
PHILOSOPHY RATHER THAN FINANCE:
REDIRECTING THE DISCOURSE CONCERNING
INEQUITABLE SCHOOL FUNDING IN ILLINOIS

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The funding of public education in many states, especially Illinois, is characterized by inequity.¹ The reality is that students across the state are subject to a disparity in fiscal resources between those attending schools in the wealthiest and poorest districts.² The cause of this dilemma is threefold. First, Illinois has a school finance scheme that places the primary responsibility of educational funding on local communities in relation to their property values and tax rates. Second, support for this system has come in the form of general legislative inactivity and a position of judicial deference on the part of the Illinois Supreme Court. Lastly, and most pertinent to my position in this paper, the recent discourse concerning the funding dilemma fails to consider the issue from a higher vantage point where analysis might venture beyond the positivist paradigm and into the realm of philosophical inquiry. The conjoined impact of these three factors is the ever-increasing inequity that defines public school funding in the state.

This paper does not reject the importance of research that takes a finance-oriented approach to examining the issue of funding disparity between schools. Rather, it suggests an alternative avenue for considering this dilemma, one that is less rooted in fiscal analysis and more philosophical in nature. In an overarching sense, it specifically aims to reconnect the issue of inequity to the concept of justice, an approach that was at the heart of the movement concerning equality of educational opportunity that took hold in the 1960s.³ As

¹ Numerous reports have been published recently illuminating the inequitable funding of public education in the United States; readers may consult Bruce D. Baker, David G. Sciarra, and Danielle Farrie, *Is School Funding Fair? A National Report Card* (Newark: Education Law Center, 2014).

² There have been a number of recent reports focusing specifically on public school funding in Illinois and the inequity that characterizes it; readers may consult Ralph M. Martire, Chrissy Mancini, and Yerik Kaslow, *Money Matters: How the Illinois School Funding System Creates Significant Educational Inequities that Impact Most Students in the State* (Chicago: Center for Tax and Budget Accountability, 2008).

³ This type of approach was exemplified by Arthur E. Wise: "The purpose of this study is, then, to determine whether the absence of equal educational opportunity within a state, as evidence by unequal per-pupil expenditures, may constitute a denial by the state of the equal protection of its laws," in Wise, *Rich Schools, Poor Schools: The Promise of Equal Educational Opportunity* (Chicago: University of Chicago Press, 1968), 4; by Charles S. Benson: "The essential reason for making (reform) proposals is that I believe

the evidence presented through financial analyses has unfortunately done little to convince jurists, policy makers, and the general public of the need to enact meaningful reforms in the area of public school funding, an alternative method of consideration is warranted. In no way does this paper aim to deter future scholarship of the previous sort. It rather hopes to be a welcome addition to an important conversation for the future of education in Illinois and those students attending its public schools.

Using John Rawls and Peter Gabel, I argue that philosophical analysis rather than finance will better advance social justice in school resource distribution. From what might be termed the liberal tradition, I promote Rawls's *Theory of Justice* as a text worthy of consideration.⁴ As the school funding dilemma is directly related to the concept of resource distribution, his work on the topic is a pertinent place to start. Specific attention will be paid to Rawls's original position, a hypothetical scenario I embrace as an illuminative exercise to assess the nature of institutions such as the public school funding scheme.

From the movement known as Critical Legal Studies, Gabel's articulation of justice as a spiritual concept is equally worthy of consideration.⁵ As the dilemma is also a legal issue, Gabel's suggestions concerning the existence of higher law can help reform advocates view the state of school funding in Illinois from an alternative vantage point than what has traditionally been used. As the funding of public education in Illinois continues to be cut and the disparity in resources between the state's wealthiest and poorest schools increases, reconsideration is required now more than ever.

ILLINOIS FUNDING 101

Illinois is currently one of the worst states in the nation when considering the disparity in fiscal resources between its wealthiest and poorest schools.⁶ Described as "regressive" and "low-effort" by the Education Law

we should consider more closely what the concept of equality of opportunity implies and how we might go about trying to achieve it," in Benson, *The Cheerful Prospect: A Statement on the Future of American Education* (Boston: Houghton Mifflin, 1965), 1-2; and by Francis Keppel: "[It] has become increasingly apparent that equal educational opportunity is necessary to the maintenance of a free and prosperous society," in Keppel, *The Necessary Revolution in American Education* (New York: Harper & Row, 1966), 27.

