
THE CONVERGENCE AGAINST HOMEPLACE

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ABSTRACT

The public education and family regulation systems converge in ways that many scholars and policymakers have yet to fully confront. Although these systems claim to protect the interests of children and families, they often operate together in ways that disproportionately harm racially minoritized communities. This convergence undermines “homeplace,” the site where families construct mutual affirmation, resist caste-based hierarchies, and nurture autonomy. Extending bell hooks’s theory of homeplace into legal discourse, this Article argues that protecting homeplace requires family regulation and public education systems to respect families’ cultural, emotional, and social well-being; collaborate with families to safeguard children from harm; and prioritize family autonomy.

Using homeplace as a critical lens, this Article traces how education and family regulation systems converge to produce overlapping harms, including excessive surveillance, punishment, legal estrangement, and civic disillusionment. These harms expose the dangers of state protection and the fragility of democratic legitimacy when broad swaths of entire communities are alienated from legal and educational institutions.

In advancing homeplace as both a diagnostic and normative tool, this Article makes two contributions. First, it offers a novel historical analysis of systemic harm by showing how today’s convergence reflects a long tradition of coordinated state control against homeplace. Second, it offers homeplace as a

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framework to consider regulatory solutions rooted in care, community autonomy, and the moral imagination of those most affected. In doing so, this Article invites a deeper reckoning with how law might stand down so that homeplace can rise.

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INTRODUCTION

Recent discourse has highlighted crises in immigration,¹ birthright citizenship,² and family separation,³ but the American legal order has regularly and repeatedly disrupted the spaces that anchor human dignity and communal life. From the kidnapping and enslavement of Africans to the forced removal of Native communities, and the eviction of Black families under the banner of urban renewal, law and policy have worked to sever people from the places, relationships, and identities that sustain them. Indeed, displacement within and by the American legal system is not new, nor is it merely physical. This system fragments culture, dislocates belonging, and undermines what bell hooks⁴ called homeplace, a site of safety, affirmation, and resistance.⁵

Today, such displacement continues due to the convergence of the modern public education and family regulation systems.⁶ Though outwardly designed to

¹ See Mario Macis, *The Immigration Debate: Policies and Perceptions in the 2024 U.S. Presidential Election*, JOHN HOPKINS CAREY BUS. SCH. (Nov. 1, 2024), <https://carey.jhu.edu/articles/immigration-debate-policies-and-perceptions-2024-us-presidential-election> [https://perma.cc/2UTE-2Y4E].

² See Michelle Lapointe, *In Birthright Citizenship Decision, the Supreme Court Expanded Trump's Power*, AM. IMMIGR. COUNCIL: BLOG (July 1, 2025), <https://www.americanimmigrationcouncil.org/blog/in-birthright-citizenship-decision-the-supreme-court-expanded-trumps-power> [https://perma.cc/HU6J-DKD3].

³ See generally MICHAEL GARCIA BOCHENEK, HUM. RTS. WATCH, “WE NEED TO TAKE AWAY CHILDREN”: ZERO ACCOUNTABILITY SIX YEARS AFTER “ZERO TOLERANCE” (2024), https://www.hrw.org/sites/default/files/media_2024/12/us_familyseparation_1224web.pdf [https://perma.cc/B5C2-XW66] (discussing practice of family separation at southern border).

⁴ hooks spelled her name in lowercase as a rejection of individual hierarchy. Clay Risen, *bell hooks, Pathbreaking Black Feminist, Dies at 69*, N.Y. TIMES (Dec. 15, 2021), <https://www.nytimes.com/2021/12/15/books/bell-hooks-dead.html> (noting hooks “insisted on rendering [her name] in lowercase letters to emphasize . . . the ‘substance of books, not who I am’”).

⁵ BELL HOOKS, *Homeplace: A Site of Resistance*, in YEARNING: RACE, GENDER, AND CULTURAL POLITICS 41, 48 (2d ed. 2015) [hereinafter HOOKS, *Homeplace*] (“We are daily witnessing the disintegration of African-American family life that is grounded in a recognition of the political value of constructing homeplace as a site of resistance . . .”).

⁶ Throughout this Article, I use the term “family regulation system” coined by Dorothy Roberts in place of the historical and orthodox term “child welfare system” to better illustrate the system in its functionality and not in its aspiration. See Dorothy Roberts, *The Regulation of Black Families*, REGUL. REV. (Apr. 20, 2022), <https://www.theregreview.org/2022/04/20/roberts-regulation-of-black-families> [https://perma.cc/D3U5-AUUP] (“The U.S. child welfare system is a multi-billion-dollar apparatus designed to regulate and police families, not to protect children.”); *Is Child Welfare an Accurate Name for a System That Hurts Kids?*, CHILD.’S RTS. (July 7, 2023), <https://www.childrensrights.org/news-voices/is-child-welfare-an-accurate-name-for-a-system-that-hurts-kids> [https://perma.cc/AUF8-MHY5] (asserting “child welfare system” is a misnomer because it actually harms children, their families, and communities). See generally DOROTHY ROBERTS, *TORN APART: HOW THE CHILD WELFARE SYSTEM DESTROYS BLACK FAMILIES—AND HOW ABOLITION CAN BUILD A SAFER WORLD* (2022) [hereinafter ROBERTS, *TORN APART*] (arguing child welfare system operates through

protect and support children, these systems often converge in ways that surveil, punish, and destabilize families. These harms especially affect those who are Black, poor, or otherwise marginalized. Like the displacements of the past, this convergence undermines the possibility of homeplace and threatens the autonomy and dignity of those caught in its grip.

This Article uses bell hooks's theory of homeplace to critically analyze this convergence and to explore possible reforms. According to hooks, as a site of resistance and refuge, homeplace is both a physical and metaphorical space where healing, restoration, and self-definition occur, serving as a counterpoint to the oppression and dehumanization Black families experience in the wider world.⁷ Under her theory, children and families should be free to resist dehumanization, challenge caste systems, and be affirmed in their minds and hearts despite poverty, hardship, and deprivation.⁸

This Article advances a legal theory of homeplace, extending hooks's concept into the realm of law to assert that all families must be free to cultivate spaces of care, belonging, and autonomy without punitive state interference. It calls on the family regulation and public education systems to respect families' cultural, emotional, and social well-being; collaborate with families to safeguard children from harm; and prioritize family autonomy. This Article contends that the absence of homeplace is not incidental but reflects a legal tradition that denies this freedom to families, particularly Black families, when their autonomy threatens entrenched hierarchies. This history exposes a persistent struggle for the equal treatment of children and their families within both systems.⁹ After tracing the historical roots and contemporary manifestations of the convergence of the public education and family regulation systems,¹⁰ this Article offers homeplace as both a lens for understanding systemic harm and a framework for imagining more liberatory, community-centered futures.¹¹

The story of Tiffany Banks, an Illinois parent, illustrates how deeply embedded this convergence against homeplace is in the daily lives of families. When Ms. Banks challenged her son's educational placement as inappropriate,

instilling fear in families, and by removing children or using threat of removal as weapon, system enforces rigorous monitoring and regulation of families).

⁷ See MARY-FRANCES WINTERS, *BLACK FATIGUE: HOW RACISM ERODES THE MIND, BODY, AND SPIRIT* 16-17 (2020).

⁸ See HOOKS, *Homeplace*, *supra* note 5, at 43-47 (illustrating role of Black women in cultivating homeplace to resist white supremacist domination).

⁹ See Kimberly Jenkins Robinson, *We Have Only Begun to Fight*, 109 VA. L. REV. ONLINE 1, 7 (2023) ("Despite these and numerous other wins and gains from state school finance litigation, far too many students continue to receive low-quality and inequitable educational opportunities . . .").

¹⁰ See *infra* Part II (detailing convergence of country's public education and family regulation systems over time).

¹¹ See *infra* Part II (describing hooks's theory of homeplace alongside convergence of public education and family regulation).

the state began to monitor and investigate her.¹² The local school district placed Ms. Banks's son in special education classes, and Ms. Banks disagreed.¹³ Once he was properly diagnosed with attention deficit and mood disorders, her son excelled academically and his behavioral issues improved.¹⁴ She filed a complaint with the city's education board and entered mediation with the school.¹⁵ Instead of receiving care and support, Ms. Banks was met with surveillance and retaliation.

Shortly after she filed the complaint, social workers from the Illinois Department of Children and Family Services ("DCFS") investigated Ms. Banks for alleged child abuse and neglect. Things came to a head when her son told school officials about being spanked by Ms. Banks for running away from school and was removed from their home for over a month.¹⁶ Ms. Banks and advocates suspected that mandatory reporters misused their authority to retaliate against her.¹⁷ Whatever the case, challenging a child's education placement does not justify retaliation culminating in a child welfare investigation nor the harms her son faced during a vulnerable and formative point in his development. Ms. Banks's experience demonstrates the convergence's power to displace families not just physically, but emotionally and legally—denying them a space to be heard, affirmed, and safe.¹⁸ Had the educators and social workers involved respected this family's need for homeplace, a space of dignity and resistance, the harms from displacement could have been avoided and her voice heard.

The notion of homeplace not only reveals what Ms. Banks lost but also provides a framework to envision a different future. Ideally, the public education and family regulation systems would collaborate to respect homeplace, thereby supporting children's development in partnership with their families. When working in harmony, these systems might resemble overlapping circles committed to shared goals of care and support. Their intersection would carry out the shared goal of protecting the welfare and best interests of all children and families. In such a vision, schools would foster intellectual and social growth,

¹² Rebecca Klein & Caroline Preston, *When Schools Use Child Protective Services as a Weapon Against Parents*, HECHINGER REP. (Nov. 17, 2018), <http://hechingerreport.org/when-schools-use-child-protective-services-as-a-weapon-against-parents> [https://perma.cc/SC62-9H88].

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* ("She felt the allegations against her had been twisted and exaggerated to fit a narrative that she was a bad mother.").

¹⁸ See *infra* Section III.A.2 (discussing dynamics of convergence where education policies selectively shape which families receive support as regulatory mechanisms determine which families are sanctioned).

while family support systems would protect and uplift families without punitive overreach.¹⁹ But this ideal remains elusive.

This Article analyzes the convergence through the lens of homeplace, revealing something new about the interaction between the public education and family regulation systems: Although often treated as separate, together they channel certain families from schools into deeper forms of state surveillance and control. This Article coins the term “school-to-system pipeline”²⁰ to capture this phenomenon of inequality under the guise of protection.²¹ The convergence fails to ensure equal opportunity for all families to autonomously and safely resist harms stemming from these systems.²² Moreover, it often disregards the interests of the family unit, resulting in legal and regulatory systems that are not only inadequate but actively harmful.²³

This convergence—and its consequences—remains underexplored in legal scholarship. While legal scholars have examined public education and family regulation systems separately,²⁴ and others have begun inquiries into their

¹⁹ See Brianna Harvey, Josh Gupta-Kagan & Christopher Church, *Reimagining Schools’ Role Outside the Family Regulation System*, 11 COLUM. J. RACE & L. 575, 585-87 (2021) (arguing Child Protective Services’ interference into children’s lives based on allegations from schools is less likely to protect children); Kele M. Stewart, *Re-Envisioning Child Well-Being: Dismantling the Inequitable Intersections Among Child Welfare, Juvenile Justice, and Education*, 12 COLUM. J. RACE & L. 630, 649 (2022) [hereinafter Stewart, *Re-Envisioning Child Well-Being*] (asserting foster care is pathway to juvenile justice system).

²⁰ See *infra* Section III.A.1 (defining “school-to-system pipeline” and exploring human costs associated with public school regulation).

²¹ In making this assertion, this Article contributes to critical conversations amongst scholars about the maintenance of the status quo in the family regulation and public education systems. For an exploration of the family regulation arguments, see generally DOROTHY ROBERTS, *SHATTERED BONDS: THE COLOR OF CHILD WELFARE* (2002) [hereinafter ROBERTS, *SHATTERED BONDS*], which argues that the child welfare system functions to control and surveil Black families, thereby upholding long-standing racial hierarchies that disadvantage the Black community, and KHIARA M. BRIDGES, *THE POVERTY OF PRIVACY RIGHTS* (2017), which suggests welfare policies and family regulation practices disproportionately impact marginalized communities and asserts that these systems uphold racial and economic hierarchies. Regarding arguments that public education regulation systemically undergirds a racial hierarchy, see, e.g., LaToya Baldwin Clark, *Barbed Wire Fences: The Structural Violence of Education Law*, 89 U. CHI. L. REV. 499, 501 (2022) [hereinafter Baldwin Clark, *Barbed Wire Fences*] (“[E]ducation works with other social institutions to inflict structural harm that accompanies unjust and stratified social arrangements.”); LaToya Baldwin Clark, *The Critical Racialization of Parents’ Rights*, 132 YALE L.J. 2139, 2147 (2023) [hereinafter Baldwin Clark, *Critical Racialization*] (arguing contemporary parents’ rights and “anti-CRT” movements are born from white supremacy).

²² See HOOKS, *Homeplace*, *supra* note 5, at 41-43 (describing Black resistance rooted in solidarity found within homeplace).

²³ See *infra* Parts II-III (tracing historical convergence of these systems and resulting human costs).

²⁴ See, e.g., S. Lisa Washington, Essay, *Survived & Coerced: Epistemic Injustice in the Family Regulation System*, 122 COLUM. L. REV. 1097, 1134-48 (2022); Robinson, *supra* note 9, at 7 (asserting litigation victories in cases aimed at reforming public school funding are

intersection,²⁵ scholars have yet to use homeplace as a lens through which to critique the convergence and map a new way forward.²⁶ To fully understand the experiences of Black children in the United States, it is essential to analyze these two legal and regulatory spheres together. Moreover, to understand their harms, it is important to see how the legal and regulatory systems disrupt the right to homeplace.

This Article further applies the theory of homeplace to argue that, at its core, the problem lies in the absence of safe, affirming spaces—homeplaces—where families can resist systemic failures. Establishing and protecting homeplace equally for all families is therefore essential. Integrating the concept of homeplace into laws and policies that govern these systems can foster a more just convergence—one in which historically marginalized families can find refuge and resist oppressive forces.²⁷ Correcting this framing ensures that

associated with increased achievement for low-income students); Derek W. Black, *Educational Gerrymandering: Money, Motives, and Constitutional Rights*, 94 N.Y.U. L. REV. 1385, 1418-19 (2019).

²⁵ See, e.g., ROBERTS, *TORN APART*, *supra* note 6, at 159-60 (characterizing teachers and other mandated reports as deputized agents of family regulation system); Eric Chung, *The Child Welfare and Education Gap*, 36 YALE L. & POL'Y REV. 365, 408-17 (2018) (arguing for coordination between child welfare laws and child education laws and policy); Shanta Trivedi, *The Harm of Child Removal*, 43 N.Y.U. REV. L. & SOC. CHANGE 523, 554 (2019) [hereinafter Trivedi, *The Harm of Child Removal*]; Harvey, Gupta-Kagan & Church, *supra* note 19, at 585-87 (discussing how Child Protection Services ("CPS") responses from schools do not effectively protect children); Stewart, *Re-Envisioning Child Well-Being*, *supra* note 19, at 648-53 (discussing intersection of child welfare, education, and juvenile justice systems); Kele Stewart, *The Connection Between Permanency and Education in Child Welfare Policy*, 9 HASTINGS RACE & POVERTY L.J. 511, 514 (2012) (arguing education should be prioritized for children in out-of-home care).

²⁶ Scholars are beginning to investigate how the home and homeplace intersect with systemic racial injustice across various disciplines, but have not yet completed a full, in-depth inquiry. Additionally, they have not examined how the convergence of public education and family regulation systems jeopardizes homeplace. See Najarian R. Peters, *The Right to Be and Become: Black Home-Educators as Child Privacy Protectors*, 25 MICH. J. RACE & L. 21, 51-52 (2019) (examining how Black homeschooling parents, in response to systemic challenges, seek to provide what bell hooks termed "homeplace" to offer havens and enhanced educational opportunities for their children); Deborah N. Archer & Joseph R. Schottenfeld, *Defending Home: Toward a Theory of Community Equity*, 92 U. CHI. L. REV. 2199, 2235-36 (discussing how community equity—a normative theory requiring equitable distribution of benefits and harms across communities—is not currently advanced by federal law or political process, resulting in disproportionate harm to Black communities).

²⁷ The rights of Black, Indigenous, and low-income children have historically been and continue to be undermined by regulatory practices in family law and education. See Breanna Madison, Note, *Whose Child Are You? Protecting Black Children and Families Predisposed to the Harms of the Family Regulation System*, 67 HOW. L.J. 155, 165 (2023) ("Over 50% of Black children will have been through a child welfare investigation before the age of eighteen (and this percentage is double the rate of white children). Black children are disproportionately represented in the foster care system, making up only 14% of the child population in the United States and yet making up 23% of the American foster care population.").

children's developmental needs, educational opportunities, and overall well-being are safeguarded within the family structure, especially because protecting the interests of families and communities also protects children's interests.²⁸

This Article also uses homeplace as a lens for understanding how the convergence of public education and family regulation systems fractures trust and civic belonging. Here, legal estrangement—a concept typically used to describe how over-policing alienates marginalized communities²⁹—is applied to analyze how families, especially those who are racially and economically marginalized, experience exclusion and alienation from institutions meant to support them. The Article argues that convergence erodes families' legal standing, breeds legal estrangement, and denies families the supportive environments that they need to thrive, collectively contributing to civic decay.³⁰

Framing the convergence in a way that protects homeplace will require significant legal and policy transformation. This Article explores how law might be reshaped to prioritize children's well-being within the context of family and

²⁸ See ROBERTS, *SHATTERED BONDS*, *supra* note 21, at 248 (arguing child welfare system disproportionately disrupts Black families, failing to recognize that protecting family and community interests inherently serves children's best interests); see also Sacha M. Coupet, "Ain't I a Parent?": *The Exclusion of Kinship Caregivers from the Debate over Expansions of Parenthood*, 34 N.Y.U. REV. L. & SOC. CHANGE 595, 641-50 (2010) (emphasizing importance of family autonomy and role of kinship caregivers in promoting child well-being); Sarah H. Lorr, *Unaccommodated: How the ADA Fails Parents*, 110 CALIF. L. REV. 1315, 1315 (2022) (critiquing failure of family court policies to understand and accommodate parents with disabilities, particularly in Black and brown families, leading to disparate and harmful child removal actions); Cynthia Godsoe, *All in the Family: Towards a New Representational Model for Parents and Children*, 24 GEO. J. LEGAL ETHICS 303, 342-48 (2011) (arguing for legal frameworks which prioritize family integrity and recognize interconnected interests of parents and children); Trivedi, *The Harm of Child Removal*, *supra* note 25, at 540 (discussing detrimental effects of unnecessary child removal on family and community stability and advocating for policies supporting family preservation); Catherine E. Smith, "Children's Equality Law" in the Age of Parents' Rights, 71 U. KAN. L. REV. 539, 542-45 (2023) [hereinafter Smith, *Children's Equality Law*] (arguing only protecting parents' rights fails to sufficiently protect children's rights).

²⁹ Monica C. Bell, *Police Reform and the Dismantling of Legal Estrangement*, 126 YALE L.J. 2054, 2067 (2017) [hereinafter Bell, *Legal Estrangement*] ("The concept of legal estrangement has the power to reorient police reform efforts because it . . . treats social inclusion as the ultimate end of law enforcement . . . [,] encourag[ing] a fuller, theoretically informed set of interventions into police governance.").

