

Interpreting the viability and longevity of the Leandro Case as it pertains to rectifying known inequities in the North Carolina public schools educational system

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ABSTRACT

CARY GILLENWATER: *Interpreting the viability and longevity of the Leandro Case as it pertains to rectifying known inequities in the North Carolina public schools educational system*

(Under the direction of Dr. Mary Stone Hanley)

This study situates the recent North Carolina Supreme Court decision, generally known as the *Leandro Case*, in the context of other states' judicial interventions into education, as well as the broader context of American capitalistic society, in order to project the long-term affects the ruling will produce for North Carolina school systems. Through an analysis of both internal and external characteristics affecting the ruling, it is concluded that the state of North Carolina will be unable to achieve the goal of a sound, basic education for all students mandated in the *Leandro Case*, which is based on the currently held conception of equity.

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“Education is perhaps the most important function of state and local governments...In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms” – Brown v. Board of Education

“Only a fool would find that money does not matter in education” – Judge Howard Manning

INTRODUCTION

Rationale

The catalyst for this endeavor was an article in the *Phi Delta Kappan* (2001) entitled “Diversity Within Unity: Essential Principles for Teaching and Learning.” The Multicultural Education Census Panel responsible for this publication included such well-known and respected education theorists as James A. Banks and Geneva Gay. The panel participated in a four-year project in which research related to diversity was reviewed and synthesized and ultimately condensed into a 12-principle design. The goal of their venture was and still is that of “a democratic and pluralistic society”, based on the claims that “schools can make a significant difference in the lives of students, and they are a key in maintaining a free and democratic society” (Banks et al., 2001, pp. 196-197). The panel went further by stating that when disparities between educational opportunities exist, disparities in educational quality also exist.

Though all the principles are vital, the principle I found myself pondering was Principle 11, which stated, “Leaders should ensure that all public schools, regardless of their locations, are funded equitably” (Banks et al., 2001, p. 202). The panel noted that often disparities in funding could be seen in adjacent communities because of property taxes,

which are the primary funding element for local districts. They asserted that equity in school funding is critical to create multicultural schools that do not deny an equitable education because of race, gender, or socioeconomic status. This position has legal backing in the fact that over the past several decades the courts of the United States have declared that it is unfair to punish people by discriminating against them based on traits they did not choose or cannot control (Chemerinsky, 1999).

The specific problem of inequities in education has been handled by the judicial systems of multiple states since the late 1960s with varying results (Odden & Picus, 1992; Burrup, Brimley, & Garfield, 1999). However, the cases that have ruled in favor of more equitable systems have not corrected the inequities within education. In North Carolina, courts have been in deliberations for over a decade in an attempt to rectify the inequities present in the state's educational system. Two landmark court cases have laid out the means to accomplish this endeavor, *Leandro v. State of North Carolina* (1997) and *Hoke County Board of Education v. State* (2004). These cases combine to form the crux of what is usually referred to as the *Leandro Case*. In the interim between the two cases, several rulings were handed down that helped shape the final decision in 2004. These rulings were based on Superior Court Justice Howard Manning's investigations into the educational systems of local school districts around the state of North Carolina. The *Leandro Case* it is hoped will bring equity into the schools of North Carolina; however, it may be lame at the outset, because of inherent problems within the ruling itself and external factors in both education and society that are out of its control.

Methodology

I will examine the issue of public school funding and how it perpetuates inequities in education, and therefore in society. Using the *Leandro Case* as my focal point, my claim will rest on the idea that unless a fundamental change in American society takes place, the *Leandro Case* will be unable to correct educational inequities in North Carolina public schools. I will build this claim around three critical issues, which will be defined and analyzed further in the proceeding sections: classism/social class, equity and its role in education, and local control/funding of schools, all of which have a direct influence on education. I will also situate *Leandro* in the national context of arguments about funding for equity in education, which have been prevalent since the late 1960s in an effort to compare it to its predecessors that have attempted to create equity within education. Ultimately, I hope to counteract the conviction that *Leandro* will achieve equity in North Carolina education. In the end I recognize that more questions may be raised than answered, but that there may still be hope in resting control of education from the dominant class.

CAPITALISM

It is important to put the subsequent findings into a frame or context. The context for my purposes is that of American capitalistic society. Bowles and Gintis (1976) describe the United State's economic system of capitalism as a system in which the vast majority of workers are controlled by a small minority of owners and managers; consequently creating a hierarchical division of labor and bureaucratic authority. It is important to note that capitalism is situated in the political system of democracy, which by law allows for each person to have the opportunity to position him or herself to gain capital, regardless of race, gender, sexual orientation, age, and/or physical handicaps via the Fourteenth Amendment's equal protection clause (Chemerinsky, 1999). One of these opportunities, education, was found to be a fundamental right by the courts in the 1971 opinion of *Serrano v. Priest* (Odden & Picus, 1992). The California Supreme Court determined that education was a fundamental right and additionally, that property wealth per pupil was a suspect class, therefore declaring California's educational system unconstitutional. Other court cases followed such as *Washakie v. Hershle* in Wyoming that also held education as a fundamental right.

