San Antonio Independent School District v. Rodriguez: Equal Protection Doctrinal Evolution and Implications on School Segregation Today

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Abstract

The Supreme Court's 1973 ruling in *San Antonio Independent School District v. Rodriguez* that wealth classifications did not invoke a level of strict scrutiny and that education was not a constitutional right had profound implications on the continual link between race, class, and education in the United States. This ruling hindered creating substantive equality of equality for poor and minority students, many of whom still attend *de facto* racially and economically segregated schools and marked a conservative shift in American constitutional law away from the spirit of the *Brown v. Board of Education* ruling and the Warren Court's judicial activism.

Introduction

In 1954, the Supreme Court unanimously ruled in *Brown v. Board of Education* that the segregation of public schools on the basis of race violated the Equal Protection Clause of the Fourteenth Amendment[1], overturning the "separate but equal" doctrine established in *Plessy v. Ferguson*.[2] The *Brown* decision provided a legal remedy to race-based school segregation, but did not radically change the course of K-12 public education outcomes for members of minority groups in America. A 2016 study by the Brookings Institute found that:

> The U.S. is an increasingly diverse nation but remains a highly segregated one. Our schools reflect both our separateness and our inequality… If the main objective is to narrow racial achievement gaps, we need to understand to what extent, and in what way, segregation influences those gaps. The weight of evidence suggests that, at least in the context of the education system, the worse educational outcomes for minority students are the result not of the racial composition of their schools, but the economic backgrounds of their fellow students, and the quality of the school itself—both of which are strongly

[1] Brown v. Board of Education of Topeka, 347 U.S. 483 (1954).

[2] Plessy v. Ferguson, 163 U.S. 537 (1896).

correlated with race.[3]

In the United States, race and class are intimately linked – a large part of this is explained by the effects of an early American economy that was built on slave labor, Jim Crow laws, and discriminatory housing, job, and social welfare policies. A key part of the educational inequities that affect poor and minority students stems from school financing systems – that is, the ways in which states fund their schools. Today, every state in the United States relies on a mixture of state funding and local property taxes to fund schools[4], an antiquated school financing system which continues to drive disparate educational outcomes.

This paper will examine the 1973 Supreme Court Case, *San Antonio Independent School District v. Rodriguez*[5], a decision which has directly and profoundly impacted the ways in which public schools are funded today, shaped equal protection doctrine, and also determined the way in which wealth classifications and education are considered in American constitutional jurisprudence. This paper will argue that the *Rodriguez* decision has been integral in creating the separate and unequal schools of today.

Part II discusses the background of the case. Part III explores the evolving equal protection doctrine of the Burger Court and the vested interests that Justices Warren Burger, Lewis Powell, and Thurgood Marshall had in public education even before this case was brought before the Supreme Court. Part IV outlines the lower court and Supreme Court decisions in *Rodriguez*. Part V shows how advocates for educational equity, despite being let down by the Supreme Court, found success in state courts. Finally, Part VI discusses the legal and policy-based approaches to reforming the equal protection doctrine, wealth classification, and educational implications of the *Rodriguez* decision.

Background

In 1968, a group of about 400 students in the Edgewood Independent School District in San Antonio staged a walk-out, protesting, among many things, against the Vietnam war, for better facilities, and for fully accredited teachers.[6] At that time, 90% of the residents of Edgewood Independent School District were Mexican-American, 6% were African-American, and it had the lowest median income and property values of any district in the San Antonio area.[7]

[3] Whitehurst, Reeves, and Rodriguez, "Segregation, Race, and Schools: What Do We Know?"
[4] "The Role of the Property Tax in Public Education Funding."
[5] San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).
[6] Sracic, *San Antonio v. Rodriguez and the Pursuit of Equal Education, 20.*
[7] San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).

This walkout catalyzed the formation of The Edgewood District Concerned Parents Association, which was led by Demetrio Rodriguez.[8] The Edgewood parents explored ways to improve the district and began studying Texas school finance law. Texas and all other states funded districts through a mix of state and local funding, providing each school district with enough money to provide a "basic minimum educational offering", leaving districts to raise other necessary revenue through local property taxes.[9]

The parents realized that while their district had one of the highest property tax rates in the area, their schools were not in the same condition as schools in other districts. Because of the nature of the properties in the district (it contained a large Air Force Base, which did not pay property taxes and only a small number of properties with enough value to be taxed), and state tax collection laws, Edgewood District raised about $26 per student, whereas a nearby district with a lower tax rate raised about $333 per student.[10] After the basic minimum educational offering funding from the state, the funding gap between these two districts was $250 per student.[11]