³⁰ See HOOKS, *Homeplace*, *supra* note 5, at 41-47 (observing trends in society, life, and business which displace togetherness and unity of Black families); see also Renae D. Mayes, Donna Y. Ford & Erik M. Hines, *From Research and Theory into Practice: hooks' Homeplace Matters in the Educational Lives of Black Students*, DIVERSE ISSUES HIGHER EDUC., Feb. 1, 2024, at 12, 12 (suggesting unique love and protection afforded by hooks's idea of "homeplace" can be used to effectively combat public education systems which systemically harm Black children); Bell, *Legal Estrangement*, *supra* note 29, at 2127 ("Multiple experiences with arrest of a parent can result in court dates for children that keep them out of school and siphon them into the criminal justice apparatus; this process interrupts their education and ultimately places them at risk for incarceration and its related perils.").

community autonomy. It considers the potential and limitations of rights-based, regulatory, and community-centered strategies for building a more just convergence. It argues that these systems should converge in ways that conform with the legal theory of homeplace, which holds that families must be free to cultivate spaces of care, belonging, and autonomy without punitive state interference.

In advancing homeplace as both a diagnostic and normative tool, this Article makes two contributions. First, it offers a novel historical analysis of systemic harm by showing how today's convergence reflects a long tradition of coordinated state control against homeplace.³¹ Second, it offers homeplace as a framework to consider regulatory solutions rooted in care, community autonomy, and the moral imagination of those most affected.³² In doing so, this Article invites a deeper reckoning with how law might stand down so that homeplace can rise.

To make this case, Part I introduces the concept of homeplace, theorizing its significance as both a cultural and legal construct. Part II then explores at a more general level (with specific examples) the historical regulatory and legal roles of public education and family regulation systems, focusing upon the ways in which these systems have infringed on Black families' ability to experience homeplace. Part III in turn addresses the costs that accrue when these two systems converge negatively. This Part also examines the legal and civic consequences that follow from the negative convergence. Finally, Part IV turns to potential legal and non-legal pathways for reclaiming and protecting homeplace while critically examining the limitations and challenges these approaches may entail.

I. CONCEPTUALIZING HOMEPLACE

The late bell hooks was a teacher, scholar, and public intellectual who challenged dominant paradigms across disciplines.³³ Her scholarship engaged the intersections of race, class, and gender using cultural texts as catalysts for democratic discourse.³⁴ Recognized as "pathbreaking,"³⁵ her work in Black feminist theory and cultural criticism created space for Black women and other marginalized voices to challenge both white supremacy and patriarchal

³¹ See discussion *infra* Part II (highlighting how public education and family regulation systems have worked in parallel to monitor and control family life).

³² See discussion *infra* Part IV (suggesting legal rights to homeplace, legal and policy reforms, or cause lawyering could advance justice-oriented change).

³³ Risen, *supra* note 4 ("Ms. Hooks resisted the title 'public intellectual,' but by the 2000s she had achieved celebrity status.").

³⁴ See BELL HOOKS, *YEARNING: RACE, GENDER, AND CULTURAL POLITICS* 9-10 (2d ed. 2015) [hereinafter HOOKS, *YEARNING*].

³⁵ Risen, *supra* note 4 ("I think of bell hooks as being pivotal to an entire generation of Black feminists who saw that for the first time they had license to call themselves Black feminists" (internal quotation marks omitted)).

dominance, including within the Black liberation struggle itself.³⁶ As legal scholar Kimberlé Crenshaw noted, hooks “was utterly courageous in terms of putting on paper thoughts that many of us might have had in private.”³⁷

hooks pursued a pedagogy of liberation—both inside and outside the academy—that would enable people to recognize how systems of domination are interconnected.³⁸ “[W]e cannot change one aspect of the system without changing the whole,” she asserted, calling for inclusive dialogue rooted in our shared emotional lives, longings for peace, and the pursuit of justice.³⁹ Her ultimate goal was to end domination in all its forms and to build solidarity rooted in shared humanity and emotional connection across race, gender, class, sexuality, and religion.⁴⁰

Among hooks’s most enduring contributions is the theory of homeplace. Describing it as both a physical and political space, hooks theorized that homeplace is the site of resistance where Black families and communities create safety, dignity, and humanity amid systemic oppression.⁴¹ She envisioned homeplace as a space of emotional and physical care where “dignity, integrity of being . . . [and] faith” are learned despite the brutal realities of systemic oppression.⁴² Black women, in particular, lead these efforts by constructing domestic spaces of care and resilience in the face of racist and sexist domination.⁴³

But hooks taught that homeplace is not merely a personal refuge—it is political: “Historically, [B]lack women have resisted white supremacist domination by working to establish homeplace,” hooks wrote.⁴⁴ As such, homeplace’s meaning expanded to include caring for each other and raising

³⁶ hooks critiqued liberation movements for replicating patriarchy and sexism. HOOKS, YEARNING, *supra* note 34, at 16-18. Her work carved out a place for Black scholars to integrate the feminist field, which hooks believed required greater representation and inclusivity. *Id.* at 16-19. Likewise, she noted that Black Power-era organizing frequently emphasized Black male leadership and authority. *Id.* at 16-17. In contrast, hooks argued that sexism within these movements “diminished the power of all [B]lack liberation struggles.” *Id.* at 16-18. She also observed that civil rights reforms often incorrectly equated Black freedom with access to material privilege as defined by whiteness. *Id.* at 15-16.

³⁷ Risen, *supra* note 4 (describing “enormous impact” that hooks had on both feminism and Black women).

³⁸ HOOKS, YEARNING, *supra* note 34, at xi (explaining how “focusing critique on cultural productions opened a space for education for critical consciousness”).

³⁹ *Id.* at xii (describing how vital interconnectedness is in framing discourse around racism, sexism, and class elitism).

⁴⁰ *Id.* (describing how this goal and focus “allows for an inclusive standpoint where one is not required to choose gender over race or vice versa”).

⁴¹ HOOKS, *Homeplace*, *supra* note 5, at 42.

⁴² *Id.* at 41-42.

⁴³ *Id.* at 42.

⁴⁴ HOOKS, YEARNING, *supra* note 34, at 44.

revolutionary consciousness, sustaining spirits, and cultivating homeplace in the face of despair.⁴⁵

Despite its cultural and political power, homeplace has yet to be examined for its potential legal application. Yet it ought to be. hooks's work in cultural criticism should be extended into legal discourse, particularly where legal systems interfere with the ability of families—especially Black families—to create and sustain homeplace. The convergence of the public education and family regulation systems creates precisely this sort of interference.⁴⁶ It undermines homeplace by surveilling, destabilizing, and separating families.⁴⁷ Such interference disrupts the very conditions needed for recovery, dignity, and resistance—robbing some families of the ability to heal and fight systemic harm.⁴⁸

hooks warned of this sort of disruption, noting that “those who dominate and oppress us benefit most when we have nothing to give our own, when . . . we have . . . no ‘homeplace’ where we can recover ourselves.”⁴⁹ Without homeplace, liberation is stalled. She argued that homeplace is vital “in the midst of oppression and domination” because it enables healing and resistance.⁵⁰ When families are persistently monitored and penalized by state systems, their capacity to be “revolutionaries able to struggle for freedom” is diminished.⁵¹

As hooks reminds us: “[C]ommunities of resistance should be places where people can return to themselves more easily, where the conditions are such that they can heal themselves and recover their wholeness.”⁵² If law is to support democratic life, it must support homeplace. hooks foresaw this need and indeed, in this Article, I take up her call, interrogating how “[t]hroughout our history, African-Americans have recognized the subversive value of homeplace [D]omestic space has been a crucial site for organizing, for forming political solidarity. Homeplace has been a site of resistance.”⁵³ Without the power to shape our collective experiences and cultural identity, the civic fabric of society begins to decay.⁵⁴

The convergence of the public education and family regulation systems—two of the state's most powerful tools for managing families—undermines homeplace in both theory and practice. Families, particularly Black families, are

⁴⁵ *Id.* at 42.

⁴⁶ See discussion *infra* Part II (stressing how public education and family regulation systems were not established with all children's welfare in mind).

⁴⁷ See discussion *infra* Part II (identifying welfare programs as systems which have surveilled and punished poor families, rather than supporting them).

⁴⁸ See discussion *infra* Section III.A (explaining how such interference prevents families from nurturing, protecting, and passing on cultural identity).

⁴⁹ HOOKS, *Homeplace*, *supra* note 5, at 43.

⁵⁰ *Id.*

⁵¹ *Id.* at 44.

⁵² *Id.* at 43 (quoting Vietnamese Buddhist monk Thich Nhat Hahn).

⁵³ *Id.* at 47.

⁵⁴ *Id.* at 47-48.

denied the presumptions of sanctity and self-determination that others enjoy. As hooks put it, “[a]n effective means of white subjugation of [B]lack people globally has been the perpetual construction of economic and social structures that deprive many folks of the means to make homeplace.”⁵⁵ That construction today is not only economic and social—it is legal and regulatory.⁵⁶ Recognizing this reality, I posit that the law is not a neutral system but rather is implicated in cultural production and must be interrogated alongside the media, education, and family structures hooks critiqued. The absence of legal protection for homeplace perpetuates inequality and denies some families the sanctity the state affords to others.⁵⁷

I bring hooks’s cultural theory into conversation with constitutional, education, and family law, exposing the legal dimensions of this denial. Doing so opens up new possibilities for imagining legal frameworks—whether through recognition of the freedom to cultivate homeplace or broader paradigm shifts—that affirm familial autonomy and collective care. Using homeplace as a legal framework helps us see clearly that, when children and families are persistently uprooted, monitored, or punished, the solid ground required for liberation is pulled out from under them.⁵⁸ It also advances a vision of the public education and family regulation systems that respect and collaborate with families, appropriately prioritizing familial autonomy.

Homeplace helps make sense of the cultural harm occurring in family and education spaces and serves as a touchstone for analyzing both the historical operation of these systems and their ongoing negative convergence.⁵⁹ Homeplace is a historical site of resistance, where Black individuals could counter systemic racism and reclaim their dignity and humanity despite societal oppression.⁶⁰ These spaces are essential to nurturing dignity and community amid racism and displacement.

The following Part examines how the convergence against homeplace has unfolded historically and continues to do so today, with particular attention to the material, constitutional, and psychological costs of this convergence. To

⁵⁵ *Id.* at 46-47.

⁵⁶ See *infra* Part II (describing how public education and family regulation systems undermined homeplace through legal and bureaucratic means).

⁵⁷ See *infra* Section III.A (criticizing, among other things, the school-to-system pipeline, which thrusts children into regulatory systems which destabilize families and erode homeplaces). See generally HOOKS, *Homeplace*, *supra* note 5, at 47 (recognizing Black homeplaces are “always subject to violation and destruction”).

⁵⁸ See *infra* Section II.B (describing how heightened surveillance and disciplinary policies undermine safety and affirmations Black families aim to create in homeplace).

⁵⁹ See discussion *infra* Parts II-III (explaining convergence of public school and family regulation systems, as well as disproportionate costs this convergence imposes on Black children and families).

⁶⁰ HOOKS, *Homeplace*, *supra* note 5, at 41-44 (“[M]aking homeplace . . . was about the construction of a safe place where [B]lack people could affirm one another and by so doing heal many of the wounds inflicted by racist domination.”).

protect families' ability to survive and resist, law must do more than avoid harm; it must actively make room for homeplace.

Locating homeplace in legal theory invites a broader democratic conversation: How can the law protect children and families' ability to flourish without undue intrusion? To answer this, we must begin with the very systems that converge to erode homeplace: public education and family regulation.

II. CONSTRUCTING THE CONVERGENCE AGAINST HOMEPLACE

This Part provides a broad historical overview of the regulatory and legal roles of the public education and family regulation systems, focusing on the ways in which they have historically infringed on Black families' ability to experience homeplace. The first Section reveals two key points: First, the public education and family regulation systems were not designed to promote welfare for all children; and second, their convergence has long undermined homeplace through disciplinary, legal, and bureaucratic means. Section II.B then builds on this foundation, analyzing how modern policies—particularly those related to school discipline, mandatory reporting, and regulatory entanglement—continue to erode homeplace today.

A. *A Historical Look at the Convergence of Public Education and Family Regulation*

This Section traces the parallel development of the public education and family regulation systems from the post-Reconstruction era onward, highlighting how both were shaped by racialized governance and a desire to monitor and control family life. Examining the historical shifts from the nineteenth century, through the progressive era of the early twentieth century, the post-World War II era, and into the twenty-first century provides context for understanding the current state of the systems and their evolution into their flawed present condition.⁶¹

Nineteenth Century. The nineteenth century set the stage for a convergence between the public education and family regulation systems. Both developed as tools of social control rather than support, and both viewed families as means to serve state interests. While advocates for children emphasized the need for protection from exploitation and neglect, the dominant reforms did not center children's or families' rights.⁶²

⁶¹ See Rachel Minkin, *About Half of Americans Say Public K-12 Education Is Going in the Wrong Direction*, PEW RSCH. CTR. (Apr. 4, 2024), <https://www.pewresearch.org/short-reads/2024/04/04/about-half-of-americans-say-public-k-12-education-is-going-in-the-wrong-direction> [<https://perma.cc/HKU7-BL2U>].

⁶² See DUNCAN LINDSEY, *THE WELFARE OF CHILDREN* 26-29 (2d ed. 2004).

During this period, the goals that began to emerge for the United States' public education system aligned more with state priorities than with the lived experiences or cultural needs of families. The primary focus was initially a political one, molding citizens who would benefit the new republic.⁶³ It would then shift to creating a disciplined workforce for the burgeoning industrial economy.⁶⁴ The needs of children and their families, especially regarding cultural autonomy and homeplace, were not central.⁶⁵

Simultaneously, the family regulation system began to take shape in response to industrialization and urbanization, which exposed poverty and child neglect in rapidly growing cities.⁶⁶ The government focused on preserving social order, often by monitoring and intervening in families perceived as "at risk."⁶⁷ Parents, especially poor and working-class parents, faced tremendous economic pressure and began seeking state assistance to help raise their children.

Compulsory education laws, an early tool of this convergence, first appeared in the mid-nineteenth century.⁶⁸ In 1852, Massachusetts became the first state to require school attendance for children between ages eight and fourteen for at least twelve weeks a year.⁶⁹ The law mandated curriculum standards in grammar and math and criminalized noncompliance by parents.⁷⁰ Families who resisted school mandates risked fines or even loss of parental rights, introducing punitive

⁶³ See David Labaree, *David Labaree on Schooling, History, and Writing: Public Schooling as Social Welfare*, NAT'L EDUC. POL'Y CTR.: BLOG POST OF THE DAY (Jan. 3, 2024), <https://nepc.colorado.edu/blog/public> [<https://perma.cc/4HG3-JWNP>].

⁶⁴ *Id.*

⁶⁵ Cf., e.g., Anne C. Dailey, *Children's Constitutional Rights*, 95 MINN. L. REV. 2099, 2107 (2011) ("The traditional choice thesis allows the state to discriminate against children in almost every area of social life. This idea that children lack autonomy and therefore any claim to rights of their own has a distinguished pedigree."). The emphasis was on basic literacy, numeracy, and obedience. See Horace Mann, *Report No. 12 of the Massachusetts School Board (1848)*, INFOUSA, <https://usinfo.org/enus/government/overview/16.html> [<https://perma.cc/D2RZ-KHFL>] (last visited Feb. 1, 2026), reprinted in HORACE MANN, *THE REPUBLIC AND THE SCHOOL: HORACE MANN ON THE EDUCATION OF FREE MEN* 79-80, 84-97 (Lawrence A. Cremin ed., 1957).

⁶⁶ See LINDSEY, *supra* note 62, at 30.

⁶⁷ See *id.* at 38-40 (tracing origins of child welfare interventions to societal concerns over poverty, which focused state monitoring on families deemed "at risk").

⁶⁸ See Timothy Garrison, *From Parent to Protector: The History of Corporal Punishment in American Public Schools*, 16 J. CONTEMP. LEGAL ISSUES 115, 117 (2007) ("Until the latter part of the 19th Century, compulsory public education was unknown in the United States, and children received the education their parents chose to provide for them. . . . By 1918, all states had adopted systems of publicly financed, publicly operated, compulsory education.").

⁶⁹ See Jade Yeban, *Compulsory Education Laws: Background*, FINDLAW (Jan. 5, 2024), <https://www.findlaw.com/education/education-options/compulsory-education-laws-background.html> ("Massachusetts became the first U.S. state to enact a compulsory education law in 1852. . . . [It] required every city and town to offer primary school focusing on grammar and basic arithmetic.").

⁷⁰ See *id.*

consequences for asserting family autonomy.⁷¹ While these laws were rooted in the public education system, they also exemplified the convergence of education and family regulation, as they used state power to enforce school compliance through threats to parental custody and autonomy.

Massachusetts served as a model for other states, leading to the creation of school districts and state boards of education.⁷² These new systems formalized education as a state obligation and reinforced its role in assimilating students into dominant political and cultural norms.⁷³ Enslaved children were explicitly excluded from this system,⁷⁴ as were poor children who, in the absence of access to formal education, often received informal home instruction.⁷⁵ Moving education from churches and homes to the control of the state marked a clear shift in power. This shift further marginalized Black children, whose exclusion from early public education systems—both by law and practice—reflected broader patterns of systemic neglect.⁷⁶

Public education, then, was designed not as a right for all, but as a structure to domesticate children into industrial and civic roles, often at the cost of family and cultural autonomy.⁷⁷ Even as schooling became compulsory, these early laws were more concerned with producing workers and regulating social behavior than with partnering with families or supporting diverse learning needs.⁷⁸ This foundational orientation set the stage for enduring patterns of exclusion and assimilation that disproportionately harmed Black families.⁷⁹

⁷¹ An Act Concerning the Attendance of Children at School, ch. 240, 1852 Mass. Acts 170 (codified as amended at MASS. GEN. LAWS ch. 76, § 2 (2025)).

⁷² Hayley Glatter, *Throwback Thursday: Massachusetts Passes the Nation's First Compulsory Education Law*, BOS. MAG. (May 17, 2018, at 07:30 ET), <https://www.bostonmagazine.com/education/2018/05/17/tbt-compulsory-education-massachusetts> [<https://perma.cc/8SB5-P589>] (“In 1852, the Bay State began requiring children between the ages of 8 and 14 [to] attend school. By 1918, every other state had passed similar legislation.”).

⁷³ See generally Danielle Wingfield, *Pathways to Liberty: What Colonial, Antebellum, and Postbellum Education Can Teach Us About Today*, 32 WM. & MARY BILL RTS. J. 377 (2023) (examining impact of historical and present-day weaponization of education access and content against marginalized communities).

⁷⁴ Amira Dehmani, *Education in Enslaved Communities*, LIBR. OF CONG. BLOGS (Aug. 16, 2022), <https://blogs.loc.gov/teachers/2022/08/education-in-enslaved-communities> [<https://perma.cc/B4R8-USMQ>] (“Education under slavery was heavily prohibited.”).

⁷⁵ See Yeban, *supra* note 69.

⁷⁶ NANCY KOBER & DIANE STARK RENTNER, HISTORY AND EVOLUTION OF PUBLIC EDUCATION IN THE US 1, 5-7 (2020), <https://files.eric.ed.gov/fulltext/ED606970.pdf> [<https://perma.cc/U66A-FVQR>] (“In the early years of the nation, schooling was haphazard. Many children were excluded on the basis of income, race or ethnicity, gender, geographic location, and other reasons. The children who did receive instruction, primarily white children, were educated through a hodgepodge of arrangements.”).

⁷⁷ *Id.* at 3 (“Educating children of the poor and middle classes would prepare them to obtain good jobs, proponents argued, and thereby strengthen the nation’s economic position.”).