It would seem logical to conclude that education systems based legally on equal rights would provide equal access to opportunities for all involved, and thus all citizens would exit schools capable of participating effectively and fairly in a capitalistic market. However, this conclusion has proved to be incorrect, because the American capitalist system relies on unequal outcomes that are cultivated within the educational system prior to

participation in the market economy (Bowles & Gintis, 1976). The idea is that not everyone will be on level ground because industries are organized to function within a hierarchical framework in an effort to fill all positions, from the lowest to the highest, within business. Who occupies the lower posts and the highest is determined by how well the occupant performs educationally (Ryan, 1980; McNamee & Miller, 2004). Position is thus determined not at the job interview, but many years earlier, typically while the person is still very young and in the fledgling years of his or her education, due to the ideology of meritocracy, which purports that an individual rises and falls based on their own personal merit (McNamee & Miller, 2004). In 1998, Ladd and Bowman (cited in McNamee & Miller, 2004) illustrated that meritocracy is an assumed reality in America using survey data that showed 78% of Americans believed that it was possible “to start out poor in America, work hard, and become rich” (p. 11). This “meritocracy myth” which drives both business, and more importantly, education is a myth because in actuality hard working groups of people, laborers and teachers for instance, are not paid well, while the supposedly smarter, i.e. executives and intellectuals are higher paid. This is justified based on educational attainment, which was in turn, based on merit. The truth is that many in higher paid, more powerful positions did not achieve their “success” because of some internal factor such as ambition or intelligence, but because of external factors such as inheritance or other socioeconomic factors. The social class they were born into was one of the first factors in determining their success.

Social Class

Through social class, and other forms of discrimination, a capitalist society is capable of producing the necessary lower social strata (McNamee & Miller, 2004). This point is encapsulated by McNamee and Miller in the idea that when one group can exclude

an entire other group or groups of people by means of discrimination, then competition, a fundamental precept of capitalism, is reduced and the chance to get ahead is greater. Yeskel (cited in Adams, Bell, and Griffin, 1997) defines social class, as “a relative social ranking based on income, wealth, status, and/or power,” (p. 233) in short socioeconomic status. Thus social class ranking is a form of overt discrimination based on socioeconomic status and justified by the myth of meritocracy.

Social class structure maintains itself within an ideology of classism that is present in social institutions and agencies, one of which is education (Hollins, 1996). This maintenance allows for members of the middle and upper classes to have privileges that are denied to members of classes below them (McNamee & Miller, 2004). These privileges insure a separation of classes, which is in keeping with the needs of a capitalist society because capitalism must produce a varied array of people necessary to drive the market economy (Bowles & Gintis, 1976).

Classism

Classism is an ideology, or “an institutional, cultural, and individual set of practices or beliefs,” that assigns different values to people based on their social class status (Adams et al., 1997, p. 238). As an ideology, classism is dependent on the appearance of truth, or naturalness (McNamee & Miller, 2004). Therefore, in order to maintain stability in a system of inequity, those who have more must convince those who have less that the distribution of goods and services is fair, just, proper, and most importantly natural, which is the foundation of the notion of a meritocracy. Meritocracy therefore enables classism, which creates and perpetuates social class, all under the guise of appearing to be natural.

Gramsci (2002) felt that in conjunction with political and economic domination, cultural domination was critical to promoting the ideology of classism. Once a dominant group possesses culture, the “truthfulness” of an ideology can then become natural. Gramsci determined that history also plays an active role in domination, and that historical precedents could be cited not only to keep the people in line, but also to in effect convince people to consent to the domination by equating history with natural progression through the use of culture. Gramsci recognized that this natural recognition of domination is also maintained through barrier creation, and he called education (as it stood in Italy during the early 1900s) a barrier. However, he also believed that when education was executed properly, it was a method of helping the masses rise above their status and develop their conceptions of politics and culture; therefore, when children were denied education, they were essentially denied access to culture.

Discrepancies in public school funding are a major perpetuator of social class because members of affluent areas are able to provide better educational opportunities ensuring their youth go on to more economically advantageous jobs while the poor are relegated to lower wage jobs, unemployment, and crime (Hollins, 1996). In connection with the *Leandro Case*, Judge Manning validated this point when he stated, “the root is socioeconomic, that is the problem” (personal communication, February 24, 2006). Judge Manning also spoke about creating a more just and equitable society and said to an audience at the University of North Carolina, “[The] educational system is the only clear piece to help society” (H. Manning, public presentation, 24 February, 2006).

