

**Equality and Adequacy in the State's Provision of Education:
Mapping the Conceptual Landscape**

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Prepared for Getting Down to Facts

A Research Project Designed to Inform Solutions to California's Education Problems

December 2006

Acknowledgements

This paper draws heavily upon work I have conducted over the past two years with Bill Koski. While he should not be held responsible for anything I have written here, it would have been impossible for me to develop this work without his intellectual contributions to our joint work, published elsewhere.

Introduction

What ideal should guide a state's provision of primary and secondary schooling, equality or adequacy? Should all children receive equal educational opportunities? Or is the state's obligation to ensure that all children receive *enough* or an *adequate* education?

The obvious backdrop for this question is the unquestioned significance of education in the modern world. Compulsory education laws were enacted in California in 1872. But as recently as 1950, only one third of Americans 25 years and older had attained a high school degree. In 2000, the percentage was 85%. California was far ahead of the curve in 1950, with nearly half of its population 25 years and older with a high school degree; in 2000 California lagged behind the national average, with only 77% attaining a high school diploma.¹

Today, education is central to individual success, economic growth and innovation, and the flourishing of a democratic society. This is reflected in the extraordinary expenditures on primary and secondary schooling. California's contributions to K-12 education in 2005-06 amount to more than \$50 billion, or nearly one-third of the state's entire budget. Yet despite the centrality of education to modern life and the amount of money taxpayers spend on it, policymakers and citizens have surprisingly little clarity about the differences between equality and adequacy and how the two ideals have woven themselves into educational law and legislation. As a result, our debates about educational reform are all-too-often conceptually muddled.

¹ The source for these figures is the "A Half-Century of Learning: Historical Statistics on Educational Attainment in the United States, 1940-2000", Table 5a, "Percent of the Total Population 25 Years and Over with a High School Diploma or Higher by Sex, for the United States, Regions, and States: 1940-2000. Accessible at: www.census.gov/population/socdemo/education/phct41/table5a.xls

The purpose of this chapter is to lay out at a conceptual level the difference between equality and adequacy and to show what these conceptual differences mean for educational policy. It is not the purpose of this chapter to argue for the superiority of one ideal over the other. Resolving that normative question is, perhaps, the proper province of democratic debate.

The chapter proceeds as follows. Section 1 outlines the historical evolution in education law and policy from an equality orientation to an adequacy orientation. Section 2 provides a conceptual primer on equality and adequacy. Section 3 relates these conceptual differences to current educational policy debates.

Section 1: History of Equality and Adequacy in Education

In 1954 the United States Supreme Court famously held in the landmark case *Brown vs. Board of Education* that when a state provides children an education, such an opportunity “is a right which must be made available to all on equal terms.” This orientation toward equality continued in American educational law and policy through the 1973 *San Antonio Independent School District v. Rodriguez* case (itself inspired by the California *Serrano v. Priest* decision in 1971) and a host of state-level “equity” finance litigations. During the past two decades, however, the rhetoric and policy of equal educational opportunity has given way to the rhetoric and policy of providing an “adequate” level of education for all. As a result, the concept of “educational adequacy” has framed contemporary discussion among scholars, courts, and policymakers. The contested arena of school finance – the hobgoblin of virtually every state in the union, in which over the past thirty years *no fewer than 45 states* have had their school funding

schemes challenged in state courts – provides the clearest evidence of this evolution. In school finance litigation, advocates and courts have abandoned equality and adopted the language of adequacy. Educational finance policy, as Peter Enrich observed in an influential 1995 article, was “leaving equality behind.”² Along with this evolution – though not necessarily a consequence of the evolution – has come a shift in attention on educational inputs (dollars per pupil, for example) to educational outputs (student achievement or, in California’s case, the API index).

A standard narrative has evolved to describe the evolution of school finance litigation. According to this narrative, school finance cases have come in three waves, the first two defined by their aspiration toward equality and the third defined by its move to adequacy.

The first and briefest of the waves lasted between 1971 and 1973. The distinguishing feature of initial efforts during this period was to challenge unequal school funding between districts on the basis of the U.S. Constitution’s Fourteenth Amendment, or Equal Protection Clause. The basic argument was that the equal protection guaranteed to citizens under the Fourteenth Amendment prohibited substantially unequal funding of schools that was the product of the wealth of the people or property within any particular district.³ It was a version of this argument that prevailed in the 1971 *Serrano v. Priest* case in California, leading to the centralization of school funding at the state level. In 1973, however, the federal equal protection theory reached a dead-end when the U.S. Supreme Court rejected the argument in *San Antonio Independent School District v.*

² Peter Enrich, “Leaving Equality Behind: New Directions in School Finance Reform,” 48 *Vanderbilt Law Review* 101 (1995).

