal case, the event analysis helps highlight legal direction and historical lessons through the CRT lens as the study uncovers stock stories implemented in the case.

In its qualitative approach, the study looks at Illinois State secondary data on housing population patterns, and student outcomes contained in district level data for the State of Illinois to discover patterns. Housing patterns create student populations

consisting of majority African American and other minority groups compose schools (Illinois State Department of Education, 2011). Although the study uses the legal case, which covers the geographic area of East St. Louis School District 189 in its exploration of the legal case, it expands in its quantitative scope to include the impact school funding has at the Illinois State level. CRT points to many conditions as contributing to group advantage in the case of the majority, and disadvantage in the case of minority student Pk-12 school finances, demographic, and academic achievement results.

Figure 12 offers a chart, which gives an example of how CRT's tenets were used for analysis.

Figure 12: Process for Pk-12 Colorblind Analysis

Uncovering or Discovering the Stock Story

Bell (2009) writes, storytelling plays a role “in either reproduction or challenging the racial status quo through exploring both the power in stories and the power dynamics around stories as these shape learning and practice about race and racism” (p. 29).

Critical race theorists believe our reality or what we believe to be true is socially constructed. In CRT’s analysis of the stock story, research is provided a powerful tool for understand how the subordination and marginalization of minorities create and maintain inequality in education finance systems in the State of Illinois. According to Delgado (1995), the eyes through which we see “are like eyeglasses we have worn a long time. They are nearly invisible; we use them to scan and interpret the world and rarely examine them for themselves” (p. 61). These frames, through which we see, are influenced by stock stories as told through the eyes of the White majority (Parker, Deyhle, & Villenis, 1999). According to CRT, stock stories are told by the White majority to maintain the status quo and to justify decision making which relies on past or historic precedence (Crenshaw et al., 1995; Delgado, 1993, 1989). In many cases these stock stories contained negative elements which offer the masses false evidence of laziness, criminality and intellectual inferiority of the Blackman (Bell, 2009; Delgado, 1995; Muhammad, 2010). This imagery places the Black man at the bottom, as it conspires to keep him at the bottom of society. It not only provides unreliable evidence, but it also gives rational for funneling social welfare dollars away from Black people and the areas they inhabit. This includes the area PK-12 schools Black people attend and the finance of the same.

Using Counter Storytelling and Narrative Methodology in CRT

Critical race theorists argue that counter-storytelling may be a useful mechanism to challenge and change racial dominance (Bell, 2009; Crenshaw et al., 1995; Parker & Villalpando, 2007; Solórzano & Yosso, 2002; Tate 1995). This study infuses the usage of storytelling and narrative methodologies in the form of oral and written accountings, which are part of history as well as present day accountings. It will search for indications of racism in its commitment to social justice in the public school finance arena. In addition to its commitment to social justice, it uses CRT to challenge the majoritarian stock stories, contained in dominant ideology, to frame the noteworthy facts for counter storytelling. It offers the evidence contained in the legal narrative as presented in *Lewis E. v. Spagnolo*, with the story as seen through CRT's marginalized view. The study hopes to use counter-storytelling, as a tool for exposing majoritarian dominant racial forces that materialize in the form of stock stories.

Oral histories obtained from the East St. Louis Photo Gallery and Blog (Gomez, 2013), are injected into this study. Only those oral histories submitted by East St. Louis female respondents will be offered. Female responses are offered to assist with counter storytelling from the viewpoint of the poor Black female. The content of oral history interviews not only supplement historical analysis, but it also helps to add personal meaning to the voices of people of color. It lends cultural exposure to language articulation and ways of expressing the speaker's own unique situational realities. The concept of inclusion of oral histories supports the reliance on CRT's tenets as an analytical tool. Critical race scholars use oral accountings, which can be found in counter storytelling techniques, to express the opinion and realities of personal accounts of events

and stories (Ladson-Billings & Tate, 1995; Stovall, 2006; Yosso, Parker, Solórzano & Lynn, 2004).

This research will allow others to get a sense of how it feels to live inside the skins of those who live the minority experience (Delgado, 1995; Delgado & Stefancic, 2001). CRT allows readers to be inserted into the emotions, feelings and realities of those most affected by the inequalities and inadequacies of Illinois Public School finance.

Role of the Researcher

Creswell (2009) writes, “the role of the researcher as the primary data collection instrument necessitates the identification of personal values, assumptions and biases” (p. 196). For Creswell (2009) qualitative research in particular can be influenced by the researcher’s motivations, interests, and the lens through which the researcher views the world. In addition Merriam (2002) writes, the researcher must choose a design which corresponds with her research question, and consideration should be given to her worldview, personality and skill set.

To the concept of qualitative research, historical narratives and the role of the researcher, Solórzano and Yosso (2002) offer the art of counter-storytelling and the two aspects of theoretical sensitivity and cultural sensitivity. Using Strauss and Corbin’s (1990) definition of theoretical sensitivity, quality is added to the research project when the researcher brings special insight. This special insight comes with the capacity to interpret and give special meaning to the research data gathered during the project. Strauss and Corbin (1990) write,

Theoretical sensitivity refers to a personal quality of the researcher... indicates an awareness of the subtleties of meaning of data...[It] refers to the attribute of

having insight, the ability to give meaning to data, the capacity to understand, and capability to separate the pertinent from that which isn't. (p. 44)

In addition, Delgado Bernal (1998) adds the concept of cultural sensitivity. As members of the social historical community, researchers are able to accurately read, interpret and convey the meanings of those who contribute their personal stories. As suggested by Delgado Bernal (1998), Strauss and Corbin (1990) as well as Williams (2004); special insight, the art of sensitivity, and the simple act of sharing views and experiences of someone outside of dominant culture can all help the researcher to create a new narrative for old problems.

I was born in a small segregated community in Leighton, Alabama; in an area known as the bottoms. Located just across the ditch from my grandfather's home, was Leighton Training School. Although Leighton Training School was a segregated school, it did however stand as a beacon of hope in which the community took great pride. My grandfather talked a lot about how his family helped to organize the movement which would result in its completion. Later, I was transported to the state of Illinois to a community cordoned off by real-estate practices which kept Blacks in an area designated for us.

As background for this study, I traveled back in time through old newspaper clips my dad had saved during the late 1960's and early 1970's on civil rights. The first article I came across; talked about Deerfield, Illinois and its fight to prevent low-income housing within its borders. At the time my father was working for the Sara Lee Corporation, which was located in Deerfield, Illinois. His briefcase contained articles which

emphasized changing conditions in addition to changing laws and housing policies in northern Illinois. This included the area where we lived.

The memory of race riots, only one block from my home in Waukegan, and the circumstances surrounding the violence is permanently etched in my mind. On the television we watched as Dr. King and his followers were hit with bricks, and spat upon in the Chicago marches. My grandfather in Alabama said they were the most violent he had seen. Some of those articles were inside the briefcase also. As I continued to probe, this period in our history, there seemed to be a possibility that the nation might finally confront the pattern of inequity and segregation by race and class or force us to take a real look at ourselves. Constructive discussions were taking place which centered on Blacks moving into nearby west Chicago suburbs. My cousins moved to Maywood, Illinois during that time. Conversations were being initiated not only within civil rights and fair housing movements in the Chicago area, but conversations were also being initiated inside our nation's capital with the Lyndon Johnson administration.

I remember a Sunday evening conversation between my father and a friend. The discussion centered on hope for change, court discussions of the phenomenon, and George Romney. George Romney, Secretary of Housing and Urban Development (HUD), issued a statement which characterized suburbia and described the housing patterns of our nation's suburbs as a white noose around the neck of urban America. From reading these annals of history it was clear most people, who were part of the open conversations, realized access to employment and access to quality public schools would be heavily dependent on whether Black American's would be allowed access to certain areas. The memories, of coming of age during the civil rights movement came flooding

back. This would facilitate changes in where Blacks were allowed to live. This time America would need to understand we were in this together. As Blacks and Whites fought for their country in the war together, we should fight for the betterment of our country together.

There appeared to be a sense of camaraderie. It looked as if our country's legal system, howbeit reluctantly, was open to the discussion. Black America was now using legal minds to convince the courts of the connection between policy and law, and they were making clear the connections between where we live, how we are educated, and life's opportunities in America. For a brief moment in time, America had the opportunity to change housing patterns. These opportunities could thereby change geographic locations of an entire group of people who had been locked out of many opportunities. But that was then. America soon closed its ears, silenced the voices, assassinated civil rights leadership, created the war on the Blackman (designated the campaign for the war on drugs) and closed the wormhole by the mid 1970's.

With 20 years of work in the accounting finance world, seven years of my work in accounting has been spent working for the at-risk district of North Chicago, Illinois. The last two years I spent there as the Chief Financial Officer. This school district, with a greater than 90% concentration of children who live below the poverty line and a majority-minority population, has me convinced limits placed on educational opportunities are influenced by racism.

Opportunities can be traced to property ownership, job opportunity, and the quality of education offered by the community in which we live. Like a dog that is chasing its tail, this brings us full circle. Where you live determines school finance levels,

and historically where you live is affected by race. The end results are the social affects racism brings. This analysis of *Lewis E. v. Spagnolo*, is reflective of my upbringing, my life's experience, and my exposure to North Chicago Public Schools, which is located in a community much like that of East St. Louis, Illinois.

In addition it is a confirmation of what was stated in the Kerner Report (National Advisory Commission on Civil Disorders 1968a). It writes, "our nation is moving toward two societies, one Black, one white--separate and unequal" (p. 1). Curiously, for the State of Illinois, the report was named for its chair Illinois Governor Otto Kerner Jr. The Kerner Report, in its investigation, found racial unrest was a product of the frustrations and grievances of inner-city Blacks. In addition, the report sighted the cause as persistent economic deprivation and racial discrimination. All of these things caused by white institutions and maintained by the same (National Advisory Commission on Civil Disorders, 1968a). The State of Illinois has succeeded in implementing none of the recommendations mentioned in the Kerner report.

Conclusion

According to Mari Matsuda (1996), CRT is perhaps defined most clearly by its recognition of law as a force in the promotion of racism. For Crenshaw et al. (1995), the concept of equal protection can be used as a canvas for the structures and beliefs which paint supporting pictures in the concept of racism (p. xiii). Based on these principles this study used *Lewis E. v. Spagnolo* in its application toward the concept of adequacy and equity issues of school finance. It is chosen as a fitting example for the discovery of majoritarian stock stories. In this research, CRT is used as both a tool to spark racial consciousness, and as a tool to aid in legal intervention. According to Crenshaw et al.

(1995), it can direct the ways people interpret law and racial discourse, as we seek to transform America's key social structure for education and to elevate "an ethical commitment to human liberation" (p. xiii).

Harris-Lacewell (2003, p. 232) write, researchers who look at society and determine their value system on race and creed are neutral or colorblind, have failed to recognize the impact of inherent racism in American construction of individualism and meritocracy. The powers of Whiteness as property contains forms of power people of color can never possess. It also means that the group which thinks it is superior actually has the power to execute racist behavioral acts against others, and that these acts affect many minority groups (Solórzano, Ceja, & Yosso, 2000).

Stock stories are the product of White majoritarian efforts to maintain the status quo. They are an attempt to justify the laws, social rules and order as they stand through the sorting of rights, privileges and opportunities; and to assure they remain uncontested and without recourse. These privileges always revert towards Whiteness, just as Whiteness is recognized as a property which gives entitlement to preferential treatment.

CRT allows existing oral histories, data sources, and legal archives to be used as a way of making sense of the data in its entirety. In addition it uses counter storytelling as a tool to express the opinions of minorities, as it sounds the alarm for social justice and equal school funding for Illinois' minority PK-12 schools. In addition to this research's use of information from multiple disciplines and sources, this study has as its strengths the ability to use numbers to add precision to words, pictures and narrative. For example it uses history, law, sociology, CRT and PK-12 quantitative data sets to dispel the myths

contained in majoritarian stock stories, and to help construct counter stories to rectify the unequal distribution of PK-12 school funding.

CHAPTER IV

ANALYSIS

Introduction

Skubikowski, Wright, and Graf (2009) write, storytelling plays a role in either reproducing or challenging the racial status quo through exploring both the power in stories and the power dynamics around stories as these shape learning and practice about race and racism. (p. 29)

Problem Statement Review

Notorious for its funding inequities, which are exacerbated by reliance on property taxes, Illinois ranks third from the last in a listing of fairness for PK-12 school funding distribution between low and high poverty school districts (Sciarra & Baker, 2012). For Illinois, low poverty districts tend to be property rich and contain majority White students, while those district which are high poverty and property poor tend to be heavily minority. Although numerous lawsuits have been initiated, the Illinois' courts refuse to address the problem of funding disparity (*Carr v. Koch et al 113414 672 N.E.2d 1178 (1996)*; *Chicago Urban League, et al. v. State of Illinois 08 CH 30490*; *Committee for Educational Rights v. Edgar, 672 N.E.2d 1178 Ill. (1996)*; *Lewis E. v. Spagnolo; McInnis v. Shapiro 293 F. Supp. 327 N.D. Il. (1968)*). According to Ladson-Billings and Tate (1995) research and the resulting solutions to inequality in school funding contains a gap, which summons us "...to theorize race and use it as an analytic tool for understanding school inequity" (p. 49).

This dissertation provides a critical race theory (CRT) analysis of the *Lewis E. v. Spagnolo* discussion of the Illinois' school finance gap as an incarnation of the White superiority or African American inferiority notion that is the mainstay for majoritarian storytelling in United States of American culture. As the lens through which we see the dramatic events of history unfold, *Lewis E. v. Spagnolo* outlines the impacts, outcomes, indications of the colorblind doctrine, as well as the results and consequences of the stock stories indicated in the legal case. A case that exemplifies the policy discourse of Illinois PK-12 school finance and communities much like this one in the state of Illinois, the study searches the legal conversation concerning PK-12 finance and how it is structured to form stock stories. In addition it looks at the community, media portrayal and other conditions. It then uses Black female voices from inside the community to offer a counter story through the eyes of those most affected by disparaging school finance in areas such as East St. Louis, Illinois.

Looking at stock stories which justify keeping school funding practices as they are, this research offers counterstories from the Black female vernacular to present the analysis of *Lewis E. v. Spagnolo* in a way that turns the assumptions and myths of dominant society into insightful debate. This story, about how a community sees it's self and the forces from both inside and outside its perimeters, can be considered a counterstory because it poses challenges to majoritarian views and can be used as a tool for understanding social inequality and making policy changes. According to Solórzano and Yosso (2002) and Tate (1997) counter storytelling may hold a key to unlock the fight to both challenge and change racial oppression and social injustice. In the case of *Lewis E. v Spagnolo* the story contains a fight which challenges disparity in PK-12 school

funding in the State of Illinois through the use of narratives which have long been used to construct powerful challenges to White majoritarian views.

Research Question Review

This *Lewis E. v. Spagnolo*, 710 N.E.2d 798 (1999) study hopes to unveil indications of the colorblind doctrine and the presence of stock stories contained in the legal case. As Delgado (1980) so eloquently concludes, stock stories are sometimes presented by the courts as court narratives which make use of facts as screens. These carefully constructed screens or veils determine which details are allowed to become focal points. Delgado (1980) explains these tactics are used by the White majoritarian groups to curtail criticism brought on by the legal issues presented in the case. Supported by stock stories, the court experiences also help illustrate the resulting benefits for the White majority. The Black female minority experiences contained in this research tell stories about social attitudes and practices which influence the institutional practices supporting inequality and inadequacy in school finance for the state of Illinois.

Resulting in benefits for the White majority, tactics help to reassure everyone the status quo is fine as it stands and everything should remain just as it is. When present in a legal narrative, these stock stories offer a completely different perspective. Their accounting serves to dismiss the narrative offered by the group subjected to racist treatment and present problems in a completely different accounting. In the case of minority school funding problems, stock stories turn the listener away from the narrative originally offered by minority representation to offer a narrative which will guide logic along the lines of the stock story (Matsuda, 1996; Matsudo et al. 1993; Muhammad, 2010; Solórzano & Yosso, 2002).

These stock stories, when cloaked in and supported by the law, force the minority accusers to defend themselves against the stock story in its racist form, context and content. Constructed by the courts into a stock story, the legal narrative creates a story difficult to defend. This new story is skillfully built around majoritarian beliefs about the minority group. Legal issues become points of contingency which now invites postponement of the decision, avoidance of the key issues and reluctance to rule. In addition it encourages verbal sanctioning and encouragement in cooperation with the original stance held by the courts. Critical race theorists argue stock stories are the means through which both the courts and society maintain the status quo (Crenshaw et al., 1995, Ladson-Billings & Tate, 1995, Parker & Villalpando, 2007).

The reason for telling this counterstory is to answer the main research question: Are Illinois school funding policies truly color blind? In addition, the research tells the counterstory to answer the following research questions:

- What stock story or stories from a majoritarian perspective does *Lewis E. v. Spagnolo*, 710 N.E.2d 798 (1999) tell about school funding in Illinois?
- What are the impacts, outcomes, results, and consequences of the stock story or stories told from a majoritarian perspective on Illinois students?

As a tool for CRT analysis and the formation of a counterstory which answer the research questions, Table 3 illustrates the data sources used to answer the research questions and indicates which sources provide support for answers to the research questions.

The answers to the research questions that form the counterstory offered in this study were gleaned from all three data sources as indicated.

Table 3. *Lewis E. v. Spagnolo* Analysis Research Matrix.

Research Questions	Data Source 1 <i>Lewis E. v. Spagnolo</i> Legal Case	Data Source 2 East St. Louis Action Research Project	Data Source 3 Gomez (2013)East St. Louis Blog
Are Illinois school funding policies truly color blind?	x	x	x
What stock story or stories from a majoritarian perspective does <i>Lewis E. v. Spagnolo</i> , 710 N.E.2d 798 (1999) tell about school funding in Illinois?	x	x	
What are the impacts, outcomes, results, and consequences of the stock story or stories told from a majoritarian perspective on Illinois students?	x	x	x

Purpose Statement Review

The purpose of this research study is to contribute to current research about the inequality of funding for Illinois PK-12 minority student populations. It seeks to identify recognition of race and those systematic issues of inequality brought on by racism, as an important component to finding solutions for gaps in PK-12 funding. As written by Delgado (1989), it is an attempt to express the sentiments of “groups whose marginality defines the boundaries of the mainstream, whose voice and perspective- whose conscientiousness- has been suppressed, devalued, and abnormalized” (p. 229).

The analysis of *Lewis E. v Spagnolo* results in findings which are presented in this research as stock stories. Using a compilation of the data gleaned from the analysis,

counterstories are then used to explore, examine, describe and present the data from the perspective of the poor Black female. This compilation of data analyzes and synthesizes the results of a CRT application in an attempt to answer the research questions. In addition it offers new paradigms that are responsive to existing structural racism, racism's reoccurring influence on education finance, educational inequities in PK-12 finance and education finance research.

Placing Race at the Center of Critique

Relevant to concept, theory, methodology, and pedagogy efforts in the field of education; the insights of the Black female takes its place for both its implications and relevancy (Austin, 1995). As illustrated by the content of this study, education law and education finance, the ethical and moral consciousness of minority women, minority aspirations, and minority struggle for equity and adequacy has long been an active component in the struggle for education rights. Grounding the scholarship of the finance of Illinois minority education in the realities of minority women to include their cultural responses, while applying the tenets of CRT, the study promotes effective intervention and requires addressing equity problems for the purposes of finding solutions. This requires a race based intervention aim at the root cause. It focuses on the root cause as being race specific and not race neutral. Educational finance systems are riddled with racism. Racism produces levels of school finance, and overall disparaging rates of school finance that varies depending on socially assigned race. Identifying racism is therefore central to achieving school finance equity and adequacy.

However, this requires new paradigms that are responsive to existing structural racism's reoccurring influence on education finance, educational inequities in finance and

education finance research. In addition the models must keep race and racism at the center of investigation.

The key objective of analysis in this study is to go beyond mere documentation of Illinois school finance disparities and its associated formulas. To that end, it attempts to illustrate the connections between Illinois school finance disparities and racism's potential contributions to inequities of school finance in Illinois and the connection to stock stories as implicated in *Lewis E. v Spagnolo*. Working through the examination of the Illinois Supreme Court Case *Lewis E. v Spagnolo*, this research uses CRT's tenets to frame the story, to analyze the surrounding conditions, to seek out underlying historical perspective and to bridge the gap in knowledge for problem solving. In its search for stock stories, this study looks at the impacts, outcomes, results, and consequences of these stories or stereotypes as offered by dominant culture through our institutions (Takaki, 2008).

Stock Stories as Justification

Stereotypes and the resulting stock stories which have become a part of America's accepted historically negative generalizations concerning minorities. Because most of our affiliation is with the group with whom we identify, our experiences exclude other groups. This creates a void in experiential knowledge. For that reason, most of America's Whites are ignorant to the realities of Blacks as well as other minority groups. Critical race theory emphasizes the absence of historical narratives through the eyes of the minority and warns us we must prepare America's youth for diversity through an education which assures the histories of all ethnic and racial contributing cultures are recognized.

These stories need to be told from the perspectives of ethnicity and minority. They must offer a full and accurate historical accounting. This research offers an accounting of *Lewis E. v. Spagnolo*, which identifies the content of stock stories and allows the events to be told from the viewpoint of Black females. As an experiential contribution, it helps contribute to the accuracy of historical accountings in which a racial contributing culture is recognized.

Like CRT, which urges the telling of stories through the eyes of minorities, this research analyzes stereotypes and stock stories, which skew and distort the perception of minorities, as a technique for stock story dispute. These stock stories have been continually supported for hundreds of years. Racist stock stories are so common in American society many people accept them unquestioningly as fact. Although other groups like the Italian immigrants have succeeded in shedding damaging stereo types Blacks have not.

These damaging stereotypes, which are filled with false hoods, are supported by American institutions to justify Black subordination and to maintain the status quo. They justify treating people differently and imprison the victims through negative images. In the case of school finance these stereotypes give justification for entitlement to public school funding levels, and support a system which creates majority White schools with higher quality education. In the same way, the stereotypes help justify lower funding and poorer quality in the case of the majority minority schools for Black children.

Institutional practices of inequity and inadequacy in school funding are supported by historical images of Black children depicted as something closer to animals rather than human. Theses historical images have continued today and help to justify the disparaging

funding practices which place communities inhabited by majority Black children at a disadvantage to majority White communities. Fueled by racism, our institutions offered negative images in the past which influence views of today and set the stage for continued negative and anti-Black imagery. Fueled by the past, this negative imagery continues to influence society's views of who is and who is not deserving of public funding for quality school finance in Illinois.

