JANE FOWLER MORSE
A LEVEL PLAYING FIELD: SCHOOL FINANCE IN THE NORTHEAST
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Reviewed by Sarah Dwidar

1. Introduction
There is a perplexing and unfortunate inconsistency in the level of value that the American public affords our educational system. On the one hand, education is regarded in public discourse as “the great equalizer,” a phrase coined by Horace Mann to indicate that education provides working-class children the opportunity to break through the confines of poverty. However, as Jane Fowler Morse indicates in A Level Playing Field, the reality in the classroom paints a more somber picture. Courts, legislatures and taxpayers have consciously done everything in their power to maintain an inadequate public school system that fails to reflect the liberal, democratic views on education that many so openly espouse.

Morse, a professor of education at the State University of New York at Geneseo, details the historical development of school finance reform in A Level Playing Field. Most states employ a funding scheme that delegates financial autonomy to local school districts which, in turn, rely on local property taxes to fund their schools. Although states retain a minimal amount of financial responsibility, the role of local government is substantial enough to have created an unequal funding scheme. Predictably, school districts with poor property tax bases can only generate a fraction of the funding that their wealthy counterparts can generate.

Morse examines the different measures utilized by reformers in New York, Vermont and Ontario that attempt to create state funding schemes that benefit children equally, regardless of socio-economic
status. She presents us with a comparative analysis of the movement’s successes and the judicial and legislative barriers to equal opportunity, and conducts a thorough examination of the interplay between race, poverty and school funding. Opposition to equitable school funding, she argues, is driven by racist sentiments and the blatant desire to prevent working-class children from climbing the social ladder out of poverty. Nevertheless, despite Morse’s depiction of the disheartening treatment of America’s poorest children, readers are left with a glimmering hope that effective reform is in fact possible in the near future.

II. Summary of Contents
Morse opens with an overview of school finance litigation, setbacks to reform and the legacy of federally mandated desegregation in the wake of Brown v. Board of Education. Over the next three chapters, she reviews how the movement has taken shape in New York, Vermont and Ontario, comparing the legal avenues and strategies reformers have utilized in each region. Over subsequent chapters, Morse analyzes the impact poverty and racism have on a child’s academic performance, and successfully debunks the commonly-held myth that increased school spending does not yield academic achievement. In her final chapter, she leaves us with a comprehensive overview of lessons learned from the movement to reform and the strategies she finds to be best effective overall.

III. Textual Analysis
Morse begins by outlining the historical and philosophical foundations of education in the U.S. Deriving foundational support from Plato’s Republic, Aristotle’s call for public education, and Mary Wollstonecraft’s plea for public coeducational schooling in A Vindication of the Rights of Women, Morse eloquently sets the stage for her impassioned appeal for educational equity. She examines the pivotal Brown v. Board of Education decision that historically held that segregated schools violated the Fourteenth Amendment’s equal protection clause. Early proponents of school finance reform assumed that Brown precedent would be construed to guarantee equal protection in school funding cases as it did with desegregation; however, a series of subsequent legal battles demonstrated that the courts had no intention of doing so.

Morse characterizes each evolutionary stage of school finance litigation by the legal tactic used by the proponents of reform. Plaintiffs in the first series of cases relied on federal and state constitutional equal protection clauses as the basis of their arguments. In Serrano v. Priest,
the California Supreme Court found that California’s funding scheme “invidiously discriminates against the poor because it makes the quality of a child’s education a function of the wealth of his parents and neighbors.” Although the court extended California’s equal protection clause to apply to educational funding, it determined that the funding scheme did not violate the Fourteenth Amendment of the federal constitution. According to Morse, any residual hope to seek federal redress was effectively laid to rest by *San Antonio Independent School District et al., v. Demetrio Rodriguez, et al.*, a pivotal case in school finance litigation that turned *Brown* on its head. In *Rodriguez*, the U.S. Supreme Court held that education was not a fundamental right and poor children were not a suspect class with rights that trumped any state interest to localize school funding.

When discussing the next stage in the history of school finance litigation, Morse introduces the reader to a reform barrier that becomes recurring throughout book: legislative indifference. Having successfully driven school finance cases into state courts, *Rodriguez* was the prelude to a second series of cases based on alleged violations of education clauses in state constitutions, clauses often mandating that states provide equal educational opportunities. However, even when courts have found that the discrepancy of funding provided by local school districts was unconstitutional, legislatures rarely implemented court mandates. Inaction is due, in part, Morse argues, to the reality that powerful, suburban constituencies run legislatures. Morse adamantly asserts that without the committed efforts of teachers, parents and citizens to initiate reform, the gross inequalities of public education will remain unchanged. Ultimately, Morse concludes, “the will to reform must become political, although it often starts in the judicial arena.” Otherwise, the post-*Rodriguez* legal tug-of-war that ensued for decades will continue and school funding will remain glaringly unbalanced.