EQUITY

Equity Versus Equality

There is often confusion about the difference between equality and equity that may cloud clear thinking about the *Leandro Case* and its suggested outcomes. Many synonyms exist for the word equity and are often used interchangeably. Some of these synonyms are: fair, just, equal, and impartial. The 1989 *Oxford English Dictionary* generally defines equity as, “the quality of being equal or fair; fairness, impartiality; evenhanded dealing,” thus giving validity to the alternate namings. However, the definition alone becomes problematic when one asks such questions as, “What is equal?” and “How is something or someone fair?”

Equity has taken on an institutional presence in courtrooms across the nation, and has been found at the core of educational funding debates inside and outside the courtroom. However, even the law has had difficulty defining the term and offers differentiations of its own (Epstein, 1985). The current agreed upon definition, at least in the legal sense, is in providing concessions to create a sense of fairness, especially when disadvantage is present, in order to provide equal opportunity (Burrup et al., 1999). In other words, equity means to treat unequals, unequally (Odden & Picus, 1992).

Psychologist William Ryan (1981) offered a definition of equality that may clarify the question of equity. Ryan saw a question of resource distribution at the heart of the troubles in defining equality. If resources equaled happiness, as in the *Declaration of Independence's* reference to “pursuit of happiness,” there could never be equality. Someone would suffer

disadvantage at another's pursuit and acquisition. According to Ryan the elusiveness of equality, which he noted might not be achievable, was the idea that resource distribution could be seen in two very distinct lights. His first definition of equality rests on the premise of "Fair Play", which has three core tenets: individualism/meritocracy, difference, and internal controlling factors. In the equality of Fair Play everyone has the equal opportunity to pursue whatever he or she desires, mainly monetary gain, but not the equal right to the outcomes of such pursuits, in other words success is not guaranteed. The definition of Fair Play equates with equality.

The second definition of equality is based on the notion of "Fair Share" through which everyone should have equal access to necessary resources such as healthcare, food, and education, as well as equal *starting* opportunity to succeed [emphasis added] (Ryan, 1981). Fair Share rests upon three tenets as well: the collective, similarities, and external factors. The definition of Fair Share equates with equity. Ryan ultimately concludes that both are valid, but that Fair Share is a benefit to society as opposed to Fair Play, which only benefits the individual. Fair Share embodies the most recent definition of equity defined in the early 1990s in Kentucky's *Rose v. Council for Better Education* case as meaning equal opportunity, regardless of social or physical disadvantages (McColl, 2001). It is important, in conjunction with this definition, to point out that advocates of Fair Share do not advocate equal results/outcomes. However, Fair Play advocates volley this accusation in an effort to make Fair Share advocates look anti-capitalist, and thus anti-American. This is often an effective strategy, because capitalism and democracy are frequently conflated, and Bowles and Gintis (1976) cite this conflation as being used to maintain hegemony between the dominant class and the lower classes.

Another possible way to look at the relationship of equality and equity is by juxtaposing horizontal and vertical equity (Odden and Picus, 1992). Horizontal equity (Fair Play) is the principle of treating everyone equally regardless of life circumstance, equal treatment of equals, while vertical equity (Fair Share) is the principle of achieving equality by treating people unequally, unequal treatment of unequals. Currently, most funding for education reflects the horizontal equity principle, which is in actuality equality not equity. However, North Carolina, due to *Leandro*, has partly shifted to a more vertical equity model in mandating aid for “at-risk” students, who are the main focus of the *Leandro Case*. *Leandro* defines at-risk students, who have been determined to be children who are poor, have uneducated parents, unstable housing, unemployment, are racial/ethnic minorities, lack health care, and have a low socioeconomic neighborhood background (Manning, 2005). It is hoped that in helping at-risk students, that the educational system in North Carolina will achieve equity for all students.

Understanding that equity may never be achieved in society, the question still remains; can both government and law produce an equitable system of education? It must be understood that public school funding incorporates both Fair Play and Fair Share aspects, at least in North Carolina. However, it is the Fair Play aspect, which is maintained by local governmental influence in funding due to property taxes that prevents equity from being achieved in education. *Leandro* maintained this Fair Play/Fair Share dynamic when the court declared the education funding system of the state constitutional, allowing for local governments to continue contributing upwards of 25% into their respective education systems (McColl, 2001). Since education plays a major role in every child’s life this inequitable factor, coupled with the belief of a meritocracy, is then continued into society

because it produces differences, and these differences, as noted previously, are essential to capitalism. It is therefore not in capitalistic society's best interests to have an equitable education system.

Equity and Education

The current debate in school funding revolves about equitable access to education. American society relies heavily on education, as noted earlier with regard to capitalism. Education, as the old cliché goes, is the key to success. As has already been outlined previously, both the government and the law provide for protection against discrimination based on uncontrollable factors, but for capitalism to flourish it is clear that inequities must exist in some form, and capitalism relies on these inequities to stratify the workforce so that jobs from the top to the bottom will be filled. A contradiction is thus imposed because at one end of the spectrum you have capitalists vying for control of society, and at the other end, you have some people in the government and law trying to make things equitable. This in turn creates a schism in education equity where on one side equity in education is desired for all, and on the other side, economic inequity is also required.

