

Compel Rather Than Inspire: Moral Implications of Adequacy Litigation

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In his essay, Charles Howell reflects carefully upon school finance litigation over the past decade. He notes that attempts to gain equity in financing have reached a dead end. Howell examines two cases of school finance litigation that deal with what appears to be the more achievable and realistic criterion of adequacy. In this response, I shall spend a few moments surveying the argument by Howell while paying attention to his reasons for the normative bite of adequacy litigation.

In the United States, our states require an education for every child. Howell endeavors to show how an adequate education can be achieved. Adequacy may not uplift and inspire, but can be compelled legally, as Howell points out in his final paragraph. He examines arguments for adequacy in the context of court cases in Kentucky and Alabama to see if these cases are morally compelling.

The Kentucky case cited speaks of sufficiency for a purpose. Howell rightly points out that this is difficult to make explicit and defensible. What is sufficient knowledge of government for a particular grade level? Would it be a bare bones or implicit knowledge, such as E.D. Hirsch's cultural literacy, or a more robust and explicit understanding of political theory and practice? The Kentucky court backed away from defining this further with vague language open for interpretation, such as education should "have as its goal" certain skills and capabilities. Howell is right to criticize this claim for adequacy, since much more needs to be specified here. How may this be done? The Kentucky case leaves this open by its very language. The citizenry needs to argue and determine these specifications. The moral claim can be made through the argument for the common good, as Howell proposes regarding the availability of medical care. This is in the interest of the community, as having adequate medical care available to all can be argued to be a common good. Sufficient or adequate education should be provided so that one can have what Kenneth Howe calls a "real opportunity" to become a doctor.¹

The Kentucky case lacks specificity in determining adequacy and seems to rely on our best natures to have such as a goal. Yet our best natures may not be enough to bring this about. Howell turns to the case from Alabama, which provides determinations for what might be considered an adequate education. Inputs such as texts, facilities, and certain special services are discussed in the Alabama case. The element of the give-and-take of participatory action that would help to decide what in fact is adequate is not discussed here, nor should it be expected. Yet, citizens would determine for themselves what is worth wanting through democratic discussion. This factor underlies Howell's analysis, though it is not made explicit.

To illustrate the role of such participation, let us take the example from the Alabama case, namely whether auditoriums for the performing arts and speech classes are part of an adequate education. Such facilities are so if determination is made in discussion and political action. And, indeed, the language of the Alabama

case shows how such participation could be allowed. Howell notes the statement of a requirement of “acceptable facilities conducive to an effective teaching and learning environment” merits “appropriate facilities and equipment necessary to reach instructional objectives.” These terms are sufficiently vague and expansive to allow art, music, and other disciplines to be treated as part of an adequate education. Likewise, the “instructional objectives” should be determined through similar participatory action.

The second example of an input Howell cites in the Alabama case does not rely on tangible facilities or supplies. He turns to counseling services, and shows how such services can be part of an adequate education. The example he uses concerns how helping a disruptive fourth grader through counseling can meet general educational objectives of an adequate education. This example raises questions of practice regarding the efficacy and appropriateness of counseling. It seems that this disruptive fourth grader could also be put in an alternative school, as just one measure beyond counseling services to help the situation for all involved. Though these are questions of practice, they do raise the issues of the nature and role of such counseling, and thus whether it is needed for an adequate education. Here again is where the element of participation could be explored, though I do not necessarily expect such to be done within Howell’s essay.

The Alabama case goes further than discussing inputs such as supplies, teachers, facilities, and counseling services. Three measures are specified: the dropout rate, percentage of students requiring remedial college courses, and preparation for work. Howell examines how the outcome of “preparation for work” can be met through an adequate education, through a discussion of the nuances of economic competitiveness.

In his final paragraph, Howell makes it clear that he is trying to find a way to make school finance litigation work, both morally and legally, under the rubric of adequacy. I believe that his consideration of economic competitiveness toward this end is not convincing. In the context of economic competitiveness and preparation for work, adequacy seems to be tied to the particular needs of a company that would locate in a community. Though such a policy might lead in the short run to the landing of a certain kind of plant or service, such determinations by a local community or even a state are dependent upon factors that may not be educational in any broad sense, but rather concern strategic or financial considerations made by employers.

This last paragraph of the essay leaves me heartened by its clear and sober analysis, while also feeling somewhat empty. As a refreshingly matter-of-fact moral stance rooted in an awareness of the utility of litigation and the separation of powers, the final statements are realistic and unromantic about what I see as the current political and educational climate for a just schooling in the United States. It is this climate, rather than Howell’s engrossing and carefully argued justification of adequacy, that I find so disquieting.

1. Kenneth R. Howe, *Understanding Equal Educational Opportunity: Social Justice, Democracy, and Schooling* (New York: Teachers College Press, 1997), 18.