⁴ John Rawls, *A Theory of Justice*, rev. ed. (Cambridge: Belknap, 1999).

⁵ Peter Gabel, *Another Way of Seeing: Essays on Transforming Law, Politics and Culture* (New Orleans: Quid Pro, 2013); "Critical Legal Studies as a Spiritual Practice," *Pepperdine Law Review* 36, no. 5 (2009): 515; "From Individual Rights to the Beloved Community: A New Vision of Justice," *Tikkun* 27, no. 1 (2012): 18; *The Bank Teller and Other Essays on the Politics of Meaning* (San Francisco: Acada, 2000); and "The Spiritual Dimension of Social Justice," *Journal of Legal Education* 63, no. 4 (2014): 673.

⁶ Baker, Sciarra, and Farrie, *Is School Funding Fair?*

Center, which assessed it a failing grade for fairness, it is currently situated at 49th with Nevada being the only state ranked below it in funding distribution.⁷ Recent cuts have only intensified the inequity as those districts most reliant on state appropriations have had much larger portions of their budgets lessened as a result. One of the underlying causes of this dilemma is local control and the overreliance on property values as the primary factor in determining available per-pupil expenditures in districts across the state.

Although the Illinois Constitution expressly stipulates, “The State has the primary responsibility for financing the system of public education,”⁸ the majority of funds for public schools are derived at the local level. According to the Illinois Association of School Boards, appropriations from the state, which includes general state aid and categorical grants, make up roughly one-third of all school districts’ budgets.⁹ With an additional ten percent coming in the form of federal aid, local schools districts provide on average almost sixty percent of the funding with which they must operate each year. This puts impoverished communities at a disadvantage, even with assistance from the state. The result is an injustice that requires attention if Illinois is ever to move forward in regards to funding fairness and in ensuring equal educational opportunity is afforded all students.

JUDICIAL SUPPORT

Since the publication of the Coleman Report in 1966, equality of educational opportunity has been a principle of significance and continuous debate. As available fiscal resources was one of many variables considered by the commission in its study, comparisons of opportunities between schools became a hot topic for scholars and policy makers immediately following its publication.¹⁰ What emerged from the discourse was a wave of state school finance cases emphasizing equity, including Illinois, where claims concerning the disparity in resources and equality of opportunity in public schools were rejected by the courts.¹¹ The unwillingness of the courts to be actively involved in determining whether or not the funding apparatus is just rather than simply constitutional is a contributing factor to the inequitable dilemma facing Illinois public schools.

⁷ Ibid.

⁸ Ill. Const. of 1970, art. X, § 1.

⁹ Illinois Association of School Boards, *Understanding School Finance: Twelve Questions & Answers*, 2008, <http://www.iasb.com/pdf/understandingsf.pdf>.

¹⁰ Readers may consult John E. Coons et al., *Private Wealth and Public Education* (Cambridge: Belknap Press, 1970) and Christopher Jencks et al., *Inequality* (New York: Basic Books, 1972) as examples of the emerging discourse.

¹¹ It is important to note that in some states these claims were not rejected. For example readers may consult *Serrano v. Priest*, 487 P. 2d 1241 (Supreme Court of CA 1971) 1241–1266.

For Illinois students, the most significant case concerning the funding dilemma was decided in 1996.¹² *Committee v. Edgar* is THE case reform advocates consider as the seminal moment in recent school funding history. As one scholar stated at the time of its decision regarding its importance and influence, “(For) the foreseeable future the doors to the court were closed to Illinois school children.”¹³ In this case, plaintiffs argued that the funding appropriated by the state was insufficient for those districts unable to raise substantial local revenues. The system, according to their claims, was neither efficient nor high quality, both enumerated expectations in the state’s constitution. The Court did not agree.