The education system is fragmented under the strain of these contradictory ideologies. For example, the *No Child Left Behind* (NCLB) law states that, "It is in the best interest of the United States to ensure that all students have *equitable* access to a high quality of education that will prepare all students to function well in a technologically oriented and a highly *competitive* economy comprised of many different racial and ethnic backgrounds" [emphasis added] (US Department of Education, 2002). NCLB provides for the government's objective of ensuring equitable access to opportunity, equity, but also undermines equity, because it takes into account a competitive economic model, capitalism.

The law, resting on a meritocracy, is at odds with itself. At its heart education strives for equity in the legal sense of the word, but it must concede to business and industry by indirect discrimination in order to produce a viable workforce. The schism in the meaning and practice of equity can be seen clearly in the way education is funded within any given state.

PUBLIC EDUCATION FUNDING

Property Tax

The North Carolina Department of Public Instruction provided a graphical representation of the disparities that exist between all counties with regard to per pupil expenditures that demonstrated a disparity between amounts of funding does still exist. The discrepancies ranged from a low of \$5,500/pupil to a high above \$8,000/pupil (NC Department of Public Instruction, 2003), and are attributed to property taxes.

Gramsci (2000) noted that property was a critical part of maintaining domination, and that through the ownership of property; one can more effectively participate in government. Today this manifests itself in the ability to pay higher property taxes when a home is assessed at a high value, and property taxes are the source of the local percentage of educational funding. The federal, the state, and the local governments in each state fund public education; the federal government contributes the least (around 6-7%), the state tends to contribute the most because of recent legal mandates in many states to make educational funding more equitable (North Carolina approximately 65%), and the local municipalities round out the funding with property taxes (North Carolina typically 25%) (NC Department of Public Instruction, 2003). However, this 25% can create major disparities as shown in the official North Carolina Department of Public Instruction 2003-2004 publication put out by their Division of School Business/Financial Business Services. For example, note the disparities between the 1st ranked Chapel Hill-Carrboro School System with \$4,180.14 per

student and 117th ranked Camden County with \$740.68 per student (2004). Even when taking into consideration the fact that North Carolina strives to rectify disparities in per student funding through a state contribution (approximately 65%), Chapel Hill-Carrboro School System still ranks 8th (including federal funds) with a total of \$9105.52 per student versus Camden County which ranks 64th (including federal funds) with a total of \$7,120.21. This leaves a difference of \$1985. The gap is lessened, but clearly there is an issue with not only overall funding, but also the amount that a community is able to acquire via property taxes. The portion of 25% that local property taxes contributes to fund educational systems makes a major difference, even though it is a small percentage.

Several inherent problems also deplete the tax base and aid in producing inequities with regard to using property taxes to fund programs that should be equitable, i.e. education. For one, property taxation as a way to determine wealth is antiquated, because wealthy people often invest their money in other things other than property ownership, i.e. the stock market (Burrup et al., 1999). Kozol (1991) also notes several other factors that are problematic with regard to property tax:

- Corporations/businesses often receive tax breaks in an effort to encourage them to reside in a state/community. This is especially true when they move into lower income (often urban) areas.
- Public land such as museums and parks are not taxed. Much of this land resides in lower income urban areas.
- Colleges are not taxed, and many urban areas have colleges.
- The government grants tax deductions to owners of homes. The more valuable one's home is at assessment periods, the greater the deduction because of the greater value.

- Apartments, which make up the bulk of housing in lower income areas, are not taxed on a unit-to-unit basis, therefore not benefiting the renter. Since they are also a business, apartment owners potentially receive tax breaks.
- Education funds vie with other public services such as fire and police. This is commonly referred to as “Municipal Burden.” Generally lower income communities are stricken with more crime and thus more funds must go towards police.
- Many schools in low-income communities deal with being old as well as general decay issues. Money therefore often goes towards repairs first.

Kozol cites property tax as the decisive factor in inequity. Ironically, low wealth communities often have higher property tax rates in an effort to equalize local school funding, which hurts the community even more financially, while wealthy communities have lower tax rates, but are able to allocate more to education (Odden and Picus, 1992).

Often members of wealthy communities make the claim that money is not the answer in school funding. This is often attributed to the fact that taxes will have to be increased in order to provide more money, and thus the objective is to take the focus away from money as a solution (Kozol, 1991). Paradoxically, in almost every instance that public school funding equity has been questioned legally, the wealthy communities pour monetary resources into attempting to fight these challenges. For example, Kozol cites California’s Proposition 13 as an illustration of how many of the wealthy fought against raising taxes to help education, subsequent to the *Serrano v. Priest* case. The Proposition was written with the goal to stop a property tax increase. This property tax increase was to be used to make education funding more equitable. Several of the more affluent combined efforts and constructed a political campaign arguing what was theirs they had earned, and that the other communities were

responsible for either producing success or not. In essence, they accused low-income people of being irresponsible with their money. Proposition 13 was passed due to the concerted effort of these wealthy and the persistent belief in the myth of meritocracy.