³ Cite to Coons, Clune, and Sugarman.

Rodriguez, finding that there was no fundamental right to education under the U.S. Constitution.

With no recourse at the federal level, the battleground over school finance shifted to the states and the language in the fifty state constitutions. This began the second wave of school finance litigation, which lasted from 1973 through 1989. The New Jersey Supreme Court inaugurated the second wave with a 1973 decision imposing on the state legislature a duty to provide a thorough and efficient education to the state's children, rooting its finding in the education article in the state's constitution. Thereafter, most state high courts relied heavily on the state's education article and at times invoked it in conjunction with the state's constitutional equality provision.

The essence of the claim in second wave cases, according to the wave typology, was the equity of school funding schemes. Courts primarily sought to achieve either so-called "horizontal equity" across school districts such that per pupil revenues were roughly equalized by the state. Alternatively, courts sought so-called "fiscal neutrality" such that the revenues available to a school district would not be solely dependent on the property wealth of the school district. Instead, funding between school districts could be unequal, but the inequality would be a product of the democratically-decided preference of a locality to tax itself at a high or low level and not the property wealth of the locality. In practice, horizontal equity and fiscal neutrality usually meant greater state involvement in educational funding through the institution of state-guaranteed tax base plans and, on rare occasion, state-backed equal yield, or "district power equalization", plans, which captured excess revenues from wealthy districts and redistributed them to poorer districts.

The impact of second-wave equity-oriented school finance litigation is the subject of much disputation.⁴ Even so, several modest conclusions can be drawn without controversy. First, in states where the highest court overturned the educational finance system, per pupil spending across districts has become more equal.⁵ Second, this greater equity has been realized in part by targeting more funds to poorer districts.⁶ Third, while some have argued that this greater equity has come at the expense of limiting overall growth in educational spending or a decline in a state's educational spending compared to other states, others have concluded that educational spending in the wake of a successful challenge to the school finance system *increased* school funding.⁷ Finally, a declaration that the educational finance system is unconstitutional typically leads to a greater centralization in educational spending at the state level.⁸

The third wave marks the shift from an equity to an adequacy orientation, and it can be dated with precision. In 1989 the Kentucky Supreme Court rendered its decision in *Rose v. Council for Better Education*. The court interpreted the education article in Kentucky's constitution to require that the state legislature provide Kentucky children with an adequate education, which the court specified by identifying seven capabilities that all students would be expected to attain. These capabilities included, for example, sufficient written and oral communication skills to enable a child to function in a complex and rapidly changing society and sufficient academic and vocational skills to

⁴ See Douglas Reed, *On Equal Terms: The Constitutional Politics of Educational Opportunity* (Princeton: Princeton University Press, 2001); William S. Koski and Henry M. Levin, "Twenty-Five Years After Rodriguez: What Have We Learned?", *Teachers College Record*, Vol. 102 (2000); Sheila E. Murray et al., "Education-Finance Reform and the Distribution of Education Resources," *American Economic Review*, Vol. 88 (1998).

⁵ William N. Evans, "The Impact of Court-Mandated Finance Reform," in *Equity and Adequacy in Education Finance: Issues and Perspectives*, Helen Ladd et al., eds., 1999.

⁶ Add cites.

⁷ Add cites.

⁸ Add cites.

enable them to compete in the marketplace for higher education and for jobs with their counterparts from surrounding states. Since 1989, many other states have followed in Kentucky's path, with court decisions invoking the phrase "sufficient" and "basic" education with frequency. Two recent challenges to a state's school funding scheme are noteworthy. The well-publicized *Campaign for Fiscal Equity v. State of New York* case resulted in the court ordering the legislature to determine the actual cost of providing a "sound basic education" in New York City, ultimately awarding New York City schools a minimum additional \$1.93 billion dollars. Across the country, the *Williams v. State of California* case sought, among other things, to provide "safe and decent" school facilities to California's students. This case was settled before the court rendered a judgment. Notice the language of "sound and basic" education and "safe and decent" facilities in place of "equal educational opportunity" and "equal protection" of citizens.