CRT is an advocate of using positive stories to change negative images, for the purpose of influencing policy and to set agendas. Historically as well as presently, imagery and stories are an important component to the formation of American perceptions as well as our focus on what needs to be changed. Not only can stories be a major contributor to agenda-setting, but they also can use the context of setting to help the reader understand the counterstory itself.

One of the most important aspects of telling a good counterstory is the setting or a description of where the narrative takes place. As the context and the environment in which a situation occurs; the setting supplies information on stock stories, background, place, time, and the circumstances in which a narrative takes place. The setting, which gives the reader a better sense of the story, allows the reader to visualize occurrences and to connect with the characters. It functions to set the mood and to tie the story together with key elements. For these reasons the first part of the analysis of the Supreme Court Case *Lewis E. v Spagnolo*, as a basis for the study and as the backdrop for the CRT story, will feature a description of the minority places and spaces in which the surrounding circumstances of *Lewis E. v Spagnolo* took place.

Minority Places and Spaces as the Setting

One of the most identifiable parts of this story is the setting. Distinctive in phenomenon and characteristics, places such as East St. Louis have a uniqueness not uncommon to majority Black populations. As a society Americans would like to dismiss the finger pointing of race scholars who highlight the incidences of racism that makes it difficult to address inequity and inadequacy in the education of minority children. However, CRT directs stakeholders to draw connections between the places and spaces in which we live and those historical occurrences which help make the reasons why we live there and are educated there much clearer. These connections help showcase the minority fight for a place to live, to breath and to be educated. Fueled by stock stories of criminality, Black became the single defining measure of deviance from what the dominant culture saw as positive norms (Muhammad, 2010).

It became the driving force for keeping Whites separated from, as well as protected and distanced from what America and its institutions considered the natural propensity of the Black man to be violent, to commit crimes, as well as the inbred criminal instincts of Black people. Aided by historical accountings of natural intellectual inferiority, the criminalization of the Black man held benefits for all that were White. Soon projects for social good could be channeled to Whites by referencing the hopelessness of educating a naturally intellectually inferior Black being, which is criminal in nature and hopelessly unable to become part of the melting pot which is America. Armed and reinforced by the element of fear, institutional racism charges Black people with posing a threat to modern urban society. It then follows Blacks do not deserve to reap the benefits offered by America (Mohammed, 2011).

CRT's tenet of centrality of Whiteness helps us to understanding how race and racism shapes the places and spaces which house and educate minorities in areas such as East St. Louis. In Illinois and across the nation, places and spaces are important because they determine the level of school finance for minority children through appropriation of tax dollars to PK-12 school districts. Unfortunately, these appropriations determine the educational realities of minority students and relegate them to assume a continuity created by more than 200 years of "state sanctioned discrimination" (Zamundio et al., 2011, pp. 16-19)

In spite of both the rule of law and constitutional guarantees of equal protection of the law, reviews of CRT's tenets illustrate the presence of White supremacy and privilege throughout our systems. This is especial true in the case of meritocracy for areas such as East St. Louis. Conditions illuminate the presence of dominant ideology, centrality and intersectionality of race and racism, social injustice, valuable experiential knowledge, and examples of how race influences group advantage and disadvantage.

With particular emphasis on law as an instrument for maintaining the status quo, this research uses the art of storytelling to illustrate how the case of the Supreme Court Case *Lewis E. v Spagnolo* illustrates the manner in which the American legal system views antidiscrimination laws for populations such as those located in East St. Louis. Freeman (Crenshaw et al., 1995) writes, "From the victim's perspective, racial discrimination describes those conditions of actual social existence as a member of the perpetual underclass" (p. 29). On the other hand Freeman describes the concept of antidiscrimination for perception of the perpetrator. He writes,

The perpetrator perspective sees racial discrimination not as a condition but as an action, or series of actions, inflicted on the victim by the perpetrator. The focus is more on what the particular perpetrators have done or are doing to some victim than on the overall life situation. (p. 29)

Freeman (Crenshaw et al., 1995) goes on to explain law as an instrument written from the perspective of the perpetrator of racial discrimination. From the perspective of dominant culture, the conditions of racial discrimination are caused by a few misguided individuals. These actions “are outside of and apart from the social fabric and without historical continuity” (p. 30). From Freeman we learn how the law has been constructed but fail to address the “condition of the victim” (p. 29). The law, which is written from the perspective of the perpetrator, allows the perpetrators to see themselves as innocent because “only intentional discrimination violates the antidiscrimination principle” (p. 30). Gotanda in Crenshaw et al. (1995) writes, “...the court denies the experience of oppression and limits the range of remedies available for redress” (p. 262).

The conditions of concentrated poverty contained in East St. Louis, along with its accompanying underfinanced education system, renders the space undefended by the law and invisible to the majority. As historically noted, Blacks were considered inferior creatures when our country was founded. In addition, modern courts tolerate the mind set of racial inferiority in private arenas. Gotanda (1991) writes, the fact that these “broad-based individual freedoms protecting status-race beliefs” exist, helps to “significant aid the legitimization of racist conduct” (p. 263).

In addition to helping to promote the color-blind doctrine, the experiences of minorities have also been screened out of the decision making processes for areas such as East St. Louis, with its majority Black population and areas of concentrated poverty. Analysis of decisions like that of the *Lewis E v. Spagnolo*'s court case requires inclusion of the Black experience. Affective analytical essentials include the setting of the case as a minority space from the perspective of East St. Louis majority Black citizens.

Brownfields

Lewis E v. Spagnolo begins in an area highly populated by minorities and plagued with the ills inherent in concentrated poverty. The U.S. Census Bureau (1990) tells us in 1990, Black citizens made up more than 90% of the population. Impoverished citizenship composed more than 40% of the population, and the unemployment rate was close to 30%. A once vibrant population had dwindled and by 1990 almost 40% of the city's land was vacant or left unattended, while approximately 30% of its buildings were left abandoned (East St. Louis Action Research Project, 2011). Kathy Bartlett Feurer, a former resident who writes in the East St. Louis Photo Gallery and Blog expresses her observations on the barren city. Feurer (2012) writes,

I grew up in Washington Park. William and Barbara Bartlett family on 51st street. Went to Charles Manners School in the 60's, then Landsdowne, then East St. Louis Sr. High for 2 years - graduated Collinsville in '72. My parents house is all fallen in now, so sad, was kind of poor and didn't know it. Had a lot of good friends. (23-May-2013 19:24)

Sadly both past and present East St. Louis residents have watched the structural deterioration of their home area.

East St. Louis, Illinois' southern most land perimeter was occupied by multiple chemical plants such as Monsanto, Big River Zinc, Cerro Copper, and the American Bottom Sewage Plant and Trade Waste Incineration Company, which is one of the largest hazardous waste incineration companies in the United States of America (East St. Louis Action Research Project, 2011).

Once on the National Priority List for the U.S. Environmental Protection Agency, this area of East St. Louis was used by Sauget and Company, Inc., to dispose of chemical waste products that were produced as a result of Monsanto Chemical operations from 1957 to 1977. This same area encompasses the floodplain bordering the eastern edge of the Mississippi River. In the 1950's a levee was constructed as a stop gap measure for prevention of surface water from flooding areas east of the levee. Unfortunately for the impoverished neighborhoods of East St. Louis, the levee neither prevents contaminated water from escaping toward areas occupied by East St. Louis's subjugated citizens west of the levee, nor does it prevent the contaminants from escaping to areas both unsaturated and saturated under the levee (U. S. Environmental Protection Agency, 2001).

Unfortunately, for East St. Louis the conditions of poor or toxic draining did not stop with the river. It continued into the populated areas of city. According to Kozol (2005) the flood conditions inside the East St. Louis high school he visited prompted its closing by city officials because "a foul odor filled much of building because of an overflow of sewage" (p. 7). Affected by the brownfield condition, which describes land areas containing environmental contamination caused by heavy industrial waste products, East St. Louis poses environmental hazardous conditions for its population.

Deindustrialization and Railroad Restructuring

Mid-century East St. Louis' local factories began to close because of changes in America's industrial landscape. In addition, the railroad and meatpacking industries slowly shutdown as jobs moved out of the East St. Louis area. Racism and the resulting effects of discrimination affected the ability of Black workers to readjust themselves to changes in industry. Better established White workers had an easier time gaining jobs in other areas, and the city demographics became increasingly predominately Black. As a result of poverty and lack of opportunities, the city crime rate began to rise.

Environmental water and grounds contamination, from previous industrial plants, made redevelopment of the area much more difficult and exceptionally more expensive for any outside investors that might be looking at development in or near the East St. Louis boundaries.

The consequences of the brownfields effect hampered redevelopment of the area. Beginning in the early 1970s and with significantly decreased tax revenues, East St. Louis was forced to close municipal agencies (East St. Louis Action Research Project, 2011). Kozol (1991) writes, garbage collection ceased between 1987 and 1991, city employees were laid off, and both the police and the fire department were forced into insufficient operation as a result of funding shortages. In true blaming the victim format, Governor James Thompson comes to the aid of East St. Louis through finger pointing, which ultimately results in monitoring the finances of the City.

In 1971, at a time of great economic hardship, James Williams the city's first Black mayor was elected. The problems he faced in city government, which included a severely decrease industrial base, were overwhelming and he was unable to make any

significant changes for the better. 1979 brought the election of Carl E. Officer as mayor. At the time of his election Officer was not only a youthful 25 year old, but he was also the youngest mayor in the country. While he later became the longest serving Black mayor in the history of the city, with little experience and even less outside influence, Officer was unable to change East St. Louis conditions.

Compounded by losses in local revenue's support of the city, a U.S. General Accounting Office (1986) study found that from 1974-1985 federal dollars allotted to East St. Louis slowed down to a trickle during Mayor Officer's years. Grants and direct federal spending that once totaled about \$100 million per year had fallen to a mere shadow of the former revenue. It was now less than one fourth as much as allotted for previous years. The people who could do better continued to leave East St. Louis for areas where both the prospects of work and the quality of life could be improved upon (East St. Louis Action Research Project, 2011).

Although tax revenue for the city had dwindled to a mere trickle of what it was in better times, Illinois Governor James Thompson condemning East St. Louis for poor local money management. In addition the Illinois State Board of Education instituted oversight of the public schools. Assistance was offered to the city in the form of repayable loans. The stock stories mounted evidence of improper money management and the inability of officials to balance city budgets. Additionally, as written by Kozol (1991), a Republican state legislator espoused, "It's unfortunate, but the essence of the problem is the people" (p. 9). Prime examples of CRT's tenet of the centrality of Whiteness and its resulting challenge to race neutrality, the institution is not colorblind. Policies are not applied equitably. Instead, negative responses are the result of

disproportionately negative perceptions held by the dominant culture. The negative perceptions are reinforced by stock stories which contain anti-Black stereotypes. Institutions, which in this case include the press and the Illinois State government, reinforced negative consequences for poor conditions. Unfortunately, responsibility for the problems of East St. Louis was disproportionately shifted to the predominately Black city management and its overwhelmingly Black population.

In contrast, the counterstory contained the realities actually experienced by East St. Louis minority citizens. These realities are confirmed by the U. S. General Accounting Office through findings contained in the Community Development Revenue and Demographic Characteristics of East St. Louis (CDRDCESL) (1986) report. The CDRDCESL (1986) report ordered by Senator Paul Simon of Illinois warns,

Population has declined steadily, from over 82,000 in 1950 to slightly more than 55,000 in 1980...Declined by 21 percent. The racial make-up.....has undergone a considerable transformation. In 1960, 55 percent of the city's population was white and 45 percent was "nonwhite". In 1980... White population ...less than 5 percentnon-white population constitutes 95 percent. Annual family income...declined from \$15,927 in 1959 to 12,117 in 1979.....Income for the United Statesincreased from \$18,486 to \$27,183 during the same time.....Families.... with income below the poverty level in 1979 was nearly 39.0 percent. Compared to the national average of 10.3 percent...families receiving public assistance ...was more than 37 percent. (p. 19)

The counterstory, revealed through this CDRDCESL (1986) report, shows a steady decline in social, economic, and living conditions of the people of East St. Louis. As the

White people abandoned the city, so did the federal government through financial support from federal monetary investment. Financial abandonment as Whites leave the area is a prime example of CRT's contention, which tells us Whiteness as property also carries the assets of privilege, affluence and influence. Once White citizenship is removed from the area resources also follow. With the exit of White citizenship goes the withdrawal of all their assets of privilege, affluence and influence. CRT and the CDRDCESL (1986) report reveals these conditions were in fact through no fault of the citizens of East St. Louis. Instead conditions are a culmination of economic conditions brought on by racism, segregation, brownfields, deindustrialization and railroad restructuring in the City of East St. Louis, Illinois. As property values plummet so does financial support for the local school district. Although the stock stories would have its audience to believe otherwise, all of these conditions are things over which the poor Black citizenship of East St. Louis, Illinois has no control.

Criminality, Meritocracy and Minority Deficiency Stock Stories

The Illinois Supreme Court reversed an appellate court ruling which upheld the dismissal with prejudice of plaintiffs' claims of injustice in the East St. Louis public school system. The court determined "the plaintiffs could not state a claim based upon violation of the education article of the Illinois constitution" and that questions relating to the quality of education were solely for the legislative branch to answer (186 Ill. 2d 210, 710 N.E.2d at 805).

For children living in areas such as East St. Louis, Illinois; the Illinois State Supreme Court delivered a strong message upholding the exclusion of questions which relate to quality of education from Supreme Court review. In addition, the analysis of

Lewis E. v Spagnolo's provides a discussion of the Illinois' school finance gap as an incarnation of the White superiority or the Black American inferiority notion that is a mainstay of majoritarian stock stories in United States' culture. Additionally, the analysis found evidence of criminality, meritocracy and minority deficiency stock stories. Contained in the analytic details of the Lewis E v. Spagnolo case are the outlines of the detrimental impacts, outcomes, results and consequences of the stock stories told by the majority.

In addition to seeking answers to the specific research questions, this study of the case seeks to explore the content for the presence of the colorblind doctrine's inclusion or exclusion of race in the Lewis E. v. Spagnolo case, while depicting the challenges and missed opportunities in application of policy contained in Illinois Article X section I of the Illinois Constitution. In its examination of legal scholarship and interpretation of minority student's rights to equitable and adequate education finance, this study explores depictions contained in the legal case for indications of the denial or exclusion of racism from the dominant narrative of the court's decision.

Analysis of court documents and other writings which surround the *Lewis E. v. Spagnolo* case, as well as characteristics of the East St. Louis Community, not only reveal stock stories, but also reveal an absence of references to the minority status of plaintiffs. This indicates adherence to the colorblind doctrine. Analysis of the *Lewis E. v. Spagnolo* case found several stock stories used to support the majoritarian views. These stock stories are those of meritocracy, criminality and minority deficiency. Meritocracy stock stories dictate minorities are lazy and refuse to work hard enough to gain prosperity. Stock stories of Criminality tell the listener minority places and spaces are

filled with danger and White citizens will do well to stay clear of the area. Finally, minority deficiency stock stories dictate minority areas are devoid of parental concern. Minority deficiency stock stories tell the listener the lack of both commitment to students and the absence of involvement in the promotion of the welfare of their children's educational success help to fuel the low academic achievement in areas such as East St. Louis.

These stock stories contain the hidden agenda of maintenance of the status quo and the continued support of White supremacy through continues maintenance of inequity and inadequacy for minority schools such as those contained in East St. Louis, Illinois.

Stock Stories of Criminality

Although the State of Illinois was in a position to see community conditions long before the 1986 CDRDCESL report, Illinois' governmental authorities came to the rescue bearing inadequate remedies. Illinois State governmental officials constructed tales of why the government should not help. Instead of reconstructive help, Illinois sent inspectors and supervisory forces. Sources such as these often come with the objectives to find fault. They point fingers of accusation and causality which create questions of inadequate leadership and criminal intent. With the stage set for a criminal review and armed with an agenda to keep the status quo, Illinois State brought offerings of ineffective aid to East St. Louis. After extensive news coverage, which maligned East St. Louis leadership, the offering of aid came complete with a criminality stock story.

Areas of high poverty like that of East St. Louis have long histories with conditions stemming from complex socio-economic factors rather than from any one

isolated event that can be associated with a personal event or an individual action (Crenshaw et al., 1995). The stock stories create a social order, a shared White majoritarian meaning and a space. The space defining those designated inside the White majoritarian group, as well as those who were outside the group. These defining spaces, as suggested by Delgado (1989), include a link between the narrative and group identity. So defined is this group identity that sometimes help for the poor minority groups, which come disguised as aid, is really revenue for those who already have means. This is especially effective when the stock story of criminality is applied to the situation.

Testimonials like that of East St. Louis' Hill (2012) dispel the horribly inaccurate stock stories told of unlawfulness and rampant violence, the stories told about educational conditions inside what Wright-Brown (2011) called the 'Boogie' are quite different. Barbara Hill a childhood resident of East St. Louis, Illinois describes her experience. She (Hill, 2012) writes,

I don't remember the elementary school I went to. I lived on 17th and McCasland and as someone mentioned it was the family street. I have fun memories of East St. Louis. On McCasland we had many block dances. My neighbors were the Claypools, Giggers, Emersons, Annette, Ray, so many others I can't remember their names, we were like family. I baby sit from my cousin(in-law) on 18th and McCasland. Jr Walker and the Al Stars practiced their music on the porch across the street. My cousins were Denzmore. (28-Apr-2012 05:55)

For Hill (2012) East St. Louis was a place of resilience, family values and community support. She even makes mention of the famous soul music group Jr. Walker

and the All Stars as members of the East St. Louis community and their practicing their art on the front porch of a neighborhood home.

Another example is contained in, a 1987 Chicago Tribune article, which came equipped with a criminality stock story, first accused the City of St. Louis of financial mismanagement. Giving mismanagement as a reason for takeover, the contracts tied to project improvement then went not to local Black contractors, but to those whom the power and influence already belong. In their article on East St. Louis, Illinois' public housing rehab, Kaplan and Karwath (1987) write,

Federal funds are beginning to roll in, but the primary beneficiaries so far have been a Washington-based management firm and a handful of out-of-state contractors who have been given hefty contracts by the new management team... Federal officials are threatening to seize control of the Chicago Housing Authority because of its history of mismanagement and political interference and want to install a private management firm. (p. 1).

At the time East St. Louis' HUD rehabilitation contracts were awarded, the city had an approximate 50% unemployment rate. The official criminality stock story, which contained allegations of corruption and money mismanagement, came armed with a statement from Hatter a public official. Kaplan and Karwath (1987) quote Hatter as saying, "They've had all this money all these years and have absolutely nothing to show for it.....You've got a bankrupt city. You've got rats. You've got maggots. It depresses me to go out there" (p. 1).

In contrast, the reality shows East St. Louis had little or no money at all to begin a rehabilitation project. An example of Bell's (1980) interest convergence theory, the East

St. Louis, Illinois 1987 HUD project illustrates interest-convergence factors that strongly influence racial policy decisions. The interest convergence theory posits the interest of Blacks will be served only when it converges with the interests of Whites (Bell, 1980).

These decisions appear on the surface to benefit minorities, but when carefully explored they reveal a cover for self interest, power and privilege of White dominant groups in America and specifically in the case of East St. Louis, Illinois. As made evident by its disparate impact, although the rehab helped to create improvements in East St. Louis minority housing for its minority inhabitants, it serves as an even bigger benefit for the awarding of millions of dollars in contracts to majoritarian owned companies. The community of East St. Louis, although privileged to have an industrious money making project within its borders, is left out while outside businesses reap the benefits. Any positive revenues possible for the school district and the student population which the district serves are reverted to outside business.

Delgado (1989) tells us situations such as that of East St. Louis turn social politics into competing stories. Help offered to East St. Louis came in the form of aid which offered a temporary bandage. In addition, the aid came equipped with a narrative locked deep inside. The narrative or criminality stock story is designed to justify remedies through the eyes of the majoritarian ruling class in aid of maintaining the status quo.

Both the remedies and the criminality stock story narratives are then super imposed on the lives and images of the minority group. The attempt at change of the status quo is then subverted, as the majoritarian group uses the criminality stock stories, widely held minority perceptions and narrative press to fend off any attempt at change. Maintenance of the status quo is then justified, as the State of Illinois abandons East St.

Louis and its issues. These issues also include those of school finance and quality of education.

Government officials offered finance assistance in the form of repayable loans, which were made available only under the conditions the mayor resign (Kozol, 1991). In the spotlight were criminally ridiculed city officials, most of which were Black. Blame was leveled and accusations of money mismanagement abound. Kozol (1991) writes, Thompson's response, said a Republican state legislator, "made my heart feel good...It's unfortunate, but the essence of the problem is the people"... (p. 9). Instead of being offered help to eliminate debt, East St. Louis was offered bond indebtedness which only created more debt to encumber revenues for future generations of leadership. Financial shortfalls were met with get tough politics to combat criminal conduct. These get tough attitudes typically accompany Black identity criminality stock stories, and are much like those tactics used to beat slaves into submission, subordination or excessively cruel and hard work.

The counterstories shared by actual residents are in stark contrast to those told by the media, government, and other members of dominant majority groups; which are also prompted and accompanied by the values and beliefs that justify their actions. These actions ignore under finance of education in areas such as East St. Louis and use age old stock stories to support their acts. In addition, these stories are used to gain the buy-in of other majority citizens. Solórzano and Yosso (2002) quote Delgado and Stefancic (1993, p. 462) concerning majoritarian narratives, they write,

"majoritarian" stories generate from a legacy of racial privilege, they are stories in which racial privilege seems "natural." Indeed, White privilege is often expressed

through majoritarian stories; through the “bundle of presuppositions, perceived wisdoms, and shared cultural understandings persons in the dominant race bring to the discussion of race” (p. 28).

The Black identity continues to suffer as a result of criminality stock stories and negative images which were socially constructed during slavery and continue today. Although these images are damaging to American’s social development and its people as a whole, their affects are particularly troubling when looking at how these stock story images shape self concepts for Black people. Having the effect of a double edge sword, racism affects both the public and personal images of Black people. Although absent of the word Black, the State’s get tough politics contain racially charged messages. Messages which imply the bad guys are to be dealt with swiftly and sternly. In true criminality stock story form, the bad guys are most often than not seen as Black. In the case of Illinois school finance, get tough attitudes imply the minority bad guys reap what they sew. For East St. Louis, that means the citizens are deserving of poor financial support and the inadequate educations that poor financial support provides.