Morse differentiates between the concepts of equality, equity and adequacy of education. Plaintiffs in the first series of cases sought school funding that was allocated equally across the board. Post-*Rodriguez* plaintiffs went further, pleading for equitable funding. The assumption was that poorer schools required more funding to reach the same level of education provided at wealthier schools. The third series of cases began in the Kentucky Supreme Court in 1989 and concerned the issue of adequacy of education. Rather than comparing one child’s education to that of another, the court determined whether that education was adequate in and of itself. The Kentucky Supreme Court found
the state's funding scheme inadequate and formulated a list of factors necessary for an adequate education. Although this ambitious model was thereafter cited by other state courts, Morse points out that it fell short of creating a uniform definition of educational adequacy. For example, New York courts narrowly interpreted their state constitution to hold that education need only be "minimally adequate," enough to provide only the 'sound basic education' required in the state's education clause.

Morse next discusses the lack of political will to reform school finance schemes and blames a number of factors. A main impediment, she argues, is the reluctance by the courts to afford equal protection for fear of being accused of judicial activism or violating separation of powers principles. Even the courts that have deemed funding schemes unconstitutional have largely refused to establish templates for funding reform for fear they will not be honored by legislatures. Yet another impediment to centralized funding is the tenuous assumption that local governments cannot retain control of schools without locally based financing. Moreover, despite evidence that state aid evens out funding inequities, there exists a deep-seated tradition of local autonomy in education that even the principles of social justice cannot uproot. Ultimately, the most discouraging deterrent, which Morse discusses at length, is the taxpayer's efforts to thwart the formation of a state-wide sharing pool of taxes that would allocate funds equally across the board. Public welfare inevitably takes a back seat to the self-interest of wealthy, suburban constituents who may publicly lament the state of urban schools but refuse to share their tax dollars.

Chapters 2 through 4 of Morse's book examine the development of reform in New York, Vermont and Ontario. These ninety pages make up the meat of the book. However, after reading page after page of case law, one may find that the content and presentation is quite similar to that of a constitutional law textbook. It would not be difficult to imagine a reader untrained in the legal profession losing oneself in a perpetual timeline of appeals, court remands and abstruse statutory interpretations.

Morse details the thirty year struggle for equitable funding in New York, a struggle marked by countless judicial and legislative setbacks and resulting in little to no progress. New York litigators sought redress through the Civil Rights Act of 1964. The courts, however, continued to block progress, finding no right to sue for the disparate impact the state's funding scheme may have on poor children. Rather, in order to
seek relief under the Act, Plaintiffs were required to prove the state had the intention to discriminate against poor children when implementing their funding scheme- a nearly impossible burden to prove. After thirty years of ineffective court battles, New York now has the widest income gap between rich and poor in the nation, a grossly high drop-out rate, and remains among the most segregated states in the nation. One of Morse's most compelling and recurring assertions is that the court-mandated resegregation in New York and other states flies in the face of Brown precedent. One is left wondering if judges even attempted to reconcile their decisions with Brown. It is hard to believe that Brown, one of the most applauded landmark cases of the twentieth century, could have slipped through the cracks so discreetly without requiring even the slightest distinction to justify the seemingly inconsistent school finance cases.

While the cases in Chapters 2 through 4 seem superfluous, one in particular perfectly demonstrates the role racism and classism play in education. Nothing better exemplified New York’s unwillingness to accept reform than the New York Court of Appeal’s holding in Campaign for Fiscal Equity v. State of New York. In this case, the court refused to recognize a causal link between poverty, race and low government funding and a child’s quality of education. It went on further to find that the state is only obligated to provide a "sound, basic education" and that any inability on the student’s part to achieve that level of education was not the state’s fault. Moreover, the decision provoked a media outcry when it indicated that the state need only give children an education that will provide them the ability to “function productively” (i.e. obtain employment) and noted that plenty of vacant low-level, low-paid jobs were available for children who did not take advantage of education provided to them. Morse vehemently condemns the opinion, stating that “to blame public schoolchildren of New York City because they don’t take advantage of the glorious opportunity offered them seems callous at best; at worst, it is both criminal and overtly racist.”