The difference in language is obvious, and so too are the educational policy repercussions of the shift to adequacy. These are captured well in the following assessments of long-time observers of school finance wars. According to Paul Minorini and Stephen Sugarman, "What is most distinctive about the adequacy approach is that, unlike the traditional school finance cases, it does not rest on a norm of equal treatment. Indeed, the adequacy cases aren't about equality at all, except in the sense that all pupils are entitled to at least a high minimum. In other words, adequacy is not a matter of comparing spending of the complaining group with spending on the others. It is rather about spending what is needed (and its focus is in some respects more on the school or

the pupil than on the district).”⁹ Similarly, James Ryan and Michael Heise observe that, “Even successful adequacy suits . . . presuppose that existing funding inequalities will remain. More precisely, adequacy suits abandon the idea of tying districts together financially by requiring access to equal resources. Those districts that can fund a more-than-adequate education are free to do so.”¹⁰

What caused the shift from equality to adequacy? The answer is complicated, but one can identify three distinct causes. First, the 1973 *Rodriguez* decision effectively relocated the school finance battlefield from the federal to the state level. Though state education articles vary considerably from state to state, there is generally a requirement that the legislature provide a “thorough and efficient,” “uniform”, or “high quality” education to its children. This language was more amenable to an adequacy orientation rather than an equality orientation. Second, it was worries, sometime borne out in practice, that to achieve equality the state would level down spending of the wealthy districts rather than level up spending of the poorest. Given the precipitous decline of school funding in California, relative to other states, in the wake of the equalizing force of *Serrano v. Priest* and the tax limiting Proposition 13, the leveling down effect was seen to be of special concern in the nation’s most populous state. And third, it was a result of a pragmatic decision among school reform advocates about how best to improve the position of the least advantaged schoolchildren. Equity lawsuits had generated some significant political blowback – adverse reaction to so-called “Robin Hood” schemes that captured locally raised revenue from wealthy districts and redistributed it to poorer

⁹ Paul Minorini and Steven Sugarman, “Educational Adequacy and the Courts: The Promise and Problems of Moving to a New Paradigm,” in *Equity and Adequacy Issues in Educational Finance*, Ladd, Chalk, and Hansen, eds. (National Academy Press, 1999), 206.

¹⁰ James E. Ryan and Michael Heise, “The Political Economy of School Choice,” *Yale Law Journal* 111 (2002): 2043, 2062..

districts. And moreover, despite the success of equity lawsuits in many states and the narrowing of funding gaps between districts, student achievement scores had not improved considerably. Most notably, the black-white test score gap, which had narrowed in the 1980s and early 1990s began to grow anew. One additional attraction of the adequacy paradigm, according to its supporters, was that it quite deliberately focused on academic outcomes in addition to resource inputs.

It is not my purpose here to provide an assessment of whether the shift from equality to adequacy has been wise.¹¹ I wish, instead, to document the shift in order to permit the recognition that the prevailing adequacy paradigm is a relatively recent phenomenon and not a historical, legal, or political necessity. Indeed, policies oriented toward equality are more the historical, legal, and political norm, if we date school reform efforts back to the landmark 1954 *Brown* case. In short, there are policy alternatives to the current adequacy paradigm, should we wish to pursue them.

Before moving on to consider the conceptual differences between equality and adequacy, it is worth registering two qualifications of the story presented thus far. First, the wave metaphor for classifying school finance cases is helpful but also somewhat imprecise. It is possible to find adequacy language in cases prior to 1989 and to find equality language in cases after 1989. While the 1973 *Rodriguez* decision does sharply mark off the shift from federal to state level battles, the shift from equality to adequacy in the second to third waves is less dramatic. The wave metaphor should be understood as a helpful narrative orientation. With school finance contests being waged in many of the fifty states it is inevitable that one can find evidence to challenge the rigid distinction

¹¹ I have written in favor of the egalitarian orientation elsewhere, however, with William Koski. See “When Adequate Isn’t: The Retreat From Equity in Educational Law and Policy and Why It Matters” *Emory Law Review* Vol. 56 (3) (2006).

between pre- and post-1989 drawn here. Second, the school finance cases focus almost exclusively on efforts to change education law and policy through courts. But courts are not the only venue of change, of course. A more detailed history of the past fifty years of school reform would also identify legislative efforts at both the federal level (most notably the 1965 Elementary and Secondary Education Act and its renewal in 2001 as the No Child Left Behind legislation) and at the state level (of chief significance here is the 1990 enactment of Kentucky Education Reform Act by the Kentucky legislature in the wake of the 1989 *Rose* decision and numerous other efforts at the legislative level of other states to pursue so-called standards-based reform). I omit these in order to focus exclusively on how equality and adequacy are at the conceptual foundation of any kind of education reform, judicial or legislative. In short, if we are to answer the question, “what is the state’s obligation to provide K-12 education to children?” we must answer by discussing whether the obligation is satisfied by an equal education, whatever that might mean, or an adequate education, whatever that might mean. It is toward the task of conceptually distinguishing equality and adequacy that we now turn.