Although the institution of slavery may have ended hundreds of years ago, the assumptions of White supremacy and privilege have continued to permeate both our everyday lives and the finance of our educational institutions. They continue because they are built into our institutions, our patterns of human behavior, and our cultural expectations. Institutional discrimination is more complex and much more difficult to combat than discrimination acted out by one individual against another individual. It is harder to combat because in many instances it is invisible to all but the most discerning eye. Set by our institutions to favor those of power and privilege, institutional rules and

regulations appear to be applied equally, when in fact they were set by the privileged for the benefit of the privileged. The court's refusal to recognize racism in its institutional form and its insistence on recognition only when attributed to one individual act, makes it impossible to exact punishment on institutional lawlessness.

The finance of public school districts in Illinois is no exception to America use of its legal system to define places and spaces for the preservation and protection of White privilege (Crenshaw et al. 1995; Solórzano & Yosso, 2002; Squires & Kubrin, 2005; Taylor, Gillborn & Ladson-Billings, 2009; Yosso, Parker, Solórzano & Lynn, 2004). Historically criminality stock stories help to fuel legal enforcement or in the case of East St. Louis, lack of enforcement of Illinois state statutes. Legal forces work to preserve White privilege to places and spaces in education in much the same way they have worked to preserve White privilege to these places in the past. This happens even when there have been laws written to prevent subjugation and exploitation of minority places and spaces. An example of lack of legal enforcement, of the laws which have been written to protect minority rights to equal education, includes denial of adequate and equitable rights to education finance in the case of *Lewis E. v. Spagnolo*. Denial of support by the state of Illinois in the finance of education is aligned with race. East St. Louis stands as an example of a place where many of these expressions of racial bias, maintenances of racial inequality and protections of White privilege take place. East St. Louis also stands as an example of how stock stories allow the system of White supremacy to go on unchecked and uncontested. Most important for this study it stands as an example of a place where expressions of racial bias, maintenances of racial inequality and protections of White privilege has taken place to preserve disparaging levels of

financial support for education and the denial of quality education higher levels of finance provides.

Not only do the knowledge sets, that are understood, or implied without being stated openly, contain Whites engaged in racist practices; but also the experiential knowledge of those in power contain ideology of privilege. These privileges are conferred through their positions of authority and they are designed to maintain that position of authority. The stock stories of minority area problems, like that of East St. Louis, contain under currents of White privilege that operate to pull minority viewpoints under with the forces of the centrality of Whiteness. In effect these stereotypes and stock stories imprison all those under its iron curtain of segregation.

Criminality stock stories when accompanied by tales of violence make it even easier to dismiss the area as unworthy of concern. The Los Angeles Times article (Simon, 2002) features a powerful blow meant to shed a negative light on East St. Louis as a contender for the site of a new Cardinals Stadium. Under the caption, A Struggling City Fights Perceptions, Simone (2002) writes;

.... Safety: A lawmaker's comment that the town is too scary to visit unarmed raises the ire of local leaders working to rebuild the area.... So it stung when a lawmaker from across the Mississippi River, in Missouri, recently slammed East St. Louis as too scary to visit unarmed. Dismissing talk that the Cardinals baseball team might build a new stadium here, Missouri state Rep. Jim Murphy told a TV interviewer that fans would never come. "To go over to East St. Louis," he said, "you'll have to get your rifle." (p. 1).

It then follows that these minorities deserve their state of poverty and wantonness. Not only do they deserve their state of poverty, but other citizens will do well to stay clear of the area. The fantasies, which fuel the stock stories of violence and criminality, are built on the aching backs of poor minorities. Stock stories which feature criminality, serve to scare Whites away from areas inhabited by Blacks, as they construct an iron curtain keeping Whites ignorant of the conditions which exist in these areas and help support public financial abandonment of the blighted minority areas.

Unchallenged and uncontested, the stock stories serve to silence the people who are being dominated. As described by the White majority, the places inhabited by minorities become a scary, dangerous, vile area filled with murder, mayhem, and other lawless criminal element. If the leaders of those areas happen to be Black, the stories dictate the areas are also controlled by the same criminal elements.

Stock Stories of Meritocracy

An example can be found in the generally held attitudes detectable in the speeches our political leaders deliver to their audience. For example, Rick Santorum's Huffington Post (2012) video featuring Santorum's "I don't want to make Black people's lives better by giving them someone else's money" speech. It is important to note candidates, who reach the level of campaign status held by Rick Santorum, have also acquired a substantial support base to get them to this level. Additionally, although many candidates might not outwardly express their sentiments concerning Black people so boldly and blatantly, the people these candidates represent in most cases hold similar views as those expressed by their chosen candidates for representation.

For example; although former Senator Rick Santorum almost went unnoticed in the beginning of the race for Presidential hopefuls, after many appearances and speaking engagements he later came within eight votes of winning the Iowa caucuses. In large part Santorum appealed to the states social conservatives by utterances of content which allude to the concepts of meritocracy, and reeked of negative concepts held concerning Black citizens (Huffington Post, 2012). At a campaign stop in Sioux City, Iowa; grand old party (GOP) campaigner Rick Santorum spoke to a mostly White audience.

That bright Sunday morning Republican hopeful Rick Santorum singled out Blacks as being recipients of assistance through federal benefit programs and too lazy or uninspired to work for their own money. In actuality and according to the U.S. Department of Agriculture's Supplemental Nutrition Assistance Program (SNAP) Data System (2011), there were 2,711 people receiving food stamps or SNAP benefits in the State of Iowa in 2011. Of those recipients approximately 9% of the people were Black, while 84% were White. Lastly, but perhaps most important for this study, are sentiments expressed concerning minority entitlement to equitable and adequate distributions of public funding. In this single speech Santorum espoused the strongly held sentiment of White entitlement to public funding. Dialogue concerning the state of public money in the Huffington Post (2012) quotes Rick Santorum as saying,

It just keeps expanding – I was in Indianola a few months ago and I was talking to someone who works in the department of public welfare here, and she told me that the state of Iowa is going to get fined if they don't sign up more people under the Medicaid program. They're just pushing harder and harder to get more and more of you dependent upon them so they can get your vote. That's what the

bottom line is. I don't want to make black people's lives better by giving them somebody else's money; I want to give them the opportunity to go out and earn the money. (p. 1)

Santorum's caucus night speech contains notes of meritocracy and hints of negative images of those in need of support from social programs. As noted in his previously mentioned speech he considers those in need of social programs to be Black. According to the Sonmez (2012) Santorum stated,

My grandfather taught me basic things that my dad taught me over and over again: Work hard, work hard, and work hard. And I think about that today...One wants to talk about raising taxes on people who have been successful and redistributing money, increasing dependency in this country, promoting more Medicare and food stamps and all sorts of social welfare programs...when the family breaks down, the economy struggles...They understand when families aren't there to instill values into their children and into their neighbors.... as good neighbors of fathers and mothers being part of a community, that the neighborhood is not safe.... (p. 1-3)

Santorum's references to work, work, and more work are utterances of the concepts contained in meritocracy. This supports the idea those who are willing to work can have what they want unhampered by roadblocks. In addition it should be noted Santorum mentions unsafe neighborhoods in conjunction with family values, social welfare programs, family break down and economic struggles. The message is those who are in need of social programs are Black. In addition, they are in this situation because they are not members of the traditional family unit, are poor and struggle, they as parents

who are neglectful and do not instill values into their children. Contained in this small example are the perspectives and references CRT counter storytellers work diligently to correct. Loaded with meritocracy, criminality and minority deficiency stock stories, the speech contains the key descriptions used to justify keeping the status quo, and allowing inequalities in funding to continue its negative effect on minority PK-12 student academic results in areas such as East St. Louis. CRT continues to be a strong tool for application, just as its tenets of centrality of race and racism continue to help reframe comments to help us understand their community effects on school funding and the stock stories contained in the rhetoric. For generations they have formed the bases for majority attitudes about who is and who is not entitled to adequate and equitable public school funding.

Hiding Behind Minority Deficiency Stock Stories

Deep inside the fleshy parts of the stock stories lie the hidden agenda of maintenance of the status quo and the continued support of White supremacy. Unfortunately, as a result of the minority deficiency stock stories those outsiders who listened to the conditions that surround the area are unable to view East St. Louis through open eyes. Legal, political and other factions operate to create the context in which the *Lewis E. v. Spagnolo* case was developed and situated alongside the story of East St. Louis the city. For example, most U.S. citizens generally think of governmental environmental agencies as protective forces organized for the betterment and safe keeping of the American citizen. However, the citizens of East St. Louis know a different reality. Minority deficiency is the rule of thumb. Much like the attempts of wildlife to inhabit some of the polluted areas in East St. Louis (U. S. Environmental

Protection Agency, 2001), these stock stories serve as poisons which act to kill or maim any life form which attempts to live, build, or otherwise perch on or near the polluted grounds. Poisoned by the doctrine which dictates all minorities are deficient and deserve the inhuman conditions in which they live; the cries of the down trodden minority are quieted to a whisper by the majoritarian shouts of minority ignorance, natural lack of ability, unworthiness and impossible to raise beyond their present status because of their natural defects.

For example, CRT tells us the protective tendencies of agencies such as the Environmental Protection Agency (EPA) diminish or cease to exist where those who are poor and minority are concerned. In addition, CRT espouses legality is centered on the privileged, and always reverts to Whiteness (Harris, 1993). Individuals who challenge forces that create environmental pollution must prove that they have been harmed, discriminated against, or disproportionately impacted by the imposed conditions and not the other way around.

Lee (1992, 1993) in his accounting of the proceedings at the First National People of Color Environmental Leadership Summit writes of the New England Environmental Law Society of Harvard University and their presentation of evidence of legal maneuvering by major corporations in the areas which surround East St. Louis, Illinois. Lee (1992) writes, although environmental laws make it possible for citizens to bring big corporations to task concerning environmental pollution, the people who inhabit polluted areas such as East St. Louis, are often poor and lack the resources necessary to fight and win the battles in the courts. In fact in many cases the corporations have found ways to shelter themselves from East St. Louis jurisdiction. The Harvard University

environmental advocates presented information showing most of the chemically hazardous plants, which surround East St. Louis, have created their own incorporated townships. These townships have few if any human inhabitants and are more like legal fictional areas which provide both shelter and immunity from East St. Louis scrutiny.

Facts like these are obscured from view as the city, where environmental agencies have found play areas where the hazards of lead pollution measures more than 10,000 parts per million (New England Environmental Law Society, 1992), struggles to raise healthy well educated children. Lead poisoning is known to have brain damaging effects (Center for Disease Control, 1978). These damaging effects change the conditions inside schools to include those who are mentally handicapped. Special needs children have greater needs. Districts containing children with greater needs cost more to educate. These factors create an even larger financial burden on a district already cash poor.

CRT tells us the differences in environmental quality between Black communities like East St. Louis and White communities come as a result of institutional racism (Crenshaw et al., 1995; Solórzano & Yosso, 2002; Squires & Kubrin, 2005; Taylor et al., 2009; Yosso et al., 2004). Institutional racism not only influences local land use, but it also effects enforcement of environmental regulations, the positioning of manufacturing sites, and where people of color live and work, as well as where their children play and are educated (U.S. General Accounting Office, 1983).

So ingrained in our collective psyche, that they are assumed to be normal, the stock stories of minority deficiency are often taken for granted. Supported by stock stories of minority deficiency, the roots of institutional racism are difficult to eliminate, they run deep and have been a part of America's tendencies toward racist behavior since

its inception. Much like a dramatic scene in a stage play, the scenes of *Lewis E v. Spagnolo* are played out on the stage of the Illinois Supreme Court with the actors arguing in their attempt to mitigate damages of school finance litigation. Put this is no made of fiction entertainment written to familiarize the audience with identifiable characters to both love and hate. Although intriguing in its circumstances, instead this is a real story which takes place not in a third world country, but on United States soil in the State of Illinois.

Historically relevant in all of its elements, the case again illustrates how easily America can turn a blind eye and render invisibility to the troubles of those who are both Black and poor. As pointed out by Ladson-Billings (2006c) as well as Solórzano and Yosso (2002); the narrative of those leaders who represent the dominant discourse contains multiple layers of assumptions. These assumptions are used to filter the discussion of occurrences which illustrate racism and the intersectionality of race and socioeconomic status. The majoritarian stories reframe incidences of unfairness to place them in social locations and normative situations of White dominant references. The end results are discussions of discourse which focus on the limited knowledge sets of the dominant group (Delgado & Stefancic, 1995). The discussion slants and distorts the experiences of those who live inside the places, spaces and geographic areas of injustice and inequality to create minority deficiency stock stories. For the purposes of this study, area such as East St. Louis remain under a cloak of distortions which hides their experiences inside the educational places and spaces subjected to low financial support and the unsatisfactory quality of education the finance levels provide. This writing offers counterstories in the hopes of redirecting our focus.

Student Statistics Stereotypes and the Minority Deficiency Stock Story

Minority area student statistics, from areas such as East St. Louis, so heavily relied upon by analyst, are often used to promote the concept of White supremacy. Creating the minority deficiency stock story of racial inferiority, student test score in geographic areas of concentrated poverty highlight minority deficiencies. In many cases these area stock stories portray an oasis devoid of parental concern, an area where the lack of both commitment and involvement in the promotion of the welfare of their children's educational success help to fuel the low academic achievement and high incidences of disciplinary actions (Bonilla-Silva, 2009; Lopez, 2001; Trumbull, Rothstein-Fisch, Greenfield, & Quiroz, 2001). These minority deficiency stock stories not only emphasis social or cultural deficits but they also portray cultural conflicts.

Yosso (2005)'s cultural deficit model demonstrates how school stakeholder groups attribute minority students academic low achievements to characteristics often found in student family structures, cultures and communities. Cultural deficit models use research grounded in a majoritarian held perspective which blames the minority victims of institutional racism. Blaming the victim for conditions completely out of their control, these tactics set up minority students and their families, communities and cultures to accept the accountability for all of the failings of a system which is setup to their detriment.

Indications of deficit thinking and usage of cultural deficit model are present in the 1968 study of preschool preparedness done in East St. Louis, Illinois. Bittner, Rockwell and Matthews (1969) conducted a research project conducted with the joint authority of Southern Illinois University, the city of East St. Louis and the Center for the Study of Crime, Delinquency and Corrections. The study consisted of five groups of

children, who were tested and followed through their entry into first grade. The experimental groups were selected according to their participation in a yearlong Preschool Readiness Center program, their attendance in a summer Head Start program, and whether or not these low income children were without previous preschool experiences. The results of the study centered on parental participation. The study discovered that children whose parents did not participate in the programs demonstrated the poorest test performances.

Highlighting those things study observers noted as cultural deficits like language, and recognition skills, this study documented the children's abilities through a lens which explained the underachievement among students of color and students from lower socioeconomic East St. Louis schools, by centering location of the problem within the students themselves, their families and their East St. Louis, Illinois community (Bittner, Rockwell & Matthews, 1969). These blaming the victim tactics come equipped with negative stereotypes, majoritarian stock stories and assumptions regarding both the minority groups and the communities in which they live.

Assumptions concerning minority groups continue to inform our public institutions, governments, schools, churches, as well as our private and personal lives. Corresponding to no reality of scientific discovery, when these assumptions come in the form of the genetic determinist model, widely held deficit thinking is attached to false perception of biological or genetic differences. Human characteristics are then sorted into racial categories that society invents, manipulates, or creates for their own convenient or advantage (Delgado, 1989; Solórzano & Yosso, 2002).

Although our differences constitute a very small portion of the genetic pool of characteristic; those human characteristics, that make outward easily detectable appearances of the minority groups different from the White majority, cause them to be sorted into White versus non-white or minority categories (Solórzano & Yosso, 2002). These differences have nothing to do with hierarchy in intellect, personality traits, moral judgment and behavior characteristics, majoritarian society chooses to ignore scientific evidence. Instead they create racial attributes which contain permanent deficit characteristics. In turn society develops different levels of acceptance for minorities with these unreal, irrationally assumed characteristics. In the case of education the results are seen in the form of society's racial unequal treatment of minority for finance and support of quality education (Lynn, Yosso, Solórzano & Parker, 2002; Solórzano & Yosso, 2002).

The stage is then set to gain buy-in for ignoring the problems, refusal to take responsibility for any teacher or administrator triggered failings, and to maintain the status quo. Cultural deficit models overlook the root causes of failing education systems by blaming local areas and their populations for issues which arise in their learning communities. Framing the problem as one which centers on the students, families and the communities in which the students live; allows the formation of remedies which look first toward majoritarian preconceptions of minority cultural deficiencies. These solutions are rooted in racist viewpoints and created as a result of perceived student propensity to underachieve. As a result the solutions fail to effectively address district and individual school problems (Delgado Bernal, 1998).

Dispelling Minority Parental Deficiency With Counterstories

Helping others to experience the personal degradation of racial oppression and the increasing minority discourse concerning East St. Louis Schools, Elfredia Wright-Brown shares her counterstory through participating in the East St. Louis Photo Gallery and Blog. Wright-Brown (2011) writes,

I too was born in St. Mary's Infirmary in St. Louis in 1947, but was raised in ESL. I loved growing up in ESL. I have a long story to tell about my upbringing the the 'Boogie'. I was raised in the 2200 Block of Tudor before moving to 2605 Market St. ...My mother Mary Wright is my true she-ro. When I graduated from Alta Sita Elementary School, they had boundaries as to where we could go to school. At that time the only schools we knew about were Rock and Hughes Quinn. Well, the black students were shipped to Hughes-Quinn and the caucasian went to Rock. I was very dissatisfied with this because I had never gone to an all black school and felt out of place. I began to act out because I didn't want to be there (no smoking or drinking, just disrespectful to Mrs. Quinn and other teachers). I told my mother I would rather go to reform school than to go to that school another year. Weeeelllll, in 1960 my mother led a team of 4 other mothers in the Alta Sita District(Mrs. Stallings, Mrs.Rodgers(caucasian), Mrs. Allen, T-Pearl)to fight the School Board of Dist 189. They were on the news and had newspaper acknowledgements with pictures. They picketed that school for an entire summer just to get the 'less fortunate' as they called us, into a better school. The principal at the time was Mr. Compton. They called police to the school to put the mothers out, they would lock the doors so they could not enter, they were

called names - all to no avail because these mothers did not stop the fight. One news reporter asked my mother was she involved in politics or any other group and her answer was 'no, I'm just a mother who want my children to get a better education than I did'. My mother had an 8th grade education while being raised in Paducah, KY. To make a longer story short, John Sturgenal, the Superintendent of the district, called the school with a proposition for dear mom. She was told by the principal that the superintendent said they could take her daughter (me) and 5 others but no more. This little 5'0" woman stood her ground and with a grin proudly answered 'NO', you have to take them all. Thus the era was started for negro children from the Alta Sita District to attend Clark Jr. High School. I graduated from ESide in 1965 and felt more than proud of my mom. Because of her, my brothers, my children and others were able to attend a school that was masked by the Board. (13-Aug-2011 18:43)

This counterstory exemplifies the cumulative impact race and racism has on both the individual and the group. Wright-Brown's (2011) counterstory shares the pain and determination felt by a Black mother in her fight for a better education for her children. Counterstories like these dispel the stock stories which contain mythical parents unconcerned and disconnected from their children's educational success. This counterstory set in East St. Louis, unlike the minority deficiency stock stories told, illustrates a profound determination to secure quality education not only for her own children, but also for an entire community of children. It shows a strong conviction and willingness to risk being jailed for what parents see as one of the keys to a better life. Additionally, the shared experience from the perspective of the student allows a window

into what Black children feel as a result of being corralled like a heard of sheep into categories which separate them and sort them according to the color of their skin.

Although majoritarian stock stories may contain the remnants of dominant group rhetoric and claims which mask self interest, power and privilege of the dominant groups, examples of strength and minority conviction can be found in the counter stories offered by East St. Louis citizens. For example Ceille (2012) writes,

My name is Lucille Suggs(Maiden. I remember so much of what many are describing in the city which I was born (1950)and raised in. I was born at home @1242 Kansas which has been plotted over a long time ago! My parents were Booker Suggs Sr. and Pearline Hunter Suggs I once heard the song which described East St. Louis and it's people as, "Something inside so strong." I miss what we had growing up with community. I pray and hope that if we believe it is God's will, there will be a New Birth of the "Boogie" which we all loved and remember. With my faith and yours, it can happen.ceille60@hotmail.com.
(06- Jun-2012 04:41)

Counterstories like this one offered by Ceille (2012) are ways to attack the racial inequalities that remain prevalent in American society and show themselves inside institutions like East St. Louis schools. Helping to dispel the fallacies used to prove a lack of entitlement, theses real life experiences show a group of people hungry for quality education and proud of who and what they are. Ceille (2012) shows how minority student learning communities sometime fail to recognize cultural capital , such as resiliency and what Ceille (2012) describes as ‘Something inside so strong’, that minority students from areas such as East St. Louis often bring to schools.

Helping to show the true experiences of the minority, counterstories help to dispel the misconceived culture transmitted by the stock stories which depict the lazy, lackadaisical, uninterested minority. Too often these false images work to reinforce the racist status quo and support justification for the majority to do nothing to change the unequal and inadequate funding streams for places such as East St Louis, Illinois

Not only does the counterstory help us to understand the level of minority parental commitment, but it also makes clear the connection between spaces and places in the valued arenas of schools. The stereotypes contained in the stock stories hamper minority children's self-concept and their ability to both see their brilliance and act to become high academic achievers (McKay, Doverspike, Bowen-Hilton & Martin, 2002; Steele, 1997; Steele, Spencer & Aronson, 2002).

Unfortunately for minority students being educated in these places and spaces; the stock stories of uninterested, uncaring, and uninvolved minority parents make it easy for both outsiders and government officials to accept the academic results of minority groups (Lopez, 2001; Yanghee, 2009). These academic results accompany minority deficiency stock story claims of parents who get nothing out of it because they put nothing into it. The stock stories justify maintaining the status quo and contain major elements of the concepts contained in both meritocracy and minority deficiency stock stories, as they support the maintenance of White superiority.