The *Edgar* decision is the epitome of judicial deference. Although the Court asserted that the public school funding scheme could be considered “unwise, undesirable or unenlightened from the standpoint of contemporary notions of social justice,”¹⁴ it was neither unconstitutional nor within the scope of the Court’s authority to evaluate whether it was efficient or high quality. The foundation of the Court’s position was its refusal to recognize education as a fundamental right guaranteed under the Illinois Constitution, a stance that mirrored what had been decided at the federal level in the *Rodriguez* case two decades earlier.¹⁵ Although it refused to endorse the system, a point iterated in the concluding paragraph of the majority opinion,¹⁶ it was the responsibility of the General Assembly to handle matters concerning the funding of public schools, not the Court’s.

At the time of the case, Illinois ranked sixth in the nation in disparity of educational resources and opportunities.¹⁷ *Edgar* and the subsequent cases that followed its deferential lead are a major cause for the worsening state of affairs. The inequity of the Illinois school finance arrangement is partially a

¹² *Committee v. Edgar*, 672 N.E. 2d 1178 (Supreme Court of IL 1996) 1178-1207.

¹³ G. Alan Hickrod, “Reply to Ward: Gettysburg Revisited,” *Journal of Education Finance* 23 (1997): 262.

¹⁴ *Committee v. Edgar*, 1196.

¹⁵ In *San Antonio v. Rodriguez*, the US Supreme Court firmly asserted that education was not a right of all individuals due to the lack of constitutional enumeration. This meant that a less stringent form of judicial review was applied in the case. As mentioned earlier, this case essentially ended litigation at the federal level concerning educational funding and the equality of opportunity. The result was a number of state cases, including *Committee v. Edgar*, where plaintiffs made the claim that the express provisions concerning education in state constitutions did make it a fundamental right applicable under the equal protection clauses of those documents. This assertion was a large part of the foundation upon which the plaintiffs in the *Edgar* case initiated their suit.

¹⁶ “In closing, it bears emphasis that our decision in no way represents an endorsement of the present system of financing public schools in Illinois, nor do we mean to discourage plaintiffs’ efforts to reform the system.” *Committee v. Edgar*, 1207.

¹⁷ This is according to the 1989 Annual Report of the Illinois State Board of Education, which is mentioned in the Court’s opinion.

result of the failure of litigation, specifically an attitude of deference on the part of the courts and their mechanistic approach to considering questions concerning the scheme. Such an approach is the antithesis of a more critical and philosophical inquiry technique to considering the school funding apparatus in terms of its legality and unjust nature. Coupled with the dominant literature concerning funding inequity, litigation has done little to bring about reform in this area.

FINANCE-ORIENTED LITERATURE

There is an abundance of literature covering the issue of public school funding. Most is finance-oriented and partially responsible for the continued inequity by not illuminating the dilemma from a metaphysical vantage point, specifically concerning the principle of justice. Although necessary for its informative appeal, such positivist literature does little to make evident the injustice of inequitable school funding in a metaphysical sense, the result of which has been a lack of substantial change to the system. In fact, some scholars and their frameworks for considering the financial foundations of public education may actually be aiding in the sustainment of inequity.¹⁸

To review all of the reports, policy briefs, op-ed pieces, and scholarship concerning the funding of public education in America would take up more time and space than is available for this piece. Therefore, only three pieces of literature are briefly discussed to support the statement above concerning a lack of philosophical consideration and need for a re-visioning within the discourse. It is important to note that each focuses on the inequity of Illinois school funding and implicitly supports reform. Again, though all are informative in their own right, none address the dilemma from a deeper metaphysical approach where philosophical principles might better help illuminate the injustice and illegitimacy of the finance scheme.¹⁹ In simplest terms, none move into what might be called the spiritual dimension of social justice.²⁰

¹⁸ As one example, readers may consult the work of Eric A. Hanushek, who has consistently argued that increased funding for public schools will not improve performance and testified in various school finance cases on the basis of his statistical analyses.

¹⁹ Whether one does or does not agree with the supposition that such scholarship is partially responsible, it can be asserted that no reform has come about as a result of scholarly publications concerning the inequitable nature of the Illinois school funding scheme. A disparate distribution of funding existed when such contributions were published and has increased since. For the author, this demonstrates the fundamental shortcoming of positivist, finance-oriented literature and its inability to bring about substantive change in this area.