Section 2: Conceptual Distinction Between Equality and Adequacy

To appreciate with greater precision the contrast between equality and adequacy, it is instructive to consider how philosophers have distinguished between equality and sufficiency. Strangely, the equality-adequacy debate in education seems to have proceeded without recognition that philosophers have long been grappling, at a more

abstract level, with the ideals of equality and sufficiency. This philosophical literature informs the following discussion.¹²

The fundamental conceptual difference between equality and sufficiency is that equality is necessarily *comparative or relational* while sufficiency is not. To ask if somebody or something is equal, we must engage in a comparative evaluation. Does X have as much as Y? Is the outcome in situation A equal to the outcome in situation B? To ask if somebody or something is sufficiently well off, however, we need not make any such comparison; we simply identify what constitutes the level of sufficiency or adequacy and then make the appropriate allocation or redistribution of resources. To put it another way, the sufficiency framework aims to combat *absolute* deprivation; the equality framework aims to combat *relative* deprivation. For the sufficiency advocate, we should not care that people are equal but only that they have enough. But it is bad, the egalitarian claims, for some people to be worse off than others through no fault of their own.¹³

The sharpness of this distinction requires a qualification. Sufficiency encompasses relational or comparative assessments in two respects. What constitutes a sufficient level of resources will be relative to the norms of any given society at a

¹² See, e.g., JOHN RAWLS, A THEORY OF JUSTICE (1971); LARRY TEMKIN, INEQUALITY (1993); Harry Frankfurt, *Equality as a Moral Ideal*, 98 ETHICS 21 (1987); Larry Temkin, *Inequality: A Complex, Individualistic, and Comparative Notion*, 11 PHILOSOPHICAL ISSUES 327 (2001); Derek Parfit, *Equality and Priority*, 10 RATIO 202 (1997); Elizabeth Anderson, *What is the Point of Equality?* 109 ETHICS 287 (1999); RONALD DWORKIN, SOVEREIGN VIRTUE: EQUALITY IN THEORY AND PRACTICE (2000).

¹³ For a representative formulation along these lines, see Larry Temkin, "Egalitarianism Defended," *Ethics* 113 (2003): 764-782. Because sufficiency applies a uniform standard equally to all, one might claim that sufficiency should be understood as a kind of egalitarian argument. Indeed, any champion of sufficiency will claim that sufficiency possesses two features that are routinely associated with egalitarianism. First, sufficiency should be universal among the relevant group; second, and following from the first, sufficiency should be impartial and treat people equally. In practice, this means no discrimination should be made among people on the basis of arbitrary characteristics such as race and sex. Universality and impartiality are part and parcel of the sufficiency paradigm, and in this respect the sufficiency paradigm overlaps with the equality paradigm.

particular time. A sufficient level of education in Tanzania will be different from a sufficient level of education in the United States at the present moment. That an impoverished American earning ten thousand dollars a year is a prince compared to the many millions in sub-Saharan Africa who survive on \$2 dollars a day is no consolation whatsoever. Sufficiency is also relative to historical developments within societies. What seemed a luxury a generation ago can now seem a necessity. One hundred years ago (even fifty years ago!) sufficient education in the U.S. was less than a high school degree. Today, however, what constitutes a sufficient education is more demanding because social norms and expectations have changed. A sufficient education in the 21st century, most policymakers and courts agree, must prepare all children for postsecondary education without remediation.

But this relational aspect of sufficiency is unimportant here. While standards for what is sufficient will vary across societies and, within societies, over time, sufficiency at any given moment is an absolute, or non-comparative, thing. This is not true about equality, which is always and necessarily comparative. In addition, it is important to be mindful of the practical consideration that when a society wishes to place "sufficiency" into institutional operation -- as is the case with the adequacy movement in American school reform -- policymakers will be very strongly attracted to an absolute standard.