Hiding behind Bell's (2004) "silent covenants" (p. 69) and the clock of meritocracy, White supremacy, and stock stories; these conditions have been allowed to languish for decades inside the asylum of places and spaces such as East St. Louis, Illinois. Unfortunately for the children who are educated in these districts, there is a

reality which lurks inside the walls of the school for such parents. Often these minority parents are made to feel like unwanted intruders. The schools their children attend feel like an alien environment, a place where parents do not feel at home and a place where parents are made to feel as if they do not belong. As a result, these parents may stay away and chose to instead concentrate efforts to help their children excel in education through operating along the fringes of the formal school environment (Lopez, 2001; Yanghee, 2009).

These same stock story supported analyses, when preformed to portray areas of concentrated poverty such as East St. Louis, just consider race and achievement. They only consider race, instead of how race, areas of concentrated poverty, gender and school funding interact to create conditions. Statistics which combine emphasis make it clear statistics which highlight race must be accompanied by all other phenomenon which makes conclusion and direct application effective. Crenshaw et al. (1995), recognizes race, areas of concentrated poverty, and funding patterns as important components of student success.

Under the tenets of centrality and intersectionality, CRT informs racism as endemic to life in the United States. In the case of *Lewis E v. Spagnolo*, the tenet of centrality of race and racism help us understand how a group of American citizens would be allowed to languish under such circumstances and remain unaided, ignored and ultimately be rendered invisible. In its interpretative format, CRT tells us racism is so normalized the associated conditions and behaviors go unnoticed and unaddressed.

To illustrate historical normalization of the criminality stock stories and social acceptance, as written by Rudwick (1965), we start with the holocaustic crimes as

committed during the 1917 Race Riot of East St. Louis and the fact that for the most part they went unpunished. In other words, they went unpunished in proportion to the number of Blacks that were killed or maimed. Criminality stock stories dictate Blacks have an inbred criminal nature and deserve the acts of brutality committed against them. Please remember the bloody historical accountings of Blacks who were attempting to flee White mob violence only to be stoned to death by groups of White children waiting on the shores of the water way. Both public opinion of Blacks and legal determinations of punishment contain the spattering of Black criminality stock stories. If not that example, let's look at the example noted in the riot hearing transcripts concerning the police department's response. White men were allowed to walk unhampered from the police station, even after reports of their crimes were confirmed by eye witnesses. The legal actions support the contention Blacks are criminals and are deserving of violent acts they are subjected to. Additionally, legal transcripts contain records of Blacks being shot, hung and maimed not only by the East St. Louis police department, but also by the National Guards men who were supposedly sent to keep order (Rudwick, 1964).

Criminality stock story driven behavior dictates Blacks are subhuman and should be treated accordingly. Instead of seeing the reality, which shows historically Black people are much more likely to suffer violence at the hands of Whites; America's moral majority thinks it is the other way around. How many times have Blacks watched White women clutch their purses as groups of minority youth walk near them? These actions indicate Black youth are something to be feared and should not be allowed anywhere near areas where good decent White people live. These acts as indicted by Solorzano, Ceja and Yasso (2000) are labeled microaggression. Although the acts of clutching ones purse

may be subtle, they continue to damage the self concepts of those subjected to the silent insults. Solorzano, Ceja and Yasso (2000) label them and write, “the subtle insults (verbal, non-verbal, and /or visual) directed at people of color” (p. 60), hurt Blacks overtime.

Behaviors, exhibited unconsciously in most cases, help indicate the criminality stock stories of the violent animalistic Black culture are alive and well in their destructive form. Both the criminality stock story and minority deficiency story suggests Black children are subhuman and are being reared by neglectful uncaring parents who teach them to be lawless. In addition, because their parents don’t value them, it stands to reason these children are part of the criminal element, deserve to be ignored by society and will never prosper. All of these conditions are created to justify the reactions of our institutions. The children and their conditions are rendered invisible and unworthy of governmental effort and financial resources. In the case of Illinois’ PK-12 funding it gives justification for neglectful school funding support systems.

Counterstories Redirect Our Focus

The next step, in our journey to illumination of realities of injustice and the mindset that helps to allow the conditions of racism, invisibility, and school funding inadequacy to continue, is to review the historical actions of White disregard for the law in East St. Louis. The Black citizens of East St. Louis are aware when their civil rights are being violated. However in many cases Black citizens realize the law will not be on their side as they point the circumstances out to authorities. Transcripts, as recorded by the Illinois State Commission to Investigate Living Conditions of the Urban Colored Population (1940), contain testimony concerning discrimination in the administration of

programs designed to bring relief from poor conditions, segregation in school systems, violation of state civil rights laws, discriminatory employment practices, activities exercised by police and labor unions designed to restrict membership. In addition, the transcripts reveal discriminatory attitudes and practices of law enforcement officials. As written by Rudwick (1965) concerning conditions 30 years after the 1917 riots,

a local Negro lawyer, testifying before an Illinois legislative committee, reported that although the state public accommodations law was still flouted in East St. Louis, Negroes contemplating civil rights suits were warned by white residents — and even by some Negroes — that legal action could trigger another race riot. (p. 5)

Powerless in many cases to act against racism; East St. Louis' poor minorities are not only keenly aware of their circumstances, but also painfully aware of how the legal system works for them. Race and racism are key factors in explaining the experiences of people of color. In addition, the tenet of centrality and intersectionality of racism tells us these experiences are often associated in conjunction with more than one characteristic (Taylor et al., 2009). In the case of East St. Louis the experience was in response to low socioeconomic status and race. These are characteristics which when grouped create people easily made to be both silent and invisible. The public schools of East St. Louis have experienced low academic achievement results for years. Although these conditions have been well documented, the conditions of low academic achievement have continued to exist for decades (Illinois State Board of Education, 1990-2012).

Counterstories redirect our focus toward historical patterns of institutional neglect while providing a powerful tool for analyzing, exposing and challenging majoritarian stock stories. As suggested by Delgado(1995) as well as Delgado and Stefancic(2001),

personal accountings allow readers to be inserted into the emotions, feelings and realities of those most affected by the inequalities and inadequacies of East St. Louis, Illinois Public School finance. CRT espouses the virtues of the centrality of experiential knowledge, as it emphasis its usage in uncovering the ills of disparaging levels of Illinois school finance

Lifting the Veil of Criminality and Minority Deficiency Stock Stories

In its attempt to contribute a counterstory through the eyes of the Black female, this study offers the experiential knowledge of present and former Black female East St. Louis citizens. A Black female former resident, who identifies herself as RE contributes to the East St. Louis Photo Gallery and Blog. She (RE, 2013) writes,

As a child in the fifties and sixties, I would hear stories on the TV news about racism, and discrimination, but I never experienced it directly until I left East St Louis. Everyone in my community, except for a few businesses like Ohio Market, Coffmans and a few other stores, were all was Black. There were many Black businesses back in the day, and there were no other type of people that lived in my neighborhood. I remember having a real sense of community back then. I knew everyone in my hood and we all got along well. No one had bars on there windows, or doors, because we were safe at home in our neighborhoods I wish somehow I could share with the children that live there today the feeling of security that came with living in East St Louis back then. (March 28, 04:57)

Another former resident Yvette Caldwell-Peals (Caldwell-Peals, 2012) writes,

I moved to EStL in the early 60's from Chicago, Illinois. It was the happiest day of my life to leave the windy city..... The families I remember by name is the Ewings, Wilson, Davis, Eugene McGee and his family, Rev. Lyles, Wilsons, Jones, the Browns, and the white girl named Donna. She was cool with everybody on the block. I remember being able to walk the streets at night and sleep on your porch with the t.v. on and no one bothered you.

(November 12, 21:25)

People who live in these areas know a quite different story from the criminality stock stories of the majority which contain the myths of criminally predisposed dangerous minorities living in the ghetto. RE (2013) writes “No one had bars on there windows, or doors, because we were safe at home in our neighborhoods”. In addition, the citizens of East St. Louis see a city where most business owners are Black. Personal accountings of successful Black business in the area, helps to debunk the stock stories of minority deficiency, while accountings of Black-White relationships between neighbors show Blacks welcoming toward White neighbors. As written by Caldwell-Peals (2012) “the white girl named Donna. She was cool with everybody on the block”.

The study of CRT tells us once people have learned about a negative condition that keeps them oppressed; they can reframe their thinking to see the possibility of changing the condition of the oppression, and use the telling of their stories to help others understand the effects of the stock stories and negative policy (Bell, 1980; Solórzano, & Yosso, 2001, 2002). This study hopes to aid in seeing the possibilities.

Race scholar Goldberg (2000) tells us a society which is driven by differences both feels comfortable forming its thoughts along the racial divide and unquestioningly

assumes racialized knowledge as fact. Focusing this phenomenon on education finance inequality, Ladson-Billings and Tate (1995) suggested educational inequalities were "... a logical and predictable result of a racialized society in which discussions of race and racism continue to be muted and marginalized" (p. 47).

Unfortunately, the comfort in creating invisibility comes from views that others groups have concerning minorities. They contain the constructs of the ways the dominant discourse describes minorities and minority behaviors. These stock story concepts are social constructs, which have been formed by the majority. The dominant culture has agreed that these constructs are true because they have heard them over and over for decades, they are supported by the law and they seem to be true according to the majority experience or arguably their lack of knowledge of the minority experience.

Viewpoints given in the Black vernacular tradition contain counter stories. In many cases these stories offer accountings of the Black cultural experience and contain perspective on how the properties of the Black experience interact with White dominance (Solórzano & Yosso, 2001). As an integral part to the analysis of the finance of minority education, experiential knowledge appropriates the understanding of racial inequality in the *Lewis E v. Spagnolo* case. Contrary to the stock story suggested by former Illinois Governor James Thompson and a Republican states legislator, whose comment condemning East St. Louis citizens with statements like, the essence of the problem is the people; local residents and former residents alike shed a very different light on the subject. Jennie, a former East St. Louis resident, made an entry into the East St. Louis Photo Gallery and Blog. She (Jennie, 2013) writes,

For most of the 7 years I lived in ESL I was not afraid. As another post stated, we were poor but did not know it! We had so much fun! I lived in the Griffin Homes and attended Lansdowne Jr. HS 1967-70. Some of the great memories I have are of the “woods” at Griffin Homes. There were so many pathways and secret hangouts there. Teams could be rounded up at a moments notice for playing softball or hide and seek, or slip n slides (in the grass). There were a few times when the field near the Homes flooded and the kids would wade and swim or boat across our temporary lake. We didn’t know at the time that it was the sewer drainage pipes had been overloaded by the rains LOL.

(August 26, 2013at 17:28)

Unlike the reality revealed by people like Jennie, the stock stories associated with East St. Louis contain the construct of both criminality and meritocracy, and racialized myths that blame the victims for the area’s inhuman living conditions. In many cases the personal accountings of minorities contain statements which support their lack of knowledge in the case of environmental hazards and cause of negative conditions. As written by Jennie (2013), “the field near the Homes flooded and the kids would wade and swim or boat across our temporary lake. We didn’t know at the time that it was the sewer drainage pipes had been overloaded by the rains”.

The negative perceptions of the majoritarian stock story create stereo types that are reinforced by institutions and institutional racism. These institutions emphasis and enforce negative consequences for conditions which are completely out of poor minority control. The consequences and the fanfare they produce shift the responsibility of the problems toward the previous actions of the group suffering through the negative

conditions. In the case of finding justice for school equity and adequacy, stock stories create groups for entitlement. According to the stock stories, there are those of minority status who are poor and responsible for their wanton state. On the other hand there are those of majority status who have worked hard and are deserving of their prosperity.

East St. Louis Summary

The conditions found in the community of East St. Louis are more than an issue of low family income. This population of majority Black people are disadvantaged along multiple dimensions of racial inequality, which illustrates CRT's tenet of intersectionality. Issues, which relate to health, the brownfields, public service and employment opportunities are only a few aspect of disadvantage. Ladson-Billings and Tate (1995) makes it clear that race has in the past and continues to be "a significant factor in determining inequity" (p. 48). Racism is neither abnormal nor is it individualistic. Instead it is endemic and embedded. Its functions are multidimensional and they structure the way we think. However, racism's influences can many times be invisible. In the case of East St. Louis public schools the embedded endemic multidimensionality includes perpetuation of the unequal funding of minority schools.

Although the examples which show racism as a major component in the exclusion or inclusion of entitlement to funding for Illinois PK-12 schools may be invisible to the majority, the incidences which present themselves are forever detectable by minorities. These inclusions compile the stock stories contained in the rights and privileges to public funding sources. They have as a support system the concepts of centrality of Whiteness and the permanence of racism, meritocracy, the challenge of race neutrality, expansive

reviews of reform, today's outcome based school policies, and negative perceptions of minorities.

CRT's challenge to dominant ideology, the centrality of experiential knowledge, the perspective of interdisciplinary study, and a commitment to social justice, these challenges helps make clear the stock stories contained in descriptions of areas such as East St. Louis, which contain exacerbated social differences, are not factual. According to Crenshaw et al., (1995), using CRT as an "analytic tool through which we can understand social (and consequently, school) inequity" (p. 48), can help us see how racism has contributed to all conditions of group advantage and disadvantage.

It also aids in the school finance inequality and inadequacy being experienced by populations such as East St. Louis. With racial differences in wealth, urban blight, brownfields, and loss of industrialization all being conditions over which the poor minority occupants of East St. Louis have little or no control, racism can particularly be invisible to those who hold both power and privilege (Bell, 2004; Harris, 1993). Stock stories, told by the majority, like those of Santorum can help to silence minority voices. Solórzano and Yosso (2002) write in support of the primary goal of CRT. A view also supported by Crenshaw et al, (1995) and Matsuda et al. (1993); Solórzano, and Yosso (2002) recognize counterstories as a transformational force which helps to reframe those "structural and cultural aspects of education that maintain subordinate and dominated racial positions" (p. 25).

Although the criminality, meritocracy and minority deficiency stock stories, which contain negative images of people of color, may depict a population of lazy shiftless dishonest Blacks, who are uncaring parents and lack human intelligence; the

counterstory repeatedly shows meritocracy is a fallacy and should instead be replaced by the community impacts of seclusion and victimization. East St. Louis is an area of concentrated poverty inhabited by industrious, community minded people who have been rendered invisible by those in a position to help. East St. Louis' former female residents like Jennie, RE and Yvette tell us a story of a safe, nurturing, supportive community inhabited by majority people of color. Unfortunately, people of color must repeatedly prove themselves law abiding, hardworking, human and decent in their attempt at equality. This study uses a counterstory to deliver proof of entitlement to quality public education and the funding which supports it. Additionally, as Henry Louis Gates reminds us in his narrative of Streeter's (2013) historic DVD, "America's minority citizens, historically and in the present must continue to hold our nation to its ideals. Even when our nation abandons us!" As this study works to expose those stock stories which impact minority public school funding, it offers a counterstory for review of East St. Louis' *Lewis E. v Spagnolo*. The counterstory reveals the impacts, outcomes, results and consequences of East St. Louis' poorly funded public school system.

All of these minority conditions contain a Molotov cocktail designed to disable and destroy. Most importantly for this study it contains the ingredients which when combined create the conditions of PK-12 school funding inequality and inadequacy found in places such as East St. Louis, Illinois; and tell a story about school funding in Illinois. With stock stories, area conditions, public sentiment and government already stacked against the heavily Black population; East St. Louis, Illinois enters a legal battle in 1999 asking for fairness in PK-12 school funding in the *Lewis E. v Spagnolo*, 710 N.E.2d 798 (1999) Illinois Supreme Court Case.

Finding Stock Stories Through IRAC Analysis

Government Intervention and Discovery Through Facts

Just as CRT assumes the responsibility of analyzing, deconstructing and transforming the relationships in race, racism and power for the better; the analysis of the case through the IRAC method found elements of stock stories and community inspired counterstories to reconstruct and transform views. With both CRT and the IRAC method being applied to area analysis, as well as the consequential governmental responses; both the theory and IRAC analysis finds East St. Louis' predominantly Black inhabitants, although well aware of the dangers inherent in their environment, are poor and almost powerless to act against industry and a government whose legal benefits are disproportionately favorably applied to Whites. The three stock story themes continue to be those of criminality, meritocracy and minority deficiency.

When viewing circumstances through the eyes of legal intervention in the case of *Lewis E. v Spagnolo*, the government is blind to their suffering and in agreement with the stereotypes contained in the stock story themes of criminality, meritocracy and minority deficiency. In addition, because the majority of Illinois' government officials hold Whiteness as property, they have a greater interest in maintaining the status quo. As the three major stock story themes continue to be illustrated using the IRAC method of analyzing the legal case; again they illustrate the continued support of the status quo and the continued lack of adequate financial support for East St. Louis's community school system.

The facts, as gleaned from a Stanford University Report which highlights elements of the case through The Youth and Education Law Project (YELP) of the Mills

Legal Clinic at Stanford Law School, and from the Demurrer to Complaint for Declaration and Injunctive Relief (DCDIR); show the manner in which the court views and presents the key elements found in the case (RG10515768) (Supreme Court of the State of Illinois, 1999). Where applicable, this study refers to Spagnolo and the State Board collectively as state defendants and Jenkins and District 189 as local defendants.

According to the (DCDIR)(RG10515768), the plaintiffs are eleven children; who are in attendance at East St. Louis, Illinois' public school District 189. The plaintiffs contend the Illinois State Constitution "grants them the right to a "minimally adequate education," which they allegedly were denied" (Supreme Court of the State of Illinois, 1999). Using a laundered format, for illustration of the facts, Illinois courts illuminate none of the extenuating circumstances in the case of *Lewis E. v Spagnolo*. It is the equivalent of allowing all three stock stories to remain present in the minds of the court untouched, unheard and undisputed by the counterstories.

Stating the Issues

The plaintiffs allege the defendants have deprived them of a minimally safe and adequate education. Plaintiffs assert the District 189 education system neither provides a high quality education as required by the constitution, nor does the system provide a minimally adequate education. At issue are five major points. They are as follows:

- Issue one asks the question has the State and local defendants violated the education article of the Illinois Constitution (Ill. Constitution 1970, art. X, § 1)?
- Issue two asks has State and local defendants violated the due process clauses of the Illinois Constitution (Ill. Constitution 1970, art. I, § 2)?
- Issue three asks has State and local defendants violated the United States

Constitution (U.S. Constitution, amendment V)?

- Issue four asks has the State and local defendants violated the School Code (105 ILCS 5/1-1 (West 1992))?
- The fifth and final issue asks the question, has the State and local defendants violated Illinois common law? *Lewis E. v. Spagnolo*, 710 N.E.2d 798 (1999)

Again, the issues as stated by the courts are constructed in a manner which keeps stock stories, as told by the media and as generally assumed by the White majority in their original form. The stock stories remain unspoken and unchallenged by the courts. As a result of not being attributed to one identifiable individual or group of individual, the issues are neutralized and the stock stories of meritocracy, criminality and minority deficiency continue to be illuminated by media. Assumed conditions remain undisputed facts contained in our social fabric.

Stating the Rule of Law

The plaintiffs bring these charges under the Illinois Constitution, the Illinois School Code and the U.S. Constitution, each one of which guarantees the children of the State of Illinois an adequate public school education and a safe environment. In addition the plaintiffs “also invoke the concurrent jurisdiction of the Court and bring their Federal Constitutional claim pursuant to 42 U.S.C. §§ 1983 and 1988” (*Lewis E. v. Spagnolo*, 710 N.E.2d 798 (1999)).

As specified in Article X section 1 of the Illinois State Constitution (Ill. Const. 1970, art. X, § 1) (Lousin, 2011), “[a] fundamental goal of the People of the State is the educational development of all persons to the limits of their capacities” (p. 211). The state shall provide a system which performs or functions in the best possible manner, of

high quality and be free of charge for both primary and secondary schools to educate the students of the state. In addition, the State has the primary responsibility for financing this system (Lousin, 2011).

Additionally, the complaint charges the defendants with violation of the due process clause of the Illinois State Constitution (Ill. Const. 1970, art. I, § 2) and the United States Constitution (U.S. Const., amend. V). The due process clauses of both the federal and Illinois State Constitution protects against the deprivation of liberty or property without due process, and protects against abuse of government authority.

Because the law only allows these protections to be protected when a constitutionally protected liberty or property interest is at stake and the act of denial is attributed to an individual or an identifiable group of individuals, the act of discovery offers no remedies. In addition, if an established legitimate claim of entitlement to that liberty or property cannot be pinpointed the claim is rendered indefensible by the court . Additionally, the complaint accuses District defendants of violating common law duties owed to the plaintiffs. Finally, they invoked the Illinois School Code (105ILCS 5/1-1 (West 1992)) (*Lewis E. v. Spagnolo*, 710 N.E.2d 798 (1999)).

In its court dictated form it presents itself as an indefensible laundered support statement which leaves the stock stories unstated. Theses stock stories of criminality, meritocracy and minority deficiency dictate the wanton state of minorities has already been established by society to be of their own making. It then supports the views the courts should offer no remedies for those who are lawless, as indicated throw media stock stories and as supported by historical views. In addition, stock stories indicate minority parents to be uninterested in their children and unsupportive of education attainment. In

support of the stock stories, the court's refusal to help by spending more money to educate minority children is totally justified. Criminality, Meritocracy and minority deficiency stock stories declare minorities unworthy of financial support and the help that legal intervention allows.

Analysis of the Law in Light of the Facts

Charging the State and local defendants violated the education article of the Illinois Constitution (Ill. Constitution 1970, art. X, § 1), the facts as constructed by the courts show many examples of how the State of Illinois did not "provide for an efficient system of high quality public educational institutions and services", in East St. Louis' case. Plaintiffs charge the defendants with not only failing to provide an efficient system, but also knowingly allowing conditions and services to deteriorate for decades. They contend in comparison, District 189 provided one of the worst school systems in the nation. The many abhorrent conditions tolerated by the State of Illinois include decades of failure to maintain school buildings and grounds. Evidence included constant flooding in the basements of school buildings. These flood waters contained raw sewage which posed health hazards to district students.

CRT's racial analysis can be determined through a lens that examines the structural impact of PK-12 education. The charges contain evidence of academic results concluding gross defects in district wide cultural support, curriculum and student learning support mechanisms. The district's evidence ranges from the lack of academic support, which violates the states measure of human decency; to the lack of integrity demonstrated by the State of Illinois. As made evident by per pupil spending, there is additional evidence of the State's neglectful financial support.

In addition, negligence includes failure to provide instructional equipment, patterns of teacher services, staffing deficiencies and failure to protect the safety of district students. Safety negligence on the part of the state indicates adequacy measurements were unmet. Although reporting mechanisms were in place for State monitoring of district activities, the district has been allowed to languish in the condition of unmet needs for decades.

