COLONIAS IN THE EYES OF TEXAS:
THE STATE OF TEXAS AND SPACES OF INEQUALITY

A Thesis in
Geography
by
Chelsea Lynnette Hanchett

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The thesis of Chelsea Lynnette Hanchett was reviewed and approved* by the following:

Brian H. King  
Assistant Professor of Geography  
Thesis Advisor

Melissa W. Wright  
Associate Professor of Geography

Karl S. Zimmerer  
Professor of Geography  
Head of the Department of Geography

*Signatures are on file in the Graduate School
This thesis examines the passage of legislation to restrict colonias development in Texas. Colonias are rural subdivisions which lack infrastructure such as paved roads and water lines. Over twenty years has passed since the first policy was passed to end colonias development and improve conditions in existing ones. During this time, multiple definitions of what constitutes a colonia developed. In defining the colonia as a space lacking infrastructure, the State of Texas made colonias into a problem space that could be enumerated and fixed. After millions of dollars were spent to correct absent infrastructure and to prosecute colonias developers, colonias as defined solely by the infrastructure present should not exist. Yet they persist as spaces of inequality and poverty. Using research of government and legal documents and interviews with non-profit workers, government officials, and colonias residents, this thesis analyzes how three selected pieces of legislation have defined colonias space. I show how a focus on infrastructure has created an expectation that the problems of colonias can be solved through investment alone, rather than addressing the root causes behind colonias development, namely poverty and inequality. This research contributes to an understanding of the efficacy of anti-colonias policies, as follow-up studies to these policies and programs have never before been conducted. It also advances understanding of how state-driven development interventions can be viewed as spatial ontologies.
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ABBREVIATIONS USED

CfD   Contract for Deed
EDAP  Economically Distressed Areas Program
ETJ   Extraterritorial Jurisdiction
GATT  General Agreement on Tariffs and Trade
HB    House Bill
HUD   United States Department of Housing and Urban Development
MSRs  Model Subdivision Rules
OAG   Texas Office of the Attorney General
SB    Senate Bill
SoS   Texas Secretary of State’s Office
TAMU CHUD  Texas A&M University Center for Housing and Urban Development
TDHCA  Texas Department of Housing and Community Affairs
TDSHS  Texas Department of State Health Services
TWDB  Texas Water Development Board
U.S.  United States
USGS  United States Geological Survey
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Chapter 1

INTRODUCTION

1.1 THESIS GOALS AND CONTEXT

Priced out of homes in the city and suburbs, many people along the United States (U.S.) side of the U.S.-Mexico Border region purchased residential lots in rural subdivisions. However, prior to 1989 in Texas, these unincorporated developments were not required to be registered or approved with county governments. Some real estate developers constructed residential neighborhoods without the infrastructure typically found in incorporated areas, such as water and sewer lines and paved roads (Olmstead 2004, Carter and Ortolano 2004, Ward 1999, Mroz, Morales, and VanDerslice 1996, Davies and Holz 1992, Lyndon B. Johnson School of Public Affairs 1977). These developments came to be known as colonias, the Spanish word for “neighborhood” and are most commonly found in Texas. This method of subdivision construction is seen in Mexico and, from there, spread to the U.S. (Ward 1999). However, colonias are also defined by common social characteristics of residents, such as low incomes, language barriers, and institutional barriers (Rogers et al. 1992). Often these characteristics influence and amplify one another. For example, if a resident has a limited command of English, they cannot fully participate in county government meetings which are conducted in English. Isolation, both physical and social, is another important
characteristic of colonias (Texas A&M University Center for Housing and Urban Development (TAMU CHUD) 2008, Davies and Holz 1992). Due to their rural nature, colonias are often far away from social services and employment opportunities; therefore, many residents lack reliable transportation to these sites (TAMU CHUD 2008). A final defining characteristic of colonias is the widespread use of self-help housing construction techniques (Ward and Carew 2001). Many colonias residents build their home slowly over time, adding to it or improving it when money is available. As such, housing conditions vary widely, as some homes are like the builder-constructed ones seen in other residential subdivisions, while others are little more than dilapidated shacks or decrepit trailers (Figure 1.1).

Texas legislators responded to the increase of colonias development in the 1980s with a series of bills intended to stop the spread of colonias and improve the conditions in existing ones. They justified this action by citing the public health risk that the lack of water and sewer services caused, not just to colonias residents but to the public at large. Additionally cited as impetus for action were environmental concerns due to sewage draining into the Rio Grande, the river that marks the border between the U.S. and Mexico. Even though lawmakers conceded that living conditions experienced in colonias could be found in other parts of the state, they restricted the subsequent policies solely to the counties proximate to the Texas-Mexico Border.
Senate Bill (SB) 2, passed in 1989, SB 336 passed in 1995, and House Bill (HB) 1001 also passed in 1995, are of particular interest due to the explicit spatial framing of *colonias* in the bills. In each one, legislators define *colonias* using three characteristics: i) proximity to the border, ii) availability of physical infrastructure, and iii) county approval of the development. By reducing a *colonia* to these characteristics, the state attempted to make the *colonias* a solvable problem. With enough funding, *colonias* lacking county recognition or water and sewer infrastructure could be brought into compliance, thus ameliorating the conditions of poor development. Without all three of the criteria present, a development is not a *colonia* in the eyes of Texas.
The consequence of state legislation has been the elimination of colonias development. Real estate developers are no longer creating subdivisions that lack access to water and sewer services along the Texas-Mexico Border. Those that do are forced to comply with the law by the Texas Attorney General’s Office (OAG). However, this thesis argues that the legislature’s intent to eliminate colonias will never be achieved due to the many definitions of what constitutes a colonia. Developments are still built that meet the social conditions of some definitions. Colonias, in essence, are poor communities that are geographically and socially isolated. This model of informal housing development is not unique to the U.S.-Mexico Border, but is a global phenomenon seen in places like the favelas of Brazil or biddenvilles of North Africa (Holz and Davies 1992).

Colonias could never be reduced to issues of infrastructure, as the state attempted. Instead, colonias discourse was shaped by issues of class, ethnicity, and race; first, the media stigmatized the colonias by presenting residents of these areas as poor and ignorant, linking these characteristics to the residents’ cultural identity drawn from their roots in Mexico. Later, the legislature perpetuated this vernacular understanding of colonias by uncritically accepting the use of the term colonia, one that was loaded with various meanings and implications. The construction of colonias as “Mexican” works through ideas of Mexico as inferior economically, socially, and politically to the U.S. Colonias represent a degree of poverty and lack of regulation that those in the U.S. do not want to recognize as their own; rather, it is explained as an invasion of Mexicans and Mexican ways into the U.S. This social construction of colonias is not a legal definition
(indeed, the OAG does not prosecute “colonias developers,” but developers of “illegal subdivisions”), but a social one that affects political treatment of this issue (OAG 2008).

In attempting to end colonias development, the state has materially and discursively reconstructed colonias as a spatial phenomenon. They emerged as a problem to be solved only in one region of Texas, rather than a result of the root conditions of poverty and lax real estate development regulations, which exist elsewhere in the state. By spatially constricting the definition of a colonia, the state otherized colonias and their residents, thus relegating them to the border region. The problems associated with colonias struggle to emerge from the second, invisible wall that the legislature has imposed 50 miles inside the U.S. In defining colonias in such a spatial fashion, the state attempts to reclaim territory from this style of development and remake it in their preferred image, transforming colonias into “model subdivisions.” Additionally, by limiting policies regarding residential development to a specific geographic area, the state does not solve the issue of poor development. It merely shifts the potential for reoccurrence elsewhere. Border counties now have more authority to control development than other counties in the state. Without the same powers granted as border counties, the state replicates the potential for colonias to develop in the rest of the state as they developed along the border.

Little research exists regarding the efficacy of governmental policy regarding the colonias. Ward discussed the evolution of colonias development using three case studies on both sides of the international border and some of the subsequent policy responses by Texas and Mexico (1999). However, since his work was completed soon after the policy interventions, policy analysis merits a revisit over ten years later. Parcher and
Humberson, in their work for the United States Geological Survey (USGS), have improved the methods for monitoring physical conditions in *colonias* which was completed in response to a Texas Senate bill that mandated the tracking of *colonias* improvements as a result of state-funded programs (2009, 2007). Additionally, there are few articles that discuss the evolution and construction of the term *colonia* in regards to rural border settlements and how it developed negative connotations (Mukhija and Monkkonen 2007, Hill 2003). This thesis intends to bridge the gap between policy analysis and the social construction of the *colonias* by problematizing how *colonias* have been recreated through legislation. This will be done by viewing the lack of physical and social infrastructure in *colonias* as a justice issue. The state’s policy interventions addressed material justice claims, but in doing so, recreated the *colonias* as unhealthy, poor, Mexican spaces that needed to be reformed. To support this argument, I borrow from the body of work on territoriality and the social production of space.

1.2 THESIS STRUCTURE

The second chapter of this thesis reviews the literature relevant to the thesis’s theoretical structure, namely the topics of justice, territoriality, and the social production of space. These concepts are drawn upon for the rest of the thesis, showing how the State of Texas has expressed territoriality in its appropriation of space. The *colonias* are socially constructed spaces, ones that hold different meanings for different people. By imposing a spatial boundary on the *colonias*, the state denies that this style of development can and has occurred in other parts of the state. The spatial dimensions of
justice are brought into this argument through critiquing the state’s framing of colonias legislation using distance from the border to equate ill health and poverty. The next chapter reviews the research questions and methods used in the thesis. Included in this chapter are explanations of the data sources used and how each method was tailored to fit the requirements of the questions. Chapter 4 discusses the development of colonias discourses since the 1970s. First examined is the racialized presentation of colonias residents in the news media. Residents of colonias objected to their depiction as poor and ignorant, which was implicitly linked to their ethnic and cultural identification as people of Mexican descent. Even though most colonias residents are citizens of the U.S., there is still the perception in the media that most are undocumented citizens of another country, particularly Mexico (Hanchett 2009). In response, they launched an awareness movement, which, in combination with the negative media coverage of colonias, led to the first policy responses by the state legislature in the late 1980s. This chapter also further analyzes three major pieces of legislation meant to stem colonias development and the impacts of these policies have had for colonias by discussing the three frameworks that the legislature used to frame colonias discourse. Primarily the state framed colonias as unhealthy spaces that risked the health of residents of the colonia, county and state. However, the state also used justifications of colonias as spaces of poverty and “Mexican-ness” to restrict the legislation concerning colonias to the border region. Also, this chapter argues that, while new colonias are no longer constructed, colonias continue to persist in the state according to both the state’s definitions and more socially derived definitions. This is because the state has not met its own goal of eliminating colonias by providing universal access to infrastructure. Additionally,
neighborhoods are still constructed that meet the social definition of a *colonia* in that the housing stock is substandard and residents are socially isolated. The final chapter summarizes the findings discovered in the course of the analysis and future directions for this research are posited.
Chapter 2

LITERATURE REVIEW

Previous scholarship regarding the *colonias* has primarily focused on three theoretical frameworks, either emphasizing poverty (Rogers *et al.* 1992), health (Hidalgo County Health Department *et al.* 1997, Mroz, Morales, and VanDerslice 1996), and rural housing and development (Carter and Ortolano 2004, Ward 1999, Davies and Holz 1992). While these approaches are useful in illuminating certain hardships *colonias* residents face due to particular environmental and social characteristics, this thesis does not focus solely upon the problems faced in *colonias*. Rather, it is concerned with how *colonias* have been constructed and reconstructed due to policies enacted by the Texas State Legislature. Thus, I take a different theoretical approach by drawing upon work in both political and cultural geography and the larger field of justice studies to support my argument that *colonias* have been differentiated from other rural settlements in the state due to their proximity to the Texas-Mexico Border. Even though settlements resembling *colonias* exist in other Texas counties, *colonias* have been socially constructed as poor, unhealthy, and “Mexican” in restricting these policies to the border region. This process marginalizes *colonias* residents, as it does not consider the diversity of their experience. Rather, by reducing *colonias* residents to a few attributes, it makes them easier to disregard as their problems must be a fault or function of these attributes. Additionally,
by presenting colonias as a “Mexican” phenomenon, this process disavows that this kind of poverty is an issue in the U.S.

This thesis asserts that a more expansive interpretation is needed as to what defines a colonia to include these social characteristics in addition to their physical characteristics. I argue that, even though the state has effectively ended the development of colonias according to their definitions, colonias persist. Colonias continue to exist, because of the myriad of definitions that construct colonias. Physically, colonias are no different than other impoverished rural settlements in the state, but their proximity to the U.S.-Mexico Border has caused legislators to differentiate them from other areas. I problematize how colonias have been defined and represented through legislation, showing how, in their attempt to eliminate colonias, the state legislature has actually perpetuated colonias as ‘spaces of inequality.’ In reconstructing colonias as “of the border” and thus “Mexican,” the state namely shapes development interventions from the rest of the state.

To support these arguments, theory is drawn from several subfields in geography. This chapter reviews the sources that have helped shape the theoretical framework of this thesis. The first section of this literature review discusses the conceptualizations of justice theory within the larger field of geography. Theorizations of justice are relevant to the colonias due to the differing rationalizations for the state’s legislative intervention. Colonias residents in Hidalgo County presented their struggles of living without physical infrastructure as a justice issue, whereas the state largely ignored justice concerns. Rather, they focused primarily upon the health concerns caused by the lack of physical infrastructure. While the desired outcome of the two parties was the same, to improve
conditions within colonias, the shift in justifications for policy intervention changed the meaning behind that intervention as it became something that the state prescribed rather than something the residents demanded. This removed residents’ agency from this process. The next section examines the concept of territoriality within political geography. By defining colonias by their proximity to the border, the state attempts to reclaim colonias from Mexican style developments and transform them into “model subdivisions.” In doing so, border counties were granted greater powers of controlling development than in other parts of the state, despite the fact that developments that lack uniform access to physical infrastructure exist in other parts of the state. This leads into the third section, which reviews the conceptual development of how space is socially constructed, beginning with the philosopher Henri Lefebvre and further developed by geographers. Colonias are socially constructed. Many definitions of what constitutes a colonia exist because the term means different things to different entities. For some, a colonia at its most basic is a rural subdivision that lacks certain physical infrastructure. For others it is this definition combined with a lack of social services or certain social indicators present, such as poverty. For state legislators, it is the first definition combined with a certain proximity to the border. For other state agencies, it may include social isolation or housing conditions. I end this chapter with a summary that synthesizes these three areas of literature into the critical framework that shapes my discussion of the development of colonias legislation in Texas and the impact of this legislation on the persistence of colonias.
2.1 JUSTICE IN GEOGRAPHY

The concept of justice is notoriously hard to define (Campbell 2001). In some ways, it is easier to define justice as what it is not, or as Justice Potter Stewart said in 1964 regarding obscenity, “I know it when I see it” (Stewart 1964). It is a word that means different things to different people, and as such, has led to multiple views of what constitutes “justice.”

In this section, I review the diverse body of justice literature both outside and within the discipline of geography. While conceptions of justice have originated outside this field, many geographers have and continue to apply justice to their work. I begin by discussing the major trends within justice theory and how different theorists have used and defined the term. Then, I examine the progression of justice theory within geography, particularly in relation to scale. The application of justice over scale is a concern of this thesis, as it considers the impacts of state-level policies at local scales.

CONCEPTS OF JUSTICE

Debates surrounding justice have been present since antiquity among philosophers like Plato and continuing with Justinian I, who theorized justice as “the set and constant purpose to give every man his due” (Campbell 2001, 24). Justice remained a prevalent theme in the foundation of major modern world religions. Within the Old Testament of the Bible, most conceptions of justice are concerned with criminal justice, focusing on punishments for broken laws such as those set forth in the Book of Leviticus. From 24 Leviticus 19-20 comes the oft cited verse concerning equitable punishment for a
crime: “If anyone injures his neighbor, whatever he has done must be done to him: fracture for fracture, eye for eye, tooth for tooth. As he has injured the other, so he is to be injured;” this verse is the basis of many Americans’ support for capital punishment. Besides criminal justice, social justice is a concern of many religions. Followers of Islam are compelled to follow its Five Pillars, which includes Zakat, the giving of alms to the poor and needy to care for their needs. Other religious sects also follow this practice, where it is known as tithing. Examples of justice movements in religion can also be seen in the modern Roman Catholic Church with the popularization of the Catholic Worker movement, which focuses on a life of voluntary simplicity and charity, and the creation of liberation theology, beginning in the early 1970s. This theory, which interprets Jesus Christ’s teachings as a call for liberation from unjust social and economic systems, was discouraged by the church’s hierarchy but found wide acceptance in Latin America. It spoke to lay church members who experienced the inequality of poverty, particularly within the era of import substitution industrialization (Boff and Boff 1987). Catholicism also affected the worldview of education philosopher Paulo Freire, who developed the pedagogy of the oppressed which sought to rectify social injustices within the educational system using a Marxist framework. Freire stated that “I never understood how to reconcile fellowship with Christ with the exploitation of other human beings, or to reconcile a love for Christ with racial, gender and class discrimination… coupled with my love for Christ and hope that He is the light, that led me to Marx. My relationship with Marx never suggested that I abandon Christ.” (1996, 86).