A few observations about the difference between equality and sufficiency. First, with respect to any particular policy issue, it is entirely possible simultaneously to employ an equality analysis and a sufficiency analysis for the simple reason that it is entirely possible simultaneously to be both absolutely deprived and relatively deprived. But only the egalitarian framework can capture what is wrong with relative deprivation,

once levels of sufficiency have been established and absolute deprivation has been eliminated.

Second, the sufficiency framework, to be sure, can justify equality-enhancing transfers from the well-off to the needy. If many people have more than enough and a few have less than enough, then taking from the many to boost the few above the threshold that marks the level of adequacy looks like a good thing. (This is equally true, of course, if few have more than enough and many have less than enough.) But if all are above the threshold, then transfers from the well-off to those who already have enough no longer seem justifiable.

Third, adequacy might seem less demanding than equality. All that appears to be required is that those below a specified threshold (of inputs or outcomes) be brought up to that level. Equality, by contrast, demands that all people be brought into an equal relationship. In practice, pursuing equality often *is more* demanding. But, clarifying the conceptual relationship between the two ideals reveals that it can also be the case that adequacy demands far more than equality. Consider a scenario in which the level of adequacy of some good is 100 units per person. A has 10 units, B has 15 units, and C has 20 units of the good. Equality can be attained by giving A 5 units from C. Adequacy, obviously, would be much more difficult to attain. Indeed, as described below, some critics believe that educational adequacy is far more fiscally demanding than educational equality, and objectionable for this very reason.

Finally, in order to draw the conceptual contrast between equality and adequacy most clearly, consider two powerful criticisms to which the equality but not the adequacy advocate is vulnerable. The first criticism is often called the Leveling Down Objection.

Simply stated, the egalitarian should be satisfied if the well-off were brought down to the same level as the worst off, for this would eliminate the inequality between them. If A has 5 and B has 2 units of some good, equality is served by making A and B equal at 5 units each but also at 2 units each. In leveling down, of course, there is a loss in overall utility; some are made worse off while no one is made better off. In a notorious example from philosopher Derek Parfit, the egalitarian appears forced to claim, perversely, that it must be in some way an improvement if equality of vision between the sighted and the blind were brought about by blinding those who can see.¹⁴ Though philosophers prefer to illustrate the Leveling Down Objection in formal algebraic terms or with ludicrous examples such as the equally blind, its bearing in the real world is perhaps nowhere greater than in school finance. It is a real concern that in equalizing school resources among districts with varying degrees of wealth, the actual effect will be to level down the resources of the wealthy districts rather than leveling up the resources of the poor districts. Leveling down might increase equality of educational resources, but it will in the process significantly impact the *absolute* quality of education provided, worsening the better off and failing to improve the worse off. Who could possibly prefer this outcome?

The second criticism suggests that equality conflicts with other worthy values and that, at least sometimes, equality should give way. That this may happen within education is quite clear. Consider, for instance, the following comment by Nathan Glazer on the recent Jonathan Kozol book decrying the re-segregation of and unequal expenditures in America's public schools:

¹⁴ Derek Parfit, "Equality and Priority," 10 *Ratio* 202 (1997), p. 211.

To be sure, the case for both [racial] integration and equality of expenditure is powerful. But the chief obstacle to achieving these goals does not seem to be the indifference of whites and the non-poor to the education of white and the poor. . . . Rather, other values, which are not simply shields for racism, stand in the way: the value of the neighborhood school; the value of local control of education and, above all, the value of freedom from state imposition when it affects matters so personal as the future of one's children.¹⁵

In short, pursuing equality in education can, and often does, conflict with other values, most prominently the value of parental liberty. And when it does, sometimes it is equality that should yield or bend to accommodate the other value. Some parents, for instance, seek to provide better or more education for their children, perhaps because they assign a very high value to being educated or perhaps because they want to share certain interests with their children that can only be developed through formal schooling. If providing better or more education to one's child requires additional resources that would make a public school unequal in inputs and outputs to other schools, should it not be within the proper scope of parental liberty to pursue such an education? Pursuing only equality would unduly constrain parental liberty.