⁷⁸ See *id.*

⁷⁹ *Id.* at 5 (noting goals of public education were compromised by racism and discriminatory practices targeting non-white children and families).

These patterns were not just social or cultural: They were legally sanctioned and reinforced by the courts. For example, this marginalization was affirmed by the Supreme Court in *Cumming v. Richmond County Board of Education*,⁸⁰ which upheld a local decision to close a Black high school while keeping a white one open. The Court's reasoning, grounded in local control, opened the door to decades of education inequality and cemented a precedent that systemically subordinated Black children's rights.⁸¹

These early education and family laws worked in tandem to constrain families, surveil parental decisions, and enforce societal conformity. Together, they laid the groundwork for a convergence of systems that rarely prioritized the welfare of children or families—especially Black families. Compulsory schooling and family regulation were not crafted with child well-being at the center; instead, they pursued broader aims of assimilation and control.⁸²

This convergence also dislocated culture and erased homeplace for Black children and families. Driven by fear of resistance and rebellion, early education and family laws helped sever children from their cultural histories and family networks.⁸³ Still, these same histories also nurtured resistance, solidarity, and the seeds of self-determination that would challenge these systems in the generations to come.

Progressive Era. During the progressive era in the early twentieth century—between the 1890s and 1930s—educators like John Dewey called for reforms that considered the interests and needs of children and their families.⁸⁴ Some reforms, like child labor laws, aimed to keep children in schools rather than workplaces.⁸⁵ Even so, class and race complicated experiences between

⁸⁰ 175 U.S. 528 (1899).

⁸¹ See, e.g., *Little Rock Sch. Dist. v. Pulaski Cnty. Special Sch. Dist. No. 1*, 778 F.2d 404, 412-17 (8th Cir. 1985) (situating holding in *Cumming* within wider backdrop of insufficient desegregation); *Missouri ex rel. Gaines v. Canada*, 305 U.S. 337, 353 (1938) (McReynolds, J., dissenting) (using *Cumming* to justify denying Black students law school access).

⁸² See generally KOBER & RENTNER, *supra* note 76 (outlining history of public education in United States).

⁸³ See generally Wingfield, *supra* note 73 (detailing how fear of slave rebellions motivated restrictive laws designed to sever cultural ties and maintain control).

⁸⁴ See Anne C. Dailey, *Developing Citizens*, 91 IOWA L. REV. 431, 440 (2006) (“Progressive reformers viewed restrictions on child labor as the natural outgrowth of their belief in the importance of education to the developmental needs of children and the long-term health of the democratic polity. . . . John Dewey and his colleagues applied their ideas about child development with the aim of instilling democratic skills and values in a greater number of citizens, particularly immigrant children.”).

⁸⁵ See Martha Minow, *What Ever Happened to Children's Rights?*, 80 MINN. L. REV. 267, 279 (1995) (“Initiatives to address child welfare ranged from laws requiring school attendance to those restricting child labor. These Progressive Era reformers launched a ‘child-saving’ movement with a focus on children’s welfare, confidence in experts, and acceptance of the government as a paternal presence in children’s lives.”).

families. Efforts to reform child labor and promote mandatory schooling often excluded or marginalized Black families, particularly in the South.⁸⁶

While school attendance laws expanded, Black children faced significantly underfunded and segregated schools, economic pressures to work, and inconsistent enforcement of these laws.⁸⁷ Sharecropping families, both Black and white, relied heavily on children's labor, but systemic racism and poverty exacerbated these challenges for Black families.⁸⁸ Child labor laws often excluded agricultural work, disproportionately impacting Black children who worked in sharecropping, while white families in urban areas tended to benefit from protections in industrial labor.⁸⁹ For example, child labor laws targeting the textile industry primarily affected white families, as Black children were often barred from working in mills due to segregation.⁹⁰ In Northern states, Black families faced employment and educational barriers, limiting their ability to benefit from reforms.⁹¹

These partial reforms did little to challenge the structural exclusion of Black families. While segregation was upheld in *Plessy v. Ferguson*⁹² in 1896, further embedding racial inequality, the dominant class began asserting their rights

⁸⁶ See Leticia M. Saucedo & Andrea Senteno, *Children, Labor, and Child Labor*, 57 U.C. DAVIS L. REV. 2967, 2974 (2024) ("Southern progressives linked citizenship to whiteness, and appealed to whiteness, rather than class . . . in their effort to convince families to pull children out of work.").

⁸⁷ See *id.* at 2975 ("The child labor reform agenda, explicitly race-based in its nature, was not billed as a savior for all children. Its humanitarian message was reserved for whites, even as its professed aim was to keep children as a group out of the labor market."); Pamela J. Smith, *Our Children's Burden: The Many-Headed Hydra of the Educational Disenfranchisement of Black Children*, 42 HOW. L.J. 133, 138 (1999) ("[C]onstitutionally supported slavery bred intractable racism, which bred de jure and de facto educational disenfranchisement of a people, which bred the modern subeducation of [B]lack children, and which has now bred race/gender educational pedism."). See generally Michael Schuman, *History of Child Labor in the United States—Part 1: Little Children Working*, MONTHLY LAB. REV., Jan. 2017, at 1 (exploring history of child labor within different industries and contextualizing against child's role in family).

⁸⁸ See Schuman, *supra* note 87, at 8.

⁸⁹ See *id.* at 5-17 (documenting widespread use of child labor in agricultural settings); see also Saucedo & Senteno, *supra* note 86, at 2970-72 (discussing rationales used throughout history to justify ending child labor).

⁹⁰ See Schuman, *supra* note 87, at 8 (describing "implicit agreement" between post-Civil War mill owners and planters to segregate and subordinate Black child labor).

⁹¹ See Robert L. Boyd, *The 'Black Metropolis' Revisited: A Comparative Analysis of Northern and Southern Cities in the United States in the Early 20th Century*, 49 URB. STUD. 845, 849-55 (2012) (building on existing scholarship to examine early twentieth century Southern Black families' economic outcomes and analyzing competing prejudicial, social, and educational factors influencing those outcomes relative to geographic region).

⁹² 163 U.S. 537, 551 (1896) (holding state law requiring separate passenger cars for white and Black riders did not violate Equal Protection Clause of Fourteenth Amendment).

against state educational mandates.⁹³ In response to these assertions, by the 1920s, the Supreme Court began to affirm limited parental autonomy in *Meyer v. Nebraska*⁹⁴ and *Pierce v. Society of Sisters*.⁹⁵ The Court framed its reasoning in these cases in terms of parental liberty and the right to direct a child's upbringing, declaring: "The child is not the mere creature of the State."⁹⁶ However, these rulings offered only a narrow protection for parental rights by merely recognizing freedom from certain state mandates without addressing broader structural inequities or affirming positive support for all families.

These cases are early examples of convergence against homeplace: moments in which education regulation and family regulation merged to define parental rights in relation to schooling, insulating some families from state intrusion while leaving others—particularly Black families—exposed to coercive oversight, exclusion, and control. But this convergence privileged certain families over others. *Meyer* and *Pierce* were celebrated as victories for family autonomy, yet their protections were never equally available. White, middle-class, and religiously-affiliated families gained a constitutional shield to direct their children's education.⁹⁷ Black families, on the other hand, were denied access to quality public schools, excluded from private options, and left out of the broader benefits these decisions aimed to secure.⁹⁸

These rulings also laid the legal foundation for the *parens patriae* doctrine, which rationalized state involvement in family life and education in the name of

⁹³ See Rachel Reed, *Plessy v. Ferguson at 125*, HARV. L. TODAY (May 19, 2021), <https://hls.harvard.edu/today/plessy-v-ferguson-at-125> [<https://perma.cc/QK4U-55ZJ>] (recounting *Plessy* and its legacy as warning of how segregation was once legally rationalized as neutral policy).

⁹⁴ 262 U.S. 390, 394, 401 (1923) (finding law banning teaching of foreign languages to students before completion of eighth grade sought to materially interfere with "the power of parents to control the education of their own" children).

⁹⁵ 268 U.S. 510 (1925).

⁹⁶ *Id.* at 535 (prefacing this assertion by citing to Court's earlier decision in *Meyer*).

⁹⁷ See, e.g., Ross Benes, *From a Small, Rural Schoolhouse, One Teacher Challenged Nativist Attacks Against Immigration*, SMITHSONIAN MAG. (Jan. 14, 2021), <https://www.smithsonianmag.com/history/small-rural-schoolhouse-one-teacher-challenged-nativist-attacks-again-immigration-180976757> (describing largely white German-American population centered in *Meyer*).

⁹⁸ See Jessica Dixon Weaver, *Racial Myopia in [Family] Law*, 132 YALE L.J.F. 1086, 1099 (2023) (noting "[p]ublic-school funding policies grounded in property taxes" result in, among other things, "poor, unequal schools in poor neighborhoods" which negatively impact Black intergenerational wealth); William G. Ross, *The Contemporary Significance of Meyer and Pierce for Parental Rights Issues Involving Education*, 34 AKRON L. REV. 177, 177-80 (2000) (discussing *Meyer* and *Pierce* decisions and constitutional basis used by Court to justify parental rights—from property rights and freedom to contract to right of privacy and general human rights); see also *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 35, 54-55 (1973) (holding no constitutional right to education and Texas public-school funding system which relied on property taxes did not violate Fourteenth Amendment's Equal Protection Clause).

child welfare.⁹⁹ Though framed as child protection, this emerging legal regime invited deeper state regulation of marginalized families.¹⁰⁰ The state's growing power to shape education policy, combined with its discretionary authority to intervene in family life, created an architecture of convergence that failed to center the needs of the most vulnerable children.¹⁰¹

It is here that we begin to see how the public education system and discourse about parental rights developed to reinforce a dual structure of exclusion, surveillance, and unequal protection.

Post-World War II Era and Beyond. In the latter half of the twentieth century, an emphasis on children's rights began to take shape.¹⁰² Although the United States supported Article 26 of the Universal Declaration of Human Rights, which affirms a right to education, this principle never fully took root in domestic law.¹⁰³ Still, this period sparked renewed legal and political attention to the education system and its treatment of marginalized families.¹⁰⁴

⁹⁹ Meredith Johnson Harbach, *Parens Patriae After the Pandemic*, 101 N.C. L. REV. 1427, 1429 (2023) ("[I]t has long been recognized that the state, as *parens patriae* or 'parent of the nation,' is responsible for guarding and promoting children's interests, safety, and welfare.").

¹⁰⁰ See *id.* at 1434 (noting state's modern *parens patriae* interest is basis for range of laws and regulations, including youth legal system, foster care, compulsory school laws, and child labor regulations).

¹⁰¹ *Id.* at 1458-60 (arguing *parens patriae* doctrine provides framework for expanded state involvement in protecting children's welfare, particularly in response to societal challenges like COVID-19 pandemic).

¹⁰² See Joshua E. Weishart, *Reconstituting the Right to Education*, 67 ALA. L. REV. 915, 917-24 (2016) (discussing "conceptually fragmented" right to education, long justified as means to generally protect children and their capabilities to be responsible and productive citizens). In 1948, Article 26 of the Universal Declaration of Human Rights ("UDHR") underscored the right to education. G.A. Res. 217 (III) A, Universal Declaration of Human Rights art. 26(1) (Dec. 10, 1948) ("Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory."); cf. United Nations Convention on the Rights of the Child, Feb. 23, 1995, 28 I.L.M. 1448, 1457-76 (1989), reprinted in DOUGLAS E. ABRAMS, SUSAN V. MANGOLD & SARAH H. RAMSEY, *CHILDREN AND THE LAW: DOCTRINE, POLICY, AND PRACTICE* 105-11 (7th ed. 2020).

¹⁰³ See Weishart, *supra* note 102, at 923-24 (noting Supreme Court has viewed Universal Declaration of Human Rights as "nonbinding," despite "burgeoning human rights discourse"); *Sosa v. Alvarez-Machain*, 542 U.S. 692, 734 (2004) ("[T]he [Universal Declaration of Human Rights] does not of its own force impose obligations as a matter of international law."); see also Angela Avis Holland, Note, *Resolving the Dissonance of Rodriguez and the Right to Education: International Human Rights Instruments as a Source of Repose for the United States*, 41 VAND. J. TRANSNAT'L L. 229, 245-47 (2008) (identifying education as fundamental right protected under Universal Declaration of Human Rights whilst acknowledging inconsistent and unenforceable interpretations).

¹⁰⁴ See Mary L. Dudziak, *Desegregation as a Cold War Imperative*, 41 STAN. L. REV. 61, 113-14 (1988) (noting decisions such as *Brown v. Board of Education* and *Bolling v. Sharpe*

The Civil Rights Movement catalyzed this shift. Landmark cases like *Brown v. Board of Education*¹⁰⁵ exposed entrenched inequalities and framed public education as a civil rights battleground. But even *Brown*'s lofty aspirations faced fierce resistance, and Black families continued to endure segregated schools, hostile policies, and broken promises.¹⁰⁶

Meanwhile, family regulation policies expanded. The postwar welfare state introduced programs like Aid to Families with Dependent Children ("AFDC"), aiming to support poor families—but often surveilling and punishing them instead.¹⁰⁷ Parents advocated for better healthcare, education, and childcare, but they also confronted punitive systems that policed their family structures and parenting choices.¹⁰⁸

Schools, increasingly regulated by federal law and local enforcement, became sites not only of instruction but of discipline and assimilation. This was true especially for poor, Black, and immigrant families: Students were often punished for speaking non-English languages, wearing culturally significant clothing, or failing to conform to certain behavioral norms.¹⁰⁹ The negative

were well-received by international audience). See generally RICHARD KLUGER, *SIMPLE JUSTICE: THE HISTORY OF BROWN V. BOARD OF EDUCATION AND BLACK AMERICA'S STRUGGLE FOR EQUALITY* (Vintage Books 2004) (1975) (discussing activism around children's rights in education and involvement of civil rights lawyers, educators, and other leaders).

¹⁰⁵ 347 U.S. 483, 495 (1954) (holding segregation of students in public schools solely on basis of race denies Black children "the equal protection of the laws guaranteed by the Fourteenth Amendment").

¹⁰⁶ See generally MARGARET BEALE SPENCER & NANCY E. DOWD, *RADICAL BROWN: KEEPING THE PROMISE TO AMERICA'S CHILDREN* (2024) (interrogating practical legacy of *Brown v. Board of Education* and proposing new frameworks to promote equality); Angela Onwuachi-Willig, *Reconceptualizing the Harms of Discrimination: How Brown v. Board of Education Helped to Further White Supremacy*, 105 VA. L. REV. 343, 354-55 (2019) (discussing how failure of *Brown* decision to reckon with racism, white privilege, and "dehumanizing effects of racial segregation on [w]hites" has limited advances toward meaningful equality); Mark Tushnet, *Some Legacies of Brown v. Board of Education*, 90 VA. L. REV. 1693 (2004) (discussing and critiquing litigation strategy of *Brown* and effects of ruling forty years later).

¹⁰⁷ See Ann Cammett, *Deadbeats, Deadbrokes, and Prisoners*, 18 GEO. J. POVERTY L. & POL'Y 127, 135-40 (2011) (discussing how AFDC furthered the "role of the federal government in providing a basic safety net for low-income children" and its replacement by Temporary Aid to Need Families ("TANF"), which "provided block grants to the states to run their own public assistance programs"); see also Ann Cammett, *Deadbeat Dads & Welfare Queens: How Metaphor Shapes Poverty Law*, 34 B.C. J.L. & SOC. JUST. 233, 254-57 (2014), (noting although after 1964, "[t]he ADC, renamed the AFDC, grew simultaneously, with broader access for Black recipients," such policies resulted in "predictable backlash" towards poor families grounded in racism).

¹⁰⁸ See Tonya L. Brito, *The Welfarization of Family Law*, 48 U. KAN. L. REV. 229, 238-41 (2000) (discussing how activists and lawyers challenged invasive nature of welfare system while also expanding programs).

¹⁰⁹ See Shari Nakata, *Language Suppression, Revitalization, and Native Hawaiian Identity*, 3 DIVERSITY & SOC. JUST. F. 14 (2017) (discussing challenges faced in Hawai'i to revitalize Hawaiian language after it was banned in schools, along with all other non-English

convergence between the education and family regulation systems was deepening, with school discipline becoming increasingly punitive and leading to involvement of family regulation agencies.

Throughout this period, the Supreme Court continued to define the legal boundaries of parental and state authority but left largely unaddressed the harm Black families experienced due to local segregation and underfunding. *Wisconsin v. Yoder* (1972)¹¹⁰ held that Amish parents could exempt their children from compulsory high school attendance on religious grounds.¹¹¹ The Court affirmed that fundamental rights—such as religious freedom—could override state education mandates, a principle consistent with the familial autonomy necessary for homeplace.¹¹² But *Yoder*, like earlier cases, reinforced homeplace protections for already privileged communities while failing to address the barriers facing Black, immigrant, and low-income families.¹¹³

In *Runyon v. McCrary* (1976),¹¹⁴ the Court extended civil rights protections to prohibit private school segregation—an important step but one that arrived decades after white flight had already reshaped the educational landscape.¹¹⁵ And in *San Antonio v. Rodriguez* (1973),¹¹⁶ the Court rejected the claim that education is a fundamental right under the United States Constitution, dealing a blow to advocates challenging funding inequities. The Court's refusal to recognize a federal right to education reinforced a localism that left poor families at the mercy of underfunded school districts.¹¹⁷

Disparities in school funding, often tied to local property taxes, reinforced racial and class-based segregation. These inequities undermined the potential for education to serve as a tool of liberation or cultural preservation. The passage of

languages, as an educational medium in 1896); see also JOY COLLECTIVE, DOVE CROWN RESEARCH STUDY FOR GIRLS (2021), https://static1.squarespace.com/static/5edc69fd622c36173f56651f/t/623369f7477914438ee18c9b/1718030206983/2021_DOVE_CROWN_girls_study.pdf [<https://perma.cc/2VX8-AEXG>] (researching and analyzing bias and discrimination faced by Black girls aged five to eighteen, especially those who attend majority-white schools, through lens of hair discrimination).

¹¹⁰ 406 U.S. 205 (1972).

¹¹¹ *Id.* at 207.

¹¹² *Id.* (holding Wisconsin's compulsory school-attendance law violated respondent's First Amendment right to free exercise of religion).

¹¹³ *Id.*

¹¹⁴ 427 U.S. 160 (1976).

¹¹⁵ *Id.* at 171-79 (holding racial exclusion practiced by petitioner private schools was "classic violation of § 1981," and application of § 1981 in this case did not infringe on parental rights); see also Betsy Levin, *School Desegregation Remedies and the Role of Social Science Research*, L. & CONTEMP. PROBS., Summer 1978, at 1, 8-9 (discussing courts' varying consideration of "white flight" when formulating desegregation remedies).

¹¹⁶ 411 U.S. 1, 54-55 (1973).

¹¹⁷ See generally Frank J. Macchiarola & Joseph G. Diaz, *Disorder in the Courts: The Aftermath of San Antonio Independent School District v. Rodriguez in the State Courts*, 30 VALPARAISO U. L. REV. 551 (1996) (discussing how different states have dealt with aftermath of *Rodriguez*).

the Education for All Handicapped Children Act (1975) marked a major advance for students with disabilities, mandating free and appropriate public education.¹¹⁸ Yet racial disparities persisted in how children were identified, placed, and served.¹¹⁹

This absence of federal protection for education, alongside the expanding surveillance and punishment of the welfare state, enabled a negative convergence: Black and poor families were disproportionately concentrated in schools with the fewest resources and were also most likely to be targeted by punitive family regulation systems. The ability to nurture homeplace—through culture, care, and education—was constrained by both systems.