Disengaging the concept of justice from the domain of religion was a project of philosophers of the Enlightenment. Thomas Hobbes, John Locke, and Jean Jacques
Rousseau differentiated between natural rights and rights allowed by the social contract. Natural rights are the rights that each human possesses simply by existing; Locke considered them to be the right to life, liberty, and property (1689). These rights were considered so crucial to one’s identity that they could not be surrendered upon entering the social contract, which is the set of rules a society uses to emerge from a state of nature and to maintain order through community. A legitimate social contract depends upon consent from those who enter the contract, known as the sovereign. It is upon these debates that the modern representational democracy was built upon, with the idea that the sovereign should select their leadership (Rousseau 1762). However, the evolution of justice theory over time is not within the scope of this literature review; rather, I focus solely on modern thought regarding justice beginning in the 1960s, as this was also a period of active reexamination of justice theory within academia (Smith 1994).

One of the most pervasive themes within justice theory concerns how things, such as material goods or rights, are distributed in society. Distributive justice was notably theorized by the philosopher John Rawls as “justice as fairness,” which is governed by two principles (1999). The first, the equal liberty principle, states that all humans have the right to the same basic liberties enjoyed by others in their society. The second principle states that “social and economic inequalities are to satisfy two conditions: first, they are to be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they are to be to the greatest benefit of the least-advantaged member of society” (Rawls 2001, 42–43). These principles are known as fair equality of opportunity and the difference principle. The first expresses that all should have the opportunity to access higher positions, not just those with advantageous
connections or monetary wealth, while the justice principle states that injustice is only warranted when it is used to elevate the lowest members in society to a more just situation. Strongly present throughout the text is Rawls’ faith that democracy is the path to justice. Rawls tests these theories with a thought experiment called the original position, which helps to illustrate what principles of justice would be desirable in an ideal democratic society (1999). Others have built upon this work, such as elaborating upon justice as fairness as a territory-based project, as the achievement of an equitable distribution must consider the spatial scale at which adjustments occur (Harvey 2009). However, others have found Rawls’ work incomplete in its ability to achieve justice, most notably Robert Nozick, who argued that the state had no role in deciding what was just, and Young, who argued that Rawls relied too heavily upon a homogenized society without accounting for “the social realities of a multicultural society” (Nozick 1974, Young 1995, 181). This criticism of Rawls led critical theorist Nancy Fraser to formulate justice claims into three categories for redress. She divides justice theory into the “three Rs of justice” or redistribution, recognition, and representation (Fraser 2009). These categories refer to how a shift in societal relations, such as economic or political systems, can lead to a more just society.

Redistribution is the equitable allocation of goods or services to all members of a society. This theory of justice is the most prevalent in public discourse surrounding the justice of economic systems, or how society divides material wealth and power amongst its members (Harvey 2009). Materials are not the only thing that can be distributed equally, however. In the environmental justice movement, the burden of environmental hazards like pollution, is ideally thought to be disbursed equally throughout society or
that hazards should be eliminated completely. No one group should bear an unequal risk of environmental hazards (Schlosberg 2003, Cutter 1995, Bullard 1994).

To address the failings of a purely materialist sense of justice, the rise of identity movements in the 1950s such as the women’s liberation and Chicano movements influenced the recognition of difference as a form of justice. Groups from outside the mainstream struggled for reforms to a system that did not value diversity, as they did not fit within the political system that was invested in maintaining the status quo (Fraser 1995, Young 1990). Participants of these groups saw that without representation in the social system, they would not achieve their goal of equality. In contrast to previous conceptions of distributive justice, recognition of difference highlighted that while a law may require people to be treated equally, it did not necessarily translate into a *de facto* practice. Oppression of the differentiated “others” meant that they could not participate meaningfully within the system theorized by Rawls (Young 1990). Thus, a system that created space for minorities to participate at a level equal to those in the majority was needed. In the U.S., this largely materialized as affirmative action policies in the workplace and college admissions (Clayton and Crosby 1992). *Colonias* residents have struggled for recognition of their difference, which is based upon the class difference of living in a *colonia* versus living in the city or a suburb.

Following the wider acceptance of minorities in the public sphere after these policy interventions, representation became the next objective for justice movements to attain. In this usage, representation refers to the wider inclusion of minorities within the political sphere; previously, minorities had been shut out of the political decision-making process (Fraser 2009). This is also known as participatory justice, which seeks to
determine how decisions are made in a community (Figueroa and Mills 2001, Cole and Foster 2000). Indeed, institutional racism, which are measures built into societal structures to deny minorities rights such as voting, still linger today. While Jim Crow laws and the Supreme Court’s ‘separate but equal’ doctrine were overturned by the Civil Rights Act of 1964, their legacy still remains. Institutionalized racism still lingers in the way minorities experience bureaucracy, like the inequalities that remain due to restrictive zoning practices that prevented minorities from living in certain areas in a process known as “redlining” (Figueroa and Mills 2001, Berkovic et al. 1994). Habermas suggests a way out of this gridlock through citizen engagement with the public sphere, which is a physical space where ideas are exchanged and discussed with others. Citizens are united by a common interest and are equalized by an inclusive environment, regardless of social or economic standing (Habermas 1991). The discourse that evolves from the public sphere has the capacity to influence politics in a truly democratic way, as the opinions of all have been negotiated and a decision mutually reached (Fraser 2009). In South Texas, colonias residents sought recognition of their living situations from both the media and elected officials in order to ameliorate the conditions caused by unplanned development. As a result of their advocacy, the state recognized colonias residents’ rights to infrastructure and created legislation to assist in the distribution of infrastructure funding. Representation in government has not been widely achieved by colonias residents, but non-profits exist that train residents to become advocates for their rights and representatives for their communities. These leadership trainings have been very popular with residents and have resulted in further legislation representing the wishes of colonias residents (Hanchett 2009). While justice has increasingly been addressed by academics
with great purchase, there have been limitations. The scale at which justice is sought is equally as important as the type, which is discussed in the following section.

**SCALES OF JUSTICE**

In order to manage the sprawling definitions of justice theory, some have viewed justice through a scalar framework. Scale, an important analytical tool of geographers, is both spatial and temporal. The temporal scale of justice is concerned with the application of justice over time, while the spatial scale of justice is concerned with justice over space. Each contains different levels of applicability; for example, spatial scale exists at multiple levels, including the world, a state, or the body. Both have been engaged by geographers since the 1960s with the rise of Marxist geography (Smith 1994). I choose to discuss the implications of the scales of justice for two reasons. First, one of the goals of this thesis is to perform a policy analysis of selected pieces of state legislation. This requires reviewing the progression and implications of colonias policy over time. Additionally, I analyze the interactions of spatial scale on justice, i.e. of state level policy on small populated places, the colonias. Since counties did not have the authority to regulate development at the local scale, policies had to be enacted at the state level granting counties this power. Thus, concerns for justice in colonias have scalar elements at both temporal and spatial levels.

Justice concerns at the temporal scale tend to address generational equity, which is concerned with the actions taken in the present to ensure that future generations have the same opportunity to live at least the same quality of life that is lived today (Cutter 1995). To achieve this, governments have taken action including applying new laws, like
capping pollution emissions, or changing other aspects of civil society, such as reducing consumption of material goods. This argument is commonly engaged in the fields of environmental justice and climate change research which question the rights of future generations to resources enjoyed today like clean air or a temperate climate. However, the long term implications of justice can also be found today in the form of intergenerational poverty that has persisted in cities (Committee on National Urban Policy 1990). Since the decay of the manufacturing core of cities and the pullout of other services to the suburbs, the urban poor have been unemployed or underemployed, with few opportunities available. This perpetuates the injustice felt by these citizens over time. Generational poverty within *colonias* is a serious concern, as many of the children of *colonias* residents eventually return to settle in nearby *colonias* in order to remain near to their family (Hanchett, 2009). If physical and social conditions are not rectified, following generations could continue to experience the same lack of infrastructure and poverty.

As with time, the application of justice is not uniform over space. The reasons for this vary. One reason is that there is no one acceptable theory of justice; conceptions of justice vary according upon the values of a society, so justice varies over the territories of different societies. Another reason is that, perhaps more than other types of legislation, policies regarding the equal application of justice can be difficult to apply evenly, especially in the case of a state-level policy scaling down to a finer level. For example, the desegregation of schools mandated by Brown v. Board of Education of Topeka in 1954 took longer in some locations than in others. As such, the study of justice requires a careful consideration of scale.
Some geographers have explored the distribution of justice at a local scale within a city or a community. The Detroit Geographical Expedition began in the late 1960s and sought to bridge the gap between the academy and the community, engaging the experience of the urban poor with the skills of geographers to coproduce knowledge concerning the city (Horvath 1971). This locally-based coproduction of knowledge has continued with the Philadelphia Field Project, which addresses poverty through alternative methods that are not dependent on bringing more industry or jobs to an area, as this does little to engage the agency of residents (Yapa 1999). Others work at a mid-scale, such as a state, which allows them to examine conditions of justice at a regional level (Wolford 2006, Oleson 2006). Both local and mid-scale studies of justice are often influenced by actions at a larger scale, such as the national or global level. These studies can serve as microcosms for how the processes of larger forces influence life “on the ground.” Justice movements within the colonias were scaled mainly at the local and state level, in order to capture the attention of those who had the greatest capacity to address the issues of colonias. Some attention was given to residents at the national level, in the form of federal hearing held in border towns, where residents were sought to testify concerning conditions in colonias (Senate Committee on Energy and Natural Resources 1994, House Committee on Hunger 1990, House Committee on Banking, Finance, and Urban Affairs 1989).

There is also the global scale of justice. Global justice has become a concern as globalization reshapes long-standing social relationships within societies. The world has grown increasingly globalized over the past 4 centuries, although the pace of this global reordering has increased greatly since the 19th century (Ogborn 1999). How states interact
with one another has changed due to increased speed of communications and travel. Global justice movements eventually developed as a response to what people viewed as oppressive practices by international organizations, such as the World Trade Organization and the International Monetary Fund (Cumbers, Routledge, and Nativel 2008, Lichbach and Almeida 2001). However, global justice movements also have arisen from the critique of certain governments, like the violation of human rights in China or Darfur, Sudan. Tactics in these movements vary, ranging from highly public group acts like street protests and marches to more singular, personal actions like writing letters to legislators or fundraising. Often, global justice movements are comprised of local grassroots movements and form a loose network of association through overarching goals, such as debt relief (Cumbers, Routledge, and Nativel 2008). Thus, the side effects of globalization are not always negative, but give local justice movements a chance to scale their struggles to a global level and connect them to pervasive justice themes, such as debt relief or land tenure.

Similarly, in the course of globalization, states have become increasingly interconnected in terms of economies and culture, rendering the framework of the entirely sovereign state less valid (Fraser 2009). People in one county are interested in the welfare of citizens of another. Fraser proposes a solution as “transnationalizing the public sphere,” where the Habermasian ideal of participatory democracy transgresses national boundaries, resulting in a truly “global” justice paradigm (ibid, 77). Moving past the framework of the entirely sovereign state and into a transnational one would allow people to address concerns for global justice issues without being stymied by the citizenship exclusions necessitated by the state model. But are states ready to overturn their
sovereignty for the opportunity to work towards a more just world? With this in mind, I now turn to a discussion of the territorialism of the state.

2.2 TERRITORIALITY: CLAIMING SPACE

Territoriality is the act of claiming space, whether by an individual or a collective (Storey 2001). Stemming from the biological theory regarding how animals defend or claim space, the geographical conceptualization of territoriality has come to connect space, society, and power. As defined by Robert Sack, human territoriality are “the attempts by an individual or group to affect, influence or control people, phenomena, and relationships by delimiting and asserting control over a geographic area” (Sack 1986, 19). The control of space influences many things in civil society, such as immigration and resource use. Thus territoriality can be viewed as the “primary geographical expression of social power” (Sack 1986, 5). It is a process, then, that enforces a society’s power over a given space. This expression of power, in contrast to animal territoriality, is a deliberate and determined “form of behavior that uses a bounded space, a territory, for securing a particular outcome” (Taylor 1994, 151). Territoriality in humans is a conscious decision to appropriate space for predetermined objectives, such as expanding an empire to secure a large base of natural resources, resulting in a claim on a territory. Institutions can also take the shape of a territory as they are “produced spaces” (Harvey 1996, 112). Policies, too, can become spatialized if they are produced in territorial terms. This is seen in Texas with the spatialization of colonias policies through the restriction of these policies to a certain distance from the Texas-Mexico Border. Thus, these policies are differentiated over space, treating some areas as separate from the rest of the state.
A territory is a specific type of space in that it is a bounded space marked visibly though the use of physical features like walls or invisibly through behaviors or definitions. These signs help indicate “a distinction, indeed a separation from adjacent territories that are under different jurisdictions” (Gottman 1973, 5). It is a specialized form of space which is gained and maintained by the claiming of space through the use of power (Manzoni and Pagnini 1996). Expressions of power are not always outwardly violent or explicit; indeed, some of the strongest, most pervasive power dynamics are maintained through the use of cooperation, subversion, or stealth (Mills 1956). The processes through which territory is defined and acquired impact the state’s expression of identity, Gottman argues, as people “have always partitioned the space around them carefully to set themselves apart from their neighbors” (1973, 1). Thus, “territory… is the fundamental spatial ontology of the modern nation-state” (Wainwright 2008, 21). Colonias are territories that have been recreated by the State of Texas, as they are bounded spaces that are partially defined by their proximity to the Texas-Mexico Border. Without this spatial bound, the definition of a colonia varies little from other rural settlements in the state.

**EVOLUTION OF TERRITORIALITY**

Territoriality in political geography has evolved much over the past 100 years. Political geography is one of the oldest fields in geography besides cartography and economic geography; indeed, these three fields are inextricably tied to each other, as they all came into prominence during the expansion of the West through colonialism. Geographers of this time, such as Halford Mackinder, codified the boundaries of nation-
states and dependent colonies through the use of maps, carving up the globe into possessions (Storey 2001). Maps are tools that are used in deciphering the signs that mark space and define territory. They are texts that enforce and reinforce ideas and perceptions about what constitutes a state. Through the process of creating maps, states are produced (Lefebvre 2002, Harley 1988). As Wainwright states, “cartography has been essential to the production of the national-territorial identity of modern spatiality” (2008, 23). Without maps, the colonial endeavor would have been impossible. The process of mapping imbues the mapper with the power to determine what is and what is not; therefore, mapping can be seen as discursively – one that produces a specific kind of discourse (Harvey 1996). The process of mapping is seen in Texas state agencies for management of colonias policy. Databases have been kept to track funding and improvements to colonias. One particular database categorizes colonias as red, yellow, green, or unknown in order to provide a shorthand description of conditions in that community, depending on what infrastructure is present there (Parcher and Humberson 2009). However, it is not known if a colonia is ever removed from these databases, even after it no longer meets the state’s definitions of what constitutes a colonia. Will it still appear on state produced maps of colonias?

Borrowing from the discourse surrounding the biological and social knowledge of animal behavior, Friedrich Ratzel likened the state to an organism, which needed to expand in order to remain competitive with other organism-states; he termed this extra space lebensraum (Storey 2001). This was the first time that territoriality was identified as a process humans practiced, providing the justification for expansionism, due to the pressures of population growth necessitating a larger resource base. A state that did not
expand would risk Malthusian collapse (ibid). This deterministic influence in geography would continue until the early 20th century, when it went out of vogue with an increasing awareness the needs of others in the world. Unfortunately, it would resurface with the rise of Adolph Hitler’s Nazi Germany, which incorporated Ratzel’s conceptualization of *lebensraum* to justify the invasion and claim of neighboring countries like Poland, leading to World War II (ibid). With the advent of the Cold War, however, the world’s political geography was realigned in a way that had not been seen since the rush of colonialism. The discipline, reinvigorated by this new global *geopolitik*, turned away from idiographic theories of territoriality to the use of spatial analysis. During the 1950s and 1960s, much of the work in political geography centered on election geography at multiple scales, such as analysis of country’s United Nations voting patterns. The theory of territoriality fell out of favor at this time, as geography was sought to be distilled into the “discipline of distance;” rather than consider the influence of humans in creating and enforcing boundaries, only the boundaries were analyzed (Johnston 2001). In 1969, Brian Berry referred to political geography as a “moribund backwater,” one that had forgotten its theoretical center of territoriality, thus losing the element that made the field relevant (450). However, Peter Taylor and others returned to territoriality, while infusing it with spatial analysis, such as analysis that helped identify the practice of gerrymandering (Johnston 2001).