²⁰ Peter Gabel, "The Spiritual Dimension of Social Justice," *Journal of Legal Education* 63, no. 4 (2014): 673–88.

Played out in the pages of the *Journal of Education Finance* between 2008 and 2009, a dispute concerning methodology overshadowed the dilemma that two groups of authors intended to illuminate concerning the nature of public school funding in Illinois. The initial article described equity and adequacy analyses in Illinois using 2005 data from the Illinois State Board of Education's Center for School Finance.²¹ Though not heavily analytical in its rhetoric, its focus on statistics detracted from the overall message that Illinois school funding is neither equitable nor adequate in terms of the efficiency of opportunities provided.

The initial analyses sparked a response the following year in the same journal where two more scholars weighed in on the dilemma.²² Critical of the methodological decision by the previous authors, the authors set out to replicate the study using what they saw as actual allocations under the school funding formula. Using unadjusted variables, their study found that some types of districts were even more inequitable than had been reported previously. Unfortunately, the reported results were overshadowed by the continual reference to and refutation of the initial analyses and their shortcomings. Though the authors iterated the importance of vigilance in regards to the maintenance of concepts such as justice, freedom, and equality, again this was eclipsed by their promotion of increased data analysis as the way to encourage policymakers to consider the dilemma facing Illinois public schools.²³

As expected, the above response occasioned a rejoinder from the original scholars with a review of their initial analytical framework and replication of the study.²⁴ Critical of the decision to base the response-analysis on the district unit rather than number of pupils, the rebuttal characterized the study as erroneous in terms of the relative strength of each child between large and small districts. Justifying the decision to use weighted pupils in their analysis, the authors characterized the responders' study as "naïve" and "conceptually simplistic" concerning this approach.²⁵ Unsurprisingly, the results of the replication again found the Illinois school funding scheme both unjust and disparate, a point the authors reiterate in the conclusion. Unfortunately this position is minimalized by the continual reference to the responders' analysis and its flawed framework.

²¹ Deborah A. Verstegen and Lisa G. Driscoll, "Educational Opportunity: The Illinois Dilemma," *Journal of Education Finance* 33, no. 4 (2008): 331–51.

²² Christopher M. Mullin and Kathleen Sullivan Brown, "Reframing the 'Dilemma' in Illinois: A Response to Verstegen and Driscoll," *Journal of Education Finance* 35, no. 1 (2009): 26–42.

²³ *Ibid.*, 41–42.

²⁴ Deborah A. Verstegen and Lisa G. Driscoll, "On Equity: The Illinois Dilemma Revisited—A Response to a Response," *Journal of Education Finance* 35, no. 1 (2009): 43–59.

²⁵ *Ibid.*, 51.

All three of the pieces of scholarship concerning the Illinois dilemma are noble in their attempt to illuminate the inequity—and to a lesser degree the inadequacy—of the Illinois public education finance system. It can and should be asserted that each has contributed to the discourse. It is also important to recognize the role of such literature in promoting awareness of the system and its disparate nature. However, it is equally important for educational philosophers concerned with the dominance of positivist analytical approaches to recognize a void in the discourse in terms of metaphysical consideration. Those who value and encourage such considerations must make a concerted effort to bring issues such as justice, fairness, and equality of opportunity to the front of the movement rather than allowing them to remain in the periphery. Philosophy is capable of doing what financial analyses have yet to do.

JOHN RAWLS, PETER GABEL, AND RE-VISIONING

My assertion in this paper is that a re-imagining is needed if the Illinois school funding dilemma is to ever be resolved through a more equitable and just distribution of resources and educational opportunities. Such a re-imagining needs to embrace metaphysical inquiry rather than simply repeat the positivist empirical research that has dominated the scholarly field of school finance. A good place to begin is with John Rawls and his seminal text on the principle of justice as fairness. Described as “the most distinguished political philosopher of the 20th century,” and one of the first to move beyond the school of logical positivism with its heavy emphasis on empirical evidence,²⁶ Rawls offers school finance reformers a philosophical foundation for critical analysis.