Responsibility played a role in the *Leandro Case* as well, ultimately becoming a mandate in the *Leandro Case*. During deliberations it was pointed out that even though some counties had more money, they sometimes produced poor results (Manning, 2005). Due to these findings, the notion of responsibility was reinforced. Max Weber attests that this ideal of responsibility is a hold over from the Protestants (Stewart, 1972). He continues by stating that the modern equivalent can probably be stated as the conviction that those who have not succeeded likely highly deserve their poverty, a major tenet of the myth of meritocracy. Kozol (1991) points out that low-income localities are often responsible with their monies by providing for the needs of the area, i.e. police, fire, sewer, and various other budgetary items of this nature, as well as repairs for the schools, leaving them short when it comes to financing education directly. If money does not matter, then why do the many of the wealthy spend so much to fight against making educational funding more equitable? The answer is money does matter.

Benefits Of Educational Investment

The National Education Association (NEA) conducted extensive research in an effort to promote investment in education despite state budget crises, which during 2004, the same year as the final *Leandro* ruling, North Carolina was facing. Their findings supported the premise that the more money a state spends on public education, the higher probability it will have of eventually decreasing economic inequality (NEA, 2004). The NEA noticed a marked difference in the improvement of income amongst the lowest quartile (lowest 20%),

as well as improvements at every quartile above the lowest. It followed that spending more money on education reduced poverty rates and raised non-economic social benefits such as reduction of crime. This was also exemplified in Judge Manning's findings when he noted that 82% of the prison population is comprised of high school dropouts (McColl, 2001).

This concerned Manning with regard to the implications for the individual and society if the state failed to deliver a sound basic education. The NEA found for example that cutting K-12 public education expenditure by an amount that helped to forestall a statewide revenue increase via taxes, actually exerts a greater negative influence on a state's economic development than if the revenue increase were put into effect to maintain educational expenditures. In general the NEA found that educational spending that is either maintained or increased has a strong positive influence on not only individual human capital, or the ability to work, but also has a positive "spill-over" effect onto society. Several of the benefits, such as the ability of a citizen to pay higher taxes due to a higher income-yielding job, the smooth operation of the democratic process due to a well informed citizenry, lower likelihood of criminal activity (especially property crimes) listed by the NEA in their findings also influenced the mandates in the *Leandro Case*.

Judicial Intervention

Beginning with *Serrano v. Priest* in California during the early 1970s, states have begun to reexamine their educational funding formulas to find and, in some cases, attempt to correct disparities between low income and wealthy school districts (Beckett and Koenig, 2005). In the 1960s and 1970s, plaintiffs attempted to have their respective state educational systems declared unconstitutional by the federal Supreme Court, a concept that was thought of at the time as an approach that would solve the problem of having to litigate state by state

(McColl, 2001). However, state-based litigation is how legal proceedings have gone since 1973, when the United States Supreme Court ruled in *San Antonio v. Rodriguez* that education is the domain of the state and not of the federal government.

In the 1980s the battle of education equity was continually fought at the state level. In some cases, Texas is an example, a state's education system was declared unconstitutional, and in others the funding system was upheld, as in the case of Georgia (Burrup et al., 1992). When the funding systems were upheld as constitutional, it was often based on the courts' refusal to legislate on the grounds that it was not the courts' place. When the courts found the education system to be constitutional it was often put into the court record that the state could do better, as in the case of the ruling in Georgia (Winans, 2002).

As the 1980s progressed, state high courts increasingly ruled in school funding cases that existing funding methods violated state constitutional education mandates (Winans, 2002). Many state court systems have found public school systems unconstitutional on the premise that all students need to be able to compete in the competitive marketplace of capitalist America and become citizens that are capable of participating in an informed manner in democracy.

Additionally, many courts upon declaring their respective state's public education system unconstitutional, went on to state that public education is the exclusive domain of the state, not local school districts since the state was granted authority in creating and implementing their respective educational systems (Winans, 2002). This opened the door to such possibilities as removing local supplementary funding via property taxes from the equation of public school funding, and placing funding basically with the state; therefore, local school districts would not be able to create and perpetuate inequities. Nonetheless,

many states that have sought to rectify their educational funding inequities by adjusting the formula for calculating the per pupil expenditure, continually leave provisions for the local government intact (Burrup et al. 1999). This allowance is heavily based on a tradition of maintaining local control within a state's educational system (MacIntyre, 1988), and has consequently allowed inequities to creep back into the equation in almost every state that has attempted to rectify them within their educational systems.