Thus, even reforms that aimed to promote inclusion often reinforced the stratification created by the convergence of education and family regulation.¹²⁰ By the end of the 1970s, the systems' overlap had become entrenched. Education and family regulation jointly shaped and sometimes destabilized the lives of marginalized families, often without affirming their cultural autonomy or rights.¹²¹

This history makes clear that homeplace is not simply a private refuge—it is a site of convergence, conflict, and possibility. The historical throughline remains clear: families who are seen as aligned with dominant cultural values are given latitude to build homeplace. Others are met with suspicion, constraint, and displacement.

¹¹⁸ John G. Douglass, Note, *Enforcing the Right to an "Appropriate" Education: The Education for All Handicapped Children Act of 1975*, 92 HARV. L. REV. 1103, 1103 (1979) (discussing general guidelines provided by Act to parents who seek to "challenge the appropriateness of their child's educational program").

¹¹⁹ See Sarah H. Lorr, *Disabling Families*, 76 STAN. L. REV. 1255, 1260-65 (2024) (discussing how systemic inequalities in family regulation system harm minority and disabled parents disproportionately, how exposure to system may "create" disabilities in parents touched by it, and how systemic inequalities in educational access intersect with disabilities and race, complicating homeplace ideal for marginalized communities); Trivedi, *The Harm of Child Removal*, *supra* note 25, at 533 (noting removing children from their families can cause alienation from community, feelings of isolation, and "lack of clarity about the psychological and/or physical presence of members of one's psychological family" (internal quotation marks omitted)); Laura Matthews-Jolly, *Visitation as Family Regulation*, 103 N.C. L. REV. 521, 538-39 (2025) ("Bias informs how we perceive risk, including which children the state removes from their parents' care."); Jamelia Morgan, *Disability, Policing, and Punishment: An Intersectional Approach*, 75 OKLA. L. REV. 169, 169 (2022) (providing "intersectional analysis of race, gender, and disability" to explain disproportionate state interference among marginalized families).

¹²⁰ See, e.g., *supra* notes 107, 118 (discussing AFDC, TANF, and All Handicapped Children Act, which sought to provide welfare assistance and education access to low-income families and children).

¹²¹ See sources cited *supra* note 119 (discussing intersections of race and disability, and resulting disparities in how marginalized families are affected by government policies).

B. *From Then to Now: The Ongoing Convergence of the Public Education and Family Regulation Systems*

The previous Section revealed that, historically, neither schools nor the family regulation system have consistently promoted the welfare of Black children and their families. These failures have only intensified over time as schools evolved into community hubs, purporting to integrate various welfare services alongside their educational responsibilities.¹²² This Section examines current examples where the public education and family regulation systems converge to undermine homeplace. At the center of this analysis is how Black children and their families—as well as others whose rights are often marginalized at the intersections—are caught in the crossfire. It also explores how these systems actively destabilize homeplace, eroding family stability and child well-being. The absence of adequate respect for homeplace within these institutions represents not only a denial of sanctuary but also the ongoing reproduction of harm.

Technocratic Control. Today, the convergence of the public education and family regulation systems has deepened through a shared technocratic emphasis on performance, compliance, and control.¹²³ Schools are not only centers of academic assessment but also nodes of surveillance and behavioral regulation, especially for racially marginalized and low-income families. This entanglement increasingly positions schools as extensions of the family regulation system, where failure to conform to educational expectations can trigger state intervention into family life.

Federal law sets baseline standards through statutes like the Every Student Succeeds Act and the Individuals with Disabilities Education Act (“IDEA”), while states and local districts implement these mandates with varying levels of fidelity.¹²⁴ Standardization and accountability, especially in the form of testing, have become the dominant regulatory model. Schools are evaluated by how well students perform on high-stakes assessments, and scores can implicate funding

¹²² See Labaree, *supra* note 63 (“The original aim of the American education system was political—to create citizens for the new republic. . . . Over time, the school began to assume a variety of social welfare functions as part of its role within the community. The school started to become a community center and the locus for modest efforts to incorporate some welfare services as an adjunct to the school’s academic function.”).

¹²³ Education of the Handicapped Act Amendments of 1990, Pub. L. No. 101-476, 104 Stat. 1103 (codified as amended in scattered sections of 20 U.S.C.); see KERN ALEXANDER, M. DAVID ALEXANDER & F. KING ALEXANDER, *THE LAW OF SCHOOLS, STUDENTS AND TEACHERS* 367-69 (7th ed. 2022) (discussing various legislation related to education of children with disabilities).

¹²⁴ Matthew L.M. Fletcher, *The Legal Fiction of Standardized Testing*, 21 L. & INEQ. 397, 397-414, 414 n.19 (2003) (noting “[c]urrent lawmakers are moving toward making standardized tests the measure of success” and discussing challenges disadvantaged students face by recounting stories of four students at various stages of their education—ranging from SAT, LSAT, and even state bar exams).

or penalties.¹²⁵ This focus eclipses students' holistic needs, particularly those of Black, poor, immigrant, and disabled children.¹²⁶ For example, students might be suspended or expelled for violations of school policies, such as bringing a prohibited item to school or failing to meet academic standards.¹²⁷

Efforts to support children's social-emotional needs—through school counseling, mental health services, and social-emotional learning (“SEL”) curricula—have expanded, especially after the COVID-19 pandemic.¹²⁸ One such example is the ineffective operation of family support divisions in public schools. Some public schools house family support divisions intended to connect families with resources or services.¹²⁹ While well-intentioned, these structures are often ineffective and, in some cases, harmful. The trauma of family separation regularly facilitated by these programs far outweighs any assistance offered. Ideally, help should be accessible without triggering state intervention. This example underscores the need for alternative support systems that empower rather than punish families.¹³⁰

¹²⁵ See Rachel R. Ostrander, *School Funding: Inequality in District Funding and the Disparate Impact on Urban and Migrant School Children*, 2015 BYU EDUC. & L.J. 271, 277-81 (discussing disparate distribution of federal funds because of *No Child Left Behind Act* and *Common Core*); see also Alyssa B. Heumann, *Standardized Testing*, 4 GEO. J. GENDER & L. 369, 369-70 (2002) (discussing how standardized testing as practiced disadvantages women when it comes to admissions and financial aid decisions).

¹²⁶ See Ostrander, *supra* note 125, at 277-81; Heumann, *supra* note 125; Shelby Batson, *The Trend Towards Eradicating Standardized Tests for College Admissions Will Increase Barriers for Underprivileged Students*, 13 TENN. J. RACE GENDER & SOC. JUST. 26, 27-31 (2023) (covering history and modern practices of standardized testing in United States public schools).

¹²⁷ Janel A. George, *Stereotype and School Pushout: Race, Gender, and Discipline Disparities*, 68 ARK. L. REV. 101, 115 (2015) (“The effect of expanding zero-tolerance policies, rather than deterring and preventing acts of violence like school shootings, has been to ‘appl[y] punitive discipline often to students who are not really dangerous but rather in need of support to counteract family problems, detachment from school, or learning disabilities.’ Instead of receiving needed services, these students are subjected to exclusionary discipline, which has increased in use under zero tolerance.”).

¹²⁸ Marlena L. Minkos & Nicholas W. Gelbar, *Considerations for Educators in Supporting Student Learning in the Midst of COVID-19*, 58 PSYCH. SCHS. 416, 418 (2021).

¹²⁹ See, e.g., *Welcome to the Division of Student and Family Support Programs*, M-DCPS DIV. OF STUDENT & FAM. SUPPORT PROGRAMS, <https://title1.dadeschools.net/#!> [<https://perma.cc/4A39-ZL6D>] (last visited Feb. 1, 2026); *Cherokee County Department of Family and Children Services (DFCS)*, CHEROKEE CNTY. SCH. DIST., <https://www.cherokeek12.net/partnership-agreements/cherokee-county-department-of-family-and-children-services-dfcs> [<https://perma.cc/5CFL-2VDJ>] (last visited Feb. 1, 2026).

¹³⁰ See, e.g., Klein & Preston, *supra* note 12 and accompanying text (describing example of escalated state intervention resulting in family separation).

Further, these programs remain underfunded and are inconsistently applied.¹³¹ Budget constraints, staffing shortages, and performance pressures lead many schools to prioritize test scores over student well-being.¹³² Moreover, the high stakes associated with standardized testing can lead schools to prioritize test preparation over programs that support social and emotional development.¹³³ As a result, the regulatory framework fails to fully address the diverse social needs of students, particularly those from marginalized communities who may require additional support.

This technocratic approach mirrors the evolution of the family regulation system. Family regulation has shifted toward risk management, performance metrics, and compliance-based models. Agencies emphasize the number of children removed, time to reunification, or foster care placements, often at the expense of cultural, familial, and emotional needs.¹³⁴

Together, these systems produce a convergence that prioritizes institutional control and measurable success over child-centered care and family autonomy,¹³⁵ key components of homeplace. The pressure to optimize performance, minimize risk, and standardize outcomes contributes to a bureaucratic dehumanization of children and families.

The result is an uneven distribution of rights. Wealthier and dominant class families are more likely to access alternatives, such as private schools, legal advocates, or supportive services, while Black and poor families are more vulnerable to surveillance, punishment, and exclusion.¹³⁶

Mandatory Reporting. Another clear manifestation of this convergence appears in the expansive use of mandatory reporting within public schools.¹³⁷ Public schools house the largest concentration of mandatory reporters, including nurses, teachers, and administrators, who are legally obligated to report

¹³¹ See Michael Heise, *From No Child Left Behind to Every Student Succeeds: Back to a Future for Education Federalism*, 117 COLUM. L. REV. 1859, 1872-75 (2017) (discussing effects, both positive and negative, of ESSA and its impact on educational federalism).

¹³² See Harvey, Gupta-Kagan & Church, *supra* note 19, at 599-605 (suggesting improvements to and reliance on school support systems instead of insisting on mandatory reports to CPS).

¹³³ See generally DIANE RAVITCH, *THE DEATH AND LIFE OF THE GREAT AMERICAN SCHOOL SYSTEM: HOW TESTING AND CHOICE ARE UNDERMINING EDUCATION* (rev. & expanded ed. 2016) (discussing impacts of standardized testing on education, including how it diverts attention from broader educational goals, such as social support).

¹³⁴ *Id.*

¹³⁵ *Cf.* Brito, *supra* note 108, at 237 (“Welfare accomplishes its family policy mandate by conditioning receipt of benefits on compliance. . . . Poor families on welfare must adhere to welfare’s family-related rules (even though a parallel set of family rules of general application exists) to avoid economic sanctions up to and including termination of benefits.”).

¹³⁶ See Thomas J. Mowen, *The Collateral Consequences of “Criminalized” School Punishment on Disadvantaged Parents and Families*, 49 URB. REV. 832, 834 (2017).

¹³⁷ *Policies and Procedures for Mandated Reporting*, READINESS & EMERGENCY MGMT. FOR SCHS. (Mar. 5, 2024), https://rems.ed.gov/ASM_Chapter2_Reporting.aspx [<https://perma.cc/U7TA-8MUG>].

suspected abuse or neglect.¹³⁸ In most states, school employees are legally mandated to report any suspicion of abuse and neglect, playing a vital role in safeguarding children. However, these policies are not always applied in good faith. Studies reveal instances where school officials use mandatory reporting as a retaliatory tool against parents who advocate for their children or question school practices.¹³⁹ According to one such study comprising nearly three dozen interviews with parents, lawyers, advocates, and family regulation officials, school officials sometimes leverage this obligation to compel compliance or penalize parents.¹⁴⁰ This dynamic not only undermines the integrity of the family unit but also erodes trust between schools and families, particularly those already marginalized by systemic inequities.

Ms. Banks's case, described earlier, is just one example.¹⁴¹ In another, a couple faced a report of neglect after pushing school officials to explain mysterious injuries on their seven-year-old son, who is autistic and nonverbal.¹⁴² The child had been coming home from school with bruises and scratches, which school officials insisted were self-inflicted.¹⁴³ However, after filing a Freedom of Information Act request, his parents found that a school employee had applied "joint compressions and massaging strategies" to their son.¹⁴⁴ The parents reported the injuries to police.¹⁴⁵ After the child missed two days of school, which his parents claim they called the school to have excused, a school employee reported them to the Administration for Children's Services

¹³⁸ *Id.*

¹³⁹ Stewart, *Re-Envisioning Child Well-Being*, *supra* note 19, at 650-51 ("School officials are the largest professional category of mandatory reporters to call the hotline, yet their reports are less likely to allege abuse and neglect, more likely to be referred for alternative response, and less likely to be substantiated. Because these reports must all be investigated, they play a significant role in the surveillance of Black families, while undermining the trust between families and schools.").

¹⁴⁰ See Klein & Preston, *supra* note 12 ("Fed up with what they see as obstinate parents who don't agree to special education services for their child, or disruptive kids who make learning difficult, schools sometimes use the threat of a child-protection investigation to strong-arm parents into complying with the school's wishes or transferring their children to a new school."); see also Gregory M. Varner, *The Three-Dimensional Chess for Parents Facing a Child Protective Services Investigation: Navigating the Child Welfare Exception to the Constitution*, 44 PACE L. REV. 279, 284 (2024) (providing examples of abuse of mandatory reporting, including instance in which federal court "found credible evidence 'of [a] 'Got to Go' list targeting disabled students for removal . . . and repeated threats to call the police and [CPS] on four- and five-year-olds, which were sometimes acted upon").

¹⁴¹ See Klein & Preston, *supra* note 12.

¹⁴² See Asher Lehrer-Small, *They Stood Up to Schools Over Special Ed Concerns. Then Child Protective Services Arrived*, DISABILITY SCOOP (June 14, 2023), <https://www.disabilityscoop.com/2023/06/14> [<https://perma.cc/4S5S-YTZY>].

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

(“ACS”).¹⁴⁶ While the two-month investigation turned up no evidence of mistreatment, it still left the family destabilized and out of sorts.¹⁴⁷

Surveillance and Punishment. Notwithstanding such systemic issues, the legal system continues to offer only fragmented protections. In *Plyler v. Doe* (1982),¹⁴⁸ the Court required states to provide public education to undocumented children, affirming a limited right to educational access.¹⁴⁹ Yet *Plyler* exemplifies the narrowness of these protections. While it guarantees entry into public schools, it leaves intact the extensive regulatory authority schools exercise over children and families once inside, authority that often operates in coordination with the family regulation system. No comprehensive federal right to education has followed.

These decisions, including *Plyler*, recognize important principles, but only in the abstract. They protect access to institutions without safeguarding the relational, cultural, and autonomous spaces of family life that homeplace requires.

In practice, schools and agencies still exert broad authority over children’s lives, especially for families with fewer resources. Indeed, despite some efforts to expand educational rights—such as IDEA, anti-discrimination laws, and student privacy protections—the convergence of these systems continues to marginalize homeplace for many families.¹⁵⁰ Disparate discipline, exclusionary placements, and carceral logics disproportionately affect students of color, disabled students, and low-income students.¹⁵¹

Furthermore, once families are swept into the family regulation system, they often endure ongoing surveillance: frequent home visits, compliance checks, and intrusive evaluations.¹⁵² Even when no harm has occurred,¹⁵³ families may be required to complete safety plans or parenting classes. These practices—often

¹⁴⁶ ACS is the New York City agency responsible for investigating suspected child abuse. *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ 457 U.S. 202, 202-17 (1982) (holding Equal Protection Clause requires states provide education to undocumented children).

¹⁴⁹ *Id.* at 226 (“[W]e perceive no national policy that supports the State in denying these [undocumented] children an elementary education.”); see U.S. CONST. amend. XIV, § 1.

¹⁵⁰ See Smith, *Children’s Equality Law*, *supra* note 28, at 545 (“When parents lack the political power to protect their children from group-based discrimination, children’s rights serve as a constitutional back-stop.”).

¹⁵¹ See generally Jason P. Nance, *School Surveillance and the Fourth Amendment*, 2014 WIS. L. REV. 79 (discussing disproportionate impacts education system has on minority students—especially as pertains to surveillance and punishment).

¹⁵² See Kelley Fong, *Getting Eyes in the Home: Child Protective Services Investigations and State Surveillance of Family Life*, 85 AM. SOCIO. REV. 610, 622-28 (2020) (analyzing “intimate” and intrusive methods of CPS investigations, especially unequal exposure to surveillance experienced by Black families).

¹⁵³ See *id.* at 626-28 (noting “coupling care with coercive authority generates substantial apprehension for families, even when reporting professionals and investigators fully expect cases will close after investigation”).

routinized and unexamined—subject families to continuous scrutiny and generate stress,¹⁵⁴ particularly for Black families, who are already disproportionately targeted by both the education and child welfare systems. These interventions, framed as protective, instead function as extensions of state power that undermine autonomy and disrupt homeplace.

The interplay between these regulatory and legal aspects creates a cycle where children and families, particularly those from vulnerable backgrounds, face continuous surveillance and punishment.¹⁵⁵ For families already navigating structural disadvantage, the convergence of these systems amplifies trauma and diminishes rights.¹⁵⁶

The convergence of the public education and family regulation systems is deeply detrimental to homeplace. Where families should find care and affirmation, they encounter suspicion and regulation. When schools function more like surveillance outposts than community centers, they erode the emotional and cultural foundations of family life. Even policies framed as supportive—like family resource centers—can produce harm when implemented through punitive or racialized logics.

Today's political challenges to history taught in public schools, heightened surveillance, and harsh disciplinary policies signal a broader assault on homeplace. These forces undermine the safety and affirmation that marginalized families struggle to create. But the work does not end with naming the convergence. To fully grasp its consequences, we must confront the tangible harms it produces. The next Part outlines the toll this convergence takes on families, not as incidental, but as a central feature of how these systems operate.

III. CALCULATING THE COSTS OF THE CONVERGENCE AGAINST HOMEPLACE

The convergence explained in Part II demonstrates that the public school and family regulation systems share several characteristics: Both are underfunded, fail to provide adequate federal protections for family autonomy and students' rights, and disproportionately target racially minoritized populations.¹⁵⁷ Each of

¹⁵⁴ See *id.* at 614-16, 618-22 (arguing CPS investigation and oversight process for child maltreatment “generates surveillance that is expansive” and “distressing”).

¹⁵⁵ See *id.* at 614-28 (finding institutions like education and healthcare create “pathway to surveillance of the domestic sphere” which leads to “distrust” and “distress,” particularly in marginalized groups).

¹⁵⁶ See *id.* at 628 (“[M]others felt betrayed by trusted institutions that jeopardized their child custody, sometimes responding by distancing themselves from critical sources of support. Thus, the very arrangement producing expansive surveillance of intimate life—service systems ferrying families to an agency that couples care with coercive power—may ultimately exacerbate family adversity and marginality.”).

¹⁵⁷ SYLVIA ALLEGRETTO, EMMA GARCÍA & ELAINE WEISS, PUBLIC EDUCATION FUNDING IN THE U.S. NEEDS AN OVERHAUL: HOW A LARGER FEDERAL ROLE WOULD BOOST EQUITY AND

these convergences exacts costs. Those costs are not apportioned neutrally; instead, they inflict the greatest harm on Black children and families, though other communities are also affected.¹⁵⁸ All told, this convergence operates as a structural assault on homeplace by introducing constant surveillance, regulation, and punitive measures that destabilize children and families alike.¹⁵⁹

bell hooks's argument that resistance to homeplace is structural and enduring, not merely accidental, remains instructive:

An effective means of white subjugation of [B]lack people globally has been the perpetual construction of economic and social structures that deprive many folks of the means to make homeplace. . . . It is no accident that the South African apartheid regime systematically attack[ed] and destroy[ed] [B]lack efforts to construct homeplace. . . . For when a people no longer have the space to construct homeplace, we cannot build a meaningful community of resistance.¹⁶⁰

As hooks reminds us, the destruction of homeplace is no accident, but rather a deliberate structural outcome. This Part outlines the personal and structural costs produced by the convergence, arguing that these harms are not incidental but central to how the systems function and ultimately undermine homeplace.