Rodriguez brought suit on behalf of the students of families in poor districts and argued that Texas's school financing system put students in districts with small property tax bases at a significant disadvantage and caused severe disparities in school funding that violated the Equal Protection Clause of the Fourteenth Amendment.[12]

The Burger Court

A. Changing Conceptions of Equal Protection

Before considering the *Rodriguez* opinion, it is important to explore the key doctrine at in question in this case, the Equal Protection Clause of the Fourteenth Amendment and its interpretation. The Burger Court, named after Chief Justice Warren Burger, would hear the *Rodriguez* case. It immediately succeeded the Warren Court, a liberal court known for its expansion of civil rights and civil liberties, most notably in *Brown v. Board of Education*.[13] However, the Burger Court's makeup would make it a more conservative court than its predecessor, and with that came evolving attitudes toward the Equal Protection Clause of the Fourteenth Amendment.

[8] Sracic, *San Antonio v. Rodriguez and the Pursuit of Equal Education, 20.*

[9] San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).
[10] Sracic, *San Antonio v. Rodriguez and the Pursuit of Equal Education, 22.*
[11] Sracic.
[12] San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).
[13] Gunther, "Foreword: In Search of Evolving Doctrine on a Changing Court: A Model for a Newer Equal Protection", 4.

Gerald Gunther explains how the Warren Court created a new equal protection doctrine through its decisions, which fundamentally altered the course of equal protection jurisprudence. For cases that invoked violations of the Equal Protection Clause, the Court would use a two-tiered approach, applying either a strict scrutiny test or rational basis test.[14]

Strict scrutiny is invoked when the government infringes upon a fundamental right or when a government action applies to a suspect classification, such as race. The Warren Court had found fundamental rights in voting, criminal appeals, and interstate travel.[15] Under strict scrutiny, the Court places a heavy burden on the government – it must prove that its law is the least restrictive means possible to achieve a narrowly tailored state interest, and thus the government would usually fail to justify its law.

The *Rodriguez* plaintiffs began exploring if wealth classification was a suspect classification and if education was a fundamental right because the application of strict scrutiny was of vital importance to the case's victory.[16] If the Court found that these were protected statuses, the Texas school financing system would be most likely struck down when strict scrutiny was applied because of the disparities it would find.

However, if the Court found that the government did not infringe upon a fundamental right or invoke a suspect classification, the Court would apply a rational basis test, which says that a law must be rationally related to a legitimate state interest. If this test were invoked, the Court was generally very deferential toward federal and state governments and claims of a violation of the Equal Protection Clause would usually fail, unless flagrant discrimination was demonstrated.[17]

Gunther explains, however, that the Burger Court was reluctant to expand the scope of protected statuses under the Equal Protection Clause and there was "mounting discontent with the rigid two-tier formulations of the Warren Court's equal protection doctrine."[18] This two-tiered equal protection doctrine and the dissatisfaction with it would key to the *Rodriguez* decision.

B. Justice Warren Burger on Race and Class

[14] Gunther, 8.

[15] Gunther, 9.

[16] Sracic, *San Antonio v. Rodriguez and the Pursuit of Equal Education, 32*.

[17] Gunther, "Foreword: In Search of Evolving Doctrine on a Changing Court: A Model for a Newer Equal Protection", 19.

[18] Gunther, 12.

An important precedent for the *Rodriguez* case was *Hobson v. Hansen*[19], which was decided by a US District Court in the District of Columbia and upheld by the US Court of Appeals of the District of Columbia, the court on which the future Chief Justice of the Supreme Court, Warren Burger sat on at the time. The plaintiffs in *Hobson* proved, through data and studies, that DC schools were almost entirely segregated on the basis of race and that white schools were better funded.[20] The district court judge ruled in favor of the plaintiffs in *Hobson* and found equal protection violations, and combined notions of racial and economic discrimination in her opinion, saying that "if whites and Negroes, or rich and poor, are to be consigned to separate schools… the minimum the Constitution will require and guarantee is that for their objectively measurable aspects these schools be run on the basis of real equality."[21]
In 1967, the US Court of Appeals for the District of Columbia upheld the district court judgment, but with Warren Burger dissenting. After the case, Burger wrote that "The *Hobson* doctrine can be criticized for its unclear basis in precedent, its potentially enormous scope, and its imposition of responsibilities which may strain the resources and endanger the prestige of the judiciary."[22] This demonstrates that Burger did not subscribe to the notion of the relationship between wealth and race in disparate school funding and bussing as a violation of the Equal Protection Clause, and believed the district court's decision to be legislating in an area under the purview of lawmakers.