Article X section 1, of the Illinois State Constitution, contends the state shall provide a system which performs or functions in the best possible manner of high quality. All indications point to failure to meet any reasonable measure of the standard of high quality. For the critical race theorist, the measure of a high quality system could be measured as an instrument of social reality. In this case it can be constructed through the formulation and the exchange of counterstories about the individual experiences of East St. Louis, Illinois citizens. These counterstories serve as interpretive tools which not only help others to see the inside effects of negligence on populations of concentrated poverty, but also work to create order within experiences. In direct contrast, conditions of neglect work to propel and reinforce structural and institutional racism. The conditions of neglect serve as proof of the damaging effects of the stock stories of criminality, meritocracy and minority deficiency.

In addition, charges allege the State and local defendant's violation of the due process clauses of the Illinois Constitution (Ill. Constitution 1970, art. I, § 2). The facts sighted by the prosecution alleged the defendants deprived the prosecution of liberty or property without due process of law. The facts show conditions which indicate, by the courts upholding of the decision in Committee of Educational Rights, 174 Ill. 2d at 28-

29, 220 Ill. Dec. 166, 672 N.E.2d 1178, the court is not allowing the plaintiffs to proceed and is through its actions blocking any attempt to address issues of inadequacy and equity. Inequity can easily be documented in the statistical and demographic data of District 189 through its levels of concentrated poverty, acquisition of levels of educational, as well as life chances such as high school dropout rates, suspension rates, expulsion and percentage of population incarceration rates.

The next allegation charges the defendants with violation of the United States Constitution (U.S. Constitution, amendment V). Protecting against abuse of government authority, the Amendment V is part of the Bill of Rights. Critical race theorists argue that analysis is situational. In addition those policies and procedures, which protect the disproportionate applications of government authority, are legitimate but yet mostly they are used discretionally. As a result of the discretionary usage which reverts to Whiteness, any challenges which are made to the status quo are very difficult to successfully execute and the stock stories remain unchallenged and undisputed.

Plaintiffs charge the State and local defendants with violation of the School Code (105 ILCS 5/1-1 (West 1992)). This code covers many issues from evaluation of staff, educational student achievement records and mail to powers granted public schools. With its tendencies toward institutional bias, CRT presents institutional racism as an example of how the courts will support bias against all non-Whites. This will happen no matter the written legal expression to the contrary. In addition CRT contends the court system as a major U.S. institution, will without exception support any activity which keeps White privilege intact. Although the examples of violation of School Code (105 ILCS 5/1-1 (West 1992)) may be clear to anyone with a reasonable ability to discern noncompliance,

the court system's support of inequitable outcomes in the case of non-Whites have been consistently observed in their rulings for decades.

The final issue charges the State and local defendants with violating Illinois common law. These rules of conduct and violations focus on what is considered decent human behavior. As a precursor to common law violations, the laws must be recognized as valid standards in the Illinois jurisdiction. Because these violations have been developed entirely by the courts over the years and there is no actual legislation in support of enforcement, determination can be largely left up to the interpretation of the court. From the examples of inhuman conditions contained in the case, it looks as if the conduct and violations focus on what is to be considered decent human behavior between responsible State and district leadership and the student population. Reasonable persons would expect the State and the local school district to provide conditions that are not so glaringly substandard. In this case conduct, that would be considered decent human behavior, would include students being educated in structures which are structurally safe, which provide adequate exits, which do not constitute a fire hazard, and are in general not dangerous to human life. In addition, decent human behavior would not subject students to buildings, which in relation to existing use as a public school building, constitute a threat to health or public welfare.

In the case of East St. Louis all these conditions were present. They are the direct result of dilapidation of the buildings, inadequate maintenance, obsolescence and the presence of glaring fire hazards. All these conditions can be traced to inadequate funding, and can be traced to isolation, concentrated poverty and racism. The presence of racism can be analyzed through a lens that examines the structural impact of education or school

settings and the historic isolation of East St. Louis, Illinois' Black populations. In addition, the facts of the case illuminate unsatisfactory differences in economic support, as illustrated through conditions inherent and services offered, by East St. Louis Public Schools to its overwhelmingly Black population.

Although the case is an action by a predominantly Black population against institutional bodies, a word search done on court documents for the words race, minority and Black showed not one of these words were mentioned inside the court generated documents. Illinois State courts might represent themselves as intolerant of racism; however a clear indication of the courts support of the colorblind doctrine can be seen through documents which are void of any mention of race, in a case instituted by a student population which is more than 85% Black.

Overall Conclusions Indicate Damages to Society

Racism Contributes to Disadvantage

Racism has contributed to all manifestations of group advantage and disadvantage. This is especially true in the case of Illinois' disparaging school finance. Any reasonable person would ask the question, why don't they just move? When analyzing the reasons why people won't just move, this research finds there are many answers to the question. Unfortunately, it involves recognition that racism is endemic to American life and affects every facet of our life. Racism affects finding housing, gaining access to new housing developments, and working through applications of any environmental policy. All these are factors which limit mobility. This particularly true for minorities, that already face historical discrimination in employment and housing. These

conditions reduce neighborhood options for minorities, just as racial discrimination in employment diminishes job opportunities inside these desirable areas.

Stock stories of criminality, minority deficiency and meritocracy diminish quality of education, isolation and pockets of concentrated poverty and in the end diminish job opportunity and earning potential. In addition these stock stories maintain the status quo and continued lack of adequate financial support for schools contained in areas such as East St. Louis, Illinois. Finally these stock stories create a consensus in public sentiment in the majority toward minority populations and cause continued acceptance of concentrated poverty and a blaming of the victim mentality.

All of these conditions serve to limit the choices in where American minorities live (Orefield & Yun, 1999; Rothstein, 2012; Rubinowitz & Rosenbaum, 2000; U.S. Department of Housing and Urban Development, 2012). The community of East St. Louis is a prime example of the conditions which reduce neighborhood options for minorities. In addition it depicts the case of racial discrimination in employment and how it diminishes job opportunities inside the city of East St. Louis as an undesirable area. Finally, it shows an area where all of these conditions have affected the quality of education in East St. Louis community schools and their level of financial support.

History tells us even before the Riots of 1917 East St. Louis citizens lived as second class citizens. The Blacks employed by local industry worked, ate, showered and lived in separate areas designated for Blacks. The hearings by the Illinois State Commission on the Condition of the Urban Colored Population at East St. Louis (1940), tell us even three decades later citizen actions of peaceful retaliation for damage or loss suffered could be hampered by minority fear of reprisal.

The people of East St. Louis fill the positions in industry that are the most dangerous, fill the positions that are the dirtiest and work in the industries that pose the greatest health hazards. They live in the most polluted neighborhoods (U. S. Environmental Protection Agency, 2001). Their children are exposed to environmental toxins inside their homes, inside their schools and even on the grounds for recreation where their children play (U. S. Environmental Protection Agency, 2001). Unfortunately, although the United States government is well aware of these conditions they have remained unchanged for decades (Illinois State Board of Education, 1990-2012; U.S. Department of Housing and Urban Development, 2012; U. S. Environmental Protection Agency, 2001; U. S. General Accounting Office, 1983; U. S. House of Representatives, 1918). Supported by public sentiment and majority consensus they are allowed to continue even today.

As exemplified through Justice Bilandic's writing of the majority decision for this Illinois Supreme Court decision, the Illinois Supreme Court reversed the appellate court decision which upheld the dismissal at the lower court level. Judge Bilandic wrote, "the plaintiffs could not state a claim based upon violation of the education article of the Illinois constitution" and that questions relating to the quality of education were solely for the legislative branch to answer" (186 Ill. 2d at 210, 710 N.E.2d at 805) (*Lewis E. v. Spagnolo*, 186 Ill. 2d 198, 229 (1999)).

CRT's search for indications of racism, reverting to Whiteness, interest convergence, lack of historical analysis, disparate impact of rules, as well as the absence of application of interdisciplinary perspectives in the case of *Lewis E. v. Spagnolo*; reveal Illinois' legal system's continuous support of the status quo through its legal

determinations. This ruling upheld the previous ruling and continues the tradition of refusal to address the issue. As written by Freeman (Crenshaw et al, 1995), “To remedy the condition of racial discrimination would demand affirmative effort to change the condition. The remedial dimension of the perpetrator perspective, however, is negative. The task is merely to neutralize the inappropriate conduct of the perpetrator” (p. 29).

For example, the court delivered its opinion in the category of Illinois school code violation, by answering the question of whether the plaintiffs could state a claim based upon the Illinois School Code. The plaintiffs’ complaint alleged, “the defendants violated various sections of the School Code (105 ILCS 5/1-1 *et seq.* (West 1996)), and regulations promulgated thereunder, by providing the plaintiffs with “unsafe, educationally inadequate public schools” (*Lewis E. v. Spagnolo*, 186 Ill. 2d 198, 229 (1999)).

The court wrote, “*Mandamus* is an extraordinary remedy to enforce, as a matter of right, ‘the performance of official duties by a public officer where no exercise of discretion on his part is involved” (*Lewis E. v. Spagnolo*, 186 Ill. 2d 198, 229 (1999)). The *Lewis E. v. Spagnolo* court also stated, “To obtain relief, a plaintiff must establish a clear right to *mandamus*. *Noyola v. Board of Education of the City of Chicago*, 179 Ill. 2d 121, 133 (1997). *Mandamus* is improper where “its effect is “to substitute the court’s judgment or discretion for that of the body which is commanded to act” (*Lewis E. v. Spagnolo*, 186 Ill. 2d 198, 229 (1999)).

In their determination the court further stated, “Consequently, we will not grant *mandamus* relief unless the plaintiff has clearly shown: (1) an affirmative right to relief; (2) defendant’s duty to act; and (3) defendant’s authority to comply with the order.

Noyola, 179 Ill. 2d at 136 (Bilandic, J., dissenting)” (*Lewis E. v. Spagnolo*, 186 Ill. 2d 198, 229 (1999)).

The ruling helps to illuminate the legal system’s support of power, privileges of the dominant groups, and lack of social justice in spite of glaring irregularities.

Explaining how Whiteness as property equates to privilege in our legal system, Harris (1993) writes, “American law has recognized a property interest in whiteness that, although unacknowledged, now forms the background against which legal disputes are framed, argued, and adjudicated” (p. 277).

In this instance, the courts both recognize property interest in Whiteness, which would be effected by a ruling against the contents of the legal action although unstated. The court recognizes a ruling in favor of the plaintiffs, which considered the extreme financial negligence contained in *Lewis E. v. Spagnolo*, would cause a change in the way Illinois school funding would be viewed. A ruling in favor of East St. Louis’ plaintiffs would set precedence in favor of majority minority school districts and spark cause for relief. Although anyone can plainly see the disparaging treatment of school finances across Illinois that *Lewis E. v. Spagnolo* illustrates; stock stories of minority deficiency creates a consensus in public sentiment against the support of minority populations and a continued policy of blaming the victim.

Concentrated Poverty, Geographic Isolation, and Diminished Quality of Education

According to the National Center for Education Statistics (2013) Illinois is one of five states most heavily populated in the nation. The Illinois areas that contain heavy concentrations of PK-12 students also contain large minority populations. Not only can the examples of common population trends be seen in areas such as East St. Louis, but

also they are contained in the City of Chicago and its surrounding areas. Research has shown considerable social inequality between neighborhoods such as those found both in Chicago and East St. Louis, where the residents are largely minority and neighborhoods which consists of majority White residents (Bogira, 2011; Orfield, 2002; Orfield & Eaton, 1996, 2003; Orfield & Yun 1999; U.S. Census Bureau, 2007-2010).

In addition, researchers indicate where there is concentrated disadvantage and poverty, there has also been found links with geographic isolation of minority groups such as those conditions found in places like East St. Louis (Bogira, 2011; Sampson, Morenoff & Gannon-Rowley, 2002; Sampson, Sharkey, & Raudenbush, 2008). In Illinois areas such as East St. Louis these facts have historic connections for minorities. Levels of concentrated poverty and racial isolation not only have ramifications which impact quality of education, but they also contain factors which predict the absence of people who work in professional trades, as well as other forms of social capital (Rubinowitz, & Rosenbaum, 2000; Duncan, & Ludwig, 2000).

Freeman in (Crenshaw et al., 1995) highlight's the concept of racial discrimination from the perspective of the underclass. He writes,

This perspective includes both the objective conditions of life (lack of job, lack of money, lack of housing) and the consciousness associated with those objective conditions (lack of choice and lack of human individuality in being forever perceived as a member of a group rather than an individual). (p. 29)

Freeman goes on to explain the courts prescriptive for remedy of wanton social conditions. According to Freeman, although the courts realize these conditions exist, they are however not moved to change the conditions because the constituencies for which

they serve have no intent of change the status quo. In the case of *Lewis E v Spagnolo*, searching for indications of neglected focus on historical and contemporary interdisciplinary perspectives, and creating a historical holistic approach to analysis will unfortunately not require moving far away from yesterday's East St. Louis. The CDRDCESL (1986) report ordered by Senator Paul on the subject of East St. Louis states,

Population has declined steadily...The racial make-up.....has undergone a considerable transformation. In 1980... White population ...less than 5 percent. Annual family income....declined ...income for the United Statesincreased...Families.... with income below the poverty level in 1979 was nearly 39.0 percent. Compared to the national average of 10.3 percent...families receiving public assistance...was more than 37 percent. (p. 19)

In comparison, today's East St. Louis shows similar statistics. East St. Louis's population has in the last 13 years continued to be greater than 96% African-American (U.S. Census Bureau, 1999b). With their greater than 96% African American population, its median income of \$21,070 and its 97% low income population; the community is both economically and racially de facto segregated to create a community with extreme concentrated poverty conditions (Illinois Interactive Report Card, 2012a). From those studies published by scholars such as Orfield, (2002), Orfield and Eatson (1996), Orfield and Eaton (2003), Orfield and Lee (2006) and Orfield and Yun (1999); we know these clustering happen in certain neighborhoods and are most often than not minority inhabited regions. This concentration of poverty results in poor housing and health conditions as well as limited access to private services and job opportunities.

Unfortunately and most applicable to this school finance study it also can be associated with underperforming public schools.

With education's high correlation to attainment of the American dream, it is not hard to see how these students could end up at the bottom of the economic scale for a lifetime. In addition, using conventional standards area such as East St. Louis has little social capital. The *Lewis E v Spagnolo* case asked for adequacy and sited district substandard conditions and student academic performance as examples of the impacts of underfunding of public school education for minorities not only on academic performance but also on culturally inclusive elements.

Combined deficiencies create obstacles that affect quality of life which includes quality of education obtained in designated neighborhood schools. All of these conditions lead to a lack of job opportunity and in the end decrease lifetime earning potential.

Maintenance of the Status Quo and Lack of Financial Support

In *Lewis E. v Spagnolo* the prosecution contends the plaintiffs mismanaged the affairs of the District and thereby caused the children to be exposed to unsafe environments, which inhibited student learning. Details allege school buildings are in extreme disrepair. They charge District 189 with negligence. The examples used include □ fire hazards and years of neglectful attention to chronic flooding. In addition the lawsuit makes note of □ malfunctioning heating systems, □ and unsanitary restrooms. Additional threats to student health and safety include □ perpetual conditions of broken windows, burnt-out light bulbs, and water fountains that do not operate. Threats to student health include the presence of both rats and cockroaches, and the district's lunch service. Plaintiffs charge the meals, which are provided by the districts school cafeterias,

are both cold and non-nutritious. The allegations charge District 189 with allowing these conditions to remain unchecked in various schools for years. Also in the area of student safety and security, plaintiffs charge that, due to district administration's failure to provide adequate security, incidences of violence in the schools are widespread.

Understanding reasons why blatant indications of poor educational systems can be allowed to continue for decades, such as those found in the *Lewis E. v Spagnolo's East St. Louis* case, is contained in analysis of America's minority deficiency thinking, cultural deficit and genetic determinist models. Many times the lack of academic progress among minority students, which is contained in majority minority school populations, is explained away by government, administration, teachers, and political foes by pointing out majoritarian perceived problem within the student's cultural attributes. These stock stories about student deficiencies are rooted in majoritarian perceptions of minority families and the communities the students live in (Delgado, 1989; Solórzano & Yosso, 2002; Yosso, 2005, 2006). The stock stories center on majoritarian perceived natural ability, life and career aspirations, and work ethic contain in measures of meritocracy stock stories.

In the end these views cause maintenance of the status quo. For Illinois students facing the realities of racism, its inherent effects on school funding, and the general views held by the majority on what quality of education Black students deserve; can be quite a precarious position. A former East St. Louis resident tells her counterstory centered on the quality of education and the level of teacher commitment to the students of East St. Louis. Venise (2010) writes,

... this so-called teacher didn't care to teach us, but to make sure we stayed quiet until it was time to go home. My father quickly figured out what was going on and decided that was not the place for me or any child for that matter. But he was going to make quite sure that I wasn't going to be caught up in this awful and unfortunate situation. I did not go back and I didn't get my butt whooped as she had hoped. This teacher wanted to scare me into thinking that if I didn't do what she said, no matter how stupid and ridiculous that my father was going to beat me black and blue.....They allowed us to say whatever, and did care to correct our pronunciation of words of the English language. But didn't we deserve to be taught correctly? My mother would ask me to read her the stories I was reading in class and when I finished my parents looked at me with great saddeness and confusion. What in the Hell was those teachers encouraging? and why wasn't it being corrected? So, what did I get for Christmas that year? Books, Flash Cards, a desk, a chalk board, a filmprojector, writing paper and a dictionary. Oh I forgot one doll and a bike. My parents jumped in and put a halt to that ridiculousness. From then on my parents wanted to know everything I was learning. (23-Dec-2010 19:21)

Scholars tell us in spite of scholarly findings on minority parental involvement that challenges the assumption that parents and involvement are problems that must be overcome (Barton, Drake, Perez, St. Louis, & George; 2004); the widely held majoritarian view is that parents, especially those from low income minority communities, are a detriment to their children's academic development. In spite of both the counterstories told by minorities like Venise (2010) and Wright-Brown (2011) and

scholarly evidence such as Barton, Drake, Perez, St. Louis, and George (2004); which point to evidence to the contrary, negative parental stock stories remain in the minds of those who direct and teach in school communities (Bonilla-Silva, 2009; Lopez, 2001; Trumbull, Rothstein-Fisch, Greenfield, & Quiroz, 2001).

Stock stories of meritocracy, criminality and minority deficiency support low quality education, and continued acceptance of the status quo. They are supported by majoritarian ignorance of areas such as East St. Louis and continue to create a consensus in public sentiment against financial support for majority minority populations. However counterstories like those told by Venise (2010) help to dispel the myths and bring minority realities to the forefront. The examples of the centrality of race and racism, which are found present in the *Lewis E. v Spagnolo* case, present along the lines of permanents of racisms and are made evident in the disparate impact on East St. Louis schools. The institutional and individual forms have gone unchecked for decades in the form of educational inadequacies which have remained unaddressed. Contained in this legal proceeding is the evidence of the preference toward privileging White individuals at the expense of people of color. The counterstories offered by Wright-Brown (2011) and Venise (2010) give a voice to the minority experience and support those who wish to dispute majoritarian images of minorities. In addition these testimonials help to show the cumulative impact of racism and racist practices on both the individual as well as the group. In addition, they show how race and racism take on individual as well as institutional forms. In the case of this research, it offers an example of the uncaring teacher in Venise (2010)'s example, as it illustrates public acceptance of poor quality teachers in communities such as East St. Louis.

Legal Contributions to Maintenance of the Status Quo

As written by Wagner (2009) in his book about Blackness and its modern condition, he writes,

blackness indicates: existence without standing in the modern world system. To be black is to exist in exchange without being a party to exchange. Being black is belonging to a state organized according to its ignorance of your perspective-a state that does not, that cannot, know your mind. (p. 1)

As a tool for exposing the minority perspective, and in an attempt to create a composite story, *Lewis E. v. Spagnolo*, 710 N.E.2d 798 (1999) is reviewed for its revisionary historical potential. This study remaps the legal stories, by placing them in the context of the minority, creates an analytic framework developed from that which has been historically recorded by the law, national reports, newspapers and other media. These stories reform to give us a new and deeper understanding of legal experiences. A composite counterstory forms to reveal the social and cultural relationships which existed at the time of the legal proceedings.

America's history of both oppressive factors and racist practices continue to affect the lives of minorities. For African Americans, a small group which came to this country under the bondage of slavery, their unique history contributes to the racially disadvantaged minority experience, the distinct cultural identity, and disadvantaged educational opportunities which connect to law. Ladson-Billings tells us in Taylor et al. (2009), there is no other place in our continued maintenance of discriminatory practices for schooling where racism is more clearly shown than in school finance formulas.

This study offers an analysis which interjects the opinions and the personal experience of the poor Black female. It places the study of *Lewis E. v. Spagnolo* in historical context and offers strategies aimed at winning the struggle for racial and social justice for minority Illinois public school districts who suffer from the effects of inadequate and inequitable school financial support. The counterstories are offered in the fight against inequality for majority minority Illinois school districts and help to shed a different light than the story as written through the legal proceedings.

As a tool which battles the centrality of race and racism in society, as well as an instrument to change the social maintenance of the status quo; the use of counterstories can help analyze court decisions and provide districts with majority minority populations a voice for sharing their narratives involving the marginalized experiences of PK-12 funding. This is particularly true of those districts which have had experiences with fighting for adequacy through our court systems. The centrality of Whiteness and permanence of racism suggests that racism controls the political, social, and economic systems of our society. Racism is seen as indicative of American civilization, and privileging White individuals at the expense of people of color. For Illinois' students privilege includes the acquisition of a quality education and access to the finances which support the same.

The Illinois court system is an institution which directs all privileges toward whiteness. Preservation of privilege is manifested in spite of either legal rules of law or any constitutional guarantees of equal protection under the laws. Seeing the law itself as not a neutral tool but instead part of the problem, CRT provides a conceptual framework for understanding the inequalities contained in the *Lewis E. v. Spagnolo* case. This study

seeks to help frame the importance of using the lens for interpretation of issues intertwined in the *Lewis E. v. Spagnolo* case and to expose any indications of resulting decision which connect to race and racism. In the case of Illinois courts as a support for education, the *Lewis E. v. Spagnolo* case illustrates use of the flexibility, contained in our foundational documents, not to support but to rule against the students of East St. Louis.