Rawls’s text has as one of its central tenets that a fair distribution of goods is a just distribution of goods and that a legitimate social arrangement is one where inequality is acceptable only when in the interest of everyone. Rejecting the principle of utility, Rawls suggested that a cooperative arrangement among equals necessitates a just distribution of social goods and that if considered within the context of the original position, would be arrived at rationally by members of a society. As he stated concerning this assertion, “Offhand it hardly seems likely that persons who view themselves as equals, entitled to press their claims upon one another, would agree to a principle which may require lesser life prospects for some simply for the sake of a greater sum of advantages enjoyed by others.”²⁷ This is the essence of his theory of rational choice which sits at the core of the theory of justice he articulates.

According to Rawls, there are two principles of justice that exist in the original position. The first is that every individual has an equal right to the same rights and liberties as everyone else within a social arrangement. The

²⁶ Martha Nussbaum, “Making Philosophy Matter to Politics,” *New York Times* (December 2, 2002), <http://www.nytimes.com/2002/12/02/opinion/02NUSS.html>.

²⁷ Rawls, *A Theory of Justice*, 13.

second is that these same individuals are afforded a fair equality of opportunity to the offices and positions available in the arrangement. Behind what Rawls calls a veil of ignorance, rational individuals in the original position would arrange a social cooperative system void of arbitrary advantage for one group over others. Because they are unaware of their individual attributes and to which identity groupings they belong, citizens would select principles of arrangement that would be favorable, fair, and just for everyone. “Somehow,” he avows, “we must nullify the effects of specific contingencies which put men at odds and tempt them to exploit social and natural circumstances to their own advantage.”²⁸ The veil of ignorance is intended to perform this function and is worthy of consideration as an analytical tool for those concerned about inequitable school funding.

At the core of Rawls’s theory is the desire to ask larger metaphysical questions concerning the nature of justice and its relationship to social arrangements, which would include existing laws such as those statutes responsible for the Illinois school funding scheme. When one asks the question of whether or not the arrangement is just in light of the evidence presented above regarding disparity in fiscal resources between rich and poor districts, one must go beyond the limits of the law and the jurisprudential support it has received. A pertinent question is, if placed in the original position and under the veil of ignorance, would a rational citizen create or be willing to accept a school funding arrangement where one group—those with high property values—benefitted significantly more in the distribution of resources than others?

Is the right to education being afforded equally to all under the current arrangement? Is there a fair distribution of equality of social and economic opportunities under the system or do certain groups as a result of “specific contingencies” or “social and natural circumstances” have greater access? Simply stated, when assessed through the lens of Rawls’s theory, is it possible to claim that the Illinois school funding formula is just and fair? I do not believe so and remain assertive in promoting such analysis as needed to supplement the finance-oriented literature concerning the funding dilemma. Rawls clearly stated, “From the standpoint of the theory of justice, the most important natural duty is that to support and further just institutions.”²⁹ What must precede this is the illumination of existing injustices such as the inequitable and unfair distribution of fiscal resources for schools in Illinois. Statistical analyses and positivist-oriented scholarship has neither done enough to fulfill this need nor bring about substantial reforms.

In addition to Rawls’s theory of justice, this paper promotes Peter Gabel’s suggestions concerning the existence of higher law and the need for a re-visioning of justice as lenses through which the Illinois dilemma might be evaluated. One of the original theorists behind the movement known as Critical

²⁸ *Ibid.*, 118.

²⁹ *Ibid.*, 293.

Legal Studies, Gabel’s work in the area of spiritual progressivism can be valuable for those individuals yearning for a metaphysical approach to considering issues of justice. As he has stated regarding this style of inquiry, “A successful critical approach to the present—or in the case of law, to a successful critical legal studies—requires the illumination of the injustice of what is, that is anchored in a transcendent intuition of the just world that ought to be.”³⁰ Any critical consideration of the Illinois school funding scheme must concern itself with making people aware of the injustice of inequity that characterizes it. For those interested in embracing this approach, Gabel’s work can provide guidance.