**SPACES OF TERRITORIALITY**

As previously stated, the concept of territoriality stemmed from the field of biology, specifically animal ethology (Storey 2001). Humans are animals, after all, and
practice many of the same behaviors that other mammals do when claiming space, such as fighting over territory. However, human territoriality in the social sciences is more nuanced than it is in the biological sciences, as it considers that much of human behavior is learned and not innate. It rejects determinism in human decision-making in stating that the claiming of territory is not inevitable, but a choice and a result of the social and political environment where these processes occur \textit{(ibid)}. Territoriality has developed for two reasons, geographer Jean Gottman argued. First, space that is explicitly claimed can be more readily defended against encroachers. Thus, territoriality begets security. It also allows for the further organization of space into economic sections, such as units for farming or townships with industries. This allows for the territory to move beyond mere development as a state entity and become a self-sustaining economic power (Gottman 1973). Territories are a function of political economies as they provide the resources, the labor, and the site of production in an economy. However, as the processes of globalization continue to interconnect state economies, the state concept is challenged (Brenner 1997).

Within a state, citizens have entered in an agreement with the government in the form of the aforementioned social contract. In return for protection, they agree to adhere to the laws and mores set forth by the state’s institutions (Taylor and Flint 2000). This social agreement allows for the ease of governance and settlement of space. Further justification for the existence of a state’s purpose can be divided into three differentiations: state form, state function, and state apparatus. Form refers to the state’s structure within the framework of the society’s social formation, such as the government’s ideological leanings. Function refers to the state’s utility, or what actions
the state deems pertinent to the perpetuation of itself. The state apparatus is what carries out form and function, such as the citizenry or agencies; it is this part of the state that carries out the process of claiming territory (Dear 1994).

Within political geography, the basic unit of space that practices territoriality is the state (Brenner 1999). The state is defined as a spatially bounded territory in which people with a unique political and social identity dwell, while the term nation-state refers to this combined political system and contained space (Dear 1994). The nation-state ostensibly serves to protect the interests of its citizens through territorial practices, such as defending borders and regulating trade. Wainwright defines the processes involved in a nation-state marking space, stating that territorialization always involves the production of space in such a way that incorporates the character of belonging to a nation-state; this requires representing space in a way that insures an orientation, directionality, scale, and so forth which are congruent with the recognition of a national quality and state governability (Wainwright 2008). The nation-state conducts territorialism in other regards, particularly in immigration concerns. In order to maintain a national identity and secure borders, states such as Canada authoritatively manage the influx of people into their territory by scaling policies down to the level of the body (Mountz 2004). The state is also involved in controlling smaller processes, the “most ordinary aspects of social life… the prosaic aspect of the state,” in which the state manages seemingly the smallest details of personal lives like enforcing legal drinking ages (Painter 2006, 753). So the state, through regulation, is capable of territorializing at large scales such as swaths of land, or smaller ones such as human lives.
The state can operate at a scale other than the national; it can also function at regional and local scales (Marston and Smith 2001). Oftentimes, the amount of space claimed by a state is too large and unwieldy for pure central governance arising only from the state. Thus, within a state, there exist sub-states or local states, which form part of the state apparatus and assist with the operations of the nation-state. Examples of this include municipalities, administrative districts, and other sub-national entities like the states such as Texas that comprise the United States. While these entities are under the control of the nation-state and must adhere to the same social formation and governance style, there is some room for autonomy; these entities also practice forms of territoriality, as in the case of Texas defining what exactly constituted a *colonia*, a term carried over from Mexico and used colloquially.

With the increasing forces of globalization and the mounting rise of supranational organizations, like the United Nations and the World Trade Organization, as well as influential actors like multinational corporations and non-governmental organizations, territoriality still remains a centering concept in political geography (Brenner 1999). It asks how these supranational organizations influence formal nation-states. The study of borders has become an especially active segment of this field (Newman and Pasai 1998). Territoriality will remain a concern of political geography as it attempts to sort out the new expressions of power in the conflicts of a globalized paradigm.

2.3 THE SOCIAL PRODUCTION OF SPACE

Space is a word that can be taken for granted in common usage. It is a word, like justice, that has many meanings to different people (Massey 1992). The study of space
began as a project of mathematics, where space was conceptualized as a quantifiable entity for the purpose of measuring property. As geography developed as a discipline explicitly concerned with space, this understanding changed to include the realms of the socioeconomic, behavioral, and experiential (Couclelis 1992). These realms interact with each other as a nested series, as seen in Figure 2.1. Experiential space encompasses all of the others, as it is the most basic, visceral level that humans experience the world daily and find significance, or, in the words of Tuan, “place is space infused with human meaning” (1977, cited in Couclelis 1992). Moving inwards to the core of the graphic, space becomes more conceptualized and less intuitive, less qualitative and more quantitative. Behavioral geography is concerned with how humans consciously process and perceive space, while socioeconomic space is the area in which social interactions are conducted.

In the 1970s, Henri Lefebvre proposed that space is not static; rather, it is co-produced by society. While not the first work to describe the affect human meaning and experience has on their perception of space, *The Social Production of Space* is a significant work for the field of geography since its translation into English in 1991 (Unwin 2000). In this work, Lefebvre engages in a Marxist critique of space, where human perception of space is influenced by the capitalist mode of production. Lefebvre restricts much of his analysis to the city as a response to Karl Marx, who noted that as the feudal system was overtaken by a capitalist one, the site of material production moved from the rural to the urban (Zieleniec 2007). He argues that human understanding of space is the result of intricate social processes and develops a framework for understanding this process.
In the creation of his dialectical framework, Lefebvre divides space into increasingly complex levels: physical, mental and social. The two latter are the domain of the “perception of ‘nature,’” and science, while “social space is constituted neither by a collection of things or an aggregate of date… it is irreducible to a ‘form’ imposed upon phenomena, upon things, upon physical materiality (Lefebvre 1991, 27). Its significance is imbued with meaning by society. He breaks down this spatial triad even further by defining the social production of space as composed of spatial practice, representations of space, and spaces of representation (Lefebvre 1991, 33). Spatial practices are the
structured interactions that occur through space, such as information flows. They influence how a person navigates their use of space through their relationship with social relations and society (Zieleniec 2007). Representations of space are the epistemologies of space created by a society in order to control space. Those who control space order it and reproduce it according to their favored spatial epistemology. For example, the State of Texas in exercising its lawmaking authority, has defined what a *colonia* is and what it is not. These definitions are aligned with the state’s legislative agenda of preventing the development of more *colonias*. Finally, the spaces of representation are the lived-in spaces of everyday life combined with the mental and emotional connections that humans tie to space, such as semiotics. This combination results in an *imagined* space, like a utopia, that is rooted in the cultural practices of its birthing society (*ibid*). Together, these three components represent the elements involved in the social reproduction of space as theorized by Lefebvre.

While Lefebvre touches on the influence of time in the production of space, others developed this more fully. As time, like space, is a social construct, it carries social significance, or as geographer David Harvey states, “the when and where of different kinds of social activity and of different manners of relating convey clear social messages” (1990, 419). The conceptualization of space and time is something that each society *does* and they do it to suit their needs as dictated by its members (*ibid*). Over time, perceptions of space may change “as social relations, behaviors and ‘acts’ change within space, so they may entrain radical shifts in the meaning and metric of space” (Harvey 1996, 274). Doreen Massey elaborates further on the co-production of space and time, as the sense of a place can be shaped by its history, she states that “the past, then, helps make the
present... places as depicted on maps are places caught in a moment; they are slices through time” (1995, 187-188). The weight of history, the temporal scale of society, can be felt in space and influences its character.

Massey also stresses the feedback loop resulting from the social production of space. Not only does the social influence the spatial, but the spatial influences the social (Massey 1992). This loop possibly implicates the spatial in the production of specific social systems, such as history and politics (ibid). The spatial order imposed by a society is therefore a synergistic process, one that grows and changes. A piece of land is not always the same space throughout time because different forms of societal relations will imbue it with different meanings (Massey 1995). The production of space, then, is dependent upon a variety of social and temporal factors which influence one another.

2.4 CONCLUSION

This literature review discussed the historical trends of research within the fields of justice studies, human territoriality, and the social production of space. There is a gap in the literature concerning the definition and apportionment of space by the state and the implications of justice within this process. To examine the role of specific state legislation regarding colonias in claiming and reproducing the colonias, I draw from the three aforementioned areas. Justice concerns are present in the struggle to define what constitutes a colonia, as definitions that focus solely upon the presence of infrastructure are most likely to only consider material forms of justice, for example, distributive justice. The state drew upon a theory of distributive justice when formulating colonias policy, as the three major pieces of colonias legislation examined in this thesis sought to
bring infrastructure to these communities. But what of the unequal power relationships between *colonias* developers and residents, which allowed these conditions to fester? Developers took advantage of the poverty and disenfranchisement of *colonias* residents in some cases, by not delivering promised services or lying about them entirely. The state addressed this unequal power balance with SB 336, which codified a real estate practice common in *colonias*, the contract for deed agreement. However, while the state addressed the claims for recognition and justice by *colonias* residents, it did not use a justice justification for this bill. Instead, the state justified its actions for this bill and the two others using frameworks of public health, poverty, and “Mexican-ness.”

In the course of drafting and adopting these three bills, the state appropriated *colonias* space through a course of definitions. Thus, *colonias* have been recreated by the state according to these definitions. In its attempt to improve conditions in these areas, the state also attempted to reclaim *colonias* from the Mexican-style of development. These communities were constructed as being of Mexico by the media, even though similar settlements existed elsewhere in the state. The state uncritically accepted the media’s social construction of what a *colonia* was and added to this perception, creating their own definitions in the process. So, the state’s control of territory compelled it to eradicate this style of development *only along the border*. The defining of the *colonias* involved an othering that necessitated development interventions but only through a process of territorialization that restricted these activities along the Texas-Mexico Border. As a result, other areas that shared similar absence of services and infrastructure were untouched by this process. The state’s power to determine what is and what is not a *colonia* impacted the course of rural residential development in the state as a whole. In
the following section, I discuss the state’s lawmaking apparatus as well as present my research questions and methods.
Chapter 3

RESEARCH METHODS

This thesis investigates the progression of the Texas government’s policies regarding colonias and the impacts these policies had upon the state’s role of the territorialization of space through the colonias. Using a combination of interviews, questionnaires, government documents, and newspaper articles, I analyze the legislative process and resulting policies from the government intervention. Diverse arrays of opinions informed the analysis, including those articulated by legislators, civil servants, nonprofit employees, and current colonias residents.

In this chapter, I discuss the research questions that drive the course of inquiry of this thesis. I then describe the human and physical characteristics of the Hidalgo County, Texas, the county that hosts the largest number of colonias in the state. Additionally, I describe the local and state governance processes within the state of Texas. Finally, I present my research methods, including data collection and analysis.

3.1 RESEARCH QUESTIONS

The first objective of the thesis was to conduct a policy analysis on Senate Bill 2 (the legislation creating the Model Subdivision Rules, passed in 1989), Senate Bill 336 (the legislation restricting Contract for Deed agreements, passed in 1995), and House Bill 1001 (the legislation granting counties in economically distressed areas the power to
regulate land use, passed in 1995). This objective has several underlying questions. First, I investigated if and why so many stages of colonias policy were necessary. Multiple policy interventions were created to control the further spread of colonias. I am interested here in investigating the circumstances necessitating the series of policies. Why did the passage and enforcement of SB 2 not end colonias development? In unpacking the history of policy interventions, a greater understanding of the legislature’s attempts at ending colonias development is achieved. Second, I investigated if and how these three laws work together as a suite of colonias policy or individually. Since the first policy response was not adequate, were subsequent laws designed to work with previous legislation? My third question addressed the efficacy of these laws. Were they effective in accomplishing their intended purpose of eliminating colonia growth and expansion?

My second research objective was to examine the State of Texas’ role in the process of defining and recreating space in regards to the colonias. I first asked what, if any, role did the state have in defining the colonias as a space that differed from other rural settlements. Settlements like colonias existed (and continue to exist) in other parts of the state. Why did the Texas Legislature focus almost exclusively on the Texas-Mexico Border? The second question asks if colonias, as defined by various state agencies, still exist after 20 years of legislation and programming to prevent the creation of more colonias and rehabilitate existing ones. The term colonia differs between each agency, but share in common a restriction of the term colonia to a certain distance from the border and a lack of physical infrastructure.
3.2 RESEARCH SETTING

Colonias are not unique to Texas. They exist in all of the states along the U.S.-Mexico Border (Map 3.1). However, as shown in Table 3.1, settlements classified as colonias are much more prevalent in Texas than in Arizona, California, or New Mexico. Several explanations have been offered for the wide variance in the distribution of colonias in this region, including the historical lack of laws regulating subdivisions in Texas and the length of the border between Texas and Mexico (Ward 1999).

Map 3.1 The U.S.-Mexico Border Region

Source: USGS Border Environmental Health Initiative 2009

There is also a geographic pattern to colonias’ distribution in Texas. Table 3.2 lists all Texas border counties with at least one recognized colonia. A majority, 1391 or 66.7%, of recognized colonias in Texas are concentrated in the southern tip of the state within Cameron, Hidalgo, Starr, and Willacy counties, which collectively are known as the Rio Grande Valley. Hidalgo County boasts the largest population of this region, as
well as the highest number of colonias, with 940 colonias or over 45.1% of all colonias in the state. Because of the prevalence of colonias in Hidalgo County is much higher than the rest of the state, I restrict the scope of this thesis to consider the interactions of state level policy to this county.

<table>
<thead>
<tr>
<th>State</th>
<th>Colonias</th>
<th>Counties Containing Colonias</th>
<th>Border Counties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>86</td>
<td>10</td>
<td>4</td>
</tr>
<tr>
<td>California</td>
<td>16</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>New Mexico</td>
<td>150</td>
<td>11</td>
<td>6</td>
</tr>
<tr>
<td>Texas</td>
<td>2084</td>
<td>30</td>
<td>14</td>
</tr>
</tbody>
</table>

Table 3.1 – Number of colonias in American US-Mexico Border states

Source: U.S. Department of Housing and Urban Development 2010, Texas Secretary of State’s Office 2006

<table>
<thead>
<tr>
<th>County</th>
<th>Number of Colonias</th>
<th>County Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aransas</td>
<td>1</td>
<td>22,497</td>
</tr>
<tr>
<td>Brewster</td>
<td>3</td>
<td>8,866</td>
</tr>
<tr>
<td>Brooks</td>
<td>11</td>
<td>7,976</td>
</tr>
<tr>
<td>Cameron</td>
<td>178</td>
<td>335,227</td>
</tr>
<tr>
<td>Culberson</td>
<td>2</td>
<td>2,975</td>
</tr>
<tr>
<td>Dimmit</td>
<td>7</td>
<td>10,248</td>
</tr>
<tr>
<td>Duval</td>
<td>19</td>
<td>13,120</td>
</tr>
<tr>
<td>Edwards</td>
<td>1</td>
<td>2,162</td>
</tr>
<tr>
<td>El Paso</td>
<td>323</td>
<td>679,622</td>
</tr>
<tr>
<td>Frio</td>
<td>9</td>
<td>16,252</td>
</tr>
<tr>
<td>Hidalgo</td>
<td>940</td>
<td>569,463</td>
</tr>
<tr>
<td>Hudspeth</td>
<td>6</td>
<td>3,344</td>
</tr>
<tr>
<td>Jeff Davis</td>
<td>1</td>
<td>2,207</td>
</tr>
<tr>
<td>Jim Hogg</td>
<td>8</td>
<td>5,281</td>
</tr>
<tr>
<td>Kinney</td>
<td>1</td>
<td>3,379</td>
</tr>
<tr>
<td>Kleberg</td>
<td>1</td>
<td>31,549</td>
</tr>
<tr>
<td>La Salle</td>
<td>7</td>
<td>5,866</td>
</tr>
<tr>
<td>Maverick</td>
<td>78</td>
<td>47,297</td>
</tr>
<tr>
<td>Nueces</td>
<td>38</td>
<td>313,645</td>
</tr>
</tbody>
</table>
Table 3.2: Colonias and total populations by Texas County

<table>
<thead>
<tr>
<th>County</th>
<th>Colonias</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pecos</td>
<td>12</td>
<td>16,809</td>
</tr>
<tr>
<td>Presidio</td>
<td>8</td>
<td>7,304</td>
</tr>
<tr>
<td>Reeves</td>
<td>2</td>
<td>13,137</td>
</tr>
<tr>
<td>Starr</td>
<td>257</td>
<td>53,597</td>
</tr>
<tr>
<td>Terrell</td>
<td>2</td>
<td>1,081</td>
</tr>
<tr>
<td>Uvalde</td>
<td>12</td>
<td>25,926</td>
</tr>
<tr>
<td>Val Verde</td>
<td>16</td>
<td>44,856</td>
</tr>
<tr>
<td>Webb</td>
<td>64</td>
<td>193,117</td>
</tr>
<tr>
<td>Willacy</td>
<td>16</td>
<td>20,082</td>
</tr>
<tr>
<td>Zapata</td>
<td>41</td>
<td>12,182</td>
</tr>
<tr>
<td>Zavala</td>
<td>20</td>
<td>11,600</td>
</tr>
</tbody>
</table>

Sources: Texas Secretary of State’s Office 2006, American Fact Finder 2000

**SOCIAL CHARACTERISTICS OF HIDALGO COUNTY**

The Rio Grande Valley is one of the poorest regions in the U.S., with poverty rates remaining relatively unchanged for at least thirty years (U.S. Census Bureau 2009, Miller and Merill 1978). Within Hidalgo County, the poverty level hovers around 35%, unemployment is at 10.41%, and over 29% of the population are enrolled in the Food Stamp Program in 2009 (U.S. Census Bureau 2009, U.S. Bureau of Labor Statistics 2009, and Bloch et al. 2009). It is also one of the fastest growing regions in the nation, both in population and commerce (Lopez 2006). Yet the unique feature of that endemic poverty, colonias, remained hidden from the national scene for many years. Only in the 1980s, with the colonias encroachment upon the urbanized areas of the Rio Grande Valley did legislators begin to take notice. The combination that resulted from poverty and growth is embodied in the proliferation of the colonias, which were a market-driven response to the lack of affordable and available housing in urban areas. This inequity has been long felt,
with poverty levels remaining high since at least the 1960s, lagging behind the state and national averages (Miller and Merill 1978).