In light of these two criticisms, many philosophers argue that the strict egalitarian position must be flawed. What is important here is to recognize that the person committed to sufficiency or adequacy is not vulnerable to these criticisms. Leveling Down is no threat to the sufficiency advocate because he is concerned only that people have enough. This might require redistributions from the wealthy to the poor in order to

¹⁵ Nathan Glazer, "'The Shame of the Nation': Separate and Unequal," *New York Times*, September 25, 2006.

bring everyone up to the tolerable or decent minimum. But the sufficiency advocate wants to level up rather than level down, and has a clear way to choose between a situation in which A and B have 2 units of some good and A and B have 5 units of some good. So long as the level of sufficiency is greater than 2 units, sufficiency points to the latter distribution as preferable; the egalitarian is indifferent. As for the parental liberty objection, this might be pressed against adequacy as strenuously as against equality. But adequacy seems to press more lightly against parental liberty, for adequacy can be construed as to give wide latitude to parental liberty, so long as all children receive an adequate education. Equal education appears to require *more* than an adequate education, and therefore conflicts more sharply with the liberty of parents who want to give their children the very best education they can provide.

Section 3: Equality, Adequacy, and Educational Resource Distribution

With the conceptual distinction between equality and adequacy now clear, this final section shows how the two concepts relate to educational resource distribution.

Let us begin with three general points about equality and adequacy as applied to educational policy that have already been touched upon. First, as a historical matter equality has most often been applied to educational inputs, particularly to the financing of school districts. The equality framework has frequently been deployed to ask, “why should funding levels between districts be substantially different?” Adequacy, by contrast, incorporates educational outcomes – academic achievement – into its framework. Adequacy asks “What level of educational resources is sufficient to generate a specific set of educational outcomes?” Adequacy represents an attempt to move

beyond considering the fairness of fiscal inputs toward the broad-based improvement of educational outcomes. For many, this difference is taken to be one of the virtues of adequacy over equality. And indeed, it seems a truism that any school reform initiative that is indifferent to academic achievement must be counted as flawed. Long experience has shown that additional dollars do not automatically translate into educational achievement. But as the preceding conceptual analysis reveals, the ideal of equality is also capable of addressing educational outcomes. The concern would be to seek equal educational outcomes or, more plausibly, to aspire to equality of educational outcomes between between races and socioeconomic classes. We might assess, for instance, whether equality of opportunity exists, by looking to see if students from different racial and class backgrounds were equally represented in the distribution of educational achievement. Indeed, this is what motivates the prevailing concern over the black-white test gap in the United States.

Second, as alluded to earlier, one fundamental distinction between equality and adequacy as applied to educational resource distribution is that adequacy seeks to ensure that all students have *enough* education and, if this condition is reached, will tolerate inequalities above this threshold. The differences between Palo Alto High School and Castilleja do not register as a concern for the adequacy framework. Or, take a hypothetical example: imagine that the state's provision of schooling was judged adequate in the event that students were prepared for postsecondary education, the labor market, and able citizenship. Suppose at some point this standard is actually reached. But then some well-off school districts begin spending more money, offering greater opportunities to students, spurring greater academic achievement. Is there any ground for

complaint, since adequacy has been achieved? The adequacy framework sees no ground; the equality framework, concerned with relative not absolute deprivation, will indeed find a ground for complaint.

Third, it is commonplace to assume that equality-oriented reforms are more fiscally demanding than adequacy-oriented reforms. The reason is that in order to avoid the leveling down phenomenon, equality appears to require that the state give every district the same level of resources spent by the highest-spending district in the state. But clarifying the conceptual relationship between equality and advocacy reveals that adequacy can sometimes be more fiscally demanding than equality. And some adequacy critics believe this is exactly the case in adequacy-oriented school reform. If states specify certain academic outcomes and insist that all children have the resources necessary to achieve those outcomes, then the marginal cost of the last batch of the most difficult-to-educate children will be enormous. Indeed, literally to have “no child left behind” would cost nothing less than the entirety of each state’s budget, and even then it is doubtful that the last child would achieve to the adequate standard. (Imagine the marginal cost of that final child!). So while the equality ideal in its most fiscally demanding form required that the state level up expenditures to the rate of the highest spending district, this was at least an expense imaginable within the constraints of the state’s overall budget, even if reaching this spending goal was politically unviable. But one interpretation of the adequacy ideal, matching high outcome standards for all

children to the resources necessary to attain these standards, appears to represent a tapline into the state treasury that could drain it of every last dollar.¹⁶

In short, the fiscal and political advantages of adequacy over equality, or equality over adequacy, are unclear. Whether achieving equality costs more than attaining adequacy depends on contingent features of how equality and adequacy are applied to educational resource distribution and on assumptions about the connection of resource inputs to educational outputs.

Therefore, to understand the implications of applying equality and adequacy to school reform, we need to address two fundamental questions about educational resource distribution. We need to define educational opportunity along two dimensions: the *object of the distribution* and the *distributional principle*. Only once these questions are clear is it possible to map out the differences between equality and adequacy when applied to education.

