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ABSTRACT

This monograph describes and analyzes the competing demands of many citizens, special interest groups, and organizations for educational equity. The significant role that the Federal government has played in the educational system over the past 30 years through financing and legislation is discussed. Four case studies are presented relating to areas in which the activists of the 1970s sought to change educational policies and programs. Each study describes the definition of equality espoused by the protagonists, the organization of the advocacy groups, the strategies they employed to obtain desired action by politicians and educators, and the present status of their efforts. Each study is then compared in terms of issues and the interest group involved, the interplay of judicial, legislative, and administrative actions, and the cost considerations applying to the new programs. Some general observations about the historical and political aspects of educational reform and several alternative views about the fate of the educational system in years to come are offered. A topical bibliography is included. (Author/EB)

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PURSUING EQUAL EDUCATIONAL OPPORTUNITY
School Politics and the New Activists

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I. PURPOSES AND PERSPECTIVES

This study describes and analyzes one of the most lively and, at the same time, one of the least understood developments in American education in recent years—the emergence of newly aggressive claimants demanding an equitable share of the benefits of public schooling. These include the advocates for substantial groups of young people who are considered to have suffered serious discrimination and neglect in the past, most notably children from low-wealth districts, girls and women, non-English-speaking ethnic minorities, and the handicapped.

Current demands for educational equity bear strong resemblance to the rhetoric and strategies of civil rights activism, and the movement itself is a rather predictable outgrowth of earlier campaigns to eliminate racial segregation in schools and colleges. Moreover, the push for a new equity comes in the wake of governmental efforts to desegregate the schools and conduct programs of compensatory education directed toward improving the schooling of children from poor families. Thus, while the claimants are new, neither the charges of injustice in the educational system nor the programmatic remedies sought by the interest groups represent new departures in the political history of education.

What differentiates the 1970s from the 1960s and is likely to shape the foreseeable future, however, is the effect of significant changes in the social and economic realities affecting public education. It is by now well known that the numbers of present and prospective school-age children are declining and that financial limitations on public expenditures, arising particularly from inflation, taxpayer disaffection, and higher costs of energy, are increasing. Less well understood is the fact that the innovative services sought by the new activists impose additional costs and cannot be met within existing or lowered levels of school expenditures, unless services to some other clienteles are curtailed. The combination of heightened demand, challenges to established services, and constraints on resources raises to new levels the already intense heat of political controversy over the equity, the cost, and the efficacy of educational services. Many observers of the current scene question whether the public school can remain viable under the cumulative efforts of special interest groups to enforce the redistribution of service priorities.

A flood of information confronts the general reader seeking to understand the contemporary situation in public education. Much of what relates directly to the new activism details the arguments advanced by specific interest groups, the history and provisions of judicial decisions and legislative enactments, or the technical aspects of instructional program implementation. Summary accounts which bring a disinterested, non-technical political perspective to bear on these topics are relatively rare. The authors of this report have sought to meet this need by providing a succinct and balanced account of recent moves in what is perhaps the longest-running game in the history of American public education—the effort to actualize a national commitment to equality of opportunity.

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The Political Perspective

A political perspective on unfolding events in public education is distinctive for its focus on the process Harold Lasswell described as "who gets what, where, when and how." Searching out the answers to these questions requires gathering, and giving coherence to, many strands of information about the participants, who may be individuals, special interest groups, or organizations, and about a series of happenings that may be consensual or contentious, continuous or episodic. A more abstract conceptualization defines politics as "the authoritative allocation of social values" in which "authoritative allocation" refers to official governmental decisions and actions, such as enacting laws or collecting and expending tax revenues, and "social values" to the goals which members of a polity share or may be willing to support.[1] These may be expressed in very abstract language, such as "equality," "liberty," or "justice under law," or, more concretely, as the intended purposes or benefits of specific public undertakings. Thus, with regard to education, both the broad objectives of equality of opportunity, freedom of choice, or program efficiency and the more narrowly defined purposes, such as the acquisition of vocational skills or the attainment of literacy, would all exemplify the value dimension of this definition of politics. We have been guided by these conceptions of politics as a basis for organizing and interpreting data for this essay.[2]