Even more shocking is the refusal of the Illinois Supreme Court to uphold the strengths contained in Illinois Article X as quoted in Lousin (2011), “A fundamental goal of the People of the State is the educational development of all persons to the limits of their capacities. The State shall provide for an efficient system of high quality public educational institutions and services” (p. 211).

Something seemingly illogical can become a naturally recurring condition in our legal system. The status quo is supported by the manner in which the law is interpreted by the courts. Because the law is written from the perspective of the perpetrator of racial discrimination, or from the perspective of dominant culture, the conditions of racial discrimination are caused by a few misguided individuals. Freeman (Crenshaw et al., 1995) instructs, the law has been constructed to reframe the “condition of the victim” (p. 29). It allows the perpetrators to see themselves as innocent because “only intentional discrimination violates the antidiscrimination principle” (p. 30). For example, *Lewis E. v. Spagnolo*, 710 N.E.2d 798 (1997)’s court decision reads,

We note initially that the plaintiffs’ complaint alleges generally that defendants are charged with providing a safe and adequate education to District 189 students and that “[b]y any standard, the public schools of District 189 are unsafe [and] inadequate.” However, we cannot find sufficiently detailed facts stating the

particular acts or omissions of defendants that have allegedly created the abhorrent conditions attributed to these schools. (p. 4)

The *Lewis E. v. Spagnolo* decision uses the absence of direct personal actions, inability to create accountability and the inability to attribute actions to a particular person or perpetrator; as justification for abandonment or refusal to offer resolution of the disparaging quality in education. Since the legal system has no intention of changing the conditions of racism and the resulting unequal conditions, perpetrator perspectives have been embedded in antidiscrimination laws. Courts become indifferent to the conditions of minorities, as perpetrator mentality assumes individual behaviors are responsible for racist actions and not the historically race driven fabric of our national institutions.

Distortions include the use of the colorblind doctrine as a tool to create confusion and to help continue, without fear of legal retribution, the habit of tying a legal blindfold across the eyes of our justice system to the effects of and the remedies for racism in our PK-12 school finance systems.

Are Illinois School Funding Policies Truly Colorblind?

There is no stronger indication of the imbalance of legal proceedings than the notions contained in the colorblind doctrine and its legal application. An impossibility given America's history, the term colorblind has the legal effect of an oxymoron. Gotanda as contained in Crenshaw et al. (1995) explains colorblindness as a contradiction, because an attempt to exclude race from the decision making process requires us to first recognize race exists. In America refusal to recognize race, for the obvious impact it has on the finances of our PK-12 school systems, are the seed and

means of preventing the legal recognition and resulting remedies for acts of racism in PK-12 school finance.

It reconciles the discriminatory actions to practices and condition permissible by law. Just as Illinois supports the writings in our constitution in ideological but not in practice; America's legal commitment to colorblindness is also ideological but yet not an actuality. The colorblind doctrine expresses and facilitates the absence of racism not by actually enforcing and recognizing actual acts of racism, but alternatively the court promotes the ideology of colorblindness through both symbolism and rhetoric while avoiding any actions to promote recognition and remedy (Crenshaw et al, 1995).

As illustrated by the outcomes in the Lewis v Spagnolo case, winning in court has less to do with the strength of the language used in our foundation documents and more to do with dominant ideology and the colorblind doctrine (Alemán, 2007b, Chremshaw et al., 1995). Lewis E v Spagnolo was a case which sought relief based on due process principles and the education article of the Illinois Constitution. Although it was enacted by a majority minority school district, a word search of the court transcript found not one mention of race during the proceedings. The word search, which was conducted using the words race, minority, Black and African American, found zero examples of the mention of race. This case in both the way prosecutors presented it and in the manner in which the court passed judgment is a clear example of how the colorblind doctrine can restrict the judicial process.

Illinois Supreme Court Justice Bilandic delivered the opinion of the court in *Lewis E. v Spagnolo*. As recorded in *Lewis E. v. Spagnolo*, 710 N.E.2d 798 (1999) he said, “[i]t would be a transparent conceit to suggest that whatever standards of quality courts might

develop would actually be derived from the constitution in any meaningful sense” (p. 24). In this statement he cleverly distorts the description contained in the actual operation of the doctrine. The court misleadingly depicts all race dependent practices; which not only survive detailed legal scrutiny, but also illustrate common practices such as affirmative action, as rare exceptions perpetrated by a misguided few.

In direct opposition to Illinois’ judicial determinations, Rebell (2004, 2007) understands the important place the judiciary holds when deciding standards and quality. In addition he finds written support of educational opportunity in federal equal educational opportunity laws which also support his contentions. Unlike the contention expressed by the judiciary of *Lewis E. v. Spangnolo*, Rebell (2007) supports the necessity of the courts intervention between poverty and opportunity for quality education. Rebell (2007) sees state court adequacy litigations as the link between the standards-based reform movement which is now being implemented in Illinois and the newer courts emphasis on adequacy. For Rebell (2007) the combined impacts of standards-based reform and adequacy measures prescribes and provide the courts with tools to define effective remedial orders to remedy these cases. He also discusses the constitutional definition of adequacy which has emerged from these cases in recent years.

Unfortunately, Americas focus on distortion of the colorblind doctrine is misplaced. Instead it would be wiser to provide the courts with tools, to define effective remedial orders to remedy these cases. In many ways *Lewis E. v. Spagnolo*, 710 N.E.2d 798 (1999) provides the courts with tools to define effective remedial orders. Seeing lawsuits as an advancement of standards, Rebell (2007) views *Lewis E v. Spangolo* as an opportunity to create a dialogue between legislatures and state education departments.

The constitutional concepts which are advanced help to define the parameters of an adequate education. In addition, the legal concepts contained in legal actions such as *Lewis E. v Spagnolo* help set society's requirements for citizen academic preparedness. These are the basic requirements for civic participation and include the ability to intellectually exercise the American right to vote, as well as having skills needed to compete in the job market. Contained in these constitutional passages are the support documents relating to contemporary needs. They guarantee those opportunities afforded Americans through education rather than setting parameters for specific educational outcomes (Rebell, 2007).

Enactments, like those exhibited by the *Lewis E. v Spagnolo* court, operate through practices, expectations, assumptions and processes sanctioned by the majority and supported by legal proceedings. Judicial determinations reflect the long history of struggle against racism and the attempt to create an array of approaches to examine both the subtleties and direct applications of institutional racism.

Illinois' institutional biases continue to reproduce inequality. Although the courts may be the verdict issuing institution, other institutions play a key role in helping to structure influential stock stories. CRT's challenge to dominant culture counteracts components contained in institution support for the colorblind justice doctrine. In addition it helps dispel the notions of East St. Louis Public schools as a race neutral promoter of equal opportunity. Also, it makes clear the impossibility of a colorblind legal system given our history of racism and its deeply embedded consequences.

Illustrating the impossibility of colorblind Illinois school funding policies, defenses against *Lewis E v. Spagnolo* for adequacy included the customary racist

argument supported by stock stories. They include the argument money does not matter, poor and minority students cannot possibly be expected to meet the minimum standards or be compared to majority students with greater resources and the schools that poor minority students attend are fine as they stand (Baker & Corcoran, 2012;). In addition the stock stories carry the belief academic scores, which indicate student performance is below grade level, indicate at least a minimally sufficient level of academic accomplishment and in turn indicate a sufficient level of resources. The disparate impacts of the systems which educate the children of East St. Louis are self evident and contain solid evidence of CRT's core tenets.

History tells us Justice Marshall did not win his argument against the misconstrued legal interpretation of the colorblind doctrine. Instead, colorblindness continues to be an obstacle in review of our practices of Pk-12 disparaging finance practices. In addition, it continues disenfranchisement of Illinois' minority students educated in majority minority districts, as its misinterpretation has been wrongfully superimposed onto the Fourteenth Amendment.

A definition of the act to blindfold is to prevent from seeing and especially from comprehending. In addition blindfold is something that serves to obscure clear perception (Merriam-Webster Dictionary, 2013). Illinois courts are effectively blindfolded as they follow the misguided distortions of the colorblind doctrine and ignoring race as the one overwhelming determinant of funding level in the state. Refusing to recognize a powerful entrenchment of our social reality does not make racism go away. Unfortunate for those students who are most vulnerable the blindfold serves to prevent seeing and

comprehending the effects of racism on education finance, it obscures clear perception and further impedes the right to adequate educational support.

Counterstories and Centrality of Experiential Knowledge

Creating PK-12 school finance formula changes, which are made in the best interest of vulnerable populations, require telling stories and sharing experiences from the perspective of those most affected by funding deficiencies. As a story of stakeholder interest, *Lewis E. v Spagnolo* is told and analyzed using the CRT lens. The case is reviewed through an examination of the key elements of the story as well as the personal experiences of East St. Louis citizens. While analysis of the case legal arguments are developed using the key writings of CRT, key elements are also connected using experiences from the East St. Louis population. Additionally, analysis is constructed aided by key elements found using the IRAC method of case study as a tool for critical analysis.

This research adds to the study of inequality in school funding the components of the centrality of race and racism, minority invisibility, subordination of minorities, and the law as a contributing factor to conditions that lead to continuous education quality victimization and the maintenance of the status quo. It also investigates the properties of CRT which tells us the American legal system continues to be instrumental in the both the maintenance of White supremacy, and the perpetuation of inequality in PK-12 school funding. These inequalities have a direct relationship to race in the State of Illinois.

When combined these characteristics, which describe areas where minorities are cordoned off from prosperity, are indications of both neighborhoods and communities of perpetually concentrated disadvantage. The resulting phenomenon can be traced to

decades of racism and multiple levels of geographic patterns of exclusion. This phenomenon highlights differences in local community areas, census tracts, or other neighborhood units. All of these areas seemingly assigned without discretion, are areas which determine the boundaries of prosperity, property rich values, neighborhood school quality and ultimately quality of life. They create places and spaces which align themselves according to race and ethnicity.

Using data from the 100 largest U.S. metropolitan areas, for the time spanning 1990 to 2000; Galster, Cutsinger, and Malega (2008) found when poverty exceeds 10 percent of the population, property values decline rapidly. Galster, Cutsinger, and Malega (2008); as well as Galster, Marcotte, Mandell, Wolman, and Augustine, (2007); discovered neighborhoods of concentrated poverty suppress property values by nearly \$421 billion nationwide.

Scholars, such as Rogers and Oakes (2005), Ladson-Billings (2006b), Orfield (1996, 2006) as well as Orfield and Yun (1999) emphasize their recognition of schools as a major driving force in the reproduction of both racial and social class inequality. As research trudges through the process of offering solutions for financial adequacy and equity reforms, most scholars leave out racism as a key element in the solution complexity. Past measures of equity and adequacy reform have failed to include America's cultural norms, Whiteness as property, racism, false notions of meritocracy, stock stories which contain criminality and those which have indications of the minority deficiency myth.

Much like the laws which seemingly support equality in education for all, these elements on the surface appear to be racially neutral when in fact they are not. This

research attempts to use the transformative power of composite counter storytelling to offer a synthesis of the personal stories of the experiences of persons of color from East St. Louis, along with a CRT analysis of *Lewis E v Spagnolo*, to answer its research questions. The centrality of experiential knowledge, support the usage of counterstories from East St. Louis' people of color. These counterstories contain knowledge and experiences which add truth and seek to expose deficit thinking.

Stock stories and misconceived notions about minorities contained in areas such as East St. Louis, serve to halt progress toward viable solutions for academic advancement in at-risk cultures. The notion that somehow these populations are the major contributors to factor for their own poor conditions and under achievement helps to give rationale for abandonment and maintenance of the status quo. Under the cultural deficit model and the genetic determinist model, at-risk student academic performance, and substandard school community conditions can be ignored; while teachers and other key service staff can be absolved of the responsibility associated with the low student results and poor school community conditions. Focusing on the wrong things, mask the relationships between the larger sociopolitical powers, the school community practices and those procedures which contribute to minority student academic outcomes (Solórzano & Yosso, 2002).

For the people living in East St. Louis attainment of that capital includes the coveted acquisition of a quality education for its majority minority student body. Unfortunately for populations such as East St Louis, the inability to educate their children also keeps realization of the American dream at bay. Much like having ownership of a prize piece of real-estate property, possession of white skin becomes the one advantage

which affords its owners the privileges unattainable by minorities. The mechanisms which sort according to skin color favors Whites over minorities in education, employment and property ownership and thereby help to trap the people of East St. Louis, Illinois in a repetitious pattern of multigenerational disenfranchisement. As previously determined and written in the 1968 Kerner Report (National Advisory Commission on Civil Disorders, 1968a),

Segregation and poverty have created in the racial ghetto a destructive environment totally unknown to most white Americans...What white Americans have never fully understood--but what the Negro can never forget--is that white society is deeply implicated in the [existence of] the ghetto. White institutions created it, white institutions maintain it, and white society condones it... (p. 1)

The existence of disenfranchisement uncovers the creation of White privilege and the ways in which the marginalization of non-White students, such as those found in East St. Louis, are perpetuated through institutional racism, housing patterns and ultimately through school funding. As counterstories skillfully replace institutional stock stories, stakeholders must recognize stock stories for the damages they inflict and the blindness they create in populations such as East St. Louis.

Counterstories offered by populations such as East St. Louis contain knowledge and experiences which seek to correct fallacies of deficit thinking. Analysis requires searching for the presence of deficiency and deficit thinking, criminality and meritocracy. All of these components help to mask recognition of district factors which inhibit student academic success and prevent actions to remediate change in the conditions of education finance.

Adequacy advocates such as Rebell (2004) contend critiques of adequacy fail, “to grasp that the education adequacy lawsuits have become the driving force for achieving the aims of the standards-based reform movement” (p. 40). Lawsuits such as *Lewis E. v Spagnolo* and their pursuit of adequacy must be taken seriously by the courts which have been given the responsibility to be the final court of appeal on state matters that come from the Circuit Court of appeal. Blatant indications of poor educational systems must find fertile ground upon which to plant issues for resolution. Although assumptions concerning minority groups continue to inform our public institutions to create blaming the victim tactics, Federal mandates must be allowed to include strategies to finance solutions for academic success in minority populations.

Maintenance of the Status Quo Neglected Focus On Interdisciplinary Perspectives

Insisting on analysis of racism through a historical perspective as well as a contemporary one, this research examines both *Lewis E. v Spagnolo* and the East St. Louis community and looks for indications of neglected focus on historical and contemporary interdisciplinary perspectives. The tenet of interdisciplinary perspective draws from a multitude of disciplines to create a holistic approach to analysis while situating the case in today’s world. Unsurprisingly for critical race theorists, neoconservative judiciaries embrace positions which argue historical analysis. Unfortunately for the overwhelmingly minority population such as East St. Louis, their brand of historical analysis comes from the court systems focused on prior court decisions and not historical analysis through the eyes of those most affected by the inequities of school funding. In many cases the prior rulings are fraught with racist views

and majoritarian objectives which go contrary to changing minority school funding conditions (*Lewis E. v Spagnolo*; *San Antonio v. Rodriguez*).

With the United States Supreme Court decision in *San Antonio v. Rodriguez*'s ruling on inequities found in public school systems, American courts embraced the viewpoint which ruled inequities do not violate the equal protection clause of the Fourteenth Amendment (*San Antonio v. Rodriguez*, 411 U.S. 1 (1973)). This legal case charged Texas with instituting a policy which put underprivileged students at a disadvantage against other districts with more substantial property values. The action placed school funding issues in both historical and contemporary perspective. San Antonio Independent School District (SAISD) charged reliance on assessed property values to fund schools caused severe inter-district disparities in per-pupil expenditures. However, by refusing to support changes to the finance system the court showed support for Whiteness as property and the colorblind doctrine. Although more than 40 years have passed, since *San Antonio v. Rodriguez*, and more than 14 years since *Lewis E. v Spagnolo*; both the Texas and the Illinois public school funding systems continue along the lines of race based inequality which supports Whiteness as property.

The tenet of interdisciplinary perspectives assumes that while racism may manifest itself in a current day contexts, these examples also have historical roots. Therefore, it is vital researchers look at race and racism in both its historical and present day format. Because of CRT's search for emphasis on interdisciplinarity, it is possible to bring both the relationship between historical and contemporary experiences to the forefront of conversations about change. As a result of the interdisciplinary aspects of a marriage between sociology and economics, to connect life time wages and conditions in

education, researchers have made clear the direct relationship between quality in education and the quality of life (Grogger, 1996; Hanushek, Kain & Rivkin, 2009).

In the Lewis E. v Spagnolo case we see a clear example of economic factors and conditions in poor communities such as East St. Louis outlined in a recent study done by Dollar, Kleineberg and Kraay (2013) in conjunction with the World Bank. Their findings tell us while a country's economic growth will tend to raise the income of the poor proportionately; the changes in income share of the poor are uncorrelated with overall economic growth. They reiterate the generally held principle which says it should always be possible to get most of the population to support a growth agenda that contains advantages for the majority. While the study supported the widely held views contained in populations and their genuine compassion and advocacy for poverty reduction, it is unfortunate the results of the study cannot explain why "Concerns about "shared prosperity" are also widespread in advanced economies, where many fear that growth no longer benefits the bottom half of the income distribution." (p. 2). Dollar, Kleineberg and Kraay (2013) writes concerning evidence on the importance of economic growth for poverty reduction, and assert how difficult it is to identifying specific macroeconomic policies that effect economic growth for the poorest populations. They write,

Our main findings ...that (i) incomes in the poorest quintile on average increase equiproportionately with average incomes, reflecting the lack of a systematic correlation between growth and changes in the first quintile share, and (ii) this relationship is very strong, reflecting the fact that most of the variation in growth in incomes in the poorest quintile reflected growth in average incomes, rather than changes in the share of income accruing to the poorest quintile. (pp. 2-3)

The relationship of sociology and economics, to connect lifetime wages and conditions in education is the perfect prelude into the discipline of ethnic and gender studies.

While stock stories are described by Delgado and Stefancic (1993) as a “bundle of presuppositions”; counterstories help to challenge historical conceptualization and bring first hand accountings of communities such as East St. Louis and their fight for school funding and quality education to light. Race scholars use counterstories such as those told by Hill (2012) to help fight the battles of injustice for minorities. These stories and the accounting contained in *Lewis E v Spagnolo* have sometime been kept bundled inside and are sometimes filled with the pain and degradation of injustice, lack of historical analysis, and lack of interdisciplinary perspectives.

Commitment to Justice

The Illinois State Constitution (Lousin, 2011) reads,

The State shall provide for an efficient system of high quality public educational institutions and services....The State has the primary responsibility for financing the system of public education. (p. 211)

Increasingly notable, in the adequacy age of legal justice, is that which influences the all too political practice of law and a realistic dissociation of law as an instrument for justice in places such as East St. Louis, Illinois. With Illinois constitutional support for “an efficient system of high quality education” must also comes our combined interest in social justice and our commitment to value added interest convergence. Although interest convergence can sometimes be viewed as having negative effects on the minority populations which are targeted for improvement, it does not have to be the case. Along

with Illinois renewed interest in quality education through federal and state requirements, comes opportunities for advancement in equity and adequacy.

Search for indications of the lack of social justice and the presence of interest convergence drives goals aimed at both the elimination of racism and the abolition of minority group social ranking. The sorting of people according to race and perceived lower ability, along with division according to the degree of melanin, creates a hierarchy. It places those with the greatest degree of melanin at the bottom in rank or status. CRT's objective is to eliminate racial oppression in all of its forms. If used properly, Illinois can use its core requirements to help build a stronger education system.

Illinois must use caution when creating its new standards to measure progress. This is especially true when creating instruments which measure progress for its most vulnerable student populations. Scholars such as Darling-Hammond (2004) write in caution about reliance on the new standards and accountability requirements without first making financial support for the measures a top priority. She admonishes; when states try to meet those requirements necessary to implement NCLB standards, without first supplying the districts with necessary increases in school district funding, they create an illogical system of incentives for schools. These new systems have little structure for support without proper financing and thus create systems of harmful punishments which highlight deficiencies and lead to damaging end results or punishments which harm both the students and the districts which serve at promise students (Darling-Hammond, 2004).

Commitment to social justice, as it relates to educational funding equity or adequacy, involves the concept of fairness that focuses on exposing and ending social inequalities in education through education finance. The objectives contained in

commitment to social justice are to promote understanding of how categories such as race, ethnicity and socioeconomic status help people identify injustices which hinder them from recognizing and combating the negative impacts racist behaviors create. As Crenshaw et al. (1995) suggests, building knowledge sets help to strengthen creativity to design a different set of possibilities. These possibilities expose how the false assumptions contained in stock stories concerning minority groups live only in the habits of thought and action that the majority either does not understand or in the fact that they have not been taught to explore for truth.

For race scholars recognition of racist behaviors usually accompanies searches for remedies. With reservations racially oppressed groups, such as those which inhabit East St. Louis, have historically thought of the courts as a place to seek out the remedies of racial justice.

In today's global economy the Illinois State Department of Education is fine tuning its place as a 21st century democratic promoter of quality educational standards and support. The first steps have been prompted by our NCLB legislation and those standards which have been incorporated into the Illinois Common Core Learning Standards as well as the Illinois standards based reporting requirements. All though the history of advancement in excellence in education for all has been less than stellar, the newly embraced accountability standards in education could prove to be a step in the right direction for Illinois majority minority school district finances.

Illinois must not neglect this opportunity to become not only a leader in the nation but also a leader in the world. These examples exist in the form of newly implemented accountability measures and common core standards which can lead the way for better

education for all. Consequently, Illinois stakeholder groups must be willing to take their place in the highly competitive global economic market. Illinois must realize that to take our place in the world market we will need the creativity of all of our students. Who knows where the next master of nuclear physics will come from?

As previously mentioned, property taxes are the chief source of revenue for school districts in Illinois. In addition we know areas with majority White property owners have higher property values and yield higher educational financial support. Rebell (2007) reminds us that along with the perspective of financial sharing of resources, that afford school district academic excellence, come the majoritarian cry “money does not matter in education” (p. 1479). In reply it is tempting to ask, so why so much to do about that which does not matter? Why then don’t we just pool all the money and equalize it according to student count?