C. Justice Lewis Powell and Virginia's Education System

Before joining the Supreme Court, Justice Lewis Powell practiced law in Virginia and served on both the Richmond School Board and Virginia Board of Education for a combined almost 20 years.[23] Critics contend that during Powell's tenure on the Virginia Board of Education, he had a mixed record regarding state efforts to desegregate schools.[24] During this, Powell also formed a clear philosophy on public education in the United States. After traveling to the Soviet Union, he gave many speeches about the dangers of centralized education, which he believed promoted communism.[25] To create civically engaged, free, and democratic citizens, Powell believed in the local control of school boards, and by extension, their ability to raise funds through property taxes. Greater state control of school financing or governance scared Powell, who viewed this as a step toward the centralized schools in the Soviet Union, which he believed bred communism. After *Rodriguez* left the district court and before it reached the Supreme Court, Justice Powell, anticipating the fight ahead, reached out to friends in Virginia to gather data against the case and the equal protection violation claim made in *Rodriguez*.[26]

[19] Hobson v. Hansen, 269 F. Supp. 401 (D.D.C. 1967).
[20] Hobson v. Hansen, 269 F. Supp. 401 (D.D.C. 1967).
[21] Hobson v. Hansen, 269 F. Supp. 401 (D.D.C. 1967).
[22] Sracic, *San Antonio v. Rodriguez and the Pursuit of Equal Education, 26*.
[23] Sracic, 64.
[24] Sracic, 66.
[25] Sracic, 66.
[26] Sracic, 67-68.

D. Justice Thurgood Marshall

Thurgood Marshall also had a vested interest in the *Rodriguez* case before it reached the Court. Less than two decades earlier, at the NAACP, he designed the legal strategy that had ended de jure school segregation in *Brown v. Board of Education*. Through his work fighting for equality under the law, Marshall understood, perhaps better than any of the other Justices, the ways in which race and class intersect. He spent his career before becoming a judge fighting for an end to racial discrimination. Ending education discrimination and creating equal economic opportunities are naturally constitutive parts of this mission, and believed they knew Marshall's stance on *Rodriguez* already.

Decision

A. *Serrano v. California*

Before the *Rodriguez* case was argued, the California Supreme Court handed down a verdict in 1971 in *Serrano v. Priest*[27], a case that also dealt with a state school financing system which combined state funding with local supplemental property taxes. The California Supreme Court determined that wealth-based discrimination mandated strict scrutiny and found that there was "a correlation between a district's per pupil assessed valuation and the wealth of its residents."[28] Thus, discriminating against a poor school district discriminated against poor students who lived in that district. Next, the Court found that education was a fundamental interest necessary for the execution of voting,[29] which was a fundamental right that the Supreme Court had affirmed in a 1966 decision, *Harper v. Virginia Board of Elections*.[30] Thus, the California Supreme Court found that California's school financing system violated the Equal Protection Clause. This decision would provide a key precedent and framework for the plaintiffs in *Rodriguez.*

B. District Court Decision

Rodriguez and the other plaintiffs first brought their case to the US District Court in West Texas in 1971, and a three-judge panel ruled unanimously in favor of Rodriguez and the other plaintiffs on the grounds that the Texas school financing system violated the Equal Protection Clause of the Fourteenth Amendment.[31] The judges agreed with *Serrano*'s assertion that wealth was a suspect classification, triggering strict scrutiny. The judges also found that *Brown v. Board of Education* affirmed that education was a fundamental interest, noting "the grave

[27] Serrano v. Priest, 5 Cal.3d 584 (1971).
[28] Serrano v. Priest, 5 Cal.3d 584 (1971).
[29] Serrano v. Priest, 5 Cal.3d 584 (1971).
[30] Harper v. Virginia Board of Elections, 383 U.S. 663 (1966).
[31] Rodriguez v. San Antonio Independent School District, 337 F. Supp. 280 (W.D. Tex. 1972).