This study recognizes the cogency of citizen values in determining the nature and availability of public services. However, the task of determining the specific effects of values on educational programs is not an easy one, since the values are typically ambiguous and multi-faceted. At any one time, they are given unequal weight and may be discordant in effect. Over time, value positions and purposes tend to be redefined and assigned higher or lower priority than before; furthermore, the actual outcomes of schooling may fall short of, or contravene, the values or purposes they are supposed to advance. The value of equal educational opportunity, which is the central focus of this report, is particularly difficult to analyze for two reasons: it has multiple and conflicting definitions in American society and its advancement may jeopardize other cherished American values, such as freedom of choice and efficiency.

We have also accepted the assumption that the process of allocating social values has structural properties; that is, authoritative public decisions and activities derive from established, more or less institutionalized, forms of interaction among groups and individuals with identifiable roles, purposes, and modes of communication. For analytical purposes, particular structures of interaction may be isolated from their environments, which are then regarded as the source of "external" social and political influences. Further, these political systems may be described and compared according to three basic concepts: "demands" for political action coming from the environment; "resources" in public funds, recognition, and support that sustain the system; and the degree or kind of "stress" that arises when choices are made among the competing demands. Demands are considered to be potentially limitless, while resources are viewed as seldom, if ever, adequate to satisfy fully the claims made upon them. Thus imbalance between demands and resources underlies the conflicts that constitute "the seedbed of politics."

The following questions typify the use of the foregoing concepts to address the purposes of the study: How are social values translated into demands for educational services? Under what conditions do different demands arise, and what factors influence the response of the schools? When does intergroup rivalry and conflict become dysfunctional to the system? How much stress can the system bear before it is forced to change?

The overarching political system of American public education today includes elements of three levels of government: national, state, and local; and the distinctive roles of the three branches: executive, legislative, and judicial. Variable combinations of participants inside and outside of this system influence the outcomes of the allocation process. With regard to educational policymaking, shifts in the relative influence of lay persons and educational professionals are especially significant. In the study of any specific policy problem or issue, it is necessary to identify the salient participants, to select the most significant events and determine the order of their occurrence, and to operationalize the relevant concepts. In this effort to describe and evaluate the effects of the new activism, the authors have tried to tread the thin line between overwhelming their readers with too much detail or misinforming them with too many generalizations.

The Historical Perspective

Since political systems are defined as dynamic entities that are responsive to environmental influences, description and analysis of the allocative processes require attention to the broader social, political, and economic context, and also to changes of the system and its environment over time. Thus we have attempted, admittedly in a limited way, to relate current conflicts and the relevant political and programmatic events to earlier controversies. Also, we have followed the lead of historians who study today's educational institutions as aspects of the organizational society and who look at formal schooling in relation to political and economic influences and to the intent, methods, and effects of social control. Such research often reveals that present problems and crises are neither peculiar to education nor unrelated to past conflicts.

This brief monograph obviously could not provide treatment of past reforms of educational policy and practice. However, there are available to the reader several works that offer a historical perspective supportive of the framework for political analysis we have set forth; that is, they depict the interplay of social values, educational purposes, service demands, and fiscal and other resources involved in various educational reforms attempted in the past. Among these works is *Public Education in the United States* by R. Freeman Butts, which offers a comprehensive analysis of educational and political currents in the country from the nation's beginnings to the present. Especially useful also is David Tyack's *The One Best System: A History of American Urban Education,* as well as his essays "Ways of Seeing: An Essay on the History of Compulsory Schooling" and, with Elisabeth Hansot, "From Social Movement to Professional Management: An Inquiry into the Changing Character of Leadership in Public Education." Joel Spring sharply questions conventional wisdom in his study of national education policy since 1945, *The Sorting Machine.* In *Class, Bureaucracy and Schools: The Illusion of Educational Change in America,* Michael Katz critically probes the relationship between social values, organization structure, and reform activity in the 19th and 20th centuries. These and other historical studies listed in the bibliography add a crucial longitudinal perspective to an understanding of American social and educational promises and problems.

