



Forty years ago, the Supreme Court created an unmitigated disaster for our nation's school children when it ruled on the case of *San Antonio Independent School District v. Rodriguez*.

The 5-4 decision allowed Texas to fund school districts on the basis of locally raised tax dollars, confining children in poor communities to underfunded schools. It was a triumph of states' rights over human rights, holding that education was not a fundamental right under our Constitution and that citizens could not sue in federal court to when states underfund their schools. This has led to decades of expensive, drawn-out litigation in most states on behalf of students, parents, and poor communities thirsting for better schools.

*Rodriguez's* legacy runs counter to the principles set forth in the Universal Declaration of Human Rights in 1948 and in *Brown v. the Board of Education* in 1954, guaranteeing high-quality public education to all children on equal terms. The result is nothing short of a national crisis.

Since *Rodriguez*, educational attainment in the United States has become even more inextricably tied to social outcomes like employment and earnings, incarceration, and civic engagement. Yet as a result of inequities like persistent race- and class-based achievement

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Written by Wade Henderson  
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gaps, unacceptably low graduation rates, and more than a million student drop outs each year, millions of people have become trapped in perpetual unemployment and underemployment. We know for a fact that educational outcomes are linked to resources, yet *Rodriguez* continues to thwart the possibility of a national solution to a nationwide problem.

Even though the vast majority of courts have made it absolutely clear that state funding systems violate students' rights to public education, states have been unable or unwilling to remedy the violations. In fact, resistance to court orders on requiring greater equity in school funding is perhaps the one political position that has been uniquely bipartisan over the years.

In Colorado, a trial court ruled in 2011 that the state's public schools were both inadequately and inequitably funded. The judge ordered state officials to fix the problem. Despite this ruling, Governor Hickenlooper and a bipartisan group of public officials rejected the court order, took no leadership to craft a solution, and now litigation has resumed.

A few weeks ago in Texas, a district court judge held that the state's public school funding system is "arbitrary, inequitable and inadequate" under the Texas constitution. This victory follows a series of similar court decisions in Texas since *Rodriguez*. But Governor Perry immediately appealed the decision, which will likely have little impact on the education students receive in Texas.

In Kansas, the courts ordered the legislature to fully fund its inequitable public education system. Instead of complying with the order, the legislature proposed a constitutional amendment to block the courts from ruling in school finance cases. This state-by-state, zip code-by-zip code approach fails to ensure that all children get the education they deserve. It jeopardizes the nation's ability to compete in the global economy and threatens its guiding principles of justice, fairness, and equality.

History makes clear that simply following the practices of the past will not lead us to the outcomes we clearly need as a nation. Despite right wing calls for more local control and so-called "states' rights," the inconvenient truth is that the federal government must be able to step up and assume a greater role in providing equitable funding to schools.

The legacy of *Rodriguez* is a messy patchwork of state policies that underfund schools in poor communities, resulting in a child's zip code having primacy over a Constitutional guarantee of equality under the law. For the last forty years, state-based solutions have failed our kids. Without an established national right to education, we risk seeing more of the same over the next 40 years.

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*combating racial discrimination and the resulting inequality of opportunity - work that continues to be vital today. For more information, please visit [www.lawyerscommittee.org](http://www.lawyerscommittee.org) .*