significance of education to both the individual and to society", again triggering strict scrutiny.[32] Beyond that, the district court found that Texas had not even demonstrated that its school financing system could pass a rational basis test.[33] The district court opined that each district should have "fiscal neutrality", the ability to raise similar amounts of funds regardless of geographical wealth.[34] The court declared the Texas school financing system was unconstitutional and ordered the state legislature to replace it within two years. Because an appeals court judge sat on the three-judge district court panel, the next court of appeals for this case was the Supreme Court, and in June of 1972, the Supreme Court granted a writ of certiorari to hear the case.[35]

C. Supreme Court Decision

Despite *Rodriguez*'s victory in the district court, the Supreme Court ruled 5-4 that Texas's school financing system *did not* violate the Equal Protection Clause of the Fourteenth Amendment. Most significantly, it found that wealth classifications were not a suspect classification and that education is not a fundamental right, and thus did not apply strict scrutiny.[36] Justice Powell authored the majority opinion for himself and Justices Burger, Stewart, Rehnquist, and Blackmun, where he first concedes that Texas's school financing system did result in "substantial interdistrict disparities in school expenditures" and that Texas even conceded that its financing system would not hold up to strict scrutiny.[37] Justice Powell argued, however, that the Texas school financing system did not absolutely deprive students of an education because the school district still operated and was able to teach students, and that "the Equal Protection Clause does not require absolute equality or precisely equal advantages."[38] Next, Justice Powell considered the claim that education is a fundamental right, noting *Brown*'s assertion about "the importance of education to our democratic society."[39] However, Justice Powell found that "it is not the province of this Court to create substantive constitutional rights in the name of guaranteeing equal protection of the laws," and that the Constitution did not explicitly or implicitly protect education.[40] Because of these factors, strict scrutiny was not applied, and under a rational basis test, the Supreme Court found the Texas school financing system was rationally related to the legitimate state interest of financing schools. Justice Powell finally notes that "we cannot say that [the disparities in the Texas education financing system] are the product of a system that is so irrational as to be invidiously discriminatory."[41]

[32] Rodriguez v. San Antonio Independent School District, 337 F. Supp. 280 (W.D. Tex. 1972).
[33] Rodriguez v. San Antonio Independent School District, 337 F. Supp. 280 (W.D. Tex. 1972).
[34] Rodriguez v. San Antonio Independent School District, 337 F. Supp. 280 (W.D. Tex. 1972).
[35] Sracic, *San Antonio v. Rodriguez and the Pursuit of Equal Education, 63.*

[36] San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).
[37] San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).
[38] San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).
[39] Brown v. Board of Education of Topeka, 347 U.S. 483 (1954).
[40] San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).
[41] San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).

D. Dissent

The dissenters in the Rodriguez case, Justices White, Brennan, Marshall, and Douglas organized their dissents, and the most powerful dissent, unsurprisingly, came from Justice Thurgood Marshall. In addition to Justice Marshall's dissent, Justice Brennan wrote a brief dissent where he argued that education was a fundamental right because of its link with the right to participate in the democratic process and the rights to speech and assembly enumerated in the First Amendment.[42] Justice White also dissented, joined by Justices Douglas and Brennan, where he argued for an "invigorated rational scrutiny" test to be applied, one which would bridge the gap between the conditions necessary for strict scrutiny and the deference to the state when the rational basis test was applied.[43]

The most profound dissent came from Justice Thurgood Marshall, joined by Justice Douglas. Justice Marshall first penned sweeping counterarguments against Justice Powell's majority opinion and then argued for a new equal protection doctrine. Justice Marshall first builds from what he sees as the spirit of the *Brown* ruling, saying:

> The majority's holding can only be seen as a retreat from our historic commitment to equality in educational opportunity and as an unsupportable acquiescence in a system which deprives children in their earliest years of the chance to reach their full potential as citizens.[44]

Justice Marshall found that there was an identifiable class of citizens being discriminated against – poor students on the basis of the taxable property where they lived. Justice Marshall then fights against the use of a rational basis test in the face of profound educational disparities, saying that using this test was "an emasculation of the Equal Protection Clause."[45] Justice Marshall argues for using a "sliding scale" standard for equal protection instead of the two-tiered approach of the Warren Court.[46] Under this sliding scale standard, the level of scrutiny applied should be proportional to the necessity with which that classification or interest in question is to the enjoyment and execution of fundamental constitutional rights. He says:

> The task in every case should be to determine the extent to which constitutionally guaranteed rights are dependent on interests not mentioned in the Constitution. As the nexus between the specific constitutional guarantee

[42] San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).
[43] San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).

[44] San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).
[45] San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).
[46] San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).