Organization of the Report

In Part II, we have attempted to provide the background needed to put contemporary controversies into historical and political perspective. The first section analyzes the federalization of the educational system that began in earnest almost twenty years ago, when the influence of the courts, the Civil Rights Act, and financial support of the federal government were directed to providing services to previously neglected school clienteles. The second section deals with the events of the 1970s, when special interest groups pressed for extending equality of educational opportunity to additional clienteles in the face of changing financial and political conditions.

Part III consists of four topical case studies that relate to the areas in which the activists of the 1970s sought to change educational policies and programs: the systems for financing schools, the removal of sex discrimination, the provision of educational services for children of non-English-speaking minorities of the population, and for those who are physically, emotionally, or mentally handicapped. Each study describes the definition of equality espoused by the protagonists, the organization of the advocacy groups, the strategies they have employed to obtain desired action by politicians and educators, and the present status of their efforts. In the concluding section the political elements of the case studies are treated in a comparative framework, namely, according to the issues and the interest groups involved; the interplay of judicial, legislative, and administrative actions; and the cost considerations applying to the new programs.

Part IV offers some general observations about the historical and political aspects of educational reform as a long-term process and presents several alternative views about the fate of the educational system in years to come. The latter discussion is based on authoritative commentaries that range from alarmist to mildly optimistic. Given the complexity of the issues, the authors suspect that their readers will come to share their own ambivalence as to which of these projections merits endorsement, or even credence.

We hope that this essay will stimulate readers to pursue further study of the issues we have raised. For this purpose, we have appended a Topical Bibliography.

II. THE CONTEMPORARY SYSTEM OF AMERICAN PUBLIC EDUCATION

R. Freeman Butts has identified three national purposes which have been recurrently advocated since the nation's founding—"the search for freedom, the search for equality, and the search for the common good, or community."[2] Whenever the public schools have been called upon to accomplish this "trichotomy" of goals at the same time, it has become apparent how readily they conflict, negate, or minimize each other. In practice, balance among them is precarious since the protagonists of each purpose tend to establish it as the primary, if not exclusive, goal for public

education. Thus the schools present in microcosm the contrary pressures of the aspirations and ambivalences of the larger society. Under these conditions, the system for providing educational services is subject to major stress, as has been the case during the past quarter century. The resulting adaptations are apparent in the greater federalization and politicization of the system, trends that are described in this chapter.

The Federalization of the System, 1945-1970

The Country and the Schools in Ferment. The period from 1945 to 1970 was marked by waves of political ferment that spilled over each other in an almost endless succession. International tensions continued after World War II, as the atomic bombs dropped in 1945 introduced the potential for nuclear destruction of civilization itself. Cold-war rivalries with the Soviet Union intensified, and the country became involved in the Korean and Vietnam Wars. The national economy, while generally expanding over the quarter century, underwent several disturbing periods of contraction and inflation.

The home front was changing in many other ways important for the public educational enterprise. During the early postwar years accelerated birth rates lowered the median age of the population, producing first a bulge in the numbers of students in the schools, and then a glut of young workers in the employment market. Large numbers of people continued to move from state to state and region to region, and outmigration from rural areas to the cities increased steadily. Rapid modes of transportation and communication, including television, brought all sections of the country closer together, while, at the same time, the traditional ties of local community life exerted less influence.