In the early 20th century, the region was mainly known for its agricultural output of citrus and cattle. Even until the 1980s, the economy in Hidalgo County was largely based around agriculture. Ranches existed in the far north of the county, which was drier than the southern half, made verdant through irrigation from the Rio Grande (ibid). Farm laborers were needed to tend to the agriculturally intensive crops planted, such as cabbage and winter citrus. Many families would live in the county from the fall through the spring and then migrate to the north in the summer to harvest crops (ibid). However, when market prices for agricultural goods fell, farmers sold their land or planted less and farm labor declined in importance. A series of hard winter freezes devastated the citrus orchards in the mid-1980s, causing many farm workers to lose their already unstable jobs (King 1984). With the declining importance of agriculture, land owners were compelled to sell off land to developers or become developers themselves. Land developers could subdivide an area outside a city’s political boundaries into lots with ease prior to regulations in the late 1980s. Rural developments thus ran the gamut from well planned communities with county-approved plats and utilities in place to isolated communities with no services available or planned. A plat is a “map, chart, survey, plan, or replat containing a description of the subdivided land with ties to permanent landmarks or monuments” (HB 1001, 1995). One director of a nonprofit remembers the sudden transition from rural land hosting agriculture to residential development:

In the [19]80s, we lost so much, hundreds of thousands of acres of citrus to the freezes of ’83 and ’89, and we learned that a lot of the people who own that land, the
orchards were not only out of state, but out of the country… a lot of the land was sold to [colonias] developers. And now that land is covered in cement and asphalt (Hanchett, 2009).

By the late 1980s, industry had overtaken agriculture in importance in Hidalgo County. Beginning in the middle of the twentieth century brought a wave of population growth to the U.S.-Mexico Border region. Mexico’s Border Industrialization Program in 1965 instituted the “twin plant” factory system, which featured a maquiladora on the Mexican side of the border and a finishing plant on the American side. Maquiladoras produce manufactured goods primarily for American companies for American consumers. This program sought to remedy the vast unemployment of Mexicans sent back from the United States after the Bracero Program was ended by the U.S. Government in 1964 (Ward, 1999). Many finishing plants were located near McAllen, Harlingen, and Brownsville, which boomed in population from the 1980s onwards, greatly influencing the population dynamics along both sides of the border (Herzog, 1990). Further growth was sustained by the adoption of the North American Free Trade Agreement in 1994, which greatly increased the stream of traffic throughout the Rio Grande Valley due to a greater volume of exports moving between countries (Ganster and Lorey, 2008). Currently top industries by employment are health care and social assistance, retail trade, educational services, construction, and accommodation and food services (U.S. Census, 2008). With greater settlement in the border region, housing prices in the city increased beyond the reach of the poor, who instead turned to colonias developments to achieve home ownership (Larson, 2002). As previously shown in this
chapter, the amount of *colonias* in Hidalgo County far outnumbers those in any other county in the state. Map 3.3 depicts the spatial distribution of *colonias* in this county.

Despite its negatives, the *colonia* model is desirable for many as it allows for flexibility in ownership. Parcels of land can be purchased in three ways. People can purchase the land outright from a developer or can finance a mortgage through a third-party lender; however, these options are not often exercised due to purchaser’s lack of capital. More common is financing a purchase through a contract for deed agreement. The contract for deed allows for a purchaser to finance directly through the land developer. Little or no money is given as a down payment and purchasers pay a small monthly payment with interest for a fixed term, usually no more than ten years. This method is attractive to lower income families due to its flexibility and accessibility. Before 1995, though, there were little protections for the purchaser if they fell behind on their payments. If homeowners missed one month of payments, the lender could repossess the land and any improvements made to it (Parcher and Humberson 2007, Ward 1999, Larson 1995).

**STRUCTURE OF STATE GOVERNANCE IN TEXAS**

Texas has a bicameral legislature that meets as a regular session once every two years. The Texas Senate has 31 members who are elected to a four year term, while the Texas House of Representatives has 150 members who are elected to a two year term (Texas Constitution 1876). Beginning in January and ending in late May or early June, the legislature meets for a period of 140 days. In the first 30 days of the session, legislators introduce bills and resolutions to their colleagues in their respective chamber. In the next 30 days, bills are read by their description only and are then referred to an
Map 3.2 Colonias of Hidalgo County
appropriate committee. When in committee, bills are considered for hearings and if appropriate, amendments are made.

Bills and resolutions are considered in the opposite chamber if, after two more readings in the originating chamber and a subsequent vote, the bill is passed with a simple majority. In the opposing chamber, the bill also goes through three readings and is passed by a simple majority. Any amendments that are made must be approved by the originating chamber. If there are conflicts in the amendments, mediation is sought. When the bill or resolution has been approved by both chambers, it passes on to the executive head of the state government, the governor. The governor has ten days to veto the bill or the bill becomes a law, unless the bill is sent to the governor’s office with fewer than ten days remaining in the regular session. Then, the governor has 20 days to veto the law before it is enacted. In order to override a veto, the veto must be rejected by a two-thirds majority in both the House of Representatives and the Senate (Texas Constitution 1876). These laws are enforced through the cooperation of local and state law enforcement agencies, county-level district attorneys, and the OAG.

3.3 RESEARCH METHODS

Due to the descriptive nature of the research questions, qualitative methods were used in the course of the fieldwork. Two methods were employed to collect data: first, reviewing of archival materials and second, semi-structured interviewing with research participants were completed. The methods and materials employed in this research were reviewed by the Internal Review Board of The Pennsylvania State University and clearance was granted on May 28, 2009. Precautions to protect informants are in effect,
including providing information about conformed consent, requesting permission to interview, storing interview data in a secure location, and concealing informants’ identities (Dowling 2000).

The first and second research questions were addressed by consulting the related legislative bill and analyzing the bill’s language. The third and fifth questions were answered using semi-structured interviews with non-profit organization leaders, state government agency employees, and state legislators. The fourth research question used responses from the same state government agency employees and state legislators in their interviews. Table 3.3 details the research questions asked and the methods used to answer them.

**DATA COLLECTION**

As this research investigates how *colonias* policy developed over time, sources that illustrated the context of decision-making processes involved in legislation were needed. I wanted to capture how these policies were created and in what environment they were crafted. To do this, I turned to a wide variety of archival sources, which provided a rich source of primary documents showing the political and social environment in which SB 2, SB 336, and HB 1001 were crafted. Table 3.4 lists the archives visited and the materials collected during the course of the research.

In order to gain a wide variety of perspectives regarding *colonias* policy, interviews were conducted with five groups of stakeholders: five *colonias* residents, four social service agency personnel, four local/state government employees, two state legislators, and one academic professional. All interviews were conducted in a semi-structured format in which different interview schedules were used for each group. These
<table>
<thead>
<tr>
<th>Question Number</th>
<th>Research question addressed</th>
<th>Method</th>
<th>Participants</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Why were there multiple stages of <em>colonias</em> legislation?</td>
<td>Discursive analysis of policy documents collected from archives</td>
<td>N/A</td>
</tr>
<tr>
<td>2</td>
<td>How do the selected pieces of legislation work together?</td>
<td>Discursive analysis of policy documents collected from archives</td>
<td>N/A</td>
</tr>
<tr>
<td>3</td>
<td>Have these laws been effective in ending <em>colonias</em> development?</td>
<td>Discursive analysis of policy documents collected from archives</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>10 single semi-structured interviews, lasting from 45 minutes to 1 hour in duration</td>
<td>Civil servants, Non-governmental organization leaders, Policymakers</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Did the state differentiate <em>colonias</em> from other rural subdivisions in the state?</td>
<td>Discursive analysis of policy documents collected from archives</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>6 single semi-structured interviews, lasting from 45 minutes to 1 hour in duration</td>
<td>Civil servants, Policymakers</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Do <em>colonias</em> still exist?</td>
<td>Single semi-structured interview, lasting from 45 minutes to 1 hour in duration</td>
<td>Civil servants, Non-governmental organization leaders, Policymakers</td>
</tr>
</tbody>
</table>

Table 3.3 A description of the methods used to address research questions

schedules can be found in Appendix A. Interviews were arranged with social service agency participants, local/state government employees, and the academic professional by researching particular agencies and their connection to the *colonias* and related legislation. In some cases, I learned of pertinent individuals to interview through
suggestions from interview participants, in a process called snowballing, who provided contact information and offered introductions. Interviews were arranged with colonias residents through a non-profit organization that serves colonias, which makes regular home visits to its clients.

<table>
<thead>
<tr>
<th>Archive</th>
<th>Location</th>
<th>Material Collected</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of McAllen Public Library, Local History Files</td>
<td>McAllen, Texas</td>
<td>Newspaper articles about the colonias</td>
</tr>
<tr>
<td>Hidalgo County Clerk’s Office</td>
<td>Edinburg, Texas</td>
<td>Transcription from county commissioners’ meeting</td>
</tr>
<tr>
<td>Legislative Reference Library of Texas</td>
<td>Austin, Texas</td>
<td>Legislative bill files, Senate committee reports, House committee reports, policy white papers</td>
</tr>
<tr>
<td>Museum of South Texas History</td>
<td>Edinburg, Texas</td>
<td>Historical photographs of colonias</td>
</tr>
<tr>
<td>Texas Commission on Environmental Quality</td>
<td>Austin, Texas</td>
<td>Policy white papers, environmental assessments</td>
</tr>
<tr>
<td>Texas House of Representatives Video/Audio Services</td>
<td>Austin, Texas</td>
<td>House committee hearing minutes</td>
</tr>
<tr>
<td>Texas Senate Staff Services</td>
<td>Austin, Texas</td>
<td>Senate committee hearing minutes</td>
</tr>
<tr>
<td>Texas State Library and Archives</td>
<td>Austin, Texas</td>
<td>None – library is closed for renovation and materials cannot be currently accessed</td>
</tr>
<tr>
<td>University of Texas Pan American, Lower Rio Grande Valley Collection</td>
<td>Edinburg, Texas</td>
<td>Local history documents, policy white papers, theses</td>
</tr>
</tbody>
</table>

Table 3.4 Archives visited and materials collected

As geographer Kevin Dunn notes, conducting interviews with government officials may prove to be problematic due to questions concerning the investigator’s motives (2000). However, their perspective was necessary in uncovering the processes behind the creation of colonias legislation in the Texas government. I found that legislators were unable to coordinate an interview with me, but reacted quite positively to
my suggestion that I submit my interview questions to their office for the legislator to answer on their own schedule. Of course, this removes the spontaneity of response that comes in an interview, but faced with the possibility of no participation from legislators, I believe that this was an acceptable sacrifice.

3.4 DATA ANALYSIS

Interview notes and impressions were typed after the end of each interview. Transcriptions took longer, but were completed within three months of the interview. Before analysis of interviews and archival documents was conducted, a coding system was developed to easily identify key themes, drawing from themes covered by referenced literature and interview notes and transcriptions (Bernard 2000). Data were then coded according to this system, revising themes as necessary. Data that were coded with similar themes were grouped together; these groups were then compared to see how the theme varies from source to source (Forbes 2000, Dunn 2000).
Chapter 4

THE DEVELOPMENT OF COLONIAS LEGISLATION

In this chapter, I explore the definitions of colonias and the subsequent legislative policy responses. In the first section, I review the policies created by the Texas legislature in order to improve the conditions of existing colonias and to prevent the creation of future colonias. The gradual awareness of life in the colonias raised in the public led to the conclusion that action was necessary to improve current colonias and prevent their spread. However, counties with colonias lacked both the funds and the authority to make any impact in the conditions of poverty and poor development. The Texas Legislature was then compelled to act in their capacity to make laws and appropriate funding. Through three landmark pieces of legislation, the State dictated the course of residential development along the Texas-Mexico Border, resulting in the differentiation of colonias space versus other rural settlements in the state. Through this territoriality, the state developed three justifications for the policy intervention. The bills were framed to depict colonias as spaces of disease, poverty, and “Mexican-ness.” Finally, I examine the use of the term colonia in Texas, which differs from the usage in Mexico and discuss the conditions under which colonias will continue to persist. I end with a summary of the chapter.
4.1 POLICY RESPONSES TO COLONIAS

Colonias existed long before the state took any legislative action; some colonias received plats from their county’s commissioners court in the 1940s (SoS 2008). Awareness of conditions in these communities was achieved in two ways, through the media and by colonias residents. After recognizing the problems caused by unregulated development, the state was galvanized to action. Without a change in the way counties regulated residential development, the state feared that colonias would continue to proliferate. Thus began a series of legislation meant to strengthen county power to enforce higher standards of development and to finance infrastructure improvements to existing colonias. Within these pieces of legislation, the state restricted the extent of the laws to border counties. In this section, I discuss the differing depictions of colonias by the media and residents and how both groups’ presentations led to state legislative action. I then outline the course of colonias legislation in Texas from 1987 to the present day.

RAISING AWARENESS OF COLONIAS DEVELOPMENT

The colonias gained widespread attention in the mid-to-late 1980s as stories began to appear in news media depicting the living conditions experienced in the colonias, trickling up from policy reports and local newspapers like the El Paso Herald Post and McAllen’s The Monitor to national media outlets like The Washington Post and Newsweek (Hill 2003, Gibney 1987). Reports focused on the material conditions of the colonias, likening them to developments that belonged in less developed countries or the “third world.” These sources also remarked on the ignorance of colonias residents, who did not know the difference between clean and contaminated water sources. Continued
growth of *colonias* began to encroach upon expanding cities. City officials, concerned about potential water-based illnesses that could spread due to the lack of wastewater infrastructure, began to ask state officials to confront this problem (Ward 1999). After years of existence, multiple stakeholders agreed that *colonias* were a problem that could no longer be ignored. However, each party viewed the problem differently. Residents used this opportunity to get the infrastructure services that had been promised to them but never delivered by developers, while politicians saw *colonias* as a threat to the public health at large.

One of the first articles to discuss *colonias* was featured in *The Wall Street Journal* in 1979. The author focuses on the *colonias*’ otherness, citing that many residents spoke Spanish and questions the immigration status of residents. He calls the *colonias* a “no man’s land,” furthering the perception that *colonias* were places that no one should visit (Huey 1979). In this same article, the county judge of Cameron County calls the *colonias* problem a “moral issue,” but not in regards to the conditions that *colonias* residents experienced. Rather, he considered spending public monies to improve the situation of the poor, while helping the developers by improving their land values, to be an immoral violation of the public trust.

Beginning in 1977, a series of news articles concerning the conditions present in *colonias* began appearing in *The Monitor*, the largest daily newspaper in the region. Article after article cited the residents’ ignorance of basic hygienic principles, such as building latrines too close to water wells (*The Monitor* 1977, Swartz 1988). Indeed, *colonias* residents were cast as the spreaders of disease, contaminating the water table that they shared with the residents of the cities and thus endangering others through their
recklessness. Left out of early articles is a critique of the land developers who allowed the situation to happen and who took advantage of residents’ willingness to sacrifice access to infrastructure for the opportunity to own property. One developer cited the stomach pains that residents in his colonia were experiencing originated in eating bad taco meat from Mexico, rather than the well water that he provided, which was contaminated with \textit{e coli} (Failey 1995). Additionally, in these articles, \textit{colonias} are commonly characterized as “like the third world” or as rural slums, which bear little resemblance to communities seen in the rest of the U.S. (\textit{The Monitor} 1977, Swartz 1988). This commentary began to establish that residents of \textit{colonias} were not of the U.S., but of Mexico. It fed the long held belief that \textit{colonias} residents are “Mexican,” or Mexican nationals, while most are actually citizens of the U.S. (Hanchett 2009). As with the comment on taco meat, there was a perception that while these residents resided in the U.S., they clung to traditions from Mexico. Residents returned there often to shop or visit family and thus did not establish roots in this country. By casting residents as being of Mexico or the “third world,” these articles dissociated the problems found in \textit{colonias} as ones not rooted in U.S. tradition, but ones carried over from Mexico even though this style of development was perfectly legal in Texas at the time.