From the majoritarian deficiency stock stories, one answer could be money does not matter because no matter how much you spend minority children are hopelessly flawed and will never be able to accomplish at the level of the majority. Another fallacy answer might be the parents and the communities these students come from are a detriment to the children they produce, so therefore it is better if we spend the money on a more worthwhile cause. Still another stock story answer might be, these people will eventually become criminals so why develop children who end up in the correctional facilities of the State of Illinois. Unfortunately, each one of these strains of thought comes from the same majoritarian concentration of mythical historical stock stories. These stock stories have been used to justify abandonment of constitutional demands far too long

(Alemán, 2007b; Matsuda, Lawrence, Delgado & Crenshaw, 1993; Muhammad, 2010; Solórzano & Yosso, 2002).

Where you live determines school finance levels, and historically where you live is affected by race. *Lewis E. v. Spagnolo*, is just one Illinois example in the quest for equality in minority education. Illinois' *Lewis E v Spagnolo* education finance struggles are not isolated. The lack of public school finance social justice has been consistently reflected across the ages in the struggle for education of the Illinois minority child. Historically common themes are evident in both cries for assistance from the 1787 Massachusetts Bay Black community and the 1997 *Lewis E v Spagnolo* court plea. Although more than 200 years separate *Lewis E v Spagnolo* from the State Legislature of Massachusetts Bay incident, one commonality is present in both. The one commonality was then and remains today to be the need for recognition of minority rights to a quality education as a component of the ability to prosper. In addition Illinois must recognize its constitutional support for “an efficient system of high quality education” (Lousin, 2011, p. 211).

Csharie (2006) helps to summarize the sentiments of the East St. Louis blog participants in the context of actionable measures for social justice and change. She writes,

I do understand your comment, however, please understand that sometimes change comes as a result of constant, unrelentless pressure. Sometimes the problem is so deep rooted and impacted that it takes dynamite to blow it loose. Frederick Douglas once said, “Power concedes to nothing without a demand.” “It never has, and it never will.” I was born and raised in ESL. I left here, was

educated everywhere, returned here, and work in a people serving capacity. I am doing all I can to effectuate some positive change for my city, however, I am but a single soldier. I need an army. Would you be interested in joining? If not, you are no good for me or my city. "I prayed for 20 years; but my prayers were never answered until I prayed with my legs. (31-Aug-2006 18:25)

Like Csharie's plea, this research is also a plea to stakeholder groups for participatory actions which dispels the stock stories and causes disparate public school finance. Acting as the miners' cannery of which Guinier and Torres (2002) write and warning of the things to come, *Lewis E. v. Spagnolo* echoes the screams of East St. Louis, Illinois. In the words of Guinier and Torres (2002) "their distress is the first sign of a danger that threatens us all.... others ignore problems that converge around racial minorities at their own peril, for these problems are symptoms warning us that we are all at risk" (p.11).

CHAPTER V

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

Summary

This research looked at the convergence of three major topics, which include economics of education finance, school law and legal history, and minority education. Paying close attention to where these subtopics converge, the research looks at the development of educational finance practices for the Black child as it brings three glaring dispositions in sight for the State of Illinois. First where you live, which determines housing values, locks in funding streams for education (Hanushek & Lindseth, 2009). Second, historically speaking, who you are determines where you live (Minorini & Sugarman, 1999). Third, race has been a major determining factor in variables which not only decided where you reside, but also provided for segregation or the separate but equal mind set (Orfield, 2002; Orfield, & Eaton, 1996, 2003; Orfield, & Lee, 2006; *Plessy v. Ferguson*, 163 U.S. 537, 16 S. Ct. 1138, 41 L. Ed. 256 (1896), The Oyez Project, 2011). Like a dog that is chasing its tale, this brings us full circle. Where you live determines school finance levels, and historically where you live is affected by race.

CRT offers a method to analyze ways in which race based policy is maintained throughout education finance methods. For Ladson-Billings, who makes a clear connection between America's reluctance to address the achievement gap and our historic beliefs about the entitlements attached to property ownership, the path to significant change includes getting American society to acknowledge the accumulated

educational debt owed to marginalized students. This study hopes to use counter storytelling as a tool to help stakeholder groups understand the accumulated educational debt owed to marginalized students this research hopes to influence the inadequate and inequality in Illinois school finance policies.

As the study reviews *Lewis E. v Spagnolo* and the East St. Louis, Illinois community; it uncovers the creation of White privilege and the ways in which the marginalization of minority students are perpetuated through funding. Analysis of whiteness as property, the colorblind doctrine and challenges to race neutrality, institutional racism, and the societies negative perception of the Black man directs the analyses of how spaces such as real estate property and geographic locations, are cordoned off to create both living spaces and education places determined by race. In the case of those districts who educate majority White students these spaces become a place where White privilege is shared. In the case of those spaces left for minorities, privileges are withheld to create places and spaces which hurt non-white students in the finance of education, the achievement of education goals and the ability to pursue the American dream.

Crenshaw et al. (1995) writes, “there is.....no scholarly perch outside the social dynamics of racial power from which to merely observe and analyze” (p. xiii). In this way CRT admonishes all stakeholders no matter the color must be willing to look at our legal determinations and the policies they support to find connections between social structures, school finance, equal protection under the law and racial power. This must be done to discover ways of changing the structured inequalities in Illinois PK-12 school finance policies. We must all get in there, get our hands dirty, and rid our institutions of

the weeds that choke our 49% minority student success. Racism, although deep rooted like the dandelion, common in our everyday lives, and easily ignored; contributes to the inequalities which set funding for PK-12 education in Illinois.

The analysis of *Lewis E. v Spagnolo* and the community from which it stems, delivers a message from Illinois highest court upholding the exclusion of questions which relate to quality of education. Contain in its analysis are the stock stories which support continuation of school finance differences and the gap between majority minority schools and those who educate majority White students. These findings indicate the presence of stock stories as it outlines the detrimental impacts, outcomes, results and consequences of the stock stories told by the majority.

These stock stories include those of meritocracy, criminality and minority deficiency. Unfortunately for East St Louis and communities like it all over the state of Illinois, these stock stories have dire consequences. The stock stories lead to diminished quality of education, lack of job opportunities and in the end decreased earning potential. They also contribute to maintenance of the status quo and continued lack of adequate financial support for schools like those contain in areas such as East St. Louis, Illinois. Lastly theses stock stories lead to negative consensus in public opinion and negative sentiment toward minority populations as well as a continued policy of blaming the victim for their wanton conditions.

Counter-story narratives must be used skillfully by scholars and educators to help bridge the viewpoint of the individual, institutions and society. Stock stories must become recognized for the damage they cause and the crippling effects of the blindness they produce. Lastly, the colorblind doctrine, as found present in this action, must be

recognized for the damages it causes in deciding matters for areas of concentrated poverty much like East St. Louis, Illinois and the disparaging levels of finance in its schools.

Conclusions

This study makes use of counter-stories as an aid to raising awareness and to create sound PK-12 funding policy for all students. It considers learning, about a negative condition that keeps people oppressed, the first step in reframing thinking to see the possibility of changing the conditions of inequitable and inadequate funding in majority minority areas. In addition, this study uses the telling of counterstories to help others understand the effects of negative school funding policy and disparaging levels of finance (Alemán, 2006, 2009; Bell, 2009; Crenshaw et al., 1995). Counterstories are a transformative force which helps to reframe those “structural and cultural aspects of education that maintain subordination and dominated racial positions” (Crenshaw et al., 1995, p. 25). Using CRT as a tool can help us see how racism has contributed to all conditions of minority disadvantage. This is especially true in the case of school finance.

The study continues the work of race scholars who point to Whiteness as property as the force which negatively influences fairness in the funding of education. In addition, it makes use of counter-stories as an aid to raising awareness and creating good PK-12 funding policy for all students. It considers learning, about a negative condition that keeps people oppressed, the first step in reframing thinking to see the possibility of changing the conditions of the oppression. In addition, this study uses the telling of minority stories to help others understand the effects of negative policy (Alemán, 2006, 2009; Bell, 2009; Crenshaw et al., 1995).

Reformation of Illinois State education finance will require the legislators, other legal experts and stakeholder groups to consider not only the language ingrained in the law's authoritativeness and enforceability, but also the hardship, strain and deprivation of the students most vulnerable. Without satisfying these considerations, when formulating and apply the laws, lawsuits for financial equity and adequacy will continue to be pursued as those most affected by poor finance policies suffer academic failures in the state of Illinois.

It is highly unlikely Illinois will close the achievement gaps that separate majority-minority student districts from more affluent districts, which are not majority minority school districts, without a conversation centered on the difficult aspects of race and its effects on finance. If Illinois is not willing to have these difficult but progressive conversations, instead of living up to its espoused desires to become an egalitarian leader, Illinois will continue to stand as a symbol of what is worst in education finance equality. With present data showing Illinois among the states which consistently prove to be among the most racially isolated in the nation, disparity in school funding illustrate huge gaps in funding for minority populations verses those funding balances for majority student populations. These conditions and outcomes stand as material proof, which not only illustrates the need for major changes in education finance; but also points to a need for change in the methods Illinois uses to determine funding streams for its greater than 49% minority student population.

The 1968 Kerner Report warned of a "destructive environment totally unknown to most white Americans", and indicated "white institutions maintain" these environment as well as "white society condones it" (National Advisory Commission on Civil Disorders,

1968a, p. 1). This research shows the relationship of housing and race on minority student school finance conditions and outcomes, while history indicates the causes of political unrest lie in racist policies (Joint Center for Housing Studies of Harvard University, 2002a, 2000b; National Advisory Commission on Civil Disorders, 1968a). Both of these knowledge sets indicate the need for counter storytelling as an aid to help others understand the conditions of minority school finance and the reasons for the need to make changes.

The State of Illinois has arguably instituted standards that establish a measure for adequacy. These adequacy measurements are established through curriculum, instructional materials, teacher training, assessments and accountability measures. All of these measures have been aligned with Illinois' academic standards. Researchers must turn to using present assessment tools like those instituted through curriculum, instructional materials, teacher training, assessments and accountability measures; to determine new directions that we believe should be pursued for the next generation of research on race and education finance equity and adequacy formulas.

Although many of these assessments already represent markers for decision making, education finance systems make little use of this vital resource. Theory such as CRT must be placed against the backdrop of a more concerted effort to understand social mechanisms, which greatly affect education for minority groups at the district finance level, and how these mechanisms become pivotal points for educational success. Statistical review of tools must also include historical reflection on events which effect laws and decision making criteria.

Breaking out of the constraints means finding useful tools such as CRT as a framework for analysis. This research examines the Illinois school finance case *Lewis E. v Spagnolo* to find traces of the colorblind doctrine. In its examination it applies CRT to find ways in which *Lewis E v. Spagnolo's* execution contains indicators of the promotion of White supremacy. These indications were viewed through application of practices used to subordinate people of color through the inadequate finance of majority minority school district in the State of Illinois.

This study does not make the mistake of confusing correlation with complete cause. In fact it admits that when looking at causes for any phenomenon, research must first be sure it contains all influential variables before creating such a conclusion. I try to resist the temptation to assume the correlation between racism and low education financial support of majority minority school districts, as the cause of less than stellar test results. Instead, I look for evidence through CRT application which supported the inclusion or the absence of race in *Lewis E v Spagnolo's* legal discussions and remedies; as I search for indications of missed opportunities for conversations that effect change. Using the main research question; Are Illinois school funding policies truly color blind, the research surrounding *Lewis E. v Spagnolo* is guided by research questions. These questions are, what stock story or stories from a majoritarian perspective does *Lewis E. v. Spagnolo, 710 N.E.2d 798 (1999)* tell about school funding in Illinois; and what are the impacts, outcomes, results, and consequences of the stock story or stories told from a majoritarian perspective on Illinois students?

The analysis focuses on searching for stock stories or stories from a majoritarian perspective. *Lewis E. v. Spagnolo, 710 N.E.2d 798 (1999)* is then explored to expose the

connection between these stock stories and school funding in Illinois. The next step is assessing the impacts, outcomes, results, and consequences of the stock story told from a majoritarian perspective on Illinois student populations. The qualitative emphasis, on the counterstories told concerning *Lewis E v Spagnolo* and the East St. Louis area are contained in the previous sections.

This study advocates raising the veil of silence. In addition it suggests placing educational assessment tools, which are already available to Illinois school systems, against the backdrop of racism for creating comparative models. These models must emphasize the effects of disproportionate school funding in Illinois. Formulas, which make use of comparative analysis, contain hopes of allowing school finance research to be taken to the next logical step in correcting inadequacies in school finance formulas. The study advocates extending the focus of information, such as but not limited to; demographic data, per pupil spending, curriculum, instructional materials, teacher training, assessments and accountability measures. It reveals the alignment of Illinois school funding along racial lines, and prompts an inquiry that includes increased awareness of comparative data on student achievement outcomes and demographic data in conjunction with race based funding considerations. Lastly, this study advocates looking at ways of changing the finance of education for more than 49% of Illinois' student populations with minority status.

Delgado and Stefancic (2000) write, "Once we understand how our categories, tools, and doctrines influence us, we may escape their sway and work more effectively for liberation" (p. 213). CRT allows us to see racism as a weed in our garden. Like weeds the stock stories which support disparaging levels of finance aren't unusual. We

see and hear them all the time. They are a part of the everyday scenery. Although these stock stories are just as common and deeply rooted as the dandelion, they pose a danger to minority students. If left undisputed and unexposed these stock stories will help form negative imagery and create a lack of public concern.

As educational finance leadership, legislators, government officials, administrators, teachers and parents; we must recognize the centrality of race and racism. It must be understood as a precursor to interpreting the ways in which education funding, the law, policy and practices in education funding are constructed (Solórzano & Yosso, 2002; Taylor et al., 2009; Zamudio et al., 2011). CRT's writings on colorblind themes are used as anchors for discovery of the presence of the colorblind doctrine and how it uses the inclusion or exclusion of race and racism in the legal case. The East St. Louis Photo Gallery and Blog (Gomez, 2013) provides examples from personal accountings of Black citizens. These statements were told through the eyes of former and present female citizens of East St. Louis, Illinois and were used not only to help highlight untruths contained in stock stories, but also to tell the counter story attached to the *Lewis E v. Spagnolo* case. In addition, other writings were used as strong support for examples from the *Lewis E v. Spagnolo* case and the connections to tenets of CRT (Logan, 2002b; Orfield, 2002; Orfield & Yun, 1999; Rudwick, 1964).

These examples were structured around the CRT theoretical framework which included the tenet of challenge to dominant ideology. From the tenet of centrality of race and racism the permanence of racism in American life was highlighted through case examples. From the tenet of challenges to the dominant ideology, four focus themes were highlighted. The focus themes were skepticism towards objectivity, neutrality,

meritocracy and colorblindness. In addition the tenet of centrality of experiential knowledge was used to highlight the necessity of allowing views of those most affected to be viewed. The tenet of interdisciplinary perspective was used to allow the case to be place in both historical and contemporary context. From the tenet of commitment to social justice ideas were combined to find solutions for eliminating forms of subordination inherent in Illinois public school funding schematics which subjugate majority minority school district financial support.

Examples from the *Lewis E v. Spangnolo* case were interpreted and it was found stock stories were used to mask and obscure realities for the purposes of the maintenance of White power structures, to maintain the position of privilege of the dominant group, and to promote the self interests of White supremacy. In addition this research finds the colorblind doctrine to be a major obstacle in recognition of the impact of inherent racism in American construction of individualism and meritocracy. In addition the colorblind doctrine leads to avoidance of actions, the blindfolding of Illinois' stakeholder groups, obscure promotion of recognition and delayed remedies. All of these factors are detrimental to eliminating disparaging equity and adequacy in education finance for Illinois Pk-12 schools.

In highlighting the mechanisms which connect the low academic achievement in areas of concentrated poverty with race and low levels of per pupil spending, the study notes although it this research does however see correlation as a strong hint that a relationship exists, racism is not the only explanation. In its CRT design this study recognizes the need to examine all of the possible variables that may influence the relationship of academic success to the finance of education for minority students. It

especially focuses on the one variable of race which has been neglected in the past. As CRT illustrates, the correlation is strong between race, school finance and racism; therefore there is a relationship.

Just as CRT helps establish race as an important variable in the study of solutions for minority education finance; this study looks for evidence that supports or rejects the influence of race, and the relationship of finance policy to academic success for minority Pk-12 students in Illinois. Through the lens of CRT, the study looks at the economics of education finance, school law and legal history, and minority education to focus on the point at which these three important topics converge. While reviewing the point at which these three broad topics converge, the small place at which they intersected contains relationships which are then investigated.

Although race and racism may not be the one and only factor, this research has not eliminated race or racism as an important factor to be considered in policy solutions to affective finance of minority education in Illinois. On the contrary, it hopes to make suggestions which can be followed by policy makers to change how Illinois sees the funding of majority minority school districts.

Unfortunately, the argument of right wing researcher, on the subject of education finance, is that educational spending does not hold the key to producing better outcomes (Hanushek & Lindseth, 2009; Leuven, Lindahl, Oosterbeck & Webbink, 2007). They base this loosely on data from areas which spends more but in turn continues to have educationally challenged students which score low on standard achievement tests (Leuven, Lindahl, Oosterbeck and Webbink (2007). They also use international examples which show the United States of America not only spends more collectively on education

than most other nations, but the United States of America also spend more than we have historically on the finance of education in this country. In addition, they support their argument with statistics which show when measured against other nations with lower spending patterns the U.S.A. tends to score lower than average on many measures of learning achievement (Organization for Economic Cooperation and Development, 2009).

Researchers, who believe money does not matter, have failed to see the one factor that has been left out of the formula. They fail to make demographic adjustments in their comparisons for race. When historical racism and race is factored into mathematic extrapolations and the group of focus becomes those student populations that are truly disadvantaged minority, that are contained in districts of concentrated poverty; the results and their interpretation become much different (Sanandaji, 2011).

Recommendations for the Illinois School Finance Change Model

The enactment of No Child Left Behind (NCLB) prompted increasing responsibility, as well as accountability, for Illinois districts. NCLB not only set recommended standards but also set mandates for districts. These standards hold districts accountable to a high level of expectation. Since its inception, educators have been working diligently to respond to requirements for blanket reform.

The setting of standards now mean many districts which have historically had difficulty meeting the academic needs as well as the financial needs of their population are and will continue to experience an even greater burden of accountability.

Unfortunately, without proper financial support for troubled districts, such as East St. Louis, Illinois; not only will Illinois districts continue to fall short of meeting the

standard, but also students will ultimately fail to attain needed skills to compete in today's growingly competitive society.

According to the Illinois State Board of education (2012), in FY2012 there were 866 regular public school districts, most of which are clustered around the Chicago metropolitan area. These 866 regular districts are made up of 377 elementary school districts, 99 high school districts, and 390 unit school districts. The districts serve approximately 2,066,692 students, whose composition consists of 49.3 % minority students. This minority composite contains Black, Hispanic, Asian, Native Hawaiian/Pacific Islander, Native American, or students who are two or more races. Going from 41.4 percent in 2003 to 49.3 % in 2012, these minority percentages increased mainly as a result of the change in Hispanic student population. Illinois has not had any recent substantive changes in its funding formula and continues to be one of the states with both the most disparaging quantity of funding and the most disparaging quality of education when comparing majority minority districts with those districts containing majority White students.

In addition to those district characteristics mention previously, demographic data describe district characteristics which paint a clear picture of difference for comparison. These differences create unique data sets which enable experienced gardener-stakeholders detailed analysis. The unique data sets define exactly what resources the school districts in low-income majority minority areas will need to reach the state's standards. Reaching state standards will require funding resources which have already been determined as an important element to student success by the Kansas District court decision (*Montoy v. State, No. 99 C 1738, 2003 WL 22902963, 2005*).

Confirmed in 2005, the Kansas District court decision *Montoy v. State, No. 99 C 1738, 2003 WL 22902963* determined school finance as an important element to student success. Court decision such as this one help confirm school finance is an important part of student academic success. Illinois' PK-12 students, who attend school in high poverty majority minority districts, have considerably less combined state and local revenue than children attending school in low poverty majority White districts. CRT tells us, the inequitable funding patterns contained in Illinois funding formulas are direct results of years of political decisions which are designed to preserve the status quo regarding the distribution of state aid. Although student academic result report the abuses inherent in the present funding system, Illinois continues our heavy reliance on local property taxes to fund our school districts.

Taking what we know about the history of racism, housing, typical patterns inherent in and around the City of Chicago and the fact that the majority of the schools in the state are clustered around the Chicago Metropolitan area; Illinois' 49.3 % minority student statistic make it imperative we make changes in the way we think about funding formulas which drive the education of our majority minority school districts. As written by Baker and Corcoran (2012), the Illinois State formula is "taking billions of statewide taxpayer dollars and channeling them back to lower-poverty districts, which are much less in need of state funding support." (p. 2). They (Baker & Corcoran, 2012), further state we, "could achieve far more equitable distribution of resources and far more adequate educational opportunities in high-poverty settings if these resources were allocated more appropriately" (p. 2).

This study contains recommendations for improvement of Illinois school funding formulas as well as alternate roads to better equity and adequacy. The suggestion for improvement combine the work of Stegall (2011), who advocates a mixture of school choice funding reform, structural reform or constitutional reform; Baker and Corcoran (2012), which uses concentrations of poverty contained in the district population; along with the race driven compensation methods suggested by Sanandaji (2011). The first measure, much like the measures suggested in the legal proceedings of *Robles-Wong et al. v. State of California*, should use the adequacy doctrine. The key issue related to the funding formulae and the amount of funds provided per child is whether or not that amount is sufficient to teach all children to state standards, laws and requirements (Verstegen, 2002).

Figure 13 illustrates the framework for the three measures of data which will be used to improve funding formulas for Illinois State majority minority student populations.

Figure 13. Framework for Improved Funding Formula. Data analysis for majority minority funding support.

As suggested by Stegall (2011) changing the terms of education finance requires consideration for political powers which exist in States and control the legislature. Illinois is no exception to the rule. Powerful special interests hold education monopolies, which have been entrenched in state education bureaucrats for decades. These institutions fight against changes they see as detrimental to their own personal interests.

Baker and Corcoran (2012) supported funding formulas use cost analysis to establish the amount, level and costs of education components needed in each school to ensure all students have equitable opportunities to achieve proficiency on learning standards. This formula would use a combination of data from schools that are considered to be successful and efficient to determine base student allocations, i.e. foundation amounts to develop an adequacy target level based on several factors. The measurements should including the average current expenditures of districts meeting all performance

standards established by the both the Illinois State Board of Education and the federal government AYP targets.

When computing levels of support, Illinois uses a foundation program allocation schematics which support education through a state guaranteed per pupil unit.