On the first dimension—the object of distribution—one must determine whether the focus of the distribution is educational “inputs” or educational “outcomes.” “Inputs” are the resources upon which schools rely: dollars and the things that dollars can buy, such as teachers, instructional materials, and facilities. “Outputs” or “outcomes” refer to both student achievement (and related behavioral changes sought by schools) and the educational attainment, earnings, and quality of life that a student achieves. Although traditional policy schemes sought to ensure a “fair” distribution of educational inputs or resources, much current educational policy and litigation, particularly the so-called “new accountability” in education, is focused on measuring performance by looking to

¹⁶ For a version of this criticism of adequacy, see several chapters in Martin West and Paul Peterson, eds., *School Money Trials: The Legal Pursuit of Educational Adequacy* (Washington DC: Brookings Institution Press, 2006).

educational outcomes (often student performance on academic achievement tests). The distinction here roughly parallels that between equality understood as equality of opportunity and equality of outcome.

The second dimension—the distributional principle—can broadly be divided into four basic schemes: “adequacy,” “horizontal equity,” “vertical equity,” and “neutrality.” An “adequate” education is understood to mean a specific qualitative level of educational resources or, focusing on the outcomes object, a specific level of resources required to achieve certain educational outcomes based on external standards. It is a measure that does not compare the educational resources or outcomes of students with each other, but rather, looks only to some required level of resources for all students. As discussed, it is possible that ensuring an adequate education for all can lead to increasing equality, but ensuring adequacy is also fully consistent with increasing *inequality* above the specified threshold.

The remaining distributional principles—horizontal equity, vertical equity, and neutrality—are each egalitarian principles, or equity principles, in that they compare the educational resources or outcomes of individuals or groups of students to each other. “Horizontal equity” is the equal treatment of students irrespective of need; sometimes referred to as the “one scholar, one dollar” principle.¹⁷ “Vertical equity” recognizes that certain students, e.g., those suffering disadvantaging conditions such as poverty or disability, may require more resources to overcome such disadvantages. Vertical equity seeks to target educational resources to those “needy” students. In its most aggressive form, it seeks to target resources based on student need in such a fashion that each

¹⁷ Arthur Wise, *Rich Schools, Poor Schools: The Promise of Equal Educational Opportunity* (1967), p. 156.

student has an equal opportunity for an equal outcome. Finally, the negative condition of “neutrality” requires that there be no educational input or outcome differences among students that result from “arbitrary” factors such as school district wealth, geographic location, race, or gender.

With this framework in mind, it is possible to show how equality and adequacy can be rather blurry in actual policy implementation. Julie Underwood has argued, for instance, that the most defensible application of adequacy to educational policy is in fact a form of vertical equity. Underwood suggests, in fact, that equality and adequacy are not so distinct conceptually, writing, “The theme in [school finance] cases using the state education clause is adequacy from the perspective of ‘vertical equity,’ meaning that different students should be treated differently based on their special educational needs.”¹⁸ Adequacy, therefore, appears to require vertical equity, or different levels of resources for differently situated students.

No Child Left Behind, for instance, requires that every state adopt standards and testing schemes to measure achievement on these standards across all eligible students. NCLB demands that achievement gaps be measured by race, ethnicity, language proficiency and poverty and that states make progress toward closing these gaps. When NCLB was passed, there was widespread discussion about the need for accompanying “opportunity-to-learn” (OTL) standards which would have sought to guarantee that every child have the level of resources necessary to meet the standards promulgated by the state. Unfortunately, neither Congress nor the states have required that specific opportunity-to-learn standards be developed.

¹⁸ Julie K. Underwood, *School Finance Adequacy as Vertical Equity*, 28 U. MICH. J. L. REF. 493, 493 (1995).

But even if such OTL standards were in place and educational practice was marked by vertical equity in the service of educational adequacy, Underwood was wrong to conflate equality and adequacy at a conceptual level. Underwood understands educational adequacy as requiring vertical equity. In its most aggressive form, this might mean the setting of high and rigorous outcome standards paired with significantly greater infusion of resources for students whose background characteristics (e.g., poverty or language or disability) are highly correlated with lower educational achievement. After all, in the real world schools that educate a majority of poor, English language learners, or disabled children are so far from reaching even an adequate level of performance that getting these students over the adequacy hurdle will require a large infusion of resources to meet their educational needs.