This racialized discourse only served to “otherize” \textit{colonias} residents, and cast them as not just poor, but ignorant. It implied that residents would not do anything to correct their situation out of laziness, rather than the fact that many could not gain access to water or sewer lines, due to the prohibitive costs of securing water rights for the area, laying water and sewer lines to the \textit{colonia}, and then connecting each individual home. In essence, it blamed residents rather than developers for conditions in \textit{colonias}. These
articles robbed *colonias* residents of their human agency, reducing their story to the most basic level – one of poor people on the periphery of the nation. Without agency, *colonias* residents had events happen to them, instead of making things happen.

The residents’ invisibility in these articles lead to a stigmatization of the *colonias*; instead of being a place where the low income could capitalize on cheap land values and work toward home ownership (the aforementioned American Dream), they were spaces of disease. *Colonias* only became a concern to policymakers when their problems began to encroach upon expanding cities in the region. Prior to that, the communities were hidden and their residents marginalized. Now, they were a problem because the health conditions faced by those in the *colonias*, such as dysentery and typhoid, were spreading to more “civilized” areas in the cities. Now that it had become an issue affecting everyone, not just the rural poor, it was a problem to be solved. Politicians began to develop policies to correct the conditions in the *colonias*, one that was based in the knowledge that the *colonias* were a public health issue, rather than a social justice issue. The use of public health as a justification for action was the most prominent theme used to frame *colonias* policy discourse, as threats to public health could be scaled up from the *colonias* to the whole state at large since disease could spread from these communities to the rest of the state. Thus, *colonias* were depicted as vectors for disease.

However, unlike depictions in early articles, *colonias* residents were not without agency. They were vocal in their disappointment with their communities’ conditions and conducted acts of protest and advocacy against developers, local politicians, and state agencies. These acts took many different forms over the years, ranging from participation in the democratic process to civil disobedience, and varied in efficacy. In a *colonia*
annexed by the city of McAllen previous to 1980, residents were tired of how long the city took to complete storm drainage and paving projects in their community. So they peacefully interrupted a city meeting. They questioned the mayor and council members regarding the project and complained about the injustice of paying the same taxes as all other residents yet not receiving the same level of service (The Monitor 1980). This public battle raised the profile of colonias residents both locally and statewide as it was one of the first articles to show residents actively questioning the government instead of passively depicting residents mired in poverty. However, it still took four years to finally finish the project (Armstrong 1984). McAllen also failed to provide sewer service to another annexed colonia, with residents responding in the same fashion in 1992. Servando Silva, a resident of Retiree Haven colonia stated that “all I want is the same as other people in McAllen. All we want is water and sewer. I pay taxes and I don’t even have a place to dump the shit” (Sralla 1992, 1A). Even colonias that were no longer rural due to city annexation and thus were no longer considered colonias continued to persist under the same conditions. Residents who thought that they would receive services once their community became a part of the city still had to struggle for recognition of their needs by the city. More actions were needed to accomplish this.

Another form of protest undertaken by residents was the march, a highly visible and symbolic act. In 1994, 12 colonias residents from Progreso marched over six miles to the Texas Water Commission (TWC) in Weslaco to protest the lack of sewer service in their neighborhood. Residents wanted to draw attention to the actions of Progreso’s mayor, who prevented local colonias residents from establishing sewer connections with the Military Highway Water Supply Corporation. The city wanted to buy back the section
of the sewers that serviced the Progreso area in order to create another revenue stream for the city. Meanwhile, residents had to cope with aging, leaking septic systems, even though they wanted to upgrade to sewer services (Devino 1994). A final act of protest involved residents refusing to pay their monthly land contract to protest the lack of flood control improvements made to the subdivision. Hoehn Drive *colonia* flooded after major rain events. However, it was approved by the county in 1983 so it was the county’s responsibility to make improvements, not the developers’. The county stated that after some improvements had been made, there was nothing more that could be done to control flooding. This form of protest was particularly risky, as residents risked losing their land and any improvements made to it, including their homes, under the contract for deed agreement (CfD) that many used to finance their land purchase (Flores 1995).

Residents also lobbied directly to state legislators for change, using rallies, signature collecting, and personal testimonials to sway legislators’ support. In 1986, residents went to Austin to lobby for funds from the TWC in order to connect their *colonia* to water services. Residents from a large *colonia* known as *Las Milpas* traveled over 400 miles to the lobby for grants and loans to assist in extending water lines and connecting their houses to water services. The trip arose from several *colonia* residents who were tired of the businesspeople who developed neighborhoods without delivering on their promise to eventually connect the *colonia* to water. Resistance was met at the county level to assist them, so they had to search further for help. Meeting with the TWDB, residents informed state employees of the conditions in which they lived, the struggles of preparing their children for school and themselves for work when they only had a community well from which to fetch water. Pablo Delgado, a community organizer
with the Colonias Economic Development Corporation, led the trip, stating that “we need to continue forward in our struggle for our rights” (Ling 1986, 1A). Sometimes their children become sick from drinking the water, as private wells such as those sunk by developers, did not have to be tested for bacteria like fecal *coliform*. Elida Bocanegra, a store owner in the *colonia* stated that “we are living in the United States. And these children should have a clear glass of water on the table” (*ibid*). A year later, the Texas Water Development Board was authorized by the Texas State Legislature to disburse the first grants directly purposed for connecting colonias residents to water. The program continues still today. *Las Milpas* gained connections to water and waste water services through annexation by the nearby city of Pharr, who wanted to expand their tax base. Construction was paid for by state and federal grants (Hanchett et al. 2009).

Two years later, the non-profit organization Valley Interfaith, of which many *colonias* residents were members, collected signatures to support the Texas Legislature approving a bond to pay for further water infrastructure projects in the *colonias* in the November 1989 election. Over 50,000 signatures were collected. In order to show support for the bond, Valley Interfaith members held a rally that over 2,000 people attended, including then Governor Bill Hobby, State Treasurer (and future governor) Ann Richards, Attorney General Jim Maddox, State Comptroller Bob Bullock, and key legislators of the Rio Grande Valley. Richards congratulated those who were present and recognized their hard work and advocacy, stating “if it passes, the victory will not be achieved by elected officials. It will be your victory, because you are the ones who have done the work” (Longoria 1989, 1A). Texas voters approved the bond later that year (Williams 1989).
**EARLY LEGISLATIVE RESPONSES TO COLONIAS**

Once the problems caused by *colonia* development and faced by *colonia* residents were recognized by state and federal lawmakers, legislation was enacted to improve infrastructure conditions and end further *colonia* construction. This mission was charged to multiple state and federal agencies, primarily the agencies that managed water infrastructure at the state level and housing conditions at the federal level.

In 1987, the first bill concerning *colonias* was passed in the 70th Session of the Texas Legislature. Introduced by Representative Hector “Tati” Santiesteban of El Paso, it authorized the TWDB to facilitate funding opportunities for *colonias* to gain access to water and wastewater services. Previously, the TWDB was only allowed to grant funds to incorporated political entities, such as counties or cities in the state (SOS 2009). During this session, the groundwork was laid for future state policy regarding subdivision regulation with the passage of two bills that expanded the extraterritorial jurisdiction (ETJ) of cities. In SB 896, ETJ was defined as being dependent upon a city’s population. Cities with fewer than 5,000 residents had an ETJ of up to a half mile from the city limits, whereas a city with a population of over 100,000 could have an ETJ up to five miles. Additionally, this bill defined the requirements for a developer to record a plat for a development. A plat is an official record of the plans for a development, which includes a map of any lots and physical infrastructure within its boundaries. Depending on the requirements of the political entity, a plat may require plans for access to utilities, such as electricity or water. If a development fell within city limits, it needed city approval of the plat; if a development fell outside of city limits and outside of a city’s ETJ, it needed county approval. If a development fell in an area outside of a city’s political boundaries
but within its ETJ, the developer had to register a plat with both the city and the county (OAG 2008). The second bill, SB 408, granted greater ETJ powers for cities with a population greater than 5,000 within border counties only. Instead of the increasing scale of ETJ limits, which was dependent upon population, cities meeting these criteria could expand their ETJ up to five miles. This bill also expanded upon the prohibition of a city utility from providing service to a lot within an unplatted development by requiring a certificate of the plat’s approval before any city or other public utility could provide service to a lot (ibid). These bills began the process of spatializing colonias developments in terms relative to recognized development.

State policymakers continued to address the issue of colonias development during the 71st Texas Legislature, when SB 2 was passed. SB 2 was introduced to the Texas Senate on January 9, 1989 by author Senator Santiesteban and co-authors John Montford of Lubbock, Carlos Truan of Corpus Christi, Hector Uribe of Brownsville, and Judith Zaffirini of Laredo. All of these legislators represented border counties, except for Senator Montford. The bill’s purpose was to develop a program to financially assist certain counties with extending water infrastructure through the issuance of bonds; additionally, the bill intended to prevent the spread of colonias by linking participation in the funding program to county adoption of rules regulating residential development. It was drafted as a response to the spread of colonias along the Texas-Mexico Border, which “threaten[ed] the health and well-being not only of the residents, but of the environment and population of the surrounding areas as well” (Santiesteban 1989, 1).

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1 Detailed timelines of each piece of legislation can be found in Annex B.
The first section amended the Texas Water Code by creating the Economically Distressed Area Water Assistance Program (EDAP). To be eligible for EDAP, counties must meet one of two requirements. First, the county’s average per capita income must be 25% below the state average for the three most recent consecutive years and the county’s average unemployment rate must be 25% above the state’s average under the same conditions. Or, the county must be immediately proximate to the international border. These are two widely different metrics. Next, the county commissioners must adopt the minimum standard of MSRs. These counties would then have to approve the minimum MSRs as drafted by the state or create their own MSRs that exceeded the state’s minimum standards. The MSRs were meant to prevent the creation of colonias without infrastructure by requiring the developer to register the plat with the county engineer’s office and gain approval of the plat from the county commissioners’ court. If the developer did not receive approval from these two county entities, utility providers were not allowed to connect residents to services (Ward 1999). Plats were also required to show the feasibility of connecting the development to existing utility lines or constructing on-site facilities. Program funds for EDAP came from the Environmental Protection Agency and government bonds approved by voters in 1989. EDAP was administered by the TWDB and monies were meant to fund water and wastewater projects in target communities. If a county does not meet these requirements, they cannot request funds from EDAP. The bill also required political subdivisions using EDAP funds for infrastructure work to give preference to bids that use labor from within that area. This stipulation was meant to improve the unemployment rates in these areas.
The bill required that the MSRs dictate the standards of development in a county, including the prohibition of constructing residential developments without appropriate water or sewer infrastructure. They also stipulated that the MSRs must include a platting requirement for all new residential developments, as well as regulations and standards for road construction, county right-of-way, and drainage. It also allowed for the enforcement of the MSRs, decreeing that a violation is a Class B misdemeanor punishable by a fine of $1,000. Counties could also issue legal injunctions against continued violators and the OAG would then bring suit to enforce the MSRs. It also amended the Real Estate License Act to empower the Texas Real Estate Commission to suspend or revoke the license of real estate agents who violate the minimum standards of residential water and sewer services in an unincorporated area. Table 4.1 lists all legislation specifically linked to colonias that passed in the 1980s.

<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Year</th>
<th>Author</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>SB 585</td>
<td>1987</td>
<td>Santiesteban</td>
<td>Allowed the TWDB to fund colonias water and wastewater programs</td>
</tr>
<tr>
<td>SB 2</td>
<td>1989</td>
<td>Santiesteban</td>
<td>Created EDAP; Charged the creation of the MSRs to various state agencies; Proposed bond issue to pay for EDAP</td>
</tr>
</tbody>
</table>

Table 4.1 Colonias legislation in the 1980s

Source: SOS 2008

Further funding came in the first legislative session of the 1990s, when two colonias bills were passed. The first, SB 1189, required that EDAP counties regulate water supplies and sewer services locally. Counties had never before been expected to monitor water quality or usage within unincorporated areas. That responsibility belonged
to the water provider, whether it was a public or a private operator. This bill also increased the size of lots requiring plat approval under the MSRs. Now, developments with lots of five acres or less had to be platted, when previously, only developments of lots of one acre or less required platting. The second bill, SB 818, created the Colonia Plumbing Loan Program, another funding opportunity to be administered by the TWDB. The program was meant to provide low-interest loans directly to residents for individual water improvements, such as indoor plumbing, water wells, and septic tanks (SOS 2009).

The 73rd Regular Session in 1993 saw two more bills regarding colonias. HB 2079 granted the Texas Attorney General the authority to use health and safety code violations in response to nuisance on-site sewage facilities. This bill also empowered the OAG to request injunctions, file lawsuits, and collect damages against those who violated the MSRs. HB 997 increased the amount of funding granted to EDAP, allowing the program to continue disbursing funds to eligible candidates.

**CHANGING TACTICS: CONFRONTING COLONIAS DEVELOPMENT FINANCIALLY**

These pieces of legislation did not end colonia development, nor led to widespread changes in access to infrastructure. In 1995, the 75th Texas Legislature passed two major bills aimed at stemming colonias development; the first addressed how land in the colonias was purchased and the second continued to regulate land development at the county level. The first, SB 336, was created in response to the abuses of CfD agreements by colonias developers, as land purchasers had few protections under the law. It was introduced by authors Senators Peggy Rosson of El Paso and Truan and co-author
Senator Eddie Lucio of Brownsville, all of whom represent border counties. The bill sought to restrict the use of contract for deed agreements in certain counties, depending on the availability of utility services and flood plain status. Before this law was passed, land purchasers were afforded little legal recourse or protection against repossession in case of default.

SB 336 amended the Texas Property Code, this aiming to prevent property forfeitures by setting timelines for the process of forfeitures based on how much of the purchase price had been paid to date. A greater sum of the capital repaid meant more time granted to the purchaser to rectify their default. Sellers were also required to send written notice via certified mail regarding the default and subsequent decision to forfeit the property; the notice was required to state what actions the seller was taking against the buyer and what actions the buyer could take to stop forfeiture. The property purchaser was also granted the right to stop a contract default by complying with the terms of the contract in a timely manner. After 48 months of concurrent payments or after forty percent of the purchase price is paid, the CfD converted to a conventional mortgage agreement, if the purchaser so desired. SB 336 also retroactively required that all agreements were written in both Spanish and English, if negotiations were primarily conducted in Spanish. Additionally, the seller was required to disclose the status of infrastructure construction in the residential development; if infrastructure was not yet present due to the lack of plat approval, the seller must disclose this. The seller was also required to complete a checklist with the buyer, certifying that the property was within a platted subdivision with paved roads, had potable water, sewer, and electric service, and was not within a flood-prone area. They were required to certify that no other had a claim
or financial interest to the property besides the seller, to ensure that lots were not being
double or triple sold. Further, sellers were required to record the CfD agreement with the
county clerk and provide an annual accounting statement to the purchaser that detailed
the amount left to be paid on the contract. When a buyer had paid off the entire amount of
the contract, the seller was required to transfer the title to the buyer within 30 days.
However, these provisions were only applicable in counties whose average per capita
income was at least 25% below the state average for the three most recent consecutive
years and were within 200 miles of the international border, but it was expanded to the
whole state in 2001 with the passage of SB 198 (OAG 2008). Additionally, residential
lots were considered to be one acre or less, excluding lots of larger size.

HB 1001 was introduced by author Representative Henry Cuellar of Laredo to the
Texas House of Representatives. The bill was drafted in response to the continued
proliferation of colonias along the international border with Mexico. Health concerns
were cited as dire, as well as the negative economic impact colonias had on counties. The
stated purpose of the bill was to “remedy the public health and safety crisis caused by the
proliferation of residential subdivisions in economically distressed areas lacking
minimally acceptable potable water and waste water or sewer services” (HB 1001 1995,
2). This bill revised the laws concerning subdivision creation first created by SB 2 in
1989. It continues the practice of spatializing colonias even more explicitly as the
provisions in Subchapter B, in which the MSRs are recorded, apply again to “affected
counties.” These counties that are eligible for assistance under EDAP are located within
50 miles of the Texas-Mexico Border and with average median income 25% below the
state average and unemployment rates over 25% of the state average, for the three
proceeding consecutive years. This amounted to amounting to 17 counties from 1995-1998, 19 counties from 1998-1999 and all 28 counties on the border since 1999 (OAG 2008). Counties not meeting these criteria were not required to follow the provisions of the MSRs or Subchapter B.