A. *The Human Costs to Children and Their Families*

Part II traced how the legal regulation of families and children in public schools and their homes has repeatedly disregarded the interests of families,

SHIELD CHILDREN FROM DISINVESTMENT DURING DOWNTURNS 7-10 (2022) (providing statistical analysis which shows current public school funding programs are inadequate and inequitable, especially as pertains to low-income families); *see also* EMILIE STOLTZFUS, CONG. RSCH. SERV., IF10590, CHILD WELFARE: PURPOSES, FEDERAL PROGRAMS, AND FUNDING 1 (2025) (providing spending statistics concerning child welfare agencies and number of children facilitated by CPS system).

¹⁵⁸ *See generally* ROBERTS, SHATTERED BONDS, *supra* note 21 (discussing disproportionate impact of child welfare system upon Black families); Baldwin Clark, *Barbed Wire Fences*, *supra* note 21 (noting erasure of non-white perspectives in both anti-critical race theory and pro-parent's rights spaces); Harvey, Gupta-Kagan & Church, *supra* note 19 (identifying role schools play in perpetuating harms of family regulation systems cause Black families); Stewart, *Re-Envisioning Child Well-Being*, *supra* note 19, at 631 ("Rather than improving life chances, foster care involvement fuels the cycle of poverty, undereducation, criminal justice involvement, housing instability, and poor health outcomes plaguing low-income Black communities.").

¹⁵⁹ *See generally* ROBERTS, SHATTERED BONDS, *supra* note 21 (highlighting ways child welfare and family regulation systems harm Black families); Baldwin Clark, *Barbed Wire Fences*, *supra* note 21 (drawing parallels between critical race theory and parents' rights movement in their shared centering of whiteness); Harvey, Gupta-Kagan & Church, *supra* note 19 (discussing ways schools act as enforcement agents for family regulation system, at the expense of Black and low-income family safety); Stewart, *Re-Envisioning Child Well-Being*, *supra* note 19 (expanding upon existing scholarship to explore ways foster care and family regulation disproportionately burden Black families).

¹⁶⁰ HOOKS, *Homeplace*, *supra* note 5, at 46-47.

resulting in a system defined more by control than care. This convergence imposes daily emotional, psychological, and developmental costs by policing families and children across both domains. These harms are not incidental; they are rooted in institutional values that prioritize state-defined goals over family and cultural autonomy. The regulation of families through education policy and of children through family law has historically de-centered the well-being of Black children and their caregivers, and that de-centering continues today.¹⁶¹ Indeed, though the courts have recognized rights to family privacy, to direct children's education, and to access basic schooling, these rights are mediated—sometimes erased—by state-defined goals.¹⁶² Taken together, these practices produce costs such as the school-to-system pipeline, unequal educational opportunities, and the misuse of mandatory reporting, eroding the very possibility of homeplace by denying families the ability to nurture, protect, and pass on cultural identity within their home or school environments.

1. The “School-to-System” Pipeline and Disproportionate Discipline

The racial disparities in public school discipline practices and family regulation interventions are glaring.¹⁶³ Black children and families are disproportionately affected by policies that create a pipeline of surveillance and punishment extending from schools to homes. This dynamic creates what I call a “school-to-system pipeline.”

These students face harsher disciplinary measures for similar behaviors compared to their peers, often due to implicit biases and systemic inequities within the education system.¹⁶⁴ These policies, including zero-tolerance rules, can result in severe consequences for minor infractions, leading to suspensions, expulsions, and referrals to law enforcement.¹⁶⁵

¹⁶¹ Harvey, Gupta-Kagan & Church, *supra* note 19, at 580 (“Although Black children represent roughly 14% of the overall child population, 26% of allegations of child maltreatment from school personnel concerned Black children.”).

¹⁶² See ROBERTS, TORN APART, *supra* note 6, at 156 (arguing family surveillance through child welfare system is part of “one integrated state apparatus for controlling Black communities” along with criminal justice system).

¹⁶³ *Id.* at 34 (describing how “family policing system” is rooted in “upholding a racist power structure” and even agencies like child welfare which are “assumed to be helpful” still disproportionately cause injury to Black families).

¹⁶⁴ Marian Wright Edelman, *No Turning Back*, CHILD.’S DEF. FUND, <https://www.childrensdefense.org/no-turning-back> [<https://perma.cc/2D6C-EPWV>] (last visited Feb., 1, 2026) (“A new Government Accountability Office (GAO) report released last month, ‘K-12 Education: Discipline Disparities for Black Students, Boys, and Students with Disabilities,’ reminds us once again that suspensions and expulsions continue at high rates and offer grave risks to students.”).

¹⁶⁵ Nancy A. Heitzeg, *Education or Incarceration: Zero Tolerance Policies and the School to Prison Pipeline*, 2009 F. PUB. POL’Y, no. 2, at 1, 7 (arguing zero-tolerance policies contribute to racial disparities in school suspension and expulsion rates and risk of entering legal system).

Further, the integration of surveillance technologies in public schools, including security cameras and monitoring software, contributes to an environment of scrutiny and control.¹⁶⁶ These technologies are often justified as necessary for ensuring safety, but they can also lead to privacy violations and a culture of constant observation.¹⁶⁷ All of these disparities push the most vulnerable students out of the classroom, disrupting their education.¹⁶⁸ For Black children especially, school becomes a place of risk rather than refuge, which is a stark departure from what homeplace requires.

This punitive approach is not limited to students but extends to their families. Parents and caretakers must navigate the ripple effects of harsh disciplinary measures, which can lead to increased surveillance and regulation of their homes. This dynamic creates what I call the “school-to-system pipeline”—similar to the well-documented school-to-prison pipeline¹⁶⁹—further entangling marginalized families in punitive systems of control.¹⁷⁰

The school-to-system pipeline is a phrase used here to describe the process by which families and children are funneled from public schools into the family regulation system through mechanisms of discipline, mandatory reporting, and bureaucratic entanglement. Unlike the more widely discussed school-to-prison pipeline, the school-to-system pipeline operates more diffusely and quietly, entrenching families in cycles of state scrutiny without necessarily invoking the criminal justice system. It is a prime example of the convergence against homeplace: Schools, rather than serving as extensions of care, become entry

¹⁶⁶ See Emily F. Suski, *Beyond the Schoolhouse Gates: The Unprecedented Expansion of School Surveillance Authority Under Cyberbullying Laws*, 65 CASE W. RES. L. REV. 63, 104-10 (2014) (describing how surveillance may give schools “the unfettered ability to classify people by type” which can “bleed imperceptibly into the power of discrimination”).

¹⁶⁷ See generally Adam Schwartz, *Chicago’s Video Surveillance Cameras: A Pervasive and Poorly Regulated Threat to Our Privacy*, 11 NW. J. TECH. & INTELL. PROP. 47 (2013) (discussing how widespread use of surveillance cameras in public spaces, including schools, can lead to significant privacy violations and arguing while these technologies are often justified for safety reasons, they contribute to culture of constant observation and control).

¹⁶⁸ See Suski, *supra* note 166, at 104-10 (discussing how privacy harms, such as civil liberty violations, power imbalances, and data use risks, develop under school surveillance).

¹⁶⁹ The school-to-prison pipeline is a phenomenon where strict school policies push marginalized students out of educational environments and into the criminal justice system. E.g., Heitzeg, *supra* note 165, at 8-14 (discussing use of “zero-tolerance policies” for behavioral issues in public schools and how they increase number of children who enter “school-to-prison pipeline”—especially Black children and other children of color).

¹⁷⁰ See Laura Meckler, *Public Education is Facing a Crisis of Epic Proportions: How Politics and the Pandemic Put Schools in the Line of Fire*, WASH. POST (Jan. 30, 2022), <https://www.washingtonpost.com/education/2022/01/30/public-education-crisis-enrollment-violence/> (noting disparities in school attendance and performance between white and Black students and that growing number of Black families are opting to remove their children from public school system in favor of homeschooling); see Klein & Preston, *supra* note 12; Robinson, *supra* note 9, at 7 (“Fifty years after *Rodriguez*, it is clear that many states will continue to provide students a low-quality and inequitable education unless courts or Congress order them to do otherwise.”).

points into regulatory systems that destabilize families and erode trust. These intersections between public education and legal systems highlight the urgent need for reforms that address both the regulatory framework and the systemic inequities perpetuated within them.¹⁷¹

Some states, for example, have an interest in not formally providing individualized education programs (“IEPs”) for children with a medical disability because refraining from doing so protects the school from the duty to provide funding for that child.¹⁷² Consequently, parents often have difficulty navigating the IEP process alone, struggling to get their children the services they require.¹⁷³ This impacts school discipline. If children are provided with the proper IEP, then their risk of being disciplined for disability-related situations is reduced. If they don’t have an IEP, then they are at risk for suspension and permanent expulsion.¹⁷⁴

The consequences of such disciplinary actions against children with disabilities and others are far-reaching. Suspended or expelled students are more likely to fall behind academically, disengage from school, and eventually drop out.¹⁷⁵ This cycle of disadvantage increases the likelihood of encountering the juvenile justice system, perpetuating the school-to-prison pipeline.¹⁷⁶

¹⁷¹ See Stewart, *Re-Envisioning Child Well-Being*, *supra* note 19, at 655-66 (describing potential methods of addressing ongoing concerted harms caused by schools, juvenile justice systems, and welfare structures).

¹⁷² Cf. Helin Azizoglu, *Least Restrained Environment: Amending the IDEA to Require Positive Behavioral Interventions and Supports in IEPs*, 52 COLUM. J.L. & SOC. PROBS. 225, 225-27 (2019) (discussing lack of federal legislative and regulatory framework for assisting disabled children who do not necessarily qualify for IEPs under federal law). See generally LAWRENCE M. SIEGEL, *THE COMPLETE IEP GUIDE: HOW TO ADVOCATE FOR SPECIAL EDUCATION SERVICES FOR YOUR CHILD* (Cara O’Neill ed., 11th ed. 2023) (providing parents of special needs children outlines for properly advocating for individualized, appropriate IEPs).

¹⁷³ See, e.g., *Florence Cnty. Sch. Dist. Four v. Carter ex rel. Carter*, 510 U.S. 7, 12-13 (1993) (holding courts can authorize reimbursement of parents forced to transfer their disabled children to private schools when school districts fail to provide them with “free appropriate public education”); see also NATHAN L. ESSEX, *SCHOOL LAW AND THE PUBLIC SCHOOLS: A PRACTICAL GUIDE FOR EDUCATIONAL LEADERS* 142 (4th ed. 2008) (recounting story of *Carter* in exploring difficulties parents experience in securing IEPs for their children).

¹⁷⁴ See ESSEX, *supra* note 173, at 152-56 (discussing suspension, expulsion, and IEPs in relation to children with disabilities).

¹⁷⁵ See Pamela J. Meanes, *Equity in American Education: The Intersection of Race, Class, and Education*, 50 U. RICH. L. REV. 1075, 1079 (2016) (“Thus, when students are suspended or expelled, the drive toward economic success ends. . . . [A] study found that ‘[B]lack students are suspended and expelled at a rate three times greater than white students.’ Black students also ‘represent 27% of students referred to law enforcement and 31% of students subjected to a school-related arrest.’” (footnote omitted)); Heitzeg, *supra* note 165, at 1, 8-14.

¹⁷⁶ Meanes, *supra* note 175, at 1079-82.

Even if prison is not the result, the school-to-system pipeline has a similarly grave impact.¹⁷⁷ The exclusion of these students can also have lasting psychological effects, such as feelings of alienation and decreased self-worth.¹⁷⁸ Without restorative justice practices and support systems that prioritize the well-being and educational success of all students, those at risk of marginalization are especially vulnerable. This aspect of the convergence results in Black youth being disproportionately targeted by both family regulation and public school discipline.¹⁷⁹

The cost here is not merely educational delay, but also the disintegration of homeplace where love, dignity, and resistance might otherwise take root. Without spaces of affirmation and stability in school and at home, children struggle to build a sense of identity and belonging, and caregivers face systemic barriers to providing the care and advocacy their families need.¹⁸⁰ But this is not the case for all families. Those aligned with the dominant social class, who are often white, affluent, and culturally normative, tend to have buffers that preserve the security of their homeplace.¹⁸¹ For example, when wealthier white parents disagree with school policies, they are more likely to be met with deference, not disciplinary referrals or state investigation.¹⁸² Their concerns are seen as advocacy, not as noncompliance. Such families are rightly entitled to this expectation, but all families should be afforded the same dignity and respect.

2. Unequal Access to Educational Opportunities

The unequal treatment discussed above—surveillance, school removals, and disproportionate discipline—extends directly into the realm of education access

¹⁷⁷ See *id.* at 1078 (“The statistics are clear: young individuals who have not completed high school are two-and-a-half times more likely to be unemployed than college graduates. . . . The correlation between education and economic opportunity is direct and clear. Education leads to economic power and opportunity. Conversely, a lack of education is tied directly to high unemployment rates, lower pay, and drastically reduced economic opportunity.”).

¹⁷⁸ See MALKA MARGALIT, *LONELY CHILDREN AND ADOLESCENTS: SELF-PERCEPTIONS, SOCIAL EXCLUSION, AND HOPE* 56-57 (2010) (noting children who failed in school due to learning or behavioral disabilities had higher depression scores and questioned their self-worth); see also Caroline Leduc & Thérèse Bouffard, *The Impact of Biased Self-Evaluations of School and Social Competence on Academic and Social Functioning*, 55 *LEARNING & INDIVIDUAL DIFFERENCES* 193, 195 (2017) (stating students who perceive school as place where they are constantly evaluated and afforded “many opportunities to appear incompetent” often feel uncomfortable and alienated in school environment).

¹⁷⁹ See Heitzeg, *supra* note 165, at 11-13.

¹⁸⁰ See generally *supra* Parts I-II (defining homeplace and examining ways education and family regulation work against homeplace stability for Black families).

¹⁸¹ Baldwin Clark, *Critical Racialization*, *supra* note 21, at 2148 (“[D]espite protestations to the contrary, both [the anti-CRT and parents’ rights] campaigns are color conscious and racially selective in their ‘protection’ of children to include only [w]hite parents and [w]hite children.”).

¹⁸² *Id.*

itself. And just as the public education system allocates opportunities unequally, the family regulation system reinforces these inequities by regulating which families are deemed “fit” to participate fully.

The doctrine of separate but equal continues to cast a long shadow that is evident in the convergence against homeplace.¹⁸³ History is rich with examples of marginalized groups having to fight for their constitutionally guaranteed rights. This is especially relevant as it pertains to education, which was a key issue in the civil rights movement. While legal segregation may have ended, the legacy of unequal schooling persists through less visible but no less damaging structural inequities.¹⁸⁴ And where educational exclusion is present, family scrutiny often follows—revealing how these two systems work in tandem today to discipline, rather than support, historically marginalized communities.¹⁸⁵

Despite the progress made over the decades, public schools continue to be sites of unequal access, with significant disparities based on social status and race.¹⁸⁶ Many schools remain segregated, not by law but by socioeconomic factors and residential patterns.¹⁸⁷ This segregation perpetuates a cycle of inequality, where students from low-income families and minoritized backgrounds often attend underfunded schools with fewer resources, less experienced teachers, and limited extracurricular opportunities.¹⁸⁸ These schools struggle to provide the same quality of education that wealthier, predominantly white schools can offer, resulting in a stark educational divide.¹⁸⁹

Furthermore, in many jurisdictions, school performance metrics and attendance data are shared with child protective services (“CPS”), triggering investigations when children in under-resourced schools struggle.¹⁹⁰ Educational inequity thus becomes grounds for state intervention in the family, amplifying the convergence between the two systems. Under-resourced schools come together with heightened family regulation to produce a direct affront to homeplace. Rather than the safe, affirming spaces for growth and opportunity

¹⁸³ See Reed, *supra* note 93 (tracing “separate but equal” doctrine’s persistence in contemporary segregation and displacement).

¹⁸⁴ *Id.*

¹⁸⁵ See, e.g., Klein & Preston, *supra* note 12.

¹⁸⁶ Chandelis Duster, Nicquel Terry Ellis & Alex Leeds Matthews, *It’s Been 70 Years Since Brown v. Board of Education. The US Is Still Trying to Achieve the Promise of Integration*, CNN (May 17, 2024, at 00:01 ET), <https://www.cnn.com/2024/05/17/us/school-segregation-brown-v-board-dg/index.html> [<https://perma.cc/R5QG-PVRH>].

¹⁸⁷ *Id.* (“[M]any majority-[w]hite schools are often better equipped with educational resources and better trained staff than majority-Black schools in the same school district. . . . [O]ther disparities include a lack of screenings for gifted programs, college prep programs and extracurricular activity offerings, and lower graduation rates.”).

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

¹⁹⁰ See, e.g., Bianca Vázquez Toness, *Your Child’s a No-Show at Virtual School? You May Get a Call from the State’s Foster Care Agency*, BOS. GLOBE (Aug. 15, 2020, at 16:07 ET), <https://www.bostonglobe.com/2020/08/15/metro/your-childs-no-show-virtual-school-you-may-get-call-states-foster-care-agency>.

that homeplace affords, Black children and families experiencing this negative convergence face educational neglect and familial disruption.

These and other state-imposed policies and interventions decenter children and their families to prioritize other interests.¹⁹¹ Presently, school curriculum disputes, truancy issues, and disputes about students' individualized education plans have arisen within the context of culture wars.¹⁹² The result has been legislation and state interventions that disrupt children's right to equal educational opportunities.¹⁹³ Taken together, these dynamics reflect a convergence where education policies selectively shape which families are supported, while regulatory mechanisms determine which families are sanctioned. Homeplace cannot thrive when these systems act as gatekeepers rather than guardians of equity.

3. Undermining Autonomy Through Misuse of Mandatory Reporting

As discussed above, one disruption to homeplace occurs through misuse of mandatory reporting laws. Increasingly used in ways that disproportionately target Black and low-income families, mandatory reporting contributes to over-surveillance and family separation, exacting an array of costs.¹⁹⁴ This dynamic often results in referrals to child protective services for issues unrelated to abuse, such as school absenteeism, food insecurity, or unmet special education needs.¹⁹⁵ When a student is improperly disciplined or removed from their school or home because of a mandatory report that opens the door to state involvement

¹⁹¹ See Duster, Ellis & Matthews, *supra* note 186.

¹⁹² See, e.g., Brenda Álvarez, *We Need to Teach the Truth About Systemic Racism, Say Educators*, NEATODAY (May 27, 2021), <https://www.nea.org/nea-today/all-news-articles/we-need-teach-truth-about-systemic-racism-say-educators> [<https://perma.cc/25MW-HN2Z>] (describing culture wars regarding curriculum topics like systemic racism in public schools); Zachary Schermele, *Education Department Layoffs Threaten Special Ed System, Advocates Warn*, USA TODAY (Oct. 14, 2025, at 12:09 ET), <https://www.usatoday.com/story/news/education/2025/10/13/education-layoffs-special-ed-504-plans-ieps/86671524007> [<https://perma.cc/3HDL-CSES>]; Vázquez Toness, *supra* note 190 (describing issues of truancy reporting during COVID-19 pandemic).