> and the nonconstitutional interest draws closer, the nonconstitutional interest becomes more fundamental and the degree of judicial scrutiny applied when the interest is infringed on a discriminatory basis must be adjusted accordingly.[47]

Finally, Justice Marshall asserts the connection between education and other fundamental constitutional values. First, he argues that states clearly recognize the importance of public education because nearly all state constitutions have provisions concerning public education.[48] Justice Marshall is most concerned about the nature of the discrimination because discrimination on the basis of wealth creates a suspect class.[49] The district-based wealth discrimination that students faced in Texas was beyond their control – which drew parallels to the race-based discrimination overturned by *Brown*. Ultimately, Justice Marshall agreed with the district court's assessment that the Texas school financing system did not even pass a rational basis test, but Justice Marshall continued to argue that a higher standard should have been applied because of the necessity of education for the enjoyment of other constitutional rights.[50]

State Responses

While *Rodriguez* failed in the Supreme Court, it would encourage activists to wage legal fights in state courts. In a 1977 *Harvard Law Review* article, Justice Brennan wrote about the need for fighting for equal protection at the state level and the effectiveness of these efforts, partly as a response to the *Rodriguez* decision.[51] He said:

> More and more state courts are construing state constitutional counterparts of provisions of the Bill of Rights as guaranteeing citizens of their states even more protection than the federal provisions, even those identically phrased. This is surely an important and highly significant development for our constitutional jurisprudence and for our concept of federalism.[52]

Justice Brennan's article coincided with efforts across the country to fight property tax-based school financing systems with the Equal Protection Clause. First, in 1984, a few of the original plaintiffs of the *Rodriguez* case decided to challenge Texas's school financing system again, this time in the state courts. In *Edgewood v. Kirby*, the plaintiffs won their case in the state supreme court, referring to equal protection language in the Texas Constitution and framed the issue not in terms of the equity of funding, but in terms of the adequacy of schools and school funding in reference to specific state constitutional language.[53] This victory forced the Texas

[47] San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).
[48] San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).
[49] San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).
[50] San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).
[51] Brennan, W., "State Constitutions and the Protection of Individual Rights."
[52] Brennan, 5.
[53] Edgewood Independent School District v. Kirby, 777 S.W.2d 391 (1989).

legislature to create a new and more equitable system of school financing[54]. Similar challenges have been raised across the country, with some finding success in places like New Jersey and Ohio, while many others have failed.[55] Recently, in 2017, the Kansas Supreme Court ruled in *Gannon v. State* that Kansas's school financing system, which again used a combination of state funding and local property taxes, violated the state constitution on the grounds of equal protection.[56]

Implications and Looking Forward

A. Equal Protection Doctrine and Legal Remedies

In deciding *Rodriguez*, the majority of the Court sided with and perpetuated the two-tiered equal protection doctrine that was first created by the Warren Court, but the Burger Court's application and interpretation of this two-tiered doctrine was different. Valid equal protection violation claims will generally only be found true if strict scrutiny applies – that is if a suspect classification is applied or a fundamental right is infringed upon. While the Warren Court created this doctrine, it defined suspect classifications and fundamental rights rather liberally,[57] and thus more laws would be subject to strict scrutiny. However, the majority in the *Rodriguez* decision showed that the Justices did not believe there are very many interests and rights so necessary to the exercise of fundamental constitutional rights that they deserve strict scrutiny. By narrowly shaping the conditions under which equal protection claims could be brought where strict scrutiny was applied, the Burger Court became more deferential to states because it would more often only apply the rational basis test. In doing so, the Burger Court became less proactive and more conservative in its judicial decision-making, as opposed to the more advocacy-minded liberal Warren Court and its landmark decisions, such as *Brown*. It would thus slow many of the strides toward racial equality that the Warren Court had begun.

Justices White and Marshall present interesting strategies to rethink equal protection doctrine in their dissents that would be more applicable to the American legal system today. Justice Marshall makes an especially strong argument for using a sliding scale of equal protection scrutiny. This is a strategy that would allow judges to consider issues in the context of their importance to the exercise of constitutional rights. It recognizes the complex nature and spectrum of the exercise of all fundamental constitutional rights. Instead of simply considering

[54] Sracic, *San Antonio v. Rodriguez and the Pursuit of Equal Education, 128*.
[55] Sracic, 129.
[56] Gannon v. State, 390 P.3d 461, 305 Kan. 850 (2017).