HB 1001 took a sweeping approach to ending colonias development by further expanding the MSRs. It strengthened platting requirements through provisions such as the restriction of the subdividing lots without plat approval. Advertising of developments were also required to meet a certain standard of disclosure. Most importantly, this bill forbade the sale of lots that lacked water and sewer connections, even if the subdivision was platted. While SB 2 required affected counties to adopt the MSRs before receiving assistance from EDAP, HB 1001 required all affected counties to adopt the MSRs regardless of their intention to apply for EDAP funds. While SB 2 created the MSRs, HB 1001 created methods to enforce them. This bill clearly structures the process of subdivision creation in Subchapter B. First, a developer must file a plat for the planned development with the county clerk, who forwards the plans to the county commissioners court. The court reviews the plat to determine if adequate water, wastewater, utilities, roads, and flood management are present in the community. If not, the plat must state when these services will be available; otherwise, the court will require that a developer procure a bond equal to the amount of money it will take to complete the construction of required services. This is known informally as “build it or bond it” (Hanchett 2009).

Once approval is gained from the county, a developer is free to sell lots in the subdivision. Utility providers are prohibited from connecting property owners to services
before the plat is approved by the county. Both SB 336 and HB 1001 ensure that potential property owners are aware of the risk that purchasing a lot in an unapproved subdivision poses, as services may be delayed until the subdivision’s plat is approved. Subchapter B also provides affected counties the authority to cancel or revoke plats granted before September 1, 1989, when the MSRs were first made into law. This provision is applicable in only subdivisions that lack adequate, state-minimum access to water and wastewater services. If a plat is revoked, the developer can no longer sell lots in the subdivision until a new plat is approved by the county and water and wastewater services are improved. Variances on the MSRs are allowed under Subchapter B, but only for a period of up to four years of delay of utility service. Commissioners are also granted the authority to waive certain requirements of the MSRs if they are impractical for the subdivision. However, utilities are not included in this exception.

While affected counties were granted greater authority over subdivision development in this bill, the state also expanded its authority to prosecute violators of the MSRs. Further civil penalties for poor subdivision development were created. Originated in SB 2, the penalties for violation of the MSRs are increased to fees of $500 to $1,000 per day per violation. Residential subdividers are prohibited from allowing any portion of their development to become a “public health nuisance;” those that do are liable for a penalty of $10,000 to $15,000 per lot. Criminal penalties were also introduced with this bill, if the developer knowingly does not file a plat or violates provisions of the plat. This constitutes a Class A misdemeanor. Most cases of Subchapter B violations that are pursued by the OAG are negotiated to a settlement, rather than bringing the case to trial.
Perhaps this is because most violators, especially within Hidalgo County, are now aware of the regulations concerning unincorporated residential development (Hanchett, 2009).

Modifications to HB 1001 were made in 1999, with the passage of SB 1421. This bill decreased the number of lots necessitating a primarily residential development to seek a plat from the county to two or more lots. SB 1001 in 1995 required developments of four or more to request a plat from the county. Again, the 28 border counties were required to adopt these changes while counties in the rest of the state did not. This bill also formally charged the codification and adoption of revisions to the MSRs to the TWDB, which hosted public hearings regarding the matter. The revised MSRs were formally adopted on February 10, 2000 (SoS, 2008). Table 4.2 summarizes all colonias legislation passed during the 1990s.

<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Year</th>
<th>Author</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>SB 818</td>
<td>1991</td>
<td>Barrientos</td>
<td>Created the Colonia Plumbing Loan Program</td>
</tr>
<tr>
<td>SB 1189</td>
<td>1991</td>
<td>Montford</td>
<td>Required EDAP counties to regulate water and sewer services</td>
</tr>
<tr>
<td>HB 997</td>
<td>1993</td>
<td>Oliveira</td>
<td>Increased funding in the water assistance fund and water development fund for EDAP counties</td>
</tr>
<tr>
<td>SB 2079</td>
<td>1993</td>
<td>Cuellar</td>
<td>Allowed counties to request OAG assistance to enforce health and safety laws; Permitted the OAG to request injunctions and sue violators of a county’s subdivision rules</td>
</tr>
<tr>
<td>HB 1001</td>
<td>1995</td>
<td>Cuellar</td>
<td>Allowed EDAP counties to control residential development by requiring plats and service provision; Defined civil and criminal penalties for violators</td>
</tr>
<tr>
<td>SB 336</td>
<td>1995</td>
<td>Rosson and Truan</td>
<td>Restricted the terms of contract for deed lending in EDAP counties</td>
</tr>
<tr>
<td>SB 450</td>
<td>1995</td>
<td>Rosson</td>
<td>Granted the City of El Paso the authority to plan regional water and wastewater services</td>
</tr>
<tr>
<td>SB 542</td>
<td>1995</td>
<td>Rosson</td>
<td>Stipulated regulations for a county to cancel platted subdivisions that were not yet developed</td>
</tr>
</tbody>
</table>
but may lack water or wastewater services

<table>
<thead>
<tr>
<th>Bill</th>
<th>Year</th>
<th>Sponsor</th>
<th>Action/Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>SB 1509</td>
<td>1995</td>
<td>Zaffirini, Truan, Moncreif, Lucio, and Barrientos</td>
<td>Established the colonias self-help center program</td>
</tr>
<tr>
<td>HB 540</td>
<td>1997</td>
<td>Serna</td>
<td>Funded the TDHCA to provide educational programs in the colonias</td>
</tr>
<tr>
<td>HB 2252</td>
<td>1997</td>
<td>Oliveira</td>
<td>Funded TAMU CHUD to provide social services programs in the colonias</td>
</tr>
<tr>
<td>HB 1982</td>
<td>1999</td>
<td>Hill, Cuellar, Olivo, Oliveira, Ehrhardt</td>
<td>Permitted a continuance of five years to colonias annexed by a city, allowing them to still participate in state-funded colonias initiatives</td>
</tr>
<tr>
<td>SB 89</td>
<td>1999</td>
<td>Madla</td>
<td>Required cities to plan annexation of property in advance and provide services to new areas in a timely manner</td>
</tr>
<tr>
<td>SB 1287</td>
<td>1999</td>
<td>Lucio</td>
<td>Permitted the TDHCA, through the colonias self-help centers, to provide home loans to residents building or improving their homes</td>
</tr>
<tr>
<td>SB 1421</td>
<td>1999</td>
<td>Lucio</td>
<td>Created further provisions to regulate land development in EDAP counties; Established penalties for violations</td>
</tr>
</tbody>
</table>

Table 4.2 Colonias legislation in the 1990s

Source: OAG 2009 and SOS 2008

**TIDYING UP: SMALLER COLONIAS LEGISLATION TO IMPROVE QUALITY OF LIFE**

After the large legislative push of the 1990s, colonias legislation slowed down in the 2000s. Bills that were introduced largely dealt with continued funding of already established programs. Other bills in 2001 included some hardship exceptions for colonias residents to connect to water services (HB 3406), expansion of counties’ power to regulate subdivisions outside city limits (SB 873), and funds for road infrastructure
development to colonias (SJR 37) (ibid). Another bill, SB 827, introduced in 2005, required that the SOS create and maintain a database of all colonias within a 62 mile radius of the border and evaluate them according to a classification system (SOS 2008).

However, some bills dealt with the smaller, yet significant, problems of living in unincorporated areas. While not specifically regarding the colonias, HB 573 in 2007 requires that counties within 150 miles of the border provide for street lights within unincorporated communities upon resident request. This bill was created through the collaboration of a local legislator and colonias residents, who desired better lit streets to reduce crime in their neighborhoods. So, they lobbied their legislator, who then drafted the bill (Hanchetta 2009). One of the latest pieces of legislation concerning the colonias, passed in the last legislative session in 2009, was drafted in response to the flooding experienced by colonias residents during Hurricane Dolly in July 2008. Because many colonias are in low-lying areas, the deluge of water from the hurricane’s rain bands remained present for weeks or months following the disaster. Hidalgo County officials refused to enter some colonias to pump out the water because they had to pass through private property to reach the flooded areas, which they claimed they lacked the authority to do. Activists argued that the county had the authority to travel through private property during fires and other emergencies. Since the hurricane was a natural disaster, they should be able to access the subdivisions under this authorization; however, the county’s attorneys took a strict interpretation of the law and declined to permit county employees from pumping water out of affected communities, instead allowing the water to drain naturally (and slowly). HB 1579 explicitly allows county employees to traverse private property to reach flooded areas for the purpose of pumping water out of unincorporated
Table 4.3 summarizes the colonias legislation of the 2000s.

<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Year</th>
<th>Author</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>HB 1053</td>
<td>2001</td>
<td>Coleman</td>
<td>Permitted counties and municipalities in areas of poverty to create commercial and industrial zones to encourage economic development</td>
</tr>
<tr>
<td>SB 1</td>
<td>2001</td>
<td>Ellis and Rodney</td>
<td>Created the Texas Bootstrap Loan Program to purchase or refinance real estate; Funded the Colonia Model Subdivision Revolving Loan Program and Contract for Deed Conversion Program</td>
</tr>
<tr>
<td>SB 198</td>
<td>2001</td>
<td>Moncrief</td>
<td>Requires certain information to be disclosed in CfD agreements in EDAP counties; Requires CfD agreements conducted in a language other than English to be recorded in that same language</td>
</tr>
<tr>
<td>SB 312</td>
<td>2001</td>
<td>Zaffirini</td>
<td>Established the Colonia Advisory Committee and Pilot Program for Water and Wastewater Loans for Rural Communities; Funded the colonia self-help program</td>
</tr>
<tr>
<td>SB 322</td>
<td>2001</td>
<td>Lucio</td>
<td>Established the Colonia Model Subdivision Revolving Loan Fund, the Colonia Model Subdivision Program, and more self-help centers; Required the colonias initiative coordinator work cooperatively with state and local agencies on colonias projects</td>
</tr>
<tr>
<td>SB 649</td>
<td>2001</td>
<td>Truan</td>
<td>Required training for awardees of EDAP funds</td>
</tr>
<tr>
<td>SB 1296</td>
<td>2001</td>
<td>Lucio</td>
<td>Funded colonias roads projects through a bond issue</td>
</tr>
<tr>
<td>SB 1421</td>
<td>2001</td>
<td>Lucio</td>
<td>Created further provisions for regulating subdivision development in EDAP counties; Established penalties for violations</td>
</tr>
<tr>
<td>HB 1875</td>
<td>2003</td>
<td>Wise</td>
<td>Expanded the use of funds in the rural water assistance fund</td>
</tr>
<tr>
<td>HB 3420</td>
<td>2003</td>
<td>Garza and Guillen</td>
<td>Set aside funds from general obligation bonds to pay for roads to colonias in rural border counties</td>
</tr>
<tr>
<td>HB 467</td>
<td>2005</td>
<td>Bailey, Howard,</td>
<td>Redefines the requirements for eligibility for EDAP</td>
</tr>
<tr>
<td></td>
<td></td>
<td>and Olivio</td>
<td></td>
</tr>
<tr>
<td>HB 775</td>
<td>2005</td>
<td>Gonzalez</td>
<td>Allocated funds to provide street lights in</td>
</tr>
</tbody>
</table>
Table 4.3: Colonias legislation in the 2000s

<table>
<thead>
<tr>
<th>Bill</th>
<th>Year</th>
<th>Sponsor</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>HB 1823</td>
<td>2005</td>
<td>Dutton</td>
<td>Made CfD rights and benefits the same as any other deed agreement; Allowed CfD buyers to convert the CfD into a warranty deed without any changes to the original financial agreement</td>
</tr>
<tr>
<td>HB 1924</td>
<td>2005</td>
<td>Chavez</td>
<td>Required the State Medical Board of Examiners to allow health organizations in border counties with a population of over 650,000 the ability to employ physicians</td>
</tr>
<tr>
<td>SB 425</td>
<td>2005</td>
<td>Hinojosa</td>
<td>Increased the eligibility threshold for counties to qualify for the EDAP program, ability to regulate residential development, and eligibility to use the SOS Colonias Ombudsmen program to include counties within 100 miles of an international border with a city of over 250,000</td>
</tr>
<tr>
<td>SB 827</td>
<td>2005</td>
<td>Zaffirini</td>
<td>Charged the SOS office to create and maintain a statewide classification database of colonias in counties within 62 miles of the international border</td>
</tr>
<tr>
<td>SB 1202</td>
<td>2005</td>
<td>Lucio</td>
<td>Increased the extent of coordination required between agencies providing services to the colonias</td>
</tr>
<tr>
<td>SB 99</td>
<td>2007</td>
<td>Zaffirini</td>
<td>Monitors the progress of colonias programs by the SOS colonias ombudsmen</td>
</tr>
<tr>
<td>HB 1579</td>
<td>2009</td>
<td>Gonzales</td>
<td>Grants counties with colonias to cross private property in order to remove flood waters</td>
</tr>
<tr>
<td>HB 2275</td>
<td>2009</td>
<td>Raymond</td>
<td>Created a task force on uniform county subdivision regulation for counties on the international border and designated as EDAP</td>
</tr>
<tr>
<td>SB 1371</td>
<td>2009</td>
<td>Lucio</td>
<td>Expands the usage of funds in the colonias self-help program</td>
</tr>
<tr>
<td>SB 2253</td>
<td>2009</td>
<td>Zaffirini</td>
<td>Created further platting regulations for counties on the international border to use to control residential development</td>
</tr>
</tbody>
</table>

4.2 DEFINING A COLONIA

As previously discussed in the introduction, the term *colonia* has a wide variation in meaning. Some define a *colonia* by what infrastructure it lacks, while others include
social conditions such as poverty. Many definitions of a *colonia* include a geographic caveat, which is the proximity to the U.S.-Mexico Border. An idiosyncrasy of the term *colonia* in the United States is that there is no one operational definition for use by the governmental entities that oversee *colonias* policy. While the basic meaning of the word remains the same from agency to agency, there is enough variation to be of note, especially in how each agency territorializes a *colonia* (Table 4.4).

<table>
<thead>
<tr>
<th>Agency</th>
<th>Operational Definition of a <em>Colonia</em></th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S. Department of Housing and Urban</td>
<td>A <em>colonia</em> is any identifiable community in the U.S.-Mexico border regions of Arizona, California, New Mexico, and Texas that is determined to be a <em>colonia</em> on the basis of objective criteria, including lack of a potable water supply, inadequate sewage systems, and a shortage of decent, safe, and sanitary housing. The border region means the area within 150 miles of the U.S.-Mexico border excluding Metropolitan Statistical Areas with populations exceeding one million.</td>
</tr>
<tr>
<td>Development (HUD)</td>
<td></td>
</tr>
<tr>
<td>Office of the Governor</td>
<td>An unincorporated border community that often lack adequate water and sewer systems, paved roads, and safe, sanitary housing.</td>
</tr>
<tr>
<td>Office of the Secretary of State (SOS)</td>
<td>A Spanish term for neighborhood or community. In Texas <em>colonia</em> refers to an unincorporated settlement along the Texas-Mexico border that may lack basic water and sewer systems, electricity, paved roads, and safe and sanitary housing. Most <em>colonias</em> are outside city limits or in isolated areas of the county. Many have a very limited property tax base and are either isolated in a rural area or outside city limits.</td>
</tr>
<tr>
<td>Texas Department of State Health Services</td>
<td><em>Colonias</em> are largely rural and unincorporated communities along the U.S.-Mexico border, generally characterized by lack of physical infrastructure such as sewers, running water, storm drainage and paved streets. They are highly concentrated poverty pockets that are physically and legally isolated from neighboring cities. <em>Colonia</em> residents are isolated by geography, by a limited understanding of and access to the health and human services programs available to them, and by their limited ability to read and write English.</td>
</tr>
<tr>
<td>(TDSHS)</td>
<td></td>
</tr>
<tr>
<td>Texas Department of</td>
<td>The term <em>colonia</em> is a Spanish term for neighborhood or community.</td>
</tr>
<tr>
<td>State Health Services</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Housing and Community Affairs (TDHCA)

A *colonia* is further defined as an unincorporated community located within 150 miles of the Texas-Mexico border, or a city or town within said 150 mile region with a population of less than 10,000 according to the latest U.S. Census, that has a majority population composed of individuals and families of low and very low income, who lack safe, sanitary and sound housing, together with basic services such as potable water, adequate sewage systems, drainage, streets and utilities.