¹⁹³ See, e.g., Álvarez, *supra* note 192 (discussing legislation and political action to control school curricula); Schermele, *supra* note 192 (discussing special education implications of layoffs in Education Department's Office for Civil Rights).

¹⁹⁴ See Sarah Fathallah, Anna Myers & Verónica Caridad Rabelo, *Adding Friction to Mandatory Reporting: The Case for Survivor-Centered Research*, 2023 EPIC PROCS. 490, 493 (“[I]nvestigations triggered from mandatory reporting disproportionately target low-income families, particularly Black and Native families. Today, half of Black children, as well as half of Native American children, experience a CPS investigation before they turn 18.” (citations omitted)); see also Darcey H. Merritt, *How Do Families Experience and Interact with CPS?*, 692 ANNALS AM. ACAD. POL. & SOC. SCI. 203, 205 (2020) (noting every family interacting with CPS “is subjected to . . . stress and trauma,” which is compounded if children are removed from their family).

¹⁹⁵ Fathallah, Myers & Rabelo, *supra* note 194, at 493 (“Only 16% of reports made by mandated reporters are substantiated, and of those, 74.9% are from neglect, a term that can include factors that are linked to poverty, such as inadequate housing and food insecurity.”).

in a non-abuse-related situation, the cost to families is both personal and systemic.¹⁹⁶

Moreover, the intersection of regulatory and legal implications can create environments of surveillance and monitoring within schools that compromise student privacy and autonomy.¹⁹⁷ Surveillance technologies and disciplinary actions rooted in punitive measures can create atmospheres that feel more like institutions of control than places of learning.¹⁹⁸ Mandatory reporting laws, when misapplied, operate as another arm of this surveillance regime, transforming routine educational concerns into potential grounds for state intervention.

Furthermore, misuse of policies such as mandated reporting can lead to punitive actions against parents and families who advocate for their children's rights or challenge school policies.¹⁹⁹ For example, families who disagree with school officials on special education services or discipline may find themselves reported to child welfare authorities—not because of credible abuse but because their advocacy is viewed as oppositional.²⁰⁰ Instances where school officials misuse mandated reporting to coerce compliance or retaliate against parents highlight systemic issues that can result in unwarranted investigations and disruptions to families' lives.²⁰¹

This practice deepens the school-to-system pipeline, funneling families into family regulation systems through school gatekeepers empowered by law.²⁰² It also exemplifies the erosion of homeplace by destabilizing caregiving environments and treating ordinary parental disagreements as red flags rather than as protected expressions of family autonomy.

Students in underfunded schools face numerous challenges, including larger class sizes, outdated materials, and inadequate facilities, which can hinder their academic performance and limit their future opportunities.²⁰³ When these same

¹⁹⁶ *Id.* (listing “irreversible outcomes” stemming from mandatory reports, including “traumatic and intrusive questioning and searches, the termination of parental rights and severed connections with siblings, extended family, and community, as well as deeply irreparable emotional and psychological harm for children placed into foster care”).

¹⁹⁷ See Catherine A. Ward, *Reevaluating School Policing*, 108 VA. L. REV. ONLINE 152, 152-59 (2022) (noting how school resource officers (“SROs”) disproportionately search Black and brown children, which disrupts those children’s education and promotes punishment-based system of school discipline).

¹⁹⁸ See Nance, *supra* note 151, at 102-06 (discussing how strict school surveillance creates poor learning environment and sends negative message to students).

¹⁹⁹ See, e.g., Klein & Preston, *supra* note 12.

²⁰⁰ *Id.*

²⁰¹ *Id.*

²⁰² See generally *supra* Section III.A.1 (exploring school-to-system pipeline and disproportionate disciplinary and regulatory measures applied to Black students).

²⁰³ See Carson Turner, Julia Englebert & Narintohn Luangrath, *The (In)Equities of U.S. School Funding*, REGUL. REV. (Nov. 11, 2023), <https://www.theregreview.org/2023/11/11/saturday-seminar-the-inequities-of-u-s-school-funding> [[https:// perma.cc/ Z4T5-2E8P](https://perma.cc/Z4T5-2E8P)] (“Funding affects the quality of education a school can deliver. Underfunded schools have

schools overuse mandatory reporting while failing to meet student needs, they create a paradox: Under-resourced institutions become sources of harm rather than protection.

Moreover, families with fewer resources have less capacity to navigate state investigations, hire legal representation, or transfer their children to different schools. This creates a two-tiered system of family risk: one where privilege shields and another where poverty exposes. In addition, the lack of diverse perspectives and interactions in segregated schools can reinforce stereotypes and social divisions.²⁰⁴ As will be discussed in the next Part, addressing these disparities requires a concerted effort to allocate resources more equitably, implement policies that promote integration, and ensure that all students, regardless of their background, have access to high-quality education.²⁰⁵ By doing so, public schools can become true equalizers, providing every child with the opportunity to succeed and contribute to a more just and equitable society.

B. *Structural and Civic Costs*

The negative convergence of public education and family regulation produces significant costs that impact children, families, and the broader society. The regulatory system explored above, fraught with surveillance and punishment, inflicts significant constitutional costs, such as disrupted family rights, education rights, and equal opportunity. These disruptions to homeplace are not merely personal or isolated, but they reverberate outward, weakening trust in the institutions meant to serve the public and accelerating civic disengagement.²⁰⁶ Even when rights are not permanently terminated, continuous state surveillance subjects families to legal estrangement, further eroding the fabric of our democracy.²⁰⁷ The cumulative effect of these punitive measures extends beyond individual families' ability to nurture homeplace, ultimately threatening the integrity and stability of the entire society. This Section explores those broader societal harms as part of the mounting costs of the convergence against homeplace.

fewer experienced teachers, fewer extracurricular activities, larger class sizes, and older facilities, all of which can negatively impact student learning outcomes.”).

²⁰⁴ AMY STUART WELLS, LAUREN FOX & DIANA CORDOVA-COBO, CENTURY FOUND., HOW RACIALLY DIVERSE SCHOOLS AND CLASSROOMS CAN BENEFIT ALL STUDENTS 5-15, 131 (2016) (detailing value of school integration by race and socioeconomic status).

²⁰⁵ *Id.* at 15-25 (explaining how public schools and legislatures may implement various policies to desegregate schools).

²⁰⁶ My treatment of civic decay in this piece is limited, but there is room for this issue to be more deeply explored in the next Article of this homeplace series.

²⁰⁷ See Bell, *Legal Estrangement*, *supra* note 29, at 2054 (“Legal estrangement is a theory of detachment and eventual alienation from the law’s enforcers, and it reflects the intuition among many people in poor communities of color that the law operates to exclude them from society.”).

1. Legal Estrangement

Under the legal estrangement theory, people see themselves as existing within the law's regime but outside its protection.²⁰⁸ This theory was created in the context of policing.²⁰⁹ In her foundational essay, *Police Reform and the Dismantling of Legal Estrangement*, Professor Monica Bell shows how legal estrangement emerges when communities, especially poor communities of color, experience procedural injustice during police encounters, absorb the trauma of watching others in their community harmed by police (vicarious marginalization), and are structurally excluded from meaningful legal protections through policies that over-police and under-protect them.²¹⁰

However, using legal conceptions of homeplace as an analytic lens provides an opportunity to explore legal estrangement within the context of the negative convergence of the public education and family regulation systems. For example, while the policing present in public schools and the family regulation system is a clear contributor to legal estrangement, this is only one way that legal estrangement applies.²¹¹ Estrangement is compounded by the negative convergence of family regulation and public education because some families—particularly Black families—have limited access to homeplace and therefore cannot establish or defend their family autonomy.²¹² While some families benefit from homeplace to resist and protect their autonomy, others are denied this foundation, leaving them vulnerable to systemic harms.²¹³ Homeplace illuminates this dynamic, demonstrating that legal estrangement is not solely a result of policing but also stems from the systemic denial of homeplace to marginalized families.²¹⁴ When the state consistently treats certain families as suspicious, expendable, or incapable of self-governance, it excludes them not only from protection, but from full democratic belonging. Applying the three components of legal estrangement—procedural injustice, vicarious marginalization, and structural exclusion—to the convergence of public education and family regulation highlights the deep-seated issues affecting Black families and children in particular.²¹⁵

²⁰⁸ *Id.*

²⁰⁹ *See generally id.* (suggesting legal estrangement viewpoint regarding police reform).

²¹⁰ *See id.* at 2100-14.

²¹¹ *See Ward, supra* note 197, at 155-59 (discussing negative impact school resource officers have on students, particularly students of color).

²¹² *See, e.g., HOOKS, Homeplace, supra* note 5, at 46-47 (noting historical practices and subjugation by white people have impacted ability for Black people to make homeplace); *see generally* Part II (discussing convergence of family regulation and public education in connection with homeplace).

²¹³ *See generally* Section II.B (identifying role schools play in inhibiting homeplace development for Black children and their families).

²¹⁴ *Id.*

²¹⁵ *See Bell, Legal Estrangement, supra* note 29, at 2100-26 (describing how legal estrangement is product of three socio-legal processes: procedural injustice, vicarious marginalization, and structural exclusion).

Procedural injustice. In the policing context, Bell explains that procedural injustice arises when police officers fail to treat people with dignity, neutrality, and respect, and deny them a voice in legal encounters—leading many, especially in poor communities of color, to perceive legal authorities as biased and untrustworthy.²¹⁶ In the convergence context, at the heart of the procedural problem is the structural inequity that enables some families to access the resources and processes to exercise their constitutional right to direct the upbringing of their children while denying this same right to others.²¹⁷ This disparity cuts across racial and socioeconomic lines, reflecting a system that privileges certain families with legal and social recognition of their autonomy while systematically denying this recognition to others.²¹⁸ For many families, particularly those in marginalized communities, the lack of homeplace and the ability to establish and defend their family autonomy makes it nearly impossible to resist state interventions or collaborate with schools to secure an equal education under the law.²¹⁹ These inequities create a dual system, where some families are empowered to protect their rights while others are left vulnerable to systemic overreach and exclusion.

The lack of access to counsel and poor substitute representation by parents, both perpetuated by chronic underfunding in the public education and family regulation systems, is at the core of the procedural problem. Families often navigate these systems without adequate legal support, leading to unjust outcomes that disproportionately affect low-income and racially minoritized families.²²⁰ Without meaningful legal representation, families are unable to advocate effectively for their children's needs and rights, further compounding the challenges they face. Overburdened and under-resourced public defenders and child welfare advocates are unable to provide the quality of support necessary to safeguard family autonomy or prioritize the best interests of children.²²¹

Additionally, the due process component of the constitutional right to family autonomy is fundamentally flawed. Due process often fails to account for the

²¹⁶ See *id.* at 2100.

²¹⁷ See, e.g., Fong, *supra* note 152, at 628 (discussing structural inequalities in context of child protective services investigations and how that can lead to sense of betrayal and lack of trust).

²¹⁸ See, e.g., *id.* at 615 (noting “[p]oor families, Black families, and Native American families disproportionately come into contact with CPS”).

²¹⁹ See *id.* at 629-30 (concluding with several findings about long-term consequences of child protective services' actions); see also *supra* notes 151-64 and accompanying text (exploring structural and systemic mechanisms interplaying to suppress homeplace among Black communities).

²²⁰ See Lisa V. Martin, *No Right to Counsel, No Access Without: The Poor Child's Unconstitutional Catch-22*, 71 FLA. L. REV. 831, 855-60 (2019) (discussing practical implications of counsel mandate for children's claims, particularly for people of minimal economic means).

²²¹ *Id.* at 856 (“There is a dearth of legal services available to meet the legal needs of those who cannot afford to pay.”).

complex realities that families face within the public education and family regulation systems.²²² Due process in these systems tends to be formalistic—focused on minimal notice and hearing requirements—rather than substantively responsive to the lived experiences of families, especially those who are poor, racially minoritized, or navigating complex institutional pressures.²²³ The public education and family regulation systems frequently impose overlapping obligations on families without adequately explaining to them their rights or providing the support necessary to navigate these obligations.²²⁴ While procedural protections are intended to safeguard family autonomy, they frequently become theoretical for families without access to effective legal representation or structural support.²²⁵ In many cases, parents attend meetings or hearings where they are outnumbered by professionals, lack advocates who can interpret the process, and are expected to comply with state-imposed mandates without meaningful input.²²⁶ These inadequacies leave families vulnerable to unwarranted interventions and decisions that fail to respect their autonomy or reflect their best interests.²²⁷ Rather than serving as a shield against state overreach, procedural due process often becomes a paper barrier—insufficient to protect families from disruption, displacement, or long-term surveillance.

Moreover, the inability of families to collaborate meaningfully within schools to ensure equal educational opportunities further compounds these issues, creating a system where state interests often overshadow family rights and erode the foundational principle of due process.²²⁸ This procedural injustice impedes some Black families' ability to experience homeplace because it denies them the autonomy, resources, and protections necessary to create a safe and affirming space where their families can thrive.

²²² See Clare Huntington, *Rights Myopia in Child Welfare*, 53 UCLA L. REV. 637, 643-55 (2006) (discussing complexities and nuance of constitutional rights and family autonomy in context of rights-based legal framework which currently governs child welfare system).

²²³ See *id.* at 665-66, 691-92 (arguing for problem-solving model for child welfare services in part because current rights-based model fails to offer meaningful assistance to families).

²²⁴ See, e.g., discussion *supra* Section II.B (discussing general overlap between public education and family regulation systems today).

²²⁵ See Huntington, *supra* note 222, at 659 (“[A]lthough parents’ rights theoretically entitle parents to certain procedural safeguards and court review of the state’s actions, in practice these entitlements offer little protection . . .”).

²²⁶ See, e.g., *id.* (noting lawyers for parents in child protection hearings often do not provide adequate support).

²²⁷ See, e.g., *id.* at 658-59 (discussing how lack of adequate support can lead to detrimental outcomes for families during child services processes). See generally DON DUQUETTE ET AL., CHILDREN’S JUSTICE: HOW TO IMPROVE LEGAL REPRESENTATION OF CHILDREN IN THE CHILD WELFARE SYSTEM (2016) (discussing limitations and existing barriers to fair representation within family regulation cases).

²²⁸ See *supra* notes 139-47 and accompanying text (discussing how mandatory reporting requirements in schools are sometimes used as retaliatory tool against parents who advocate for their children or question school practices).

Vicarious marginalization. In policing, Bell describes vicarious marginalization as the second-hand trauma experienced when community members witness the mistreatment or criminalization of people who look like them, live near them, or share their racial or economic status—deepening collective fear and distrust of legal systems.²²⁹ Vicarious marginalization in the convergence context occurs when families and communities internalize the harm they observe being inflicted on others who are more directly entangled with the public education or family regulation systems.²³⁰ In schools and neighborhoods, when one family is unjustly punished, surveilled, or reported, other families—especially those in similarly situated racial or economic groups—absorb the message: they too are vulnerable.²³¹ This creates a climate of fear, signaling that state intervention is unpredictable and punitive. Black educators, school staff, and social workers are often caught in the middle, as they are tasked with enforcing systems they know are unjust while also being part of the very communities harmed. Their proximity to state power and to their own communities sharpens the dissonance and deepens the marginalization.

Vicarious marginalization not only stigmatizes the directly affected family but also communicates a broader warning about who is protected and who is expendable.²³² In this way, the convergence against homeplace broadcasts not only who is vulnerable to harm, but who is safe from it, deepening social fragmentation. By reinforcing distrust and instability, vicarious marginalization makes it harder for Black families to cultivate homeplace.

Structural exclusion. Bell defines structural exclusion in policing as the long-standing legal, institutional, and spatial arrangements that isolate poor Black communities from the protection of law, including the overuse of punitive policies and the neglect of supportive services.²³³ Similarly, there is a long history of structural exclusion disrupting the well-being of poor Black children in schools and at home.²³⁴ Policies that appear facially race- and class-neutral,

²²⁹ See Bell, *Legal Estrangement*, *supra* note 29, at 2104-05.

²³⁰ See *id.* at 2107-09; see also Merrit, *supra* note 194, at 217-18 (noting parents' perceptions of being judged pre-determinately by caseworkers based on previous case notes and their race); Fathallah, Myers & Rabelo, *supra* note 194, at 498 (discussing issues with researching mandatory reporting by noting how "[m]andatory reporting can instill fear in participants, especially survivors. Fearing the reporting that could arise from disclosure could limit their authentic participation and possibly even discourage them from participating at all.").

²³¹ See Bell, *Legal Estrangement*, *supra* note 29, at 2108 (noting vicarious experiences can serve as lens through which Black families can interpret future interactions).

²³² See *id.* at 2108 (noting observations of unjust interactions convey messages to similarly situated individuals).

²³³ See *id.* at 2114-15.

²³⁴ See David Tyack, *Health and Social Services in Public Schools: Historical Perspective*, FUTURE CHILD., Spring 1992, at 19, 26 ("Whole sectors of the American public had no school services. The worst off were southern rural [B]lacks. African-Americans in the Dine Hollow School in the deep South had no desks or books, not to mention such luxuries as health care. By contrast, rich suburban high schools like the one in Shaker Heights, Ohio, often had large

such as school funding based on property taxes, result in significant disparities in educational quality and resources.²³⁵ Indigent and Black students in disadvantaged neighborhoods tend to receive lower-quality schooling than students from the dominant class and those from wealthier areas.²³⁶ This illustrates how systemic inequities are embedded in the structure of public education and family regulation, perpetuating cycles of disadvantage and exclusion. The convergence of these systems often leads to the over-surveillance and punishment of marginalized families, rather than providing the support and resources needed to foster their well-being and success.²³⁷ These structural inequities in turn inhibit the creation and sustainability of homeplace for some families—a space where they can cultivate safety, autonomy, and community—further contributing to legal estrangement by eroding their ability to resist systemic harms and create affirming environments for their children.

2. Civic Decay

The long-term consequence of sustained legal estrangement is civic decay, the gradual unraveling of democratic norms, civic engagement, and social cohesion.²³⁸ All of society suffers when children suffer. When families and children, particularly from marginalized communities, experience procedural injustice, vicarious marginalization, and structural exclusion, their trust in legal and educational institutions deteriorates.²³⁹ This mistrust can foster disengagement and cynicism towards the very systems that should support and

libraries, elaborate lunchrooms, doctors and nurses, and counselors with time to attend to the bruises of upper-middle-class adolescence.”).

²³⁵ See Black, *supra* note 24, at 1422-24 (discussing constitutional implications of funding disparities caused by property tax-based school funding); James E. Ryan, *Schools, Race, and Money*, 109 YALE L.J. 249, 255-56 (1999) (discussing how school funding systems perpetuate racial and economic inequalities); Goodwin Liu, *Education, Equality, and National Citizenship*, 116 YALE L.J. 330, 402 (2006) (“The single largest program of federal education aid—Title I of the Elementary and Secondary Education Act of 1965—awards funding to each state in proportion to its share of poor children *and* to its existing level of per-pupil spending. Thus, wealthy, high-spending states receive more Title I aid per eligible child than poor, low-spending states.” (footnote omitted)).

²³⁶ See *supra* notes 185-89 and accompanying text.

²³⁷ See Merritt, *supra* note, at 194 (“[A]mong some marginalized families, schools can be weaponized to carry out family surveillance directly leading to child welfare system oversight and ongoing involvement.”).

²³⁸ For a discussion of social decay and the broader implications of civic isolation, see ROBERT D. PUTNAM, *BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY* 25-26 (rev. & updated ed. 2000) (discussing civic decay as deterioration of social capital, civic engagement, and norms of citizenship which underpin healthy democratic society).