[57] Gunther, "Foreword: In Search of Evolving Doctrine on a Changing Court: A Model for a Newer Equal Protection."

an equal protection claim as a binary case of either applying strict scrutiny or almost total state deference through rational basis, this approach would allow a more nuanced methodology to consider the present-day effects of past explicit and disgraceful racial discrimination, and would encourage the creation of the conditions necessary to allow all people to equitably execute constitutionally guaranteed rights. The Court could also hold federal and state government policies to higher standards with Justice Marshall's sliding scale equal protection doctrine. If the federal and state governments create laws that disproportionately affect minority groups on bases of race and class, it is simply bad policy – and a more nuanced equal protection doctrine allows courts to force lawmakers to make better and more informed policy.

Because most forms of de jure discrimination are now gone from the American legal system, the focus must now be on addressing de facto discrimination. The two-tiered approach equal protection doctrine fails the recognize the complexity and interconnectedness of various identities in the United States. Because of the reality of slavery and the racial, religious, and gender animus of previous Court decisions and American law, there exist overwhelming racial disparities today. These racial disparities exist in access to wealth, education, voting rights, healthcare, criminal justice, and clean air and water, among many other factors. These disparities demonstrate that equal protection under the laws is not a reality, and thus the exercise of fundamental constitutional rights is not equitable.

As research today shows, race and wealth are tied intimately because of the United States' history with racial animus expressed through law. If poor people do not have a way to seek legal relief from the laws which marginalize them, an entire class of citizens is not enjoying equal protection under the law. Equity and access to education is a key tool for social and economic mobility and a tool to empower the most marginalized in the United States to change the laws which keep them from their full potentials.

B. Policy-Based Remedies to Educational Inequities

As with all issues in American society, while the Court can provide doctrinal guidance and legal remedy, federal and state governments must make good policy. As demonstrated above, plaintiffs sued to overturn discriminatory school financing systems in state courts, which were found to have violated the educational and equal protection guarantees of state constitutions. In addition to legal remedies, the United States must rethink fundamental aspects of school financing, local control, and its approach to public education. A recent study by the Center on Budget and Policy Priorities found that around 26% of state spending goes toward education, while the federal government provides only about 8% of public school revenues.[58] Generally, states and the federal government give money to school districts, who have the ability to allocate that money based on that district's unique needs. While education financing has become even more complicated today, general trends show that states and the federal government are cutting funds to education. In his 2020 Budget, President Donald Trump proposed an additional $9 billion in funding for a border wall and a 5% increase in military

[58] "Policy Basics: Where Do Our State Tax Dollars Go?", Center on Budget and Policy Priorities.

spending for a total of a $750 billion budget for the Department of Defense, while proposing a 10% cut in funding to the Department of Education.[59] Instead of funding a border wall or increasing military appropriations when the Department of Defense did not even request an increase in funding[60], it would be wise for the federal government to take a more involved approach to financing schools, as research shows the importance of education in driving job outcomes, social mobility, and progress.[61]

Next, more centralization in school funding and school governance would be valuable. Justice Powell's fear that school centralization is a stepping stone toward complete state control and communism is a slippery slope argument. The argument against any type of social welfare program as a descent into communism is simply not true. The federal government and state governments have centralized many services, not because they want to centralize all power, but because it sometimes is just better policy. The jump from an American ethos of liberty, freedom, and free-market capitalism to the ethos of socialism and communism is an enormous jump and one that a majority Americans and their elected representatives have never supported. Centralized state or federal funding and curriculum can better target and address racial and economic disparities.

Ultimately, the stark impacts of *San Antonio School District v. Rodriguez* are felt powerfully today in an America whose schools and society experience profound de facto segregation on bases of race and class. *Rodriguez* betrayed the legacy of *Brown* and enshrined into the law a fundamentally inequitable funding system throughout the country, and its attitudes toward wealth classification, the importance of education, and the evolution of the Equal Protection Clause have perpetuated a reality where Americans do not experience equal protection under the law. The solution to this problem involves better race and class-based policy, a politics that rethinks its value of education and the way it funds and delivers it and continued legal activism to create an America constitutional system that truly delivers justice.

[59] "Policy Basics: Where Do Our State Tax Dollars Go?", Center on Budget and Policy Priorities.
[60] "Policy Basics: Where Do Our State Tax Dollars Go?", Center on Budget and Policy Priorities.
[61] Whitehurst, Reeves, and Rodriguez, "Segregation, Race, and Schools: What Do We Know?".

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