NEA researcher Michael Kahn (2002) pointed to several key issues that need to be addressed when trying to solve public education equity problems in states. Amongst these was a critical assessment of the current tax structures. Kahn noted that courts may be able to issue mandates, but they cannot write tax laws, leaving it up to the legislature to carry out equity in education mandates. This underscores the NEA's previously mentioned research on funding education that was issued in response to potential state budget crises. He goes on to claim that the tax systems are "archaic" and "piecemeal" and have become too reliant on user fees and gambling (Winans, 2002).

North Carolina has recently passed a law enacting a lottery to fund education; however, research has found lotteries to be generally poor sources of funding education because they do not produce large revenues, are often used for other governmental purposes, are unstable sources of revenue, and encourage a false hope in poor people (Odden and Picus, 1992; Burrup et al., 1999). Due to these findings, lotteries are not a substitute for raising taxes for school funding.

LEANDRO

In 1994 plaintiffs from several low-income counties in North Carolina sued the state claiming, “North Carolina’s public education system, including its system of funding, violates the North Carolina Constitution and various state statutes by failing to provide adequate and substantially equal educational opportunities for all schoolchildren in the state” (*Leandro v. State of North Carolina*, 1997). One of the major accusations against the state by the plaintiffs was that the state of North Carolina did not take “sufficient account” of “substantial disparities” in wealth among the various school districts of the state. This disparity was attributed to local property taxes. Lower-income counties raised lower levels of property taxes due to low assessment value of homes and/or land in the community. In 2004, the Supreme Court issued its final ruling entitled *Hoke County Board of Education v. State*, in favor of the plaintiffs, and against the state. The court had determined that socioeconomic difference should have no bearing on a student receiving a sound basic education (Manning, 2005). Nevertheless, North Carolina’s education funding system was held as constitutional based on the court concluding that much of the funding system meets or exceeds constitutional requirements, and that it also provides flexibility to accommodate any new requirements (McColl, 2001). McColl concludes that the courts reasoning appeared to be based on the state implementation of a standards-based reform model, i.e. ABCs testing and accountability model, that includes both standardized End of Grade testing and standardized End of Course testing. The decision also points to the court’s deference to the

executive and legislature branches of government and the court's belief that the system is flexible due to heavy state funding.

In the first North Carolina Supreme Court case (1997), it was ruled that North Carolina is failing to meet its constitutional mandate to provide a sound, basic education to thousands of students throughout the state (Schofield, 2003). The Supreme Court went on to outline a sound basic education as providing:

- Sufficient ability to read, write, and speak the English language and a sufficient knowledge of fundamental mathematics and physical science to enable the student to function in a complex and rapidly changing society.
- Sufficient fundamental knowledge of geography, history, and basic economics and political systems to enable the student to make informed choices with regard to issues that affect the student personally or affect the student's community, state, or nation.
- Sufficient academic and vocational skills to enable the student to successfully engage in post-secondary education or vocational training.
- Sufficient academic and vocational skills to enable the student to compete on an equal basis with others in further formal education or gainful employment in contemporary society. (McColl, 2001, pgs. 3 & 4)

The court determined that sufficiency would be demonstrated by a score of Level III (on a scale of I-IV) or higher on both the North Carolina End of Grade and End of Course standardized testing. It was also decided by the court that it is the state's ultimate responsibility to mitigate the problem, not the Local Education Authorities (LEAs).

In order to enable each student to be sufficient, the court issued rulings that outlined how sufficiency would be accomplished by each school district (Schofield, 2003). The court mandated in the *Leandro Case* that:

- Every classroom must be staffed with a competent, certified, well-trained teacher who is using effective educational methods that provided differentiated, individualized instruction, assessment and remediation to the students in the classroom.

- Every school must be led by a well-trained, competent principal with the leadership skills and the ability to hire and retain competent, certified and well-trained teachers.
 - At risk four-year-olds must be provided with pre-kindergarten programs in order to obtain a sound basic education. (Reversed in final ruling.)
- (p. 3)

Persisting Inequities

Current North Carolina governor, Michael Easley, stated, “the worst thing that could happen as a result of this ruling [*Leandro*] would be for people to interpret it as an excuse to stick with the status quo” (Easley, 2000). Unfortunately, in spite of the *Leandro Case*, the status quo was maintained at the outset because of the North Carolina Supreme Court finding that the public education financial delivery system is constitutional; thus, allowing for the local governments to continue supplementing their school funding via property taxes. This is the inherent flaw in the *Leandro* ruling, because funding, and most critically local supplemental funding by the use of property taxes, is not addressed constitutionally or legally, and is therefore left to politicians to create equity, or equal opportunity. Unfortunately, people in power and privilege such as politicians will not strive for change, because for capitalism to flourish the ideology of classism must persist and social class must be maintained. Education is one of the possible methods of maintaining this stratification (Bowles & Gintis, 1976). Consequently, inequities have been sustained in education as illustrated by the following examples:

A Raleigh, NC television station released a brief report in 2004 on *Leandro* and the current state of funding. In the text of the piece, which appeared on WRAL.com, a teacher from Vance County’s Eaton-Johnson Middle School commented, “I went to one school and all the children had Palm Pilots. Now that’s something we couldn’t even dream to have here because we are a low wealth county” (Taylor, 2004). Matt Williams (2005), staff writer for

the *Greensboro News & Record*, reported on extensive research that had been done with regard to wealth as an education success predictor within Guilford County. Wealth was based on house value, because local districts supplement school funding with property taxes, which are based on assessed house value. The analysis found that more than two-thirds of the differences in schools' test scores could be statistically linked to the average value of homes in an "attendance zone." Williams found that wealth proved to be a better predictor of better test scores than class size. This disparity was attributed to the fact that poorer students were essentially prevented access to things that wealthier kids could utilize to augment their education; things that are external to the formal public education system. Williams cited access to supplemental educational materials, tutors, life experiences, and parental availability, as aiding in augmenting the wealthier child's education. Williams continues, stating that these research findings mirror states across the nation by showing that what makes a student successful or not depends on factors outside the school's control, emphasizing that fact that inequities still persist in other states that have tried to rectify them as well. According to Williams' findings, the Guilford County school district is still not *Leandro* compliant. Many hold the belief that the resolution is not to be found in the solutions proffered by *Leandro*, but with society. Guilford County Schools Superintendent Terry Grier implied as much when he stated, "The real answer may be to stop concentrating the poor in certain neighborhoods and have a more economically diverse community...I think that's an issue that we're not comfortable talking about" (p. A11).

Though the North Carolina Supreme Court acknowledge that the system has problems (McColl, 2001), as noted previously, the courts feel the education funding system is constitutional because of heavy state funding allowing for flexibility. McColl suggests that

declaring the funding system constitutional was an important victory for the state and a significant defeat for lower income school districts. This is the case, because it keeps the current inequitable system of school funding intact. However, even if the court had found the system unconstitutional, it would not have mattered because local districts around the nation maintain inequities between the wealthy and the poor districts through property tax base supplementation provided by several states' legislation after judicial mandates.

Another issue resulting from the aforementioned ruling by the North Carolina Supreme Court is the reliance on the legislature to equitably fund education. Paul Dunn (2005), of *The Daily Reflector*, reported that according to Philip Price, Associate Superintendent for Finance with the North Carolina Department of Public Instruction, the state's "Disadvantaged Student Supplemental Funding Allotment," a provision of the *Leandro* ruling that assists lower income students, could cost around \$220 million to \$300 million to implement. Relying on budgetary allotments via the North Carolina legislature, the ultimate approved monetary sum was \$22.5 million for disadvantaged student supplemental funding and \$20 million for low wealth funds (Post-Legislative Budget Summary 2005-07, 2005). There is a clear disparity between Philip Price's prediction of \$200-\$300 million, and the ultimate allocation of \$42.5 million. The state cannot afford the DSSFA at its current tax rates.

Other fundamental problems persist in the *Leandro Case*. For example, Judge Manning commented on University of North Carolina Pembroke's campus that when he gave the state one-year to compile data and evidence with regard to its educational programs that "they went nuts and told me I was crazy"; he continued saying that "they basically told me to go to hell. They said they are educators and politicians, and they didn't have to do what

some judge from Wake County told them to do” (Bigelow, 2003). It would appear that such a mindset within the North Carolina government is not conducive to correcting educational issues. As Noddings (1998) asserted in a related notion, “If people are not moved to care for these children simply upon hearing the story of their plight, it is doubtful that any argument will move them” (p. 168). Thus, because *Leandro* has problems that stem from the court’s mandates, coupled with external problems that fall outside of its mandates, but nonetheless fundamentally affect education, the ruling may ultimately fall short of its goals. The following are examples of such external problems.

Teacher retention.

The *Leandro Case* provides guidelines for competent and highly qualified teachers and principals, but does not propose how to obtain and retain these individuals. Charlotte-Mecklenberg school system was found noncompliant with *Leandro* in 2004, and when officials from the school system were asked what could be done to assuage the condition of insufficient performance amongst students, the reply was, “We can’t find qualified teachers and we cannot retain the ones we are able to hire” (Manning, 2005, p. 27). There is evidence to suggest that compensation affects teacher retention (Hansen et al., 3004). In general, studies have concluded that higher teacher pay increases the possibility that a person will continue teaching, especially in the first few years after entering the profession. The increase in turnover in recent years has been accompanied by a decline in average years of teaching experience, and a decline in the share of teachers with Master’s degrees, because attractive earnings opportunities outside teaching encourage people to leave the teaching profession. Hansen et al. note that the correlation between teacher pay and retention is small, because when veteran teachers are taken into account, they are often more likely to stay for other

reasons such as tenure, etc. The problem comes in the workforce losing more veteran members to retirement, without being able to attract new recruits to the teaching profession. Hansen et al. conclude that a more cost-effective approach would be to allow a pay increase to teachers most likely to be “at risk” of leaving the school district, i.e. new teachers and teachers with advanced degrees. *Leandro* does not provide any guidelines for compensation, thus it is left up to both the legislature to establish initial pay guidelines, which allow for budgetary constraints to influence it, and the local school districts to supplement these salaries, yet again perpetuating inequities based on property taxes.