In spite of these massive social changes, large segments of the public education system at first remained remarkably untouched by policy shifts affecting other governmental agencies. Political scientists who studied the governance of education in the early 1960s contended that education had traditionally been a relatively "closed system" because professionals dominated policy formation, schools were isolated from other governmental services, and the public generally accepted the idea that school politics should be nonpartisan—in fact, "non-political." This does not mean that the educators were unaware of the social turmoil around them. Many teachers and administrators, especially in urban schools, were directly confronted with strident demands for change. However, the tendency was to respond as in the past— either by adding to ongoing activities or by coming up with new versions of programs already in place.

Until the 1960s, the educational system was generally not included in the expansion of the number and types of grants-in-aid emanating from the national government to states and localities. Although the educators needed money to meet the costs of the postwar expansion of enrollments, their proposals were for federal subsidizing of the costs of school buildings and of salary increases for teachers and typically did not contemplate changes in the existing structures of educational policymaking or governance. However, when the billion-dollar Elementary and Secondary Education Act (ESEA) was passed in 1965, it signaled a dramatic shift in the country's long-standing commitment to a highly decentralized state- and locally-financed and controlled system for schools.

The break with precedent was possible because social and economic changes, national and worldwide, over previous decades had given rise to an underlying consensus about new national needs and aspirations. In spite of the many divisive political conflicts and shifts in partisan dominance, the public at large had come to accept as legitimate the involvement of the federal government in a variety of problems that had either been ignored or had been left to private or state and local governmental initiative. The new purposes included the equalization of economic opportunity, the elimination of racial discrimination, the expansion and exploitation of new fields of knowledge, and the allocation of a larger share of governmental resources to domestic programs.

Federal Educational Initiatives. A series of highly critical exposes of American education captured public attention, especially after the Russians successfully put their first Sputnik into orbit in 1957. The limitations and failures of the educators were judged to be extremely serious because they obstructed the widely shared national goals related to economic growth and opportunity, civil rights, and scientific achievement. To enable the schools to improve both the quality and equality of educational services, the federal government undertook three initiatives of far-reaching impact: the provision of high levels of funding, the enactment of laws and regulations to enforce school desegregation, and the promotion of compensatory programs intended to overcome the effects of past neglect or discrimination.

- Funding. Local and state officials have always preferred grants in the form of "general aid," monies which they can expend without restrictions as to purpose. However, the long-standing and consistent federal policy has been to make categorical grants, which must be used to carry out programs targeted to perceived national purposes. Among the several points of contention between the grantors and the grantees are the problems generated by the tendency for categories, once established, to "harden." Congressmen become identified with certain programs and want credit for them. Also, interest groups work to obtain and preserve benefits for their own clienteles, and school administrators find it convenient to defend the desirable special-purpose programs from the opposition or the budget-cutting zeal of local officials. However, categorical monies come replete with detailed program and accounting regulations, and categories that frequently overlap in purpose are administered under differing rules by separate sets of officials. The result has been a confusing patchwork of programs that reluctant localities were willing to undertake only because of the scale of the federal subventions. For example, between 1957 and 1965, federal aid to elementary and secondary education doubled; and, after the passage of ESEA in 1965, it doubled again, reaching an annual total of $3.2 billion by 1970. This represented a variable percentage contribution to the total expenditures for schooling ranging between 7 and 8 percent.

- School Desegregation. The verdict of the Supreme Court in the 1954 *Brown* decision that outlawed *de jure* segregation did not immediately alter the status quo in either the South or the North. It was not until ten years after *Brown* that Congress passed the Civil Rights Act (CRA) which provided enough extra muscle to give effect

to anti-discrimination policy. Title VI, perhaps the most sweeping section of the Act, prohibited discrimination in programs financed by federal grants, loans, and contracts; required each federal department to establish rules for implementing the Title; and gave agencies authority to cut off funds from recipients who failed to comply with the rules.