Vermont proved to be a case study perfectly demonstrative of Morse’s main arguments: that centralized, equitable funding leads to academic achievement and that if the public will to reform is lacking, equitable funding can never be a reality. Vermont’s struggle for reform was quick but unsuccessful in the end. After a 1997 case finding the state’s funding scheme unconstitutional, legislators immediately enacted reforms that were effective in equalizing property tax burdens and providing school districts with a relatively equal share of tax revenues. Even more
notably, the legislation reduced the achievement gap between students in rich and poor school districts.\textsuperscript{10} However, a recapture provision that required wealthy districts to share extra tax money with poorer ones evoked harsh opposition from wealthy tax bases.\textsuperscript{21}

After a discouraging chapter illustrating the self-interest and greed that thwarts efforts to improve public education, one would hope that the chapter's final heading "What Next in Vermont?"\textsuperscript{22} would provide some sort of tangible solution. Instead, Morse expresses doubt that subsequent legislation in Vermont will prove as effective in narrowing the funding and achievement gaps. She then enters into an economic analysis demonstrating that the wealthy benefit the most from educating the poor: The question becomes how much effort will it take for educational and economic researchers to establish this conclusion in public discourse? If the public will is, as Morse argues, the critical instrument for reform, the reader hopes that what lies ahead somewhere in the next four chapters is a framework to change it. Regrettably, this is a lofty expectation and most likely beyond the scope of this book.

Morse's Ontario case study perfectly demonstrates her contention that an equitable funding scheme lacking adequate funding cannot rectify the ills of public education. Ontario's reform took the form of a tax-cutting initiative endorsed by an executive branch with a fiscally conservative agenda. While the executive established an equitable funding scheme by creating a uniform property tax rate, its focus on economy led to underfunding of crisis proportions and a revolt by three urban school boards.\textsuperscript{24} To add insult to injury, the scheme was comparable to the No Child Left Behind Act (NCLB) in that it centralized control to such an extent that teachers lost nearly all autonomy over curriculum. In later chapters, Morse delves into philosophical analyses of the importance of valuing education in and of itself rather than merely as an economic tool of a capitalist society. Similarly, she notes that "part of the difficulty is that the Ontario reforms were motivated by a desire to lower taxes rather than to improve schooling."\textsuperscript{25}

The next two chapters examine the impact poverty and racism have on a child's academic performance and how school finance reform cannot be effective without addressing these underlying issues. While the judicial and legislative timelines of the previous three chapters may have been lengthy and detailed, Chapters 5 and 6 feel quite the opposite — often wrought with abstractness. Nonetheless, Morse makes a number of insightful observations all of which demonstrate that society's emphasis on standards, testing, and accountability in education
“neglect to take into account the social injustice that impede children’s performance.”

Morse criticizes throughout her book a 1966 government-commissioned study known as the Coleman Report. The study’s purpose was to examine equality of educational opportunity in the wake of the Civil Rights Act of 1964. It had a tremendously inimical impact on school finance reform in that it perpetuated the myth that increased funding has little to no effect on academic achievement. Coleman argued that academic achievement had more to do with a child’s aspirations and expectations than school facilities. The report reaffirmed the belief that no amount of money could ever help poor, urban, minority children excel and that they were inevitably destined for menial labor. In the span of seven pages, Morse eloquently discredits Coleman’s argument, attacking his methodology, exposing his shoddy logic, and warning her readers of the implications its legacy has on education reform. Morse contemptuously notes that if there were, in fact, no casual link between academic achievement and increased funding, school boards in wealthy districts would be wasting taxpayer money.

Morse details how poverty lies at the root of poor academic achievement and thus should be addressed before any reform in public education can be expected. She emphasizes the need for cash assistance for needy families, successful job placement and training programs, higher minimum wage, universal health care coverage and quality early childhood education programs. In the Chapter 5 section entitled “Lead Poisoning and Other Toxins” and “Other Health Hazards for Children of Color and Children Living in Poverty,” Morse provides us with a comprehensive look at the devastating effects of lead poisoning on mental development and academic performance, and shocks readers with statistics showing its prevalence among urban, minority children. At this point in the book, Morse is able to suggest relatively attainable measures to alleviate these social ills, urging readers to encourage our leaders to enforce the federal Fair Housing Act and the Department of Housing and Development’s (HUD) building codes.

Chapter 6 looks at the impact racism has on the inequities of school funding and academic achievement. Morse examines the “hypersegregation” of school children due to racist factors such as redlining and tipping. She notes that once black student enrollment in a school reaches a “tipping point” (approximately 20%), white parents are more reluctant to enroll their children. She offers us solutions that will create integrated neighborhoods: redistricting, busing, enforcing
laws already in place like the Fair Housing Act, urban renewal, and allowing for subsidized low income housing in suburban districts.\textsuperscript{33} However, once Morse begins to detail the incurable problem of juvenile incarceration vis-à-vis school dropout rates, the reader cannot help but feel helpless once again. The statistics she provides illustrate the school-to-prison pipeline system whereby urban, minority children are prepped for incarceration at an early age. Juveniles are channeled from school to prison for minor offenses with no regard to the role poverty and poor health (e.g. violent symptoms of lead poisoning) played in their delinquency.\textsuperscript{34}

The final chapter of the book is the least insightful. It has little to add, only reiterating the themes and issues covered in previous chapters. However, in the chapter’s section entitled “Theories of Justice and Social Justice,”\textsuperscript{35} Morse rightly reviews the history of meritocracy in our educational system and criticizes it for its inherent racism. Finally, in “Factors that Promote School Finance Reform,”\textsuperscript{36} she concludes the book on a hopeful note tying together all her main arguments.