Texas Water Development Board (TWDB)

*Colonias* are defined as primarily residential subdivisions in which water or wastewater services are inadequate to meet the minimal needs of residential users; financial resources are inadequate to satisfy minimal water and wastewater service needs; and there are five or more housing units. An economically distressed area [or *colonia*] is one in which water supply or wastewater systems do not meet minimal state standards, financial resources are inadequate to provide services to meet those needs, and 80 percent of dwellings in the area were occupied on June 1, 1989. Affected counties are counties adjacent to the Texas-Mexico border…

Table 4.4: *Colonias*, as defined by Texas governmental agencies

Sources: HUD 2010, OAG 2009, TDSHS

One of the reasons why so many definitions developed is because the problems *colonias* face reach across agency boundaries, such as departments concerned with housing, health, or water. In the early days of *colonias* legislation, state agencies’ efforts were uncoordinated, leading to multiple operational definitions of what constituted a *colonia*. Each agency created a definition that satisfied its mission and matched agency funding priorities. Funding is the reason for the existence of these definitions; without an “issue” to solve and funding to solve it with, these agencies would have no need to define what constitutes a *colonia*. With the passage of SB 1421 in the 1999 that included a provision to create a *colonias* ombudsmen program to oversee all colonias projects funded by the state, interagency cooperation improved. However, the differential definitions were already institutionalized and specialized to specific agencies (Parcher
and Humberson 2009, SoS 2009). To be considered a colonia under SB 2 and HB 1001, the community in question must be located within a target county within 50 miles of the Texas-Mexico Border and lack certain types of physical infrastructure. They also must not meet the county’s current standards of development, which is judged through the existence of a plat. Once infrastructure is present, these areas will no longer meet various definitions of a colonia, as it must meet all of the definition’s stipulations to be considered for funding. Developments that meet the first two requirements and lack county approval are also considered colonias, as are older developments that were platted but do not meet the current standards of the MSRs. Conversely, developments that lack physical infrastructure but are not located in target counties are not considered colonias.

The main issue with this approach is that it dissected the problems of the colonias and doled them out to the appropriate agency. While this is a politically expedient and logistically minded approach, it also runs the risk of not treating colonias as the structural and systematic problem that they are. Instead, by breaking down issues into components and addressing them singly, legislators bet that colonias are simply the sum of their problems. Most definitions address the lack of infrastructure present in each community (notable exceptions are the TDHCA and TDSHS, which include social conditions in their definitions). The state manages the problems found in colonias in a material fashion, in that these definitions imply that colonias will be eradicated once infrastructure problems are solved.

Thus, through these definitions, the state is attempting to achieve distributive justice for colonias residents. “Every family in Texas must have access to running water, an [sic] adequate wastewater system and electricity,” said one state legislator (Hanchett, 19
Residents waged a battle for recognition of the problems they faced by living in colonias. It was through their efforts that the state realized that county development had to be regulated. However, despite residents framing their activism as a justice struggle rooted in recognition of the colonias, the state initially delivered legislation in the form of distributive justice. Again, the more equitable distribution of services was necessary, but the state’s singular focus on this particular issue was problematic in that it did not fully address the issues that allowed colonias to develop, which was the lack of consumer protections for those who purchased land, not just the lack of county regulatory power. In SB 336, the state equalized the relationship between borrowers and lenders in regulating the common lending agreement in colonias, the CfD. In recognizing colonias residents’ vulnerability to predatory lenders due to their social status or English proficiency, the state enacted a policy that achieved justice for them. A cycle of legislation was needed to achieve this, which I discuss in the following section.

NECESSITY OF THE PROGRESSION OF COLONIAS POLICY

Ending development of additional colonias required several stages of legislation due to several reasons. First, while initial legislation confronted colonias development and persistence in a direct way by targeting development practices and by providing monies for infrastructure, SB 2 contained several large loopholes for both developers and counties to avoid the law’s stipulations. SB 2 was drafted as a response to the legislature’s recognition of colonias as an item of concern in the late 1980s, but despite empowering border counties to enforce new regulations regarding residential subdivision and development, colonias were still constructed by developers. Partially, this was
because the MSRs only applied to lots that were one acre or less. Developers were thus able to create subdivisions with lots that were greater than one acre, circumventing the MSRs. Enlarging lot sizes could solve some of the problems found in subdivisions with small lots, such as septic drain fields overflowing and contaminating water wells or the water table. However, new developments could still lack basic infrastructure, as larger lot sizes in a community made servicing the new development costly for utility companies as they had to pay the same amount of money to extend services but with a return of fewer customers. This made the development even less likely to receive services than other colonias with smaller lot sizes.

Conditions in existing colonias failed to improve on a wide scale due to the limitations in EDAP funding. Limited funds restricted the amount and the scope of proposed water and sewer projects. The $250 million in the initial fund could never pay for all colonias in the state to gain access to water and sewer infrastructure, as it was estimated that to provide water and waste water services to all colonias, it would cost $2.4 billion (Texas Natural Resource Conservation Commission 1997). Continued financial support of EDAP was necessary. Additionally, in order to procure EDAP funds, counties first had to adopt the MSRs. Some counties were not as proactive in adopting and enforcing these rules. “Some counties were really aggressive, like Webb County, El Paso County. They were very aggressive in how they handled the issues of obtaining permits for services. They are on top of it. There are other counties that can’t seem to get a handle on it,” stated one state government employee (Hanchett 2009). So, with some counties forgoing the MSRs and some developers circumventing the spirit of the law, more action on behalf of the legislature was needed.
While SB 2 had authorized civil penalties against future colonias developers, it was not enough to deter continued colonias construction. So the legislature tried again, this time taking a two-pronged approach. HB 1001 can be seen as an extension of SB 2, as it took the ideas set forth in that bill and made them more enforceable. It is, essentially, SB 2 but “bigger and better.” The two bills are essentially framed in the same fashion, empowering counties to control unincorporated development through the MSRs. However, what differs is their enforceability. This bill made adoption of the MSRs in border counties mandatory, regardless if the county decided to pursue EDAP funds or not. Counties that did not adopt the MSRs when required faced repercussions from the state, such as losing funding for programs like road construction. The civil penalties for MSRs violations decreed in SB 2 were increased and criminal penalties were added. This increased the OAG’s ability to consistently enforce the state’s law across border counties, since HB 1001 had more regulatory force and their jurisdictional area was more uniform.

Due to HB 1001, any county within 50 miles of the order was now within the OAG’s enforcement area. In 2001, a single county within 100 miles was also brought into this zone (Hanchette 2009). Map 4.1 depicts the spatial extent of these boundaries. Counties that are considered border counties are shown in dark green, which is the definition that EDAP uses to make eligibility decisions, while counties in medium green are within 50 miles of the border are considered to contain colonias under the MSRs. These rules also apply to the border counties. Yellow green counties are at least within 62 miles of the border, which the U.S. Environmental Protection Agency uses to determine counties with possible colonias. Finally, light green counties have some part of their territory within 150 miles of the border, which allows them to be eligible for colonias.
related funding from the SoS, TDHCA, Texas Office of Rural and Community Affairs, HUD, and the U.S. Department of Agriculture Rural Development Program. The rest of the state not considered in proximity of the border and thus not containing colonias-like developments are depicted in tan.

The state also regulated colonias land by controlling the lost sizes through the MSRs. These rules were amended in HB 1001 by increasing lot size to those of five or fewer acres. State legislators had observed developers in target counties circumventing the MSRs using this tactic, so they expanded the rules. This was later amended to ten acres or fewer (Hanchett, 2009). HB 1001 also enhanced county authority of colonias development by preventing the sale of any lot in a colonia that lacked access to water or waste water infrastructure, even if the colonia’s plat had been approved by the county. This removed a clause in SB 2 that allowed the continued sale of lots in platted communities, even if they lacked adequate services. This limited the further growth of colonias by restricting the sale of unsuitable lots, which was beneficial to the counties trying to stem growth of already established colonias. However, this again restricted the possibility of utility companies from extending services to the colonias due to a low return on investment if the area was lightly populated. In this sense, these laws helped to perpetuate colonias developments by ensuring that it would be difficult for the land owners to gain access to water or waste water infrastructure, since the county would not give permits for wells or septic systems for lots that did not meet the standards of the MSRs.

SB 336, rather than confronting colonias development at the scale of the county like SB 2 and HB 1001 had, shifted legislative focus to the scale of the individual. The
terms and conditions now required for those involved in CfD negotiations empowered the purchaser and increased their agency by enabling them to request and receive truthful information about the lot they wanted to purchase. This bill armed purchasers with adequate information to make an informed decision about their property purchase. It held developers accountable for what they were selling by forcing disclosure. It equalized the relationship between loaner and purchaser, while keeping what made CfD agreements so attractive to people in the first place – flexibility in financing low down payments and monthly payments. As a social service director noted “It’s not the Contract for Deed itself, it’s the individual” (HanchettC 2009). Residents who wanted to purchase lots in developments in counties targeted for colonias development could now decide if the lot in question met their and the state’s standards of development, which included adequate water, waste water, and utility service, or the timeline for when these services would be provided to the community. Additionally, the developer was required to disclose if the lot was located in a flood plain. Previously, developers did not have to release any of the aforementioned information. Some developers lied about availability of services, leading purchasers to believe that services would be available when they were not.

Finally, while SB 336 does not share a distinct legislative lineage like HB 1001, it shares a commonality with that bill in that it requires all documents from a property purchase to be provided in Spanish and English, if the negotiations were recorded in Spanish. Previously, non-English speakers could not confirm that they signed in English contained the same conditions they had negotiated verbally in Spanish.
Map 4.1 Spatial extent of colonias definitions
This provision was intended to protect land purchasers and to ensure that they were duly informed about the stipulations of the purchase. However, it is curious that the state restricted this law to include only two languages, when it could have been easily expanded to protect all non-English speakers.

Taken together, these three pieces of legislation have prevented the further growth of colonias in targeted areas of the state. In target counties, residential developers must acquire plats for their subdivisions, placing the burden of constructing adequate water, waste water, utility, and road infrastructure for the subdivision upon the developer. Developers who attempt to create colonias in target counties are prosecuted by the OAG, even ten years after HB 1001 was passed. Despite this, some still try to create colonias in target counties, especially Cameron, Hidalgo, and Nueces (OAG 2009, OAG 2006, OAG 2001). These individuals cited ignorance of the law or unfair prosecution by the state, despite a widespread campaign by counties to inform developers of these new provisions (HanchettG 2009).

However, while the “build it or bond it” clause in HB 1001 has, again, placed the onus of responsibility upon the developer for funding utility construction, it also allows subdivisions to exist for a time without these services. Are subdivisions that lack services until they are built with bonded monies considered colonias? According to the state, they are not, as a bond will eventually pay for services to be extended eventually. Until then, those that purchase lots in the development may be unable to build upon their land as they cannot receive a building permit without these services as required by the MSRs. Again, lot purchasers are left to the mercy of developers, although they do have legal recourse to sue for infrastructure after the time of the bond has expired.
THE END OF COLONIAS?

Colonias as defined by the state still exist, as there are still some that lack uniform access to water or waste water infrastructure as evidenced by the database that the SoS maintains on colonias (2006). However, while a helpful tool, the colonias databases used by state agencies may not be updated frequently to reflect improvements in these communities (HanchettG 2009). This creates the perception that there are more colonias than actually exist according to state definitions.

Colonias such as those seen in the 1970s or 1980s are hard to find now, due to two reasons. First, in the colonias style of development, capacity for great improvement is available. The self-help housing construction found in many colonias is an example of this. Many residents are able to improve upon their house over the years as their income increases. This increase in income also can be seen in improvements to wells or septic tanks (Ward 1999). Some residents prefer this to connecting to city water services that may be extended to their colonia, as a private well or septic tank requires no connection fee or monthly fee (HanchettA 2009). As in the case of self-help housing, some non-profit organizations in the 1990s helped residents connect to water services through methods similar to the self-help model. Residents fundraised for materials such as pipes and then provided the manual labor to connect their community to the nearest consenting water service provider. This illustrates something that SB 2 and HB 1001 lacked – the acknowledgement of colonias resident agency. In the dialogue concerning colonias, testimony was taken from residents concerning the conditions in which they lived (SB 2 1989, SB 336 1995, HB 1001 1995). But they were left out of the solution. Colonias existed partially because of demand on behalf of the lot purchaser; without them,
Colonias would have been abandoned by the developers themselves. The state, by removing colonias residents from SB 2 and HB 1001, flattened the dimensions of the colonias to a contested piece of land between counties and developers.

Second, EDAP has provided many colonias with access to water or sewer infrastructure. Since the start of funding in 1989 to the end of 2008, EDAP has funded 28 projects in Hidalgo County, providing 69,891 residents in 265 colonias with access to these services at a cost of $115,906,350. This approach managed to provide many of the larger colonias, such as Lull and Las Milpas in Hidalgo County, with money for water services, as well as groupings of small colonias (TWDB 2008). The colonias that lack water or wastewater services today, as evidenced by a survey done by the colonias ombudsmen of the SoS, are the smaller colonias with fewer than 20 lots (SoS 2006). As previously stated, these lots are extremely expensive for utility companies to service and since they lack these services, no further lots can be sold in the development, thus likely ensuring that the colonia will remain without water indefinitely.

Additionally, the perceptions of the continued extent of colonias development differ wildly between legislators and those who work daily with colonias residents. In interviews with four directors of non-profit social service providers that spanned the majority of colonias in Hidalgo County, the directors stated that access to water or waste water infrastructure was no longer a major issue. They conceded that it could be an issue for one or two residents in a sporadic colonia, but the image of colonias as infrastructure deserts was inaccurate. The major problem, overwhelmingly, was that of the condition of housing stock. This perception differed from that of the two legislators interviewed, who still saw lack of water or waste water services as a large issue. One stated that “in spite of
great progress, this goal has not been met” (Hanchett, 2010). The differing experiences of these two groups shows the weakness behind depending heavily upon infrastructure as a defining factor in what constitutes a *colonia*. An expansion of the term is needed to include housing concerns.

The question that must be asked, then, is whether *colonias* will continue to persist, even after (or if) all gain access to basic infrastructure. The State of Texas would answer this question with a simple “no.” To eradicate current *colonias*, the state assists them in gaining access to basic infrastructure. Once a subdivision has adequate utilities and is approved by the county, a *colonia* ceases to exist in the eyes of Texas. Another way for a *colonia* to lose that label is to be annexed by a city. Once a subdivision is no longer an unincorporated community but part of the city, the county loses its authority over that space. It may still lack utilities until the city can expand them, but as it is now part of an incorporated political entity, it is no longer a *colonia*. I believe that a *colonia* remains one long after it loses that designation from the state, as *colonias* have been socially constructed as poor places where people of Mexican descent live. The social conditions that existed in the *colonia* continue to persist, even after access to infrastructure is gained. Residents may still live in poverty or lack employment. They still experience isolation in other ways that are not determined by the presence or absence of infrastructure. In this sense, *colonias* will continue to persist for a long time until the root cause of poverty is addressed. Then, the social construction of *colonias* may move beyond present definitions. Additionally, the term *colonias* does not hold the same meaning for some as it does for the state. When I spoke with five *colonias* residents during my fieldwork phase, none of them considered the term *colonia* to be pejorative (Hanchett, 2009). This
is probably due to the fact that they have not been exposed to the state’s discourse concerning the shortcomings of colonias. To them, it simply means “neighborhood.” The discourse has come full circle. I now turn my attention to the spatial definition of colonias and the subsequent frameworks that were used to restrict colonias to the Texas-Mexico Border.

4.3 THE MAKING OF THREE COLONIAS BILLS

Developments like colonias exist in other parts of Texas. The state admits as such in SB 336, stating that “Although it is generally assumed that colonias exist only along the U.S.–Mexico border, there are in fact, similarly substandard subdivisions in virtually every area of Texas. Nevertheless, the greatest concentration of colonias is along the Texas-Mexico border, particularly in the lower Rio Grande Valley and El Paso County” (SB 336 Analysis 1995, 1). Other state representatives admit this as well, stating that “all over the state of Texas there are pockets. Whether or not they are trailer parks without water or sewer, I think that there are weird little pockets [of violated subdivisions] all over the state” (HanchettG 2009). Another representative stated that “The conditions in colonias exist throughout the state. Legislators’ perceptions of what a colonia is, however, vary widely. One might believe a colonia is a subdivision with substandard housing and without water or sewer while another senator might equate a mobile home park with a colonia…” (HanchettA 2010).

The state attempts to justify the restricting of colonias to the border regions due to the severity of conditions experienced in border colonias (ibid). However, in the counties surrounding Dallas-Fort Worth, Houston, and San Antonio, unincorporated communities
lacking uniform access to infrastructure can be found. Some of these communities are historical settlements that simply never had the means to upgrade to these services when made available in the modern era (Rice 2001). Others developed in recent decades, due to the lack of development regulatory power granted to counties before the 1990s (Feldman and Hanson 2007, Gott 2001, Berger 2001, Croteau 2001, Mason 1999, Barta 2008). These communities, too, lacked paved roads, water or waste water services, or adequate fire protection. Yet, the lack of sufficient regulatory power was a debate restricted to the border counties. This was due to the way discourse concerning development was structured in the state where colonias were held up as examples of bad development. They were certainly the most prominent. But they were not the only cases of it in the state.