One of the concepts developed by Gabel and others in the Network of Spiritual Progressives is the *politics of meaning*. According to Gabel, “The politics of meaning is both a way of understanding the world and a strategy for how to change it.”³¹ This way of thinking can help scholars critically consider the Illinois school funding formula and its impact on the students, communities, and state as a whole from a metaphysical rather than statistical perspective. It is absolutely related to public education—something that has been historically articulated as essential for the development of every individual and society as whole³²—in that its foci concern connections between all persons and ensuring the needs of everyone are provided for. As Gabel has stated, “The politics of meaning insists that people’s subjective longings for love, caring, meaning, and a connection to a spiritual/ethical community larger than the self are as fundamental as the need for food and shelter in the purely physical or economic realm.”³³ The politics of meaning can afford scholars an opportunity to combat the cynicism towards community and the individualistic rhetoric surrounding local control by helping them see equality of educational opportunity as a fundamental right of every Illinois child, not only those attending schools in wealthy communities.

Coupled with the politics of meaning, and pertinent to the discourse concerning inequitable school funding, is Gabel’s assertion on the existence of higher law. As has been mentioned, the dilemma facing Illinois schools is a direct result of statutory law and the deferential jurisprudence that has

³⁰ Gabel, “Critical Legal Studies as a Spiritual Practice,” 521.

³¹ Gabel, *Bank Teller*, 4.

³² This historical commitment is exemplified in early American educational theory. Readers may consult Thomas Jefferson, “A Bill for the More General Diffusion of Knowledge,” in *The Works of Thomas Jefferson*, ed. Paul Leicester Ford (New York: G.P. Putnam’s Sons, 1904); Benjamin Franklin, “Proposals Relating to the Education of Youth in Pennsylvania,” in John Hardin Best, *Benjamin Franklin on Education* (New York: Teachers College Press, 1967); and Benjamin Rush, “A Plan for the Establishment of Public Schools,” in *Essays on Education in the Early Republic*, ed. Frederick Rudolph (Cambridge: Belknap Press, 1965) as evidence of this commitment during America’s founding period.

³³ Gabel, *Bank Teller*, 5.

supported it. Described by Gabel as “an embodiment of the presence of social justice,”³⁴ the principle of higher law provides equality of educational opportunity advocates a vantage point from which to assess the statutes in question and the erroneous decisions of the courts concerning constitutionality. It fosters a technique that encourages scholars to act in accordance with “a transcendent moral horizon.”³⁵

For those specifically interested in assessing the legitimacy of the Illinois school finance scheme, the principle of higher law offers an opportunity to go beyond the simple question of legality and into a more metaphysical understanding of its existence and influence. “Law is not a body of rules or any other such thing-like entity,” Gabel has suggested, “but rather a culture of justice whose ethical legitimacy depends upon how deeply and sincerely it enables us to carry out the work of justice, of love correcting that which revolts against love.”³⁶ A scholarly approach equipped with this technique might better illuminate the injustice of the funding system rather than simply analyzing the relationship between variables. And the result might actually be substantive change in the spirit and reality of the finance scheme with equality of educational opportunity finally provided all Illinois children.

CONCLUSION

As previously stated, this paper does not attempt to overshadow or encourage the devaluing of finance-oriented literature in the discourse concerning inequitable school funding. It rather aims at being a welcome addition to the ever-growing body of scholarship regarding this dilemma and its impact on the educational opportunities schools are able to provide their students. There is an abundance of statistical analysis explicating the impact of the disparate distribution of resources plaguing many states, Illinois among them. At the same time, there is a paucity of literature either encouraging or attempting to assess the legitimacy of these schemes from a philosophical perspective. As one author stated, “The importance of discourse in the ways individuals structure, think about, and imagine their lives, individually and with others, cannot be overstated.”³⁷ For too long has the discourse concerning school funding and equality of educational opportunity—characteristically finance-oriented and positivist in nature—caused us to contemplate the dilemma of inequity in a way that has ignored larger metaphysical questions concerning justice and legitimacy. A re-imagining is paramount if any significant reforms in this area are ever to be achieved.

³⁴ Gabel, “Critical Legal Studies as a Spiritual Practice,” 526.

³⁵ *Ibid.*, 526.

³⁶ Gabel, “From Individual Rights to the Beloved Community,” 18.

³⁷ Angela Hurley, “An Education Fundamentalism? Let Them Eat Data!” *Philosophical Studies in Education* 44, (2013): 66.