Historically this method was designed to pay for a basic or minimum education program.

These finance objectives contain a mixture of tiered systems. In an attempt to simplify the tiered systems it will be described as composed of local tax contributions, Illinois

State special education funding, Illinois State general state aid and other state funding.

Federal funding sources are being left out of this analysis because this study focuses on

Illinois as the major provider of funding. The federal sources are also excluded because,

as stated in the Illinois State Constitution (Lousin, 2011), “The State has the primary responsibility for financing the system of public education” (p. 211).

Again, property poor districts raise less funding due to decreased variations in local property values across school districts. The state contributes a portion of the difference in local funding up to the specified level guaranteed. This guaranteed level is referred to as the foundation amount. The foundation level was reviewed using data acquired from the U.S. Census Bureau (2012). This data was compiled to look at the distribution of funding streams for Illinois schools. As shown in Table 3, Illinois PK-12 school funding revenues are regressive in a relationship of high poverty district, which are also majority minority; to lowest poverty districts, which are majority White student populations.

Adequacy Measures

Findings indicate not only are locale revenue sources generated by local property taxes lower for majority minority district with higher poverty rates, but also when comparing the combined effect of both state and local revenue the regressive tendencies continues to be the same for all majority minority populations in the state. For Illinois majority minority districts that fail the revenue adequacy test this model also applies the concept contained in California's adequacy lawsuit *Robles-Wong et al. v. State of California*. Adequacy is then measured by the ability to meet minimum learning standards as well as local property ability to create funding for its district students.

Adequacy measurements are established through curriculum, instructional materials, teacher training, assessments and accountability measures. All of these have been aligned with Illinois' academic standards. As indicated in Reusser, Butler, Symonds, Vetter and Wall (2007), curriculum, teacher training, assessments and accountability measures can be powerful change agents when data is used to identify needed and support advisement. In addition, data sharing can be used to improve both teacher and student competencies.

With the practice of adequacy being tied to the level of needs in a district student population, it can require spending more on those populations with greater needs. For this example, identification of needs will follow the guidelines of ISBE's concentration grant eligibility. For the year 2013, these rules dictate a local education agency must have at least 6,500 poverty children or the number of those children exceeds 15% of the total children ages 5-17 population (ISBE, 2013).

Table 3 divides the district student population types into five quintiles. These quintiles are labeled lowest, which is a measure of lowest percentage of poverty contained in the district boundaries. As illustrated by Baker and Corcoran (2012), the quintiles become increasingly larger in percent poverty, with second being the next level higher than that which is labeled lowest. The quintiles continue in their increased percentage of third and fourth until they reach the highest percentage of poverty, which is labeled highest quintile.

Purposes to ensure all children have a fair, equal, and significant opportunity to obtain a high quality education; this formula uses Title I eligibility data obtained from Illinois State Board of Educations' Preliminary Eligibility Title I Spread Sheet (ISBE, 2013). The suggested formula is combined with U.S. Census Bureau poverty thresholds to determine quintile placement categories for Illinois school districts. Title I eligibility is an appropriate application because it was designed to assist local education administrations to meet the educational needs of their low achieving students. In addition its purpose is to help students in our highest poverty schools, students with limited English proficient and young children determined in need of reading assistance.

A simplified version of district placement which is operational according to Title I placement is contained in Table 4. Table 4 contains the demographic data for the number of Illinois school districts contained in each quintile.

Table 4. Illinois School District Poverty Level Quintiles FY2013

High wealth/ Low needs	Second	Third	Fourth	Low wealth/ High needs	Total Illinois Districts
487	161	108	65	46	867

As illustrated in Table 4, more than half of the districts in Illinois are in the high wealth low needs quintile. This quintile contains all those districts which do not qualify for Title I funding. This research funding distribution; calculated as a result of the three indicators of adequacy, demographics and third grade test indicators, attempts to address the “education debt” formula referred to by Ladson-Billings (2006, p. 3).

Poverty and Race

Demographic data sets have increased importance in this era of accountability. Districts must know their communities in an effort to serve them well. Demographic data must be collected with the goal of identification of the school patterns and population to find indications of both strengths and weaknesses. Data such as gender, ethnicity, economic status and race help identify needs relative to characteristics of district demographics.

Similar to Ladson-Billings’ (2006) concept of “the education debt” (p. 3), and in an effort to illustrate scenarios for combining local and state revenues which consider minority status and poverty in distribution; per-pupil spending and race must drive state aid. The methodology employed in this remedy will ultimately consider these key variables and compensate for differences in local capacity to raise revenues. They must do this by providing greater revenues to districts with higher educational needs. As Ladson-Billings (2006) reminds us, the historical education debt owed to minorities is one whose payment is long overdue. In Illinois’ highest educational needs communities, deficits in revenue can be both directly and indirectly tied to historical relationships with race, housing patterns and poverty.

As a result of the work of researches such as Alemán (2006), Delgado and Stefancic (1995), Frankenberg and Orfield (2012), Crenshaw et al. (1995) and Orfield and Lee (2006), we now understand both the current and historical connections between school district revenues and how these revenues differ according to levels of concentrated poverty. In its simplistic formats, the suggested example connects the receipt of Illinois state school financial resources to local levels of school fund raising capacity. In addition it posits Illinois districts, which have a limited capacity for school district fund raising support, have historical pattern indicating a higher poverty level (Baker & Corcoran, 2012).

Patterns in funding can use historical knowledge to predictably forecast shortages. In this way high poverty districts, which will typically raise less in local school funding revenue, will be compensated by Illinois State funding sources at a higher level than those which raise predictably higher levels in school funding revenue. School districts which predictable raise more in local revenues would rely less on Illinois state funding sources. This funding scheme allows most of Illinois resources to be shared between high needs school districts.

Findings indicate not only are locale revenue sources generated by local property taxes lower for majority minority low wealth districts with higher poverty rates, but also when comparing the combined effect of both state and local revenue the regressive tendencies continues to be the same for all majority minority populations in the state. For Illinois majority minority district that fail the revenue adequacy test this model also applies the concept contained in California's adequacy lawsuit *Robles-Wong et al. v.*

State of California. Adequacy is then measured by the ability to meet minimum learning standards as well as local property ability to create funding for its district students.

New Jersey is one of the systems which provide state aid to offset differences in local capacity. It works to raise district revenues amounts, while also providing more monetary support to those districts with greater educational academic needs. New Jersey uses two of the components of need based revenue and balancing state aid to compensate for local ability to raise revenue for education.

Research indicates important components to be race and its association with majority minority educational objectives. In addition 3rd grade reading competency scores indicate future academic success. For that reason this research suggests a formula which also contains 3rd grade reading competency results from those schools that are majority minority in Illinois as its secondary component in combination with need based revenue and balancing state aid to compensate for local ability to raise revenue for education.

Illinois Third Grade Reading Scores

This research uses third grade academic standards as interpreted through the Illinois academic standard for 3rd grade reading mastery. Third grade scores are used because according to scholars such as Good, Simmons and Kame'enui (2001) and Lesnick, Goerge, Smithgall, and Gwynne (2010); third grade constitutes a critical transition and is a pivotal point in student learning. In addition, children transition from reading to decoding sounds from the letters into reading to find facts contained in the literature at the third grade level. Because of its importance, third grade competency will determine whether or not overall skills begin to fall behind. For many students the inability to master reading skills at this level not only causes a domino effect , but also

causes a gap which will continue to grow across all academic areas (Good, Simmons & Kame'enui, 2001; Lesnick, Goerge, Smithgall, & Gwynne, 2010). For this reason and in accordance with No Child Left Behind, Illinois test data for third grade reading becomes pivotal.

Illinois State test data interprets 3rd grade test mastery levels through ISAT tests which are ranked according to categorical ranges. Illinois State test data interprets 3rd grade test mastery levels through ISAT tests which are ranked according to categorical ranges. Figure 14 illustrates student performance definitions.

Academic Warning Level 1A	Academic Warning Level 1B	Below Standards Level 2A	Below Standards Level 2B	Meets Standards Level 3A	Meets Standards Level 3B	Exceeds Standards Level 4A	Exceeds Standards Level 4B
120-135	136-159	160-182	183-206	207-220	221-235	236-249	250-329

Figure 14: Scale Score Ranges that Define Student Performance Levels. 2012 ISAT Reading. Source: Illinois Interactive Report Card (2012).

Needs based aid compares third grade test results, to find the correlation between districts which are majority minority and those which are majority White, the percentage of students which meet or exceeding ISBE standards, and district per pupil spending. The mean scores for third grade reading are compared for each district to find the correlation between districts which are majority minority in composition and those which are majority White.

Reading scores for the 2012 school year, show greater percentages of White and Asian 3rd graders read at proficiency levels than do Black American and Hispanic 3rd graders. Less than 40% of Black American and Latino 3rd graders reach proficiency levels (Illinois Interactive Report Card, 2012). A combined theory from Stegall (2011), who advocates a mixture of school choice funding reform, structural reform, or

constitutional reform; Baker and Corcoran (2012), who use concentrations of poverty contained in the district population; along with the race driven compensation methods suggested by Sanandaji (2011) are explored in the suggested solution.

The application which determines which populations are to be targeted contains the quintiles indicating those students most in need of intervention. Figure 15 contains an illustration of an adapted version of the target populations suggested in this formula for change.

Academic Warning	Academic Warning	Below Standards	Below Standards	Meets –Exceeds Standards
Level 1A	Level 1B	Level 2A	Level 2B	Level 3A-Level 4B
120-135	136-159	160-182	183-206	207-329
High Need	Fourth	Third	Second	Low Need

Figure 15: Illinois Scale Score Adaptation. These ranges define student performance levels. 2012 ISAT Reading. Source: Illinois Interactive Report Card (2012).

As illustrated by Figure 15's progressive needs based reading scale scores, the four categories contained in Level1A-Level 2B would contain areas where increased funding would be targeted. Level 3A- Level 4B would contain the categories on which adequacy funding level measurements are operationalized. The first year adequacy measurement would be set as a function of the average operating expense per pupil for the year.

With both minorities as well as low income students making up a large percentage of the population in areas where the majority of Illinois' student population is concentrated, both Illinois' economic future and the knowledge based quality of its employment force are threatened unless Illinois addresses barriers to adequate

performance for those students who have been traditionally disadvantaged. Historical reviews as well as current views, of road blocks to academic success, direct our efforts toward preventable measures in those districts which serve high poverty and racially segregated areas. Because we recognize early reading comprehension has serious, life time learner consequences for Illinois' students; connecting improved reading scores on the 3rd exam to improved funding streams is a key equity issue for insuring the availability of a quality workforce for the future.

Limitations of Solution

Theoretically the situation could be different. For instance, a school district's geographic area could be both high poverty and contain high levels of commercial and industrial property. In this case the district might have incurred lower cost for educational provision. Although a highly unlikely scenario, the same hypothetical district would receive a smaller portion of their revenue through Illinois general state aid (Baker & Corcoran, 2012). Because this is a highly unlikely scenario, this suggested research solution will operate according to that which is most likely and probable as well as scenarios which follow historical patterns of concentrated poverty and their relationship to race, housing patterns and real estate trends.

Getting it Right

The State of Illinois has based its student achievement objective with heavy reliance on Federal standards for academic goals. In keeping with objectives set by Title I, the purposed method would ensure all children have a fair, equal, and significant opportunity to obtain a high quality education. Because it incorporates 3rd grade test results in its criteria for funding, this solution also insures students have the adequate

monetary support necessary to reach minimum proficiency on Illinois State reading academic assessments. Following Title I's example for meeting the educational needs of low achieving children in our highest poverty schools, this formula for success also serves to distribute and target resources to those majority minority districts which in the past have had funding insufficient to meet state academic goals. It hopes to make a difference for Illinois local educational agencies and schools where needs are greatest (US Department of Education, 2009).

This proposed funding formula would not only rely on historically predictable school district funding patterns, but they would also rely on those historical patterns indicated by a five year trend in Illinois State wide 3rd grade reading results. These results can be attached to district 3rd grade reading proficiency and their associated indications per Illinois State Common Core reading objectives as well as the No Child Left Behind legislation. Figure 18 represent the conditions where 3rd grade reading results are combined with hypothetical state aid need-based, wealth- equalization state aid formulas. It shows how Illinois state systems can provide state aid to offset differences in the school districts local ability to raise revenues, while also providing additional support to those districts with greater 3rd grade educational needs.

Illinois is featured in figure 17 using a 5 year average from the Census Fiscal Survey data, a five year average from the Illinois General State Aid formula, and a combination of general and special state aid driven to high-poverty districts with higher 3rd grade academic needs as indicated by 3rd grade reading scores. In addition, the formula allows greater compensation for districts which are majority minority in student composition. For the sake of simplicity this formula uses the average operating expense

per pupil for the year 2012 which is \$11,841.53 as the targeted amount for funding adequacy for the state. General state aid would bring all school districts up to the average operating expense per student level. For fiscal years 2010, 2011, and 2012 the minimum foundation amount was set at \$6,119 per student (ISBE, 2012). Figure 16 (Baker & Corcoran, 2012) illustrates Illinois funding allocations for the years 2007-2009.

Figure 16. Illinois 2007-2009 Funding Allocations. Illinois funding schemes which group quintiles according to property wealth. Baker and Corcoran (2012, p. 22).

As written in Baker and Corcoran (2012), Illinois' highest poverty districts have considerable problems raising enough revenue to support the education of their students. When compared to wealthier districts they also receive less total state and local revenue per pupil than the districts which serve low poverty students. In this 2007- 2009 example, local revenue for the wealthiest districts have funding streams which are higher than the combined local and state revenue per pupil for those property poor districts which contain highest poverty students. It is important to note although these unfavorable odds exist for

poverty stricken districts in the State of Illinois, general state aid and other aid continues to be allotted to districts which are both property rich and serve majority White students.

For Illinois suggested remedy for inequality, additional funding would be computed for districts which fall inside the lower four quintiles based on adequacy, demographics and third grade ISAT test results.

Figure 17 (Baker & Corcoran, 2012) provides an illustration of how Illinois needs based equalized state aid formula can result in better results for property poor school districts.

Figure 17. Illinois Hypothetical Need Based Aid. Quintiles for school districts according to property wealth. Baker and Corcoran (2012, p. 4).

It illustrates the approximate \$11,841.53 student rate of funding adequate equalized through Illinois general state aid. In addition to Baker and Corcoran (2012) suggested methods, an effort to address these inequalities uses applications focused on the key issues of adequacy, 3rd grade academic indicators and demographics. All of these are central to Illinois' efforts to improve adequacy for school funding, fostering inclusion, harnessing the power of applications all ready in place, as well as benefiting current and

future generations as we move up the development ladder in Illinois school funding schematics.

Implications for Future Research

During the 1990s, America enjoyed a growth in prosperity which ended with record high income levels and the lowest unemployment rate in 30 years. Unfortunately, the City of East St. Louis experienced none of the phenomenon. Analysis of present conditions contain evidence of high barriers to economic self-sufficiency in the area, absence of the capacity to provide work and family supports that lead to success in the labor market, absence of effective policies to improve the well-being of low-income families, the absence of change in the financial prospects for the PK-12 education finance systems, and the absence of addressing the problems through a race centered perspective like that of CRT.

First, CRT can provide an analytic lens for Illinois PK-12 school finance leaders to probe racist systems, structures, and practices in schools (Ladson-Billings, 1998; Ladson-Billings & Tate, 1995). Second, CRT can provide a space for current and prospective Illinois PK-12 school finance leaders to critically evaluate school finance policies. They can also work towards a clearer understanding of politics, policy, and race driven school finance practices (Aleman, 2006). Third, CRT can support the role of White Illinois PK-12 school finance leaders, researchers, teachers and administrators engaged with colleagues of color. Together perspectives of administrative policies can result in actions that reshape the finance of Illinois education to become racially just (Parker & Villalpando, 2007).

Concluding Remarks

The purpose of this dissertation was to use the court actions and opinions in *Lewis E. v. Spagnolo* to examine Illinois State's application of the policy contained in Article X section 1 of the Illinois State Constitution through the CRT lens. The examination or analysis of *Lewis E. v. Spagnolo* hoped to expose the inclusionary issues or exclusionary issues of race and racism. With the major question to be answered, Are Illinois school funding policies truly color blind? Research was guided by the following research questions:

- What stock story or stories from a majoritarian perspective does *Lewis E. v. Spagnolo*, 710 N.E.2d 798 (1999) tell about school funding in Illinois?
- What are the impacts, outcomes, results, and consequences of the stock story or stories told from a majoritarian perspective on Illinois students?

This case was not only chosen because of its historical content, but it was also chosen because of its current relevance and glaring difference in levels of school equity and adequacy. With hopes of sharing critical perspectives on history, values and underpinned forms of knowledge (Zamundio, Russell, Rios, & Bridgeman, 2011), this dissertation attempted to outline the racial effects of Illinois State school finance policies. In addition it offers a counterstory to the stock stories that are told by the majority.

The analysis was guided by questions, which exposed stock stories told by the majority, in hopes of dispelling the myths and in hopes of offering a counterstory to help add the female Black voice to the discussion of Illinois public school finance. The analysis guided the discovery of the history, the setting, and those things present inside the story that were and continue to be completely out of the control of East St. Louis'

majority Black population. Guided by the basic tenets of CRT, the path winded through the annals of history to discover a time when it was totally acceptable to separate Blacks from the White population for work, play, school and life in general. It continued as the research explored the colorblind doctrine and the blindfolds it ties around the eyes of all who review legal action for Illinois adequacy in school finance.

The research revealed shocking results when viewed through the eyes of those most vulnerable to disparaging levels of education finance in Illinois. The findings include the colorblind doctrine contained in the legal case, damaging stock stories of meritocracy, as well as criminality and minority deficiency stock stories.

Even current attempts by the Financial Oversight Panel (FOP) for East St. Louis School District 189, show expenditures which at face value appear to help the underprivileged community of East St. Louis but weigh most heavily in the direction of the support of high cost consulting firm profits. The facts present themselves as a glaring example of Bell's (1980) interest convergence theory, which emphasizes the role of self-interest in politics, as well as the expression of self-interest contained in actions which appear to be in the best interest of the less fortunate. What looks like a gesture of goodwill, is in fact the White elites willingness to concede the decision as a result of their self-interests. The findings of this dissertation offer a composite counter story which supports continued exploration of Illinois public school funding policies, of connections between levels of finance and race, of areas of concentrated poverty and of stock stories which direct perceived entitlement to public funding away from minorities. In its offering of both cultural and theoretical sensitivity (Strauss and Corbin 1990), it uses special insight and capacity of the researcher to give meaning to the data as it uses the insider

perception brought by a researcher who comes from the socio-historical community. Both cultural and theoretical sensitivity help to convey narrative, sensitivity and interpretation of meanings embedded in the narrative.

The findings also indicate stock stories as the cause for diminishing quality of education and in the end job opportunities and diminished earning potential for minorities. In addition the findings show stock stories as cause for the maintenance of the status quo and continued lack of adequate financial support for areas such as East St. Louis, Illinois. Also, these stock stories contribute to consensus in public sentiment toward minority populations and continued policy of blaming the victim. All of these findings help us to understand how race and racism contributes to all conditions of group advantage and disadvantage. This is especially true in the case of Illinois public school finance.

Stakeholders, who include policy makers, must continue to examine policy through lens like CRT to find effective applications to achieve more along the lines of both adequacy and equity. Much like gardeners with our eyes on productivity, stakeholders must be willing to get their hands dirty. They must weed out racism driven policies which stifle progress towards PK-12 funding. They must adopt race considerate policies which serves in the best interest not only of majority minority school districts, but also serve the best interest of all Illinois stakeholder groups. Although this example of legal injustice showcases a 1999 example of educational injustice and refusal to apply established policy, a fast-forward to today shows these conditions remain unchecked. Impoverished East St. Louis, with its blighted community, and economically depressed population (East St. Louis Police Statistics, 2012); also has a 13.9 percent unemployment

rate which is more than five percentage points higher than the national average (Unemployment Statistic, May 2012). In addition, 41 percent of the 27,000 residents live below the poverty level (U.S. Census, 2012). It is important to also note its population is approximately 98% African-American (U.S. Censuses, 2012).

On February 14, 2014 Forsythe (2012) reported the ISBE awarded East St. Louis additional money to improve its course offerings and teacher preparation. According to Forsythe (2012) for the last two fiscal school years; District 189 has received a \$50,000 grant to enhance the district's advanced placement program from the Illinois State Board of Education College and Career Readiness Division. The money is used to cover additional training for teachers and school counselors which allowed District 189 to expand its advanced placement course offerings. Two years ago, the district was only able to offer one advanced placement course. Last year, the district added other class. This year, the district has six advanced placement (AP) courses. The course offering include AP Calculus, AP English Language and Composition, AP World History, AP U.S. History, English Language and Literature, as well as AP Statistics. There is 314 East St. Louis High students enrolled in the six AP classes. Administrators boast the most popular class in the advance placement array is Statistics, with 73 students enrolled for the 2013-2014 fiscal year. Academic results for East St. Louis students show only 31% of East St. Louis students met or exceed the standard for reading in 2012 and a mere 18% met or exceeded the standard for 2013.

Review of East St. Louis District expenditures, as recorded by the regular meeting minutes filed by the Financial Oversight Panel (FOP) for the East St. Louis School District 189, for the past two years reveal many expenditures for both consulting and

auditing. All these fees were ordered by the oversight panel and paid by a district already unable to support its student education cost adequately. In addition, audits brought determinations of overpayments of federal funding. District 189 was then ordered to repay those amounts from an already overburdened budget. Unfortunately, for the students supported by the board of directors, criminality came into play as the State of Illinois worked to help the district restructure. This follows the usual order of CRT's criminality imagery, which places the Black man at the bottom, as it conspires to keep him at the bottom of society. It provides a rationale for funneling social welfare dollars away from Black people and the areas they inhabit. This includes the PK-12 districts Black people attend and the finance of the same (Bell, 2009; Delgado, 1995; Muhammad, 2010).

The \$50,000 grant to enhance the district's advanced placement program from the Illinois State Board of Education College and Career Readiness Division is hardly enough to pay down the accumulated "education debt" owed the minority students of East St. Louis, Illinois. In addition it does little to expose the stock stories of criminality, minority deficiency and meritocracy; which diminishes quality of education, isolates minorities to create pockets of concentrated poverty and in the end diminish job opportunity and earning potential. However, it is a step in the right direction.

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