The three colonias bills in question all had the same intention: to stop colonias growth and ameliorate living conditions within colonias. However, each bill addressed different aspects of the “colonia problem.” SB 2 established a funding source for water infrastructure projects, enabling eligible counties to extend water and sewer service to unconnected colonias. SB 336 severely curtailed the practice of CfD loans. This method allowed purchasers to place a small down payment on a lot and to pay off the lot over a period of time, but had fewer legal protections than other types of deeds. The final bill in question, HB 1001, further strengthened county authority over residential development and subdivision. Civil penalties for violations were expanded and formed the basis for the continued prosecution of illegal subdivision developers today. All of these bills relied upon a spatialization of colonias which restricted this type of development to the border region. Colonias were differentiated from other rural development in the state because of
the severity of conditions in border colonias. To be sure, conditions in border colonias were some of the most agglomerated examples of poverty in the U.S. Why then, did the Texas Legislature not want this style of development to spread to the rest of the state? In the next section, I will examine the three justifications that the state developed to restrict these policies to the border, but not to the rest of the non-border counties.

JUSTIFICATIONS FOR COLONIAS LEGISLATION

The state used multiple ways to frame its discourse surrounding colonias. In so doing, the state developed its case for a differential application of the extent of SB 2, SB 336, and HB 1001. The most prevalent justification for a legislative intervention was that of concerns for public health. Colonias were cast as unhygienic spaces that endangered the health of not only their residents, but those in surrounding communities and the state at large. Repeatedly, the state justified these bills using words like “healthful” and “hygienic;” for example, in SB 2, the legislature cited the:

lack of adequate water supply and sewer services creates serious and unacceptable health hazards for the residents of areas described in Subsection (a)…unless the problems of inadequate water and sewer services in economically distressed areas are solved in the near future, the solutions will become far more expensive, become far more dangerous to the public health and safety generally, and move further beyond the abilities of residents to solve without greater public assistance than current solutions will require (SB 2 1989, 2-3: emphasis added).

SB 336 continued in the same vein of discourse concerning health, stating that “the proliferation of colonias and substandard housing developments that lack adequate infrastructure creates serious and unacceptable health risks for the residents in these areas” (SB 336, 2). The largest colonias bill in terms of length, HB 1001, has a geometric
Economically distressed subdivisions commonly called “colonias” are found throughout the affected counties; In recent years, the number of people living in these economically distressed subdivisions in the affected counties has increased; Due to the implementation of the NAFTA [North American Free Trade Agreement], the General Agreement on Tariffs and Trade (GATT), other economic incentives, and the increasingly robust economic development along the Texas-Mexico border, the population in economically distressed subdivisions will continue to increase; The residents of the economically distressed subdivisions in the affected counties constitute an unusually mobile population, moving to all parts of the state and beyond the state to seek employment…The vast majority of housing units in these economically distressed subdivisions lack an adequate potable water supply and concomitant wastewater or sewer service; The lack of an adequate potable water supply and concomitant wastewater or sewer services creates a serious and unacceptable health hazard from third world illnesses for the residents of the economically distressed subdivisions in the affected counties; Many of the housing units in these economically distressed subdivisions are located in isolated rural segments in the affected counties where land is inexpensive, located in floodplains, and subject to flooding after rains, leading to the overflow of pit privies and thus to the spreading of bacteria on the land and into the water table; The location, proliferation, and conditions in these economically distressed subdivisions pose a clear and substantial threat to the environment of the border region, as well as to all of Texas; The lack of an adequate potable water supply and concomitant wastewater or sewer services erodes the economic stability of the affected counties, which is required for the mutual development of trade, transportation, and commerce, affecting not only the border region, but all regions of the state where the trade, transportation, and commerce reach; The health risk created along the border in the affected counties, the expected increase in population during the next decade, and the mobility of the residents of these economically distressed subdivisions, coupled with the fact that the trade, transportation, and commerce along the border is the most intense in the United States, create the very substantial risk of third world epidemics spreading to the residents of this state and beyond (HB 1001, 2-4: emphasis added).

By depicting colonias as unhealthy spaces, the state cast all colonias in the same fashion, regardless of the wide differential of conditions in colonias. When communities adopted the MSRs, it would transform an “unhealthy” style of development into “model subdivisions.” Did these conditions exist solely within the border region? No. As with the
media coverage of *colonias*, these communities were depicted as a threat to the public health at large. To be sure, many *colonias* residents suffered from diseases due to the lack of adequate water and sewer services, but the legislature’s heavy dependence upon this frame to justify policy rings false. It paints all *colonias* as unhealthy places that threaten the livelihoods of all in Texas, while in actuality, the greatest health risks were to residents themselves. Again, this discourse painted *colonias* as pits of disease, ones that could not possibly become healthy without state intervention. By hypothetically linking *colonias* to interstate commerce, the state places the needs of the economy over concerns for justice. It spatializes *colonias* even further, by tying *colonias* development to the national economy. The implications of this frame are also pervasive, due to the importance of hygiene in American culture; once depicted as unclean and diseased, *colonias* would have a difficult time of losing this descriptor, even post-interventions. So, while a *colonia* could gain access to infrastructure, it remains a place of disease.

However, communities lacking access to infrastructure existed and continue to exist in other regions of the state. Another frame was needed to restrict these policies to the border. Thus, *colonias* were also cast as spaces of poverty, occurring only in places of extreme deprivation or lack of opportunity. The qualifier for EDAP funding included the stipulation that counties either be proximate to the border or fulfill the “25-25 rule,” where unemployment is 25% above the state average and median income is 25% below the state average for the past three consecutive years. The coupling of this requirement with proximity to the border created the connection that border counties were poor, even though they may not have met the requirements for EDAP funding without the spatial dimension. EDAP has funded projects in 25 of the state’s 254 counties. 13 of these
counties are immediately proximate to the border, while 20 of them are within 200 miles of the border, leaving only 5 counties outside of any of the state’s spatial bounds for colonias (TWDB 2008). Again, this process of depicting colonias residents as uniformly poor ignored the fact that conditions were not continuously bad throughout all colonias. By depicting conditions as uniform, colonias were seen as monoliths of poverty, robbing residents of their agency to improve their living conditions, as many had done previously.

The final layer of colonias discourse emerged as depicting colonias as “Mexican.” Colonias were not just Mexican styles of development, but colonias were something and part of Mexico. This was reinforced not only in the spatialization of colonias to the Texas-Mexico Border but also in SB 336 and HB 1001’s requirements that all legal paperwork regarding the sale of property are provided to the purchaser in both English and Spanish, if negotiations were conducted in Spanish. This requirement was only effective in counties no more than 200 or 50 miles respectively from the border. The CfD was used as a method for purchasing land in other parts of the state, as evidenced by a later bill restricting this practice in the rest of Texas. Surely people who used this method of purchase also conducted their transactions in languages other than English or Spanish. By restricting this stipulation to only Spanish, the State again defined colonias as more of Mexico than of the U.S. The singling out of the Spanish language further served to otherize colonias residents and their inability to navigate the social and legal systems of commerce and trade in this county. Additionally, Americans’ tendency to group together the term “Mexican” with “illegal alien” highlights this depiction of those who speak Spanish as the other. The duality of both defining colonias by the proximity to the border with Mexico and their propensity to speak Spanish separated colonias from the U.S. and
made them “Mexican.” However, through the MSRs, the Mexican-style of development would be eradicated and the state could reclaim the colonias as model subdivisions.

These three frameworks that constructed the colonias through policy also constructed the colonias as spaces of inequality. While the state ostensibly tried to provide distributive justice through infrastructure funding and representational justice though equalizing relations between developer and colonias resident, the state also succeeded in creating a discourse about the colonias: colonias as unhealthy, poor, and Mexican. This is a powerful combination of negative descriptors in American society, which often neglects the experience of those that are poor and non-white. In recognizing colonias, the state also highlighted the characteristics that make them forgettable to many Americans. The state, in its attempt to eradicate colonias, has only saddled the term with loaded imagery that persists due to its negative connotations. In this sense, the State of Texas has perpetuated colonias, perhaps indefinitely.

4.4 SUMMARY

This chapter looked at how colonias policy in the State of Texas has progressed since the early 1980s. Larger economic and political forces shaped the housing market on the Texas-Mexico Border, leading to a lack of affordable housing within cities. The dearth of policy concerning county regulation of residential development allowed developers to take advantage of the demand for cheap lots by subdividing land outside of the cities and selling them for cheap, often without any infrastructure. These developments came to be known as colonias. However, there is no one definition of what constitutes a colonia. Legislators have worked since 1989 to regulate development, but
only within counties considered to already contain *colonias* – ones that were restricted to the border region. Additionally, the state created discourses that framed the debates surrounding *colonias*. These debates socially constructed *colonias* as unhealthy, poor, and Mexican, which differentiated *colonias* from other rural subdivisions in the state. In doing so, the state reclaimed the *colonias* as model subdivisions, thus expressing its territoriality and desire for complete sovereignty in the state.
In the past, research concerning the colonias has focused primarily upon colonias themselves and the issues found within them. These works helped to build the knowledge about life within these areas and how residents coped without physical or social infrastructure. They also presented the colonias as a housing model borrowed from Mexico, one that allowed the opportunity for colonias to progress and improve over time. Whether that would have happened in Texas without the legislative intervention is unclear. But the legislative intervention did happen and research has been slow in determining the effects of these policies on colonias growth and access to infrastructure.

This thesis reviewed the effects of three colonias policies on the spread of colonias by examining the way the state spatially defined colonias. To support its definition of colonias as geographies of the border, the state developed three frameworks to justify these policies. First, the state depicted colonias as spaces of disease. Monies were needed to bring water and waste water infrastructure to the colonias to prevent the spread of human waste and subsequent disease to the rest of the state. Further colonias could not be constructed due to the health risks of living without adequate water or sewer services. Second, the state illustrated colonias as spaces of poverty, whose residents could not afford to connect to services. Finally, colonias were cast as spaces of “Mexican-ness,” where residents primarily spoke Spanish. Combined with the implications that colonias were border geographies, residents were therefore “of
Mexico.” Despite policy interventions, *colonias* continue to persist even though the state has spent millions of dollars attempting to bring infrastructure to these areas. *Colonia*-like developments are found elsewhere in the state, differentiated only by further distance from the border. This willful persistence of the legislature to define bad development as *colonias* and to restrict them to the border was revisited by the same government body in 1999, which required those who subdivided unincorporated land to acquire a plat from the county commissioners court. While this action did not require counties to adopt the MSRs, it did give them the power to veto bad subdivisions. However, *colonias* remain defined as different from other unincorporated land in the state, with separate but similar laws controlling growth in border counties.

The contributions this thesis makes to the field of geography are primarily within political geography, as it attempts to deconstruct the meaning behind the definition of a *colonia*. In this thesis, I discovered that while the state differentiated *colonias* from other unincorporated developments, the only real difference between these settlements is the proximity to the Texas-Mexico Border. In granting border counties wider control over unincorporated development, the state actually made border counties more powerful than counties elsewhere in the state. Until the adoption of SB 710 in 1999, which regulated unincorporated land use elsewhere in Texas but not to the same degree as the MSRs, *colonias*-style developments could continue to spread beyond the border region. However, these settlements would not have been termed *colonias* since they did not meet the state’s definition. Other states could potentially house *colonias*-type developments if they lack strong regulatory power over residential development at the local or county level. This could particularly become a concern with the collapse of the housing market
in the late 2000s. The *colonias* model of development may prove an attractive alternative for those who can no longer afford the traditional method of purchasing a home and whose counties allow unregulated development. The case of Texas should be a lesson in creating strong regulations concerning residential development for other political entities. Stronger regulations will help ensure that people will not have to suffer under the injustices of poverty and discrimination like *colonias* residents did. However, distributive outcomes should not be the only focus of these laws; they should also focus on the power relations between purchaser and lender, as this power differential can differ greatly when recognitional justice is not yet achieved. The Texas Legislature is investigating the efficacy of their efforts to reclaim *colonias* into productive subdivisions in the summer of 2010, as charged by the Lieutenant Governor and Speaker of the House. The legislature is also analyzing past policies preventing further *colonias* development along the border with the intention of perhaps granting other counties with the same powers to prevent *colonias*-like developments from occurring, making the conclusions of thesis even timelier (Texas State Senate 2010, Straus 2009).

While I selected the three major pieces of *colonias* legislation that defined state discourse concerning *colonias*, this research could be made more robust by analyzing all of the *colonias* policies that the State of Texas has enacted. This would allow a holistic view of the legislative process to see how or if the discourse varies over time. An additional step to improve this discourse analysis would be to review the legislative hearings concerning the slate of *colonias* policies in the state. This addition of another primary source would certainly inform the project of determining the decision-making processes behind *colonias* definition. Finally, the thesis could have compared land
regulatory processes and legislation in Texas with the U.S. as a whole and with Mexico, from where the *colonias* model of development spread. The comparative process could have uncovered similar processes within the U.S., thus making the situation of Texas non-unique. The comparison with Mexico could have uncovered different regulatory processes either to control or encourage growth of *colonias*, thus providing a different model for Texas legislators to follow.

However, despite these omissions, this thesis established the aforementioned framework for justification that the state enacted to pass these laws concerning *colonias*. I also believe that *colonias* will continue to persist because some still lack complete access to infrastructure. Additionally, *colonias* are perpetuated because of the discourse that the state created concerning *colonias*. By using such powerful imageries of disease, economics, and ethnicity, the state forged the identities of *colonias*, whether they were accurate or not. The process of identifying a problem, labeling the problem, and staging an intervention culminated in territorializing the *colonias*, as the state socially reproduced what it believed *colonias* to be, which were poor communities influenced by Mexico. The policy intervention by the state attempted to make these areas into developments with features more easily recognized as Texan or American. The state melded its need for complete sovereignty within its borders with Lefebvre’s theory of the social production of space in restricting *colonias* to the border with Mexico.

I will end this thesis much as I began, with a view of what constitutes a *colonia*. To residents, *colonias* are spaces in which to live, work and play. To the state, they are spaces of disease, poverty, and otherness. To some, they are spaces that lack physical infrastructure and to others, they are spaces that lack social opportunity, to still others
they are a space where the lower income can achieve the dream of home ownership. Perhaps one day these frames will emerge as one. Borrowing a phrase from Harvey, colonias can become “spaces of hope” where the best qualities of humanity are realized and “spaces of inequality” are left behind.
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Appendix A

INTERVIEW SCHEDULES

Semi-Structured Interview Guide for Colonias Residents

1. How long have you lived in this neighborhood?
2. Why did you decide to live here?
3. Do you have access to water in your home?
4. Do your neighbors have access to water in their homes?
5. Has anyone ever come to your home to discuss access to water with you?
6. Has anyone in your neighborhood ever tried to gain access to water? How? Were they successful?
7. How has your neighborhood changed since you moved here?
8. If you could, what kinds of things would you change about your neighborhood? What would you keep the same?
9. Do you consider yourself living in a colonia? If so, what makes a colonia a colonia?
10. What plans do you have for your home in the next ten years?
11. Do you see yourself living here for a long time? What about your children?

Semi-Structured Interview Guide for Governmental Agency Employees and Legislators

1. How does your office collaborate with colonias residents or non-profit agencies on creating pertinent policies geared toward improving life in the colonias?
2. Now that most colonias have access to infrastructure like water and sewer lines, what do you believe will be the next goal in legislation concerning the colonias?
3. What is the perception amongst fellow legislators regarding the colonias? Are there common questions from fellow legislators or constituents regarding the colonias?
4. In your opinion, what was the most important piece of legislation concerning the colonias? Why?
5. Many state agencies, like the Texas Water Development Board and the Texas Secretary of State, have a strict definition of what constitutes a *colonia*. One of the defining features is distance from the Texas-Mexico Border, restricting colonias to this area. Are *colonias* different from other rural subdivisions elsewhere in the state? If so, how?

6. Other definitions restrict colonias to the presence and quality of infrastructure that is present in a *colonia*. When a *colonia* achieves infrastructure improvements, does it cease to be a *colonia*? In other words, can a *colonia* ever cease to be defined as a *colonia*?

Semi-Structured Interview Guide for Nongovernmental Agency Employees

1. What is the name of your agency?
2. How long have you worked for this agency?
3. How does your agency define a *colonia*?
4. What services does your agency provide to *colonias* residents?
5. What kind of interactions does your agency have with *colonias* residents?
6. Have you noticed any changes in the conditions of the *colonias* in which you work? If so, what kind of changes? How long ago did these changes begin?
7. Have residents noted any changes in the *colonias*? If so, what kind of changes?
8. Does your agency interact at all with local or state level officials/employees? If so, describe these interactions.
9. How do governmental policies concerning the *colonias* affect your agency’s work? Do they make it harder or easier to serve residents?
10. How do you see these governmental policies affecting the lives of *colonias* residents? What do you think their effects are on the residents and their neighborhoods?
11. How long do you think these policies and programs will be necessary?
## Appendix B

### LEGISLATION TIMELINES

**Senate Bill 2 Legislative Timeline**

<table>
<thead>
<tr>
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<th>Action</th>
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## House Bill 1001 Legislative Timeline

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