The Office of Civil Rights (OCR) was created in 1966; it is a centralized HEW agency that has tended to concentrate its resources on compliance in federally supported education programs. It is responsible for gathering data on teachers and students, especially from districts with concentrations of minority groups and from those in litigation or under court order to desegregate. It may investigate specific complaints of discrmination and determine corrective measures, if required. The authority of OCR has since been extended to include cases of discrimination by age, sex, and handicapped status, as well as by race and national origin.

For several reasons, these actions have not removed the courts from dealing with controversies over civil rights violations. The HEW regulations were slow to be published and difficult to interpret. OCR did not handle the volume of complaints expeditiously and did not collaborate effectively with the officials responsible for launching the grant-supported programs. Thus, individuals and civil rights groups continued to bring their suits to the federal district and appellate courts throughout the country. Consistent national policies failed to emerge since these courts were prone to hand down decisions that were inconsistent with those of other courts and the HEW regulations.

• Compensatory Education. Title I of ESEA provided the first large-scale federal funding for the nation's schools, totalling nearly $7 billion by 1970. Linked conceptually to President Lyndon Johnson's "War on Poverty" and the Economic Opportunity Act of 1964, it provided for the compensatory education of socially and economically disadvantaged children as a means of helping them break out of the cycle of poverty.

Title I has been described as "federally financed, state coordinated, and locally implemented." Subject to the direction of the states, local agencies determine which schools among eligible areas having high concentrations of low-income families will receive Title I services, and they develop appropriate programs for the eligible children. Thus, Title I set the precedent for the subsequent policy of designating specific categories of children as the beneficiaries of federal funding.

Underlying Title I is a strategy in conflict with that required by the Civil Rights Act. That is, instead of providing incentives to break up or desegregate concentrations of disadvantaged children, Title I targets aid to such concentrations. Beryl Radin points out that the two strategies reflect very different theories about the cause of educational inequality.[3] Those who advocate the desegregation strategy assume that inequities stem from patterns of racial or ethnic separation. Thus change cannot occur without solutions that drastically change those patterns. Advocates of compensation, on the other hand, may admit that past inequities are rooted in patterns of segregation, but they argue that solutions for change must be devised for children in their current situations. The conflict between these two strategies has frequently been apparent in school districts which find, for example, that requirements for compliance with mandated desegregation plans are not consistent with those for Title I services targeted to concentrations of disadvantaged children.

Stresses on the System. The educational initiatives of the federal government—massive funding, mandated school desegregation, and compensatory programs—were important, but not the only visible changes in school operations by 1970. The basic structure of the system that developed before 1945 was still in place, and its greatly expanded scope during the postwar era demonstrated that it had remarkable capacity for accommodating new demands. Enrollments in the K-12 public schools more than doubled over the quarter century, with the highest proportionate increase in the secondary grades. During this heady period new schools were built, teaching staffs were expanded, and new curricula were introduced at a dizzy pace.

However, the once stable and predictable relationships among the components of the educational sytem had become unsettled and fractious as the system attempted to cope with many other forms of stress besides the bulging student enrollments. For instance, the once seemingly monolithic professional establishment that included teachers, school administrators, state and federal officials, professional associations, and faculties of colleges of education began to split openly into contending groups during the 1960s. An active and vocal segment of the postwar generation of teachers defined its interests differently from those of school administrators and local boards of education and, in both unions and professional associations, adopted collective bargaining and other strategies, including strikes, to gain greater economic and status benefits.

The organized teachers also began to engage in widespread political activity. The major national organizations—the National Education Association and the American Federation of Teachers, an affiliate of AFL-CIO—began to spend large sums of money for lobbying and for support of political candidates. State and local units were also politically active as lobbyists and fund raisers. David Tyack has argued that organized teachers have profoundly altered the patterns of governance in public education, and that they now have acquired the power to veto or sabotage proposals for reform.

The period from 1945 to 1970 also brought considerable change in the traditional roles of states and localities in educational policymaking. Nationally, the fiscal contribution of the states to the total expenditures for elementary and secondary schooling rose from 30 percent to 40 percent after World War II and remained at about that level until the late