Two observations are in order. First, there is something peculiar about assigning the label “adequacy” to this framework of school reform. If the permissibility and desirability of setting state-endorsed outcome standards hinges on the infusion of vertical equity of inputs, then it should be recognized that this approach rests, in the end, on an egalitarian foundation. The core idea behind this version of adequacy is to conjoin outcome standards with vertical equity inputs to assure every child is given an *equal opportunity* to reach the outcome standards. In this respect, the adequacy approach is mislabeled; it is still an equality framework at heart.

But Underwood is not making a mere semantic mistake. For even on the interpretation of adequacy offered above there remains a crucial difference between equality-minded and adequacy-minded reforms at the level of principle. The difference is the object of comparison that is to drive the vertical equity of inputs. Recall that

equality is necessarily a *relational or comparative* concept. But what relation or comparison does equality require? For the egalitarian, the aim is to compare the disadvantaged to the well-off, to compare students with students or districts with districts in order to assess whether a relationship of equality (of resources, of opportunities) holds. For Underwood and the adequacy framework, however, the aim is compare students or districts with the specified outcome standards in the state. We move from a distribution of resources that compares what one student has to that which another has (equality) to a distribution of resources in which all receive some baseline level of resources while some receive more than that (adequacy with vertical equity). Vertical equity is separable from adequacy in that equality is a relative concept and targets relative deprivation even when all students are at the level of adequate outcomes.

In the end, then, the relevant question for citizens and policymakers seems to be whether the state's obligation to provide education is exhausted once absolute educational deprivation, measured by some kind accountability system of state standards, has been eliminated. If this is the case, then adequacy is the right framework. Alternatively, does the state's obligation to provide education go beyond the production of good schools for all and require, say, that opportunities to attend college and compete for jobs in the labor market not merely be adequate but be equal? If so, then inequalities in resources and outcomes above the level of adequacy will undermine equal opportunity and only the equality paradigm will be able to address these relative deprivations.

Conclusion

In a certain respect, it is not necessary to decide democratically (or philosophically) which ideal, equality or adequacy, is to be preferred. The simple fact is that we live in a world in which many children are plainly deprived both absolutely and relatively. As the *Williams* case showed, the conditions in which some of California's children attempt to learn are so far below a level of decency that we could never call these schools adequate. In such a world, the equality and adequacy paradigm will prove equally capable of showing why such deprivation is wrong.

But once we move beyond these easy cases, it becomes more important to decide whether equality or adequacy should be the guiding framework for school reform efforts. To decide the issue, we need to answer a host of other subsidiary questions: If we defend adequacy, then adequate *for what*? Should schools be adequate for producing good citizens? For giving every student the chance to attend college? For giving every student the skills necessary to compete in the labor market? What is adequacy in the service of? How we structure school reforms oriented around the adequacy ideal will differ greatly depending on how we answer this "adequate for what?" question.

Similarly, if we defend equality, then we need also to answer the question *equality of what*? Should schools actually be charged with achieving equal educational outcomes? That seems utopian. If not equal outcomes, then "equality of what?" must mean something like "equality of opportunity." But how should equality of opportunity be understood?¹⁹ Is equality of opportunity satisfied if every child has equal access to a decent school? Does equality of opportunity demand that schools try to compensate for

¹⁹ For a prominent philosophical exploration of this question, see Christopher Jencks, "Whom Must We Treat Equally for Educational Opportunity to be Equal?", *Ethics*, Vol. 98 (3) (1988): 518-533.

socially-produced inequalities outside the schoolhouse that will affect the achievement of children inside the schoolhouse, such as socioeconomic background or native language abilities? Does equality of opportunity demand that schools try to compensate for socially- and naturally-produced inequalities outside the schoolhouse that will affect the achievement of children inside the schoolhouse, such as naturally disabilities and other genetically-caused endowments?

Adequate for what? Equality of what? These are difficult questions. But it is important to realize the deep structure of what sort of issues we must address if we are to answer the question of what is the state's obligation to provide education.

The "correct" answer to all of these questions will not be offered by any particular policymaker or scholar. And it should go without saying that the correct answer will not be offered by this author. The answer must be provided in the form of an ongoing democratic conversation among citizens and their democratically elected representatives. The answer might change over time. But that citizens have a firm hold on the nature and difficulty of the question is essential. We should realize the stakes involved in trying to decide between equality and adequacy paradigms in educational reform. It is this task that this chapter hopes to have illuminated.