Standardized testing.

The *Leandro Case* has determined that a student is not receiving a sound basic education if he or she scores below a Level III on End of Grade testing or End of Course testing. The reason for this ruling rests on the fact that it is an easily measurable and easily accessible form of accountability, not to mention it is standardized unlike school site grades (McColl, 2001). However, in North Carolina the ABC’s accountability system, as well as NCLB, could perpetuate inequities by awarding monetary supplements to the successful schools, which are generally the wealthier schools, while not monetarily assisting the schools that have performed poorly. Williams of the *Greensboro News & Record* reported that in 2004 teachers at the county’s wealthier schools were more likely to receive bonuses than their counter-parts at poorer schools. The rewarding of schools that are already performing well places extra resources where things are already going well, while denying them to schools that need assistance (Odden and Picus, 1992). One of *Leandro’s* main foci is to address this issue and aid non-performing schools, but it is currently too early to tell if *Leandro* will be able to offset the ABC’s reward system.

Pre-kindergarten.

In 2000, Judge Manning handed down a ruling that North Carolina children are not starting out in school on a level playing field, and that it was the state's responsibility to prepare them with pre-kindergarten programs (Bigelow, 2003). The state Supreme Court reversed this, ruling on the basis that the court had over stepped its bounds and that the legislature had already established pre-K programs such as Smart Start and More at Four which were growing in their success (*Hoke County Board of Education v. State*, 2004). Though our state does contribute to pre-K programs and they are specifically targeted at at-risk kids, these programs may fall victim to budget crises because the court has not mandated these requirements by law.

CONCLUSION

The *Leandro Case* is a groundbreaking ruling for the educational system of North Carolina. The case established clearly defined standards that all students, as well as school faculty, must meet in order for any given student to achieve a sufficient sound, basic education. Most importantly its mandates define and strive to aid at-risk students through ensuring a level of resources that are needed to enable each student to achieve a Level III on standardized testing, which is the benchmark for a sound, basic education. However, disparities have persisted since the enactment of *Leandro*, and there are still many examples of educational inequities present in the state of North Carolina because the wealthier districts are still able to influence their students' education. Allowing local governmental influence on education is often argued to be conducive to ensuring that the students are receiving exactly what they need, because the local school districts are closer to their clients, unlike the state (Burrup et al., 1999), but this also conversely means that the local districts residents can create inequities between themselves and other districts. *Leandro* has pursued equity as it is currently legally defined, but will fall short of achieving equity because it has not corrected for local influence, and it has left much of the formalities of education to the legislature, which is heavily influenced by budgetary needs and constraints. Yet, how can *Leandro* or any other judicial ruling produce equity in a society based in a capitalistic system that not only promotes, but also requires classism, and subsequently social class stratification?

The goals of meritocracy have dimmed in recent years, creating a growing pessimism in the general society (McNamee and Miller, 2004). It is inevitable that many will find that the high rewards they were promised if they work hard and do well in actuality will not come to fruition, as is likely the case with *Leandro*, which may lead to cynicism and possibly to a critical consciousness of the capitalist system (Anyon, 1981). Critical consciousness, or awareness of oppression, may dispel the “truthfulness” of the ideology of classism, and expose social class for what it truly is, discriminatory. Smith (1981) states that harmony in society “is unachievable until there is a massive rearrangement in the basic underlying structure of society” (pgs. 330-331). If it can be concluded that inequity has its origins in the structure of capitalist economy, then educational reform in affecting equity, would only be successful if it could change those aspects of the economic system that are the institutional bases of inequality (Bowles & Gintis, 1976). Clearly, *Leandro* has not attempted to change the economic system, nor has any other judicial ruling on education, and capitalism’s conflation with democracy will not allow any such undermining dictates. When I questioned Judge Manning about capitalism, he stated that it [school equity] would work in capitalism because it has to, “it is the only choice” (personal communication, February 24, 2006). On the contrary, under capitalism there are multiple ideologies, such as classism, meritocracy, and individualism, which perpetuate and justify the economic system and its disparities and will ultimately impede equity in education. Thus, the *Leandro Case* will fall short of true equity in North Carolina’s public school system.

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