IV. Discussion
A Level Playing Field successfully demonstrates the need for school finance reform and the barriers to its success. While the book’s comprehensive analysis of school finance litigation may be a cumbersome read for some, Morse’s attention to detail is illustrative of her firm grasp of the subject matter and the complicated nature of reform. Both educators and litigators can benefit from her work, drawing from its pages the necessary tools and ideas to further implement reform in their respective fields.

Structurally speaking, however, the book lacks fluidity in some parts and is far too redundant in others. Most notably in Chapters 5 and 6 (poverty and racism), Morse tirelessly revisits issues of resegregation, standardized test bias, and the Coleman report. Additionally, when tangible solutions to funding inequities are proposed, they seem to get lost in the abyss of theories and case law. For example, the book devotes relatively little time to the issue of federal funding and the No Child Left Behind Act (NCLB). Given that the NCLB is the subject of such contentious public debate, it could have been expected to comprise a larger share of the book. In Morse’s concluding pages, she states that “another fiscal policy that would help equalize spending would be to fund state and federal mandates fully.”\textsuperscript{37} However, she devotes little time, if any, to an analysis that would compare and contrast the benefits
of state and federal funding. Educators cannot be expected to accept a plea to delocalize funding when many have had such bad experiences with federal mandates. Rather than proposing the option of federal funding as a cursory note, she could have more effectively reached readers by weighing the option’s benefits and disadvantages.

Morse stresses the importance of public will in school finance reform. Although reform begins in the courts, she argues, it will inevitably fail without the support of legislatures and their constituents. She discusses the various philosophical theories regarding social justice, public welfare and self-interest in order to explore reasons why public will is lacking. However, apparent futility reemerges when she states that “until society develops a sense of social justice, individuals will have to continue to seek redress for inequitable school funding in the courts.”

One cannot help but regard funding equality and reform of the status quo as unattainable goals. However, Morse does mitigate these fears in Chapter 5 when she proposes tangible ways to use the law already in place to alleviate poverty (e.g., enforcement of the Fair Housing Act).

V. Conclusion

A Level Playing Field serves as an invaluable resource for those concerned with the state of public education. Morse successfully takes the initial step in dismantling the status quo in our educational system by exposing the racism and fiscal greed that cause the system’s inequities. By the book’s final pages, hopefully litigators are equipped with the legal knowledge necessary to face the barriers that await them in the courtroom and educators have a better understanding of the incredibly vital role they play in the struggle for reform. Moreover, Morse’s work provides the public, as a whole, with a better appreciation for the value of public education and its role as a component of social justice.

NOTES

1. J.D. expected, University of Cincinnati, May 2010

   (quoting Horace Mann, the 19th century creator of the American common school system).

3. Id. at 1–2.

4. Id. at 6.

5. Id. at 5 (quoting Serrano v. Priest, 5 Cal. 3d 584, 589 (Cal. 1971)).

7. Suspect classification is a principle of 14th Amendment equal protection jurisprudence that determines the constitutional scrutiny that government discrimination must endure. Groups must meet certain criteria of suspect classification in order to receive strict scrutiny of their equal protection claims by the courts. Groups that are traditionally subjected to discrimination receive heightened scrutiny of their claims. The criteria for suspect classification was established in footnote 4 of *United States v. Carolene Products Co.*, 304 U.S. 144 (1938).

8. *Id.* at 6.

9. *Id.* at 13.

10. *Id.* at 199.

11. *Id.* at 8-9.

12. *Id.*

13. *Id.* at 27.

14. *Id.* at 13.

15. *Id.* at 13-18.


17. *Id.* at 57.

18. *Id.* at 58.


20. *Id.* at 73.

21. *Id.* at 74.

22. *Id.* at 84.

23. *Id.* at 85.

24. *Id.* at 89.

25. *Id.* at 114.

26. *Id.* at 119.

27. *Id.* at 124.

28. *Id.* at 123-29.

29. *Id.* at 141.

30. *Id.* at 146.

31. *Id.* at 144.

32. *Id.* at 154.

33. *Id.* at 156.

34. *Id.* at 182.

35. *Id.* at 188.

36. *Id.* at 211.

37. *Id.*

38. *Id.* at 218.