²³⁹ Bell, *Legal Estrangement*, *supra* note 29, at 2100.

protect these communities.²⁴⁰ In the context of policing, legal estrangement “banishes” whole communities from the body politic and weakens their sense of belonging to a shared democratic project.²⁴¹ These structural and psychological ruptures disrupt social inclusion and corrode faith in government and law enforcement alike.

Indeed, the convergence of public education and family regulation not only disrupts the lives of those directly affected but also contributes to broader societal instability and inequity.²⁴² As these communities become increasingly alienated, their participation in civic processes diminishes, weakening the foundations of democratic engagement and representation.²⁴³ The resulting civic decay manifests in lower voter turnout, decreased community involvement, and a general erosion of social cohesion.²⁴⁴ This is particularly evident in marginalized communities where prolonged exposure to state-sanctioned surveillance, punishment, and neglect fosters deep mistrust in public institutions. For example, a recent study found that even low-level police contact—such as traffic stops—significantly reduced voter turnout in Hillsborough County, Florida, with a smaller yet still substantial demobilizing effect for Black voters.²⁴⁵ Similarly, evidence from misdemeanor incarceration shows that brief jail spells can independently suppress future turnout, underscoring how even limited contact with the criminal legal system has long-term consequences for civic engagement.²⁴⁶ In a similar fashion, in the public education and family regulation systems, reported exclusionary discipline practices—like suspensions—have been linked to lower adult voting and civic participation rates, indicating how punitive institutional responses undermine democratic

²⁴⁰ *Id.* at 2088 (discussing concept of legal estrangement, which encompasses legal cynicism, and how it emphasizes cultural orientation against protectorate services—including policing).

²⁴¹ *Id.* at 2067.

²⁴² *Id.* at 2072.

²⁴³ *Id.* at 2143 (“[T]he communities most affected by legal estrangement are often locked out of the democratic process more generally.”); see also Daniel A. Cox & Sam Pressler, *Disconnected: The Growing Class Divide in American Civic Life*, SURV. CTR. ON AM. LIFE (Aug. 22, 2024), <https://www.americansurveycenter.org/research/disconnected-places-and-spaces> [<https://perma.cc/2XZ3-DCJZ>] (“For Americans without degrees—particularly [B]lack Americans—the civic opportunities, responsibilities, and relationships that imbue life with meaning seem increasingly out of reach.”).

²⁴⁴ Bell, *Legal Estrangement*, *supra* note 29 at 2105, 2143 (noting partners of previously incarcerated men are less likely to vote and arguing legal estrangement—including resulting civic decay which stems from it—requires change, bringing about cohesion and solidarity).

²⁴⁵ Jonathan Ben-Menachem & Kevin T. Morris, *Ticketing and Turnout: The Participatory Consequences of Low-Level Police Contact*, 3 AM. POL. SCI. REV. 822, 827-32 (2023).

²⁴⁶ Ariel White, *Misdemeanor Disenfranchisement? The Demobilizing Effects of Brief Jail Spells on Potential Voters*, 113 AM. POL. SCI. REV. 311, 322 (2019) (“Jail sentences arising from misdemeanor cases decrease voter turnout in the next election, especially for Black defendants.”).

participation.²⁴⁷ When families are treated with suspicion or subjected to invasive interventions, they may disengage from school governance, avoid child-serving agencies, or retreat from civic life.²⁴⁸ Rather than being empowered as democratic participants, they become subjects to be managed—contributing to a broader democratic deficit.

Furthermore, the impediment to homeplace for Black families compounds this harm, depriving families of the foundation needed to resist systemic injustices and engage meaningfully in civic life. Bell's theory illustrates how this type of exclusion is not just interpersonal but institutional—rooted in policy choices and systemic arrangements that perpetuate disconnection and reinforce social stratification.²⁴⁹ Therefore, addressing legal estrangement in these converging systems is not only a matter of justice for families and children but is crucial for maintaining a healthy, functioning democracy. These disrupted rights and fractured systems will lead to broken social bonds if the convergence problem goes unaddressed.²⁵⁰

The legitimacy of the law depends on how all of society views it.²⁵¹ When racially minoritized children and their families experience, or when their communities witness, the government's unjust treatment of them within these systems, they may lose trust in government processes and develop legal cynicism.²⁵² This cynicism can erode their faith in democratic systems. As a result, these families may become disinterested in voting and the democratic process more generally.²⁵³ Legal cynicism and estrangement ultimately contribute to civic decay. Indeed, this insight from the policing context extends into the convergence against homeplace, as Bell emphasizes that trust in legal

²⁴⁷ MELANIE LEUNG-GAGNÉ, JENNIFER MCCOMBS, CAITLIN SCOTT & DANIEL J. LOSEN, PUSHED OUT: TRENDS AND DISPARITIES IN OUT-OF-SCHOOL SUSPENSION 1, 2 (2022) (“Young adults with a history of school suspension are also less likely to vote and less likely to participate in civic activities.”).

²⁴⁸ See, e.g., Fong, *supra* note 152, at 627-28 (discussing how encounters with CPS can fuel distrust and disengagement between mothers and reporting systems).

²⁴⁹ See Bell, *Legal Estrangement*, *supra* note 29, at 2100-14.

²⁵⁰ See *id.* at 2083 (“For [Émile] Durkheim the central project of modern society is to maintain ‘organic solidarity,’ defined as social cohesion based on fulfillment of the different functions each person serves within society. Ideally, law’s function is to create and maintain social cohesion. . . . A society that does not reinforce moral norms, and does not promote social trust, leaves its inhabitants in a state of anomie, with broken social bonds.” (footnote omitted)).

²⁵¹ See *id.* at 2074 (“From [Max] Weber’s standpoint, legitimation is a subjective process . . . continuously negotiated with subjects, taking into account their views. . . . While the threat of violence from the state always lurks, the state’s authority over its citizens primarily comes from the state’s adherence to process.”).

²⁵² See *id.* at 2084 (“Sampson and Bartusch defined legal cynicism as “‘anomie’ about law.’ Anomie is more than distrust. Instead, it is a sense that the very fabric of the social world is in chaos—a sense of social estrangement, meaningless, and powerlessness, often a result of structural instability and social change.”).

²⁵³ See *supra* notes 243-47.

authorities cannot be fostered without addressing the deeper structural and communal harms that fuel disillusionment—particularly in communities historically excluded from the law’s protection.²⁵⁴

To address these challenges, we must explore actionable solutions that prioritize the well-being of children while respecting family autonomy. The next Part delves into these strategies and proposes recommendations for fostering a more equitable convergence of public education and family regulation. By examining these approaches, we can work toward a system that better supports families and children in our society.

IV. CONFRONTING THE CONVERGENCE AGAINST HOMEPLACE

The convergence of the public education and family regulation systems carries serious legal, regulatory, and constitutional implications, particularly for Black children and families. This convergence disproportionately impacts families historically subjected to surveillance and displacement, underscoring the urgency of systemic reform. This Part explores how law and policy might help reorient both systems toward care, restoration, and dignity, which are values central to homeplace.²⁵⁵ It proceeds in three sections, each of which analyzes both the promise and the limitations of an array of possible approaches to such a reorientation. The first Section explores enshrining a legal right to homeplace generally to affirm familial autonomy and community care. Section IV.B offers an array of specific legal and policy reforms. And, finally, Section IV.C considers cause lawyering as a method to resist state overreach, center communities, and advance justice-oriented change.

A. *Cultivating a Right to Homeplace?*

Could affirmatively recognizing a legal right to homeplace help reverse the harms caused by the convergence of the public education and family regulation systems? Drawing from bell hooks’s theory, this Article argues that homeplace offers a framework that centers care, affirmation, and familial autonomy. Such a right could center these values, which are often marginalized by current legal regimes.

A right to homeplace would require educators and regulators to respect families’ cultural, emotional, and social contexts; collaborate with families to safeguard children from harmful surveillance and punishment; and prioritize community-based solutions that preserve family autonomy. It could serve as an accountability mechanism, ensuring that both the public education and family regulation systems align with community values.²⁵⁶

²⁵⁴ See Bell, *Legal Estrangement*, *supra* note 29, at 2115.

²⁵⁵ See generally Vincent A. Anfara, Jr., Katherine R. Evans & Jessica N. Lester, *Restorative Justice in Education: What We Know So Far*, MIDDLE SCH. J., May 2013, at 57 (discussing how restorative justice in schools encourages positive and democratic climate with less suspensions and expulsions).

²⁵⁶ HOOKS, *Homeplace*, *supra* note 5, at 48-49.

This right also has the potential to legally entitle families and children to be free from systemic interference with spaces of refuge where they can safely resist oppression. However, effectuating a right to homeplace would likely require a different statutory framework. For example, courts could shift from the commonly used “best interest of the child” standard²⁵⁷ to what might be called a “best interest of the family” standard, where courts prioritize preservation of the family unit as a foundational principle. In family law, the “best interest of the child” standard is the prevailing doctrine used in custody, dependency, and welfare proceedings to determine outcomes that will best serve a child’s safety, health, and overall well-being.²⁵⁸ While flexible, the standard often grants broad discretion to judges, who may rely on culturally biased assumptions or prioritize state-defined goals over family integrity.²⁵⁹ It typically focuses on individual outcomes for the child, sometimes at the expense of preserving the parent-child relationship or respecting a family’s cultural values.

A reformulated doctrine—centered on the best interest of the family—would still protect children’s well-being but would do so in a way that affirms family cohesion, supports collective flourishing, and acknowledges the value of homeplace.²⁶⁰ Shifting to a best interest of the family standard would require a court to recognize and respect the homeplace as a vital environment for the nurturing and development of children. Such a shift would require courts to consider cultural, religious, and community contexts and to promote collaborative decision-making processes that involve both children and parents in planning interventions.

When interventions are necessary, courts would prioritize supportive measures that strengthen homeplace and enhance family resilience. This includes providing access to parenting education, counseling, healthcare, and financial assistance tailored to families’ needs to keep children within their homes. Mechanisms for monitoring and accountability, such as regular reviews, service evaluations, and family feedback, would help ensure alignment with the family’s best interests.

While preserving family unity, courts would still prioritize the safety and well-being of the child. Decisions would be guided by a holistic understanding of the child’s physical, emotional, and educational needs. In cases involving culturally displaced families,²⁶¹ courts would take historical and cultural

²⁵⁷ See, e.g., N.Y. DOM. REL. LAW § 240 (McKinney 2025) (requiring courts to use best interests of the child standard in matters of custody, support, and protection); VA. CODE ANN. § 20-124.3 (2025) (requiring courts to use best interests of the child standard in custody and visitation determinations).

²⁵⁸ See sources cited *supra* note 257.

²⁵⁹ See, e.g., N.Y. DOM. REL. LAW § 240 (McKinney 2025) (specifying decisions are to be made “in the court’s discretion” regarding child custody arrangements).

²⁶⁰ See, e.g., Indian Child Welfare Act of 1978, Pub. L. No. 95-608, 92 Stat. 3069 (codified as amended at 25 U.S.C. §§ 1901-1963).

²⁶¹ Doñela C. Wright, *The Home as Refuge: Locating Homeplace Theory Within the Afrocentric Paradigm 1* (May 2016) (Ph.D. dissertation, Temple University) (ProQuest).

dislocation into account and prioritize interventions that empower communities rather than replicate patterns of harm.²⁶²

A right to homeplace could counteract the harmful impacts Black families experience disproportionately at the convergence between the education and family regulation systems. But this approach faces significant limitations. Rights-based frameworks often depend on state recognition, legal enforcement, and discretionary interpretation, which may be an impediment to serving all families under this solution. Even if formally recognized, a right to homeplace could be watered down in application or co-opted by the very systems it aims to constrain. These risks are especially acute for institutions already shaped by racial and economic bias.²⁶³ Thus, while it would be useful, a legal right to homeplace is insufficient without a broader transformation of the legal and political systems that reinforce it.

Establishing a federal right would be challenging, making state and local action a more strategic and feasible path forward.²⁶⁴ Because public education and family regulation are primarily administered at the state and local levels,²⁶⁵ protections for homeplace might be best enshrined through state constitutions, local governance, and institutional policies.²⁶⁶ However, this approach has limits, given the long and often troubling history of states' rights being invoked to resist civil rights and perpetuate racial subordination.²⁶⁷

(“[The] cultural dislocation and displacement [of generations of Black individuals] diminishes an active cultural consciousness that is necessary for all [Black] persons to use to stand up and work to destroy white supremacy.”).

²⁶² See *supra* Part II.

²⁶³ See Weaver, *supra* note 98, at 1087 (“However, when the normative default is whiteness, change remains elusive because the purpose of the law is not properly designed to help provide equal access to justice or ensure due process for marginalized groups of people.”).

²⁶⁴ See generally *Standing in the Way: The Courts’ Escalating Interference in Federal Policymaking*, 136 HARV. L. REV. 1222 (2023) (“By imposing increasingly stringent standards on the sort of ‘injury’ that qualifies a rightsholder to invoke a federal court’s authority, the Supreme Court has restricted policy-makers’ ability to identify which rights can be vindicated there.”).

²⁶⁵ See *Federal Role in Education*, U.S. DEP’T OF EDUC. (June 17, 2025), <https://www.ed.gov/about/ed-overview/federal-role-in-education> [<https://perma.cc/69D5-DA6R>] (“Education is primarily a State and local responsibility in the United States.”); Clare Huntington, *Child Development and the Family Regulation System*, in *THE OXFORD HANDBOOK OF DEVELOPMENTAL PSYCHOLOGY AND THE LAW* 129, 135-38 (Allison D. Redlich & Jodi A. Quas eds., 2023) (explaining how federal legislation authorizes states to address child abuse and neglect).

²⁶⁶ See Nicole Sunderlin & Evan Caminker, *Channeling a Federal Commitment to Education through State Constitutions and Courts*, 13 *TOURO J. RACE, GENDER & ETHNICITY* 1, 1 (2024) (observing that education rights, and their substantive protections, derive primarily from state constitutions, underscoring states’ central role in safeguarding local interests).

²⁶⁷ See W. Tanner Allread, *The Specter of Indian Removal: The Persistence of State Supremacy Arguments in Federal Indian Law*, 123 *COLUM. L. REV.* 1533, 1533-34 (2023) (discussing “theory of state supremacy” in Removal Era, when southern legislatures invoked

Still, reframing societal perspectives on public welfare and social support is crucial. Reforms must reduce state intrusion while promoting community-based, humanizing models of support. Even with a formal right, without cultural change and empowered communities, homeplace will remain vulnerable to systemic disruption.

B. *Legal and Regulatory Reforms for Homeplace?*

Could legal and regulatory reforms protect homeplace, and particularly those children and families who are disproportionately entangled in state systems? To do so, reforms must shift away from surveillance and regulation and toward community-rooted care. This Section considers the potential and limits of such reforms to embed homeplace values—stability, affirmation, and familial autonomy—into education and family policy.

One key reform is shifting from “mandated reporters” to “mandated supporters.”²⁶⁸ Mandated supporters would prioritize voluntary engagement, local resources, and family empowerment over punitive intervention.²⁶⁹ A mandatory support model advocates for building a nurturing culture where community members and professionals work collaboratively to address the needs of families, reducing the likelihood of intrusive state interventions.²⁷⁰ Implementing this model would involve funding schools and agencies to connect families with healthcare, counseling, child care, housing assistance, and mentorship programs. The goal then is to create an ecosystem where help—not harm—is the first response.

Family services more broadly would be redesigned to meet families’ needs early and locally, before the involvement of child protective services.²⁷¹ Wraparound services like parenting classes, financial navigation, and legal aid

states’ rights to “eradicate Native sovereignty,” and warning that its modern revival “perpetuates the racism and violence that characterized” that era).

²⁶⁸ See Shanta Trivedi, *Mandating Support for Survivors*, 30 VA. J. SOC. POL’Y & L. 85, 95-98 (2023) (tracing origins of “mandated supporting” and describing its benefits over mandated reporting); see also *Mandated Support in Education*, EDUC. HEALTHCARE PUB. SERVS., <https://www.aft.org/mandated-support-education> [<https://perma.cc/M62J-NHBC>] (last visited Feb. 1, 2026) (outlining goals of mandated supporting, including “[e]liminat[ing] unnecessary reporting” and “[e]levat[ing] compassion over compliance grounded in fear or punishment”).

²⁶⁹ *Mandated Supporting*, JMACFORFAMILIES, <https://jmacforfamilies.org/mandated-supporting> [<https://perma.cc/DCH5-U2KB>] (last visited Feb. 1, 2026) (“This mandated supporting framework seeks to center families through equitable, harm reductionist, and anti-racist practices, while divesting from systems of surveillance and punishment.”).

²⁷⁰ *Id.*

²⁷¹ See Clare Huntington, *Mutual Dependency in Child Welfare*, 82 NOTRE DAME L. REV. 1485, 1486-87 (2007) (“Targeted prevention programs as well as more broad based antipoverty programs have shown tremendous success in both preventing child abuse and neglect and improving the well-being of families. Despite this success, and despite evidence demonstrating the long-term ill effects of child abuse and neglect, such programs remain almost entirely at the margins of child welfare policy.” (footnotes omitted)).

should be embedded in community resource centers. Oversight bodies would be needed to ensure fairness and dignity in all interventions.²⁷²

Models like the Safe Families Program offer proof of concept for community-based policies and family support related to public education and family regulation that limit state intrusion into homes.²⁷³ The Safe Families Program is a volunteer-driven movement designed to provide temporary care for children while supporting and strengthening families in crisis.²⁷⁴ Established in 2003, it connects families in need with a network of volunteers who offer various support services, such as hosting children, mentoring parents, and providing essential resources to help families stabilize their situations.²⁷⁵ This program's primary goal is to keep children safe and families intact, preventing the need for foster care whenever possible.²⁷⁶ Similarly, Full Service Community Schools ("FSCSs")²⁷⁷ integrate education, health care, food access, and social services, demonstrating that schools can support homeplace.²⁷⁸

Particularly adaptable from this model is its use of community school coordinators. These coordinators are people who work in coordinating positions at these community schools and are tasked with managing relationships between the schools and external partners, which include community organizations, businesses, health and human services agencies, and higher education institutions, among others.²⁷⁹ One of the most harmful aspects of the

²⁷² *Id.* at 1846 ("The child welfare system suffers from a fundamental misorientation. The prevailing response to families at risk of abuse and neglect is to wait for a crisis, then act.").

²⁷³ SAFE FAMS. FOR CHILD., <https://safe-families.org> [<https://perma.cc/JRJ4-AXG3>] (last visited Feb. 1, 2026) ("Our goal is to support and strengthen families, prevent child abuse and neglect, and reduce the number of children unnecessarily entering the child welfare system.").

²⁷⁴ *Id.*

²⁷⁵ *Id.*

²⁷⁶ *Id.*

²⁷⁷ Mavis Sanders, *Full-Service Community Schools Are Critical Investments for Children and Families in Poverty*, CHILD TRENDS: PUBL'NS (Mar. 17, 2022), <https://www.childtrends.org/publications/full-service-community-schools-are-critical-investments-for-children-and-families-in-poverty> [<https://perma.cc/3MBN-GG38>] (defining FSCSs as "schools that integrate social and health services, extended learning opportunities, family and community engagement, and collaborative leadership").

²⁷⁸ *The Full Service Community Schools Grant Program*, INST. FOR EDUC. LEADERSHIP, <https://www.communityschools.org/department-of-education-full-service-community-schools-grant-program> [<https://perma.cc/3ZX2-RQCQ>] (last visited Feb. 1, 2026) ("The Full-Service Community Schools (FSCS) program supports the planning, implementation, and operation of high-quality Full-Service Community Schools. FSCS are public elementary or secondary schools that use established partnerships to provide well-rounded educational opportunities and meet the social, emotional, physical and mental health, and academic needs of students."); PETER TATIAN ET AL., DATA COLLECTION AND REPORTING GUIDANCE FOR THE FULL-SERVICE COMMUNITY SCHOOLS PROGRAM (2024).

²⁷⁹ See *Community Schools Coordinators Network*, INST. FOR EDUC. LEADERSHIP, <https://www.communityschools.org/link/join-a-network/community-schools-coordinators-network> [<https://perma.cc/VA3P-HYMD>] (last visited Feb. 1, 2026) ("The Coordinators Network brings together hundreds of Community School Coordinators around the country playing a

convergence is unnecessary state intrusion. Using community coordinators, who are community members themselves, to serve other community members might be one way to safely protect and facilitate homeplace thanks to their focus on community empowerment rather than community policing.²⁸⁰ Incorporating the concept of homeplace with the community focus of FSCSs can further strengthen their role as spaces of resistance and empowerment, promoting equity and well-being for all students.

Despite their promise, these reforms face serious limitations. One major limitation is resource allocation, which remains a persistent hurdle. Preventive services and community support require significant investment, which is politically contested and historically neglected. Another challenge is implementing school-based reforms without turning educators into agents of family policing.²⁸¹ Trauma-informed, restorative approaches must be institutionalized, not optional. Legal scholars have long emphasized the need to focus assistance on high-risk communities to address systemic inequalities,²⁸² yet reform remains elusive even in the face of persistent calls for equity.

Moreover, legal and regulatory reforms face significant implementation challenges. For example, legislative reforms that prioritize preventive support services over punitive measures may be difficult to pass in political environments that favor regulation over investment in care. Laws that allocate funding for early intervention programs and reduce regulatory burdens on families are critical, but they often face resistance due to budgetary constraints or ideological opposition.²⁸³ Launching pilot programs in various communities to test early support models and evaluating their scalability would be a prudent

key role in creating and sustaining school-community partnerships to develop the academic, social, emotional, physical and civic competencies of their students, and to strengthen their families and community.”).

²⁸⁰ *Id.*

²⁸¹ See Harvey, Gupta-Kagan & Church, *supra* note 19, at 597 (“Mandated reporting statutes need to be limited; education personnel should report severe child maltreatment when state coercion is needed to protect children, but the majority of other reports need not go to CPS.”).

²⁸² See Allison Tait, *Debt Governance, Wealth Management, and the Uneven Burdens of Child Support*, 117 NW. U. L. REV. 305, 310-13 (2022) (examining systemic inequalities in family support structures and highlighting wealth and debt disparities); Meredith Johnson Harbach, *Childcare Market Failure*, 2015 UTAH L. REV. 659, 662-66 (analyzing market and systemic failures in childcare policy and calling for equitable state interventions); Dale Margolin Cecka, *Inequity in Private Child Custody Litigation*, 20 CUNY L. REV. 203, 210-15 (2016) (discussing overcrowded and underfunded nature of juvenile and family courts and detriment these deficiencies have on families in litigation). See generally, Dixon Weaver, *supra* note 98 (discussing influence of racial biases on family law and advocating for reforms to address systemic disparities).

²⁸³ See, e.g., Allison E. Tse & Mildred E. Warner, *The Razor’s Edge: Social Impact Bonds and the Financialization of Early Childhood Services*, 42 J. URB. AFFS. 816, 816 (2020) (“Social impact bonds (SIBs) offer . . . [the possibility of] increased investment in social programs through private financing. . . . In an inherent paradox, though they promise cost savings, SIB transactions are expensive . . .”).

step. However, their success hinges on sustained funding, political will, and equitable implementation across diverse jurisdictions. Training social workers, educators, and healthcare providers to adopt supportive rather than regulatory approaches is essential, but training alone cannot overcome deep institutional cultures shaped by surveillance and risk-aversion that characterize both systems. Organizing community forums and workshops to engage families in the reform process is necessary, yet such participatory structures are rarely prioritized or adequately resourced.

Policies incorporating homeplace would need to ensure schools provide meals, mental health care, and academic support in ways that affirm family dignity and preserve autonomy. Reforms might include school-family liaisons trained in trauma-informed care, restorative discipline practices, and non-carceral safety measures. Yet widespread adoption of these practices requires shifting entrenched disciplinary norms and overcoming bureaucratic inertia—challenges that have stalled similar efforts in the past.²⁸⁴ Finally, successful reform efforts depend on broad political coalitions. Families, educators, advocates, and policymakers must work together to enact inclusive legislation that secures the right to homeplace—a critical but often elusive goal in a fragmented political landscape where consensus is rare and reform often moves slowly.

C. *Cause Lawyering for Homeplace?*

Could cause lawyers help reverse the harms caused by the convergence of the public education and family regulation systems? Cause lawyering, defined as the strategic use of legal tools to advance social movements and challenge systemic injustice,²⁸⁵ offers a framework for understanding how legal advocacy might support the protection of homeplace. Lawyers advocating to protect homeplace for children and families may indeed be a powerful tool for systemic change. Strengthening legal frameworks and improving access to justice are crucial steps to safeguard these rights. Specifically, children and families need enhanced legal protections to ensure their rights are safeguarded in all interactions with public institutions and they need improved access to legal resources and representation during such interactions.²⁸⁶ This form of advocacy is especially critical where existing policies undermine homeplace by limiting

²⁸⁴ See Katherine C. Rodela & Melanie Bertrand, *Collective Visioning for Equity: Centering Youth, Family, and Community Leaders in Schoolwide Visioning Processes*, 96 PEABODY J. EDUC. 465, 770 (2021) (highlighting importance of including parents and community in imagining solutions as “building a shared vision . . . in schools serving mostly low-income, diverse families and students, for example, may require greater communication and engagement with parents” (internal quotation marks omitted)).

²⁸⁵ See Scott Baker & Gary Biglaiser, *A Model of Cause Lawyering*, 43 J. LEGAL STUD. 37, 37-38 (2014) (defining cause lawyering and outlining how cause lawyers advocate for social progress).

²⁸⁶ See generally DUQUETTE ET AL., *supra* note 227 (exploring ongoing limitations to fair representation for children and families impacted by family regulation system).

families' autonomy, identity, and sense of belonging.²⁸⁷ By combining litigation, legislative reform, and community partnership, cause lawyers can help reorient law toward care and resistance by using strategic lawyering to transmit the voices and experiences of affected families into the legal realm. Cause lawyers can do this through advocacy that channels community knowledge into courtrooms, policymaking, and public discourse.

Education lawyers, guardians ad litem, and court-appointed attorneys already operate at the convergence of education and family regulation. While not cause lawyers by default, they have the potential to become advocates for homeplace by incorporating its principles into litigation, legislation, and community engagement. But doing so will require more than technical competence alone. Such lawyers must also possess a transformative vision that views families not as problems to manage but as sites of strength to protect. To truly advance the cause of homeplace, these lawyers must center social justice, civil rights, and systemic change in their work.²⁸⁸ Working within a cause lawyering framework, lawyers shift from procedural maintenance to structural intervention, advocating for families under scrutiny and resisting unjustified surveillance.²⁸⁹ By challenging invasive surveillance practices, such as mandatory reporting and frequent home visits, cause lawyers can help mitigate the stress and disruption that families endure within the system.

Cause lawyers can engage in legislative advocacy by lobbying for reforms, drafting bills, and participating in public hearings to ensure that the voices of marginalized communities are heard in the policy-making process.²⁹⁰ By collaborating with community organizations and stakeholders, these lawyers can help shape state constitutions and local ordinances that prioritize educational equity and family welfare.

In courts, cause lawyers can challenge discriminatory policies, seek equitable access to education and services,²⁹¹ and use homeplace as a rhetorical foundation even before it is formally recognized in law. They can resist surveillance-based interventions like mandatory reporting and fight for families' dignity during investigations and hearings.

Indeed, litigation that bridges family regulation and education law—such as representation in school disciplinary hearings, IEP meetings, or child removal proceedings—offers opportunities for cause lawyers to advocate collaboratively

²⁸⁷ *Id.*

²⁸⁸ See generally Scott L. Cummings, *Movement Lawyering*, 27 IND. J. GLOB. LEGAL STUD. 87 (2020) (describing history, impact, and modern implications of movement lawyering).

²⁸⁹ See *id.* at 99 (describing how cause lawyers “catalyz[e] direct action” by “imposing pressure on policy makers to change and enforce law[] and equipping individuals with the power to assert rights in their day-to-day lives”).

²⁹⁰ See *id.* at 105, 115.

²⁹¹ See *id.* at 119 (“Within the integrated advocacy framework, movement lawyers recognize that there are times when claiming rights in court is essential to challenge structural injustice . . .”).

with families in ways that can foster more inclusive and responsive systems.²⁹² In this context, lawyers can work alongside parents, students, and community organizations to ensure that their concerns are heard and their rights are upheld. This collaborative approach can lead to policy reforms that better serve the needs of children and families, fostering more inclusive and supportive environments in school and at home that impinge less on homeplace.

However, these possibilities are limited by material constraints. In many jurisdictions, court-appointed lawyers are underpaid and overburdened, which compromises their ability to meaningfully protect the rights of system-involved families. In Virginia, for example, research has supported that providing good representation for parents positively affects system-involved children.²⁹³ Therefore, a work group called the Parents Advocacy Commission (“PAC”) was established to enhance the quality of legal representation for parents in dependency cases.²⁹⁴ This working group draws on the lived experiences of systems-involved families to create informed recommendations for enhancing parent representation statewide through analyzing best practices, legal trends, and cost-benefit considerations of providing high-quality legal advocacy.²⁹⁵ However, while progress has been made, it is slow and uneven.

These limits are underscored in the case of *Gary B. v. Whitmer*.²⁹⁶ In this case, a group of Detroit students filed a lawsuit against state officials, claiming their constitutional right to a quality education was violated due to inadequate literacy instruction in their schools.²⁹⁷ The case highlighted systemic issues within the Detroit public school system, including underfunding and mismanagement,

²⁹² See generally Jeffrey C. Melick & Karen W. Stuntz, *The Role of Child Counsel in the Attorneys Representing Children Programs in the Probate and Family Courts*, 95 MASS. L. REV. 223 (2013) (outlining how cause lawyering can enhance what judges know about a child, leading to outcomes that are more tailored to child’s needs); Helen W. Gunnarsson, *ABCs for GALs*, 98 ILL. BAR J. 572 (2010) (outlining strategies lawyers use to increase connectivity between themselves and children they represent).

²⁹³ See Valerie L’Herrou, *In 2024, Will Virginia Finally Address Its Poor Outcomes for Children in Foster Care?*, VA. MERCURY (Feb. 7, 2024, at 06:04 ET), <https://virginiamercury.com/2024/02/07/in-2024-will-virginia-finally-address-its-poor-outcomes-for-children-in-foster-care/> (“But multiple studies in a variety of states show that when parents are provided with high-quality legal representation, their children spend less time in foster care and are more likely to find safe permanent homes, whether through reuniting with their family, placement with a relative guardian, or adoption.”).

²⁹⁴ NAT’L CTR. FOR STATE CTS. CT. CONSULTING SERVS., BLUEPRINT FOR ESTABLISHING A PARENTS ADVOCACY COMMISSION FOR THE COMMONWEALTH OF VIRGINIA 3 (2023) (explaining purpose of study was to assess feasibility of establishing groups “to enhance the quality of legal representation for parents in dependency cases”).

²⁹⁵ *Id.* at 4 (outlining recommendations aimed at improving quality of legal representation for parents in Virginia and outcomes for families enmeshed in child welfare system).

²⁹⁶ 957 F.3d 616, 662 (6th Cir. 2020), *vacated*, 958 F.3d 1216 (6th Cir. 2020) (finding Michigan children “have a fundamental right to a basic minimum education”).

²⁹⁷ See *id.* at 624 (“The core of Plaintiffs’ complaint is that the conditions in their schools are so bad . . . that those schools fail to provide access to literacy.”).

which contributed to poor literacy rates among students.²⁹⁸ In May 2020, the parties agreed to a settlement requiring the state to implement measures aimed at improving literacy instruction and providing resources to support reading initiatives.²⁹⁹ Ultimately, while the lawsuit recognized the importance of literacy for children and prompted both a settlement and literacy reforms, it did not create a federal right to education.³⁰⁰ This case illustrates that even strong legal arguments for equity and dignity are vulnerable to doctrinal and political barriers.

Furthermore, without sufficient training in trauma-informed, culturally competent practice, even well-meaning lawyers may fail to advocate effectively.³⁰¹ Parents face permanent termination of their rights when they lack adequate representation by trial-trained attorneys who present a comprehensive case, including bringing witnesses and fully advocating for these parents.³⁰² Family courts often operate with relaxed standards, leading to child removals based on vague or insufficient evidence.³⁰³ If reunification is delayed, courts may favor foster placements due to newly formed bonds, compounding the harm

²⁹⁸ *Id.* at 625 (highlighting teacher shortages, lack of resources and experience, overcrowding in classrooms, and “failure to use adequate curricula” as factors contributing to poor literacy outcomes).

²⁹⁹ See Terms for Settlement Agreement & Release Between All Plaintiffs & the Governor of the State of Michigan at 2, Gary B. v. Whitmer, 957 F.3d 616 (6th Cir. 2020) (No. 18-1855) (outlining administrative steps to be taken to increase access to literacy in Michigan schools).

³⁰⁰ See Ethan Bakuli, *Detroit’s \$94 Million ‘Right to Read’ Lawsuit Settlement Is Finally Coming Through for DPSCD*, CHALKBEAT DET. (July 7, 2023, at 15:37 ET), <https://www.chalkbeat.org/detroit/2023/7/7/23787399/detroit-public-schools-right-to-read-settlement-whitmer-emergency-management> [<https://perma.cc/D6B5-M695>] (“The lawsuit sought to establish a constitutional right to literacy for all students, but the plaintiffs agreed to a settlement in 2020 and dropped their bid to establish that right. The settlement awarded some money to each of the plaintiffs and to the district, and required the governor to propose legislation to provide more money to the district to support literacy efforts. The legislation failed to clear the Republican-led Legislature in 2021 and 2022, but it passed this year under Democratic leadership.”).

³⁰¹ See L. Danielle Tully, *The Cultural (Re)Turn: The Case for Teaching Culturally Responsive Lawyering*, 16 STAN. J. C.R. & C.L. 201, 222-26 (2020) (arguing cultural competence should not be optional and suggesting ways to ensure culture is viewed as essential part of legal profession).

³⁰² See, e.g., Michael Karlik, *Montrose County Judge Wrongly Terminated Woman’s Parental Rights Without Lawyer, Appeals Court Finds*, COLO. POL. (Sep. 7, 2023), https://www.coloradopolitics.com/courts/montrose-county-judge-wrongly-terminated-womans-parental-rights-without-lawyer/article_7c8f615a-4da0-11ee-a9c8-fba44f73d717.html [<https://perma.cc/NLS9-GG78>] (describing case where judge improperly denied woman’s request for attorney and subsequently terminated her parental rights).

³⁰³ See Eric J. Reynolds, *Legal Representation of Parents in Child Dependency Cases in Virginia*, 58 U. RICH. L. REV. 143, 149 (2023) (“Most children in Virginia enter foster care not because of physical abuse, but because of some type of neglect.”).

to families.³⁰⁴ Even with well-meaning legal representation, stronger legislative safeguards around due process and family reunification—anchored in homeplace—likely are necessary to mitigate these harms and restore balance in these proceedings.

Cause lawyers have the potential to engage in legislative advocacy, litigation, and public education and community advocacy that affirm families' dignity and agency.³⁰⁵ But without systemic support including better pay, training, and structural protections, the advocacy that cause lawyers can offer may be muted or misdirected. The promise of homeplace will require more than courtroom victories. It will demand reimagining how lawyers work alongside families to build power from the ground up.

In sum, protecting homeplace requires more than discrete reforms; it demands a structural reimagining of the relationship between families, schools, and the state. Across this Part, the analysis shows that enshrining a right to homeplace, advancing targeted legal and policy reforms, and mobilizing cause lawyering each offer distinct yet interrelated pathways toward that goal. Each approach illuminates new possibilities for centering care, dignity, and autonomy within law while also exposing the limits of these strategies when confronted with entrenched systems of surveillance and control. Taken together, these pathways underscore both the potential and the fragility of using law to restore homeplace.

CONCLUSION

The convergence of the public education and family regulation systems undermines homeplace, harming many minoritized families. To remedy these enduring systemic costs and navigate the tension between the promise and limitations of reform, it is clear that more than incremental adjustments are required. Indeed, while law and policy reform will remain viable options, true reclamation of homeplace requires a paradigm shift.

The very concept of homeplace itself calls on us to consider the power of families as drivers of reform. As such, this Article concludes with a call to envision a future where families, particularly historically marginalized families, create and protect homeplace through cultural practices, mutual aid, and grassroots structures rather than relying on state institutions historically implicated in their displacement. What if homeplace were reclaimed not through

³⁰⁴ See Jeanne M. Kaiser, *Finding a Reasonable Way to Enforce the Reasonable Efforts Requirement in Child Protection Cases*, 7 RUTGERS J. L. & PUB. POL'Y 100, 112 (2009) ("By the time a parent's rights are terminated, a child may have been in foster care or a pre-adoptive home for many months, if not years. The children may well have a stronger bond with the substitute caretaker by this point than they have with their biological parents.").

³⁰⁵ See generally Julia Hernandez, *Lawyering Close to Home*, 27 CLINICAL L. REV. 131 (2020) (outlining innovative strategies for lawyering in family regulation system to better address realities of marginalized communities).

state recognition, but through community definition—outside of traditional legal governance and within a forum that centers familial autonomy, interdependence, and resistance?

Building upon bell hooks's call to cultivate spaces of care and affirmation even under conditions of domination, communities can enact this vision when they organize childcare cooperatives, host healing circles, support reentry programs, create neighborhood-based educational pods, and sustain cultural practices that affirm identity and safety. These efforts echo earlier traditions of building Black self-sustaining communities and offer contemporary lessons in collective care.³⁰⁶ This type of community ownership honors the principle that families are not problems to be solved by regulation but are sites of wisdom, care, and power.

The future of democracy may well depend on how society prioritizes children and families—not as abstractions, but as people whose dignity must be protected at the points where law and life converge. The legal theory of homeplace emphasizes family autonomy, community support, and avoiding harmful government regulation of children and families. It underscores the significance of home as a site of nurturance, identity formation, and refuge—a place where individuals, especially children, should feel secure, valued, and supported. In future work, I will explore models of community ownership that reclaim homeplace in lieu of relying on state systems.³⁰⁷ Reclaiming homeplace is not merely a private act of care—it is a public act of resistance. To reclaim homeplace is to demand recognition, refuse erasure, and rebuild democracy from the inside out. The state may assist or fund this work, but it cannot author it. To protect homeplace in its truest form, power must flow from the ground up.

³⁰⁶ See, e.g., Dawn S. Bowen, *The Transformation of Richmond's Historic African American Commercial Corridor*, 43 SE. GEOGRAPHER 260, 260 (2003) (outlining practice in Richmond, Virginia of Black American populations utilizing community to preserve civil and commercial rights); David T. Beito, *Freedom's Outpost: Mound Bayou and the Fight for Free Expression in Jim Crow Mississippi, 1887-1941*, 30 INDEP. REV. 305, 305 (2025).

³⁰⁷ See Danielle Wingfield, *Self-Reliant Justice*, 115 CALIF. L. REV. (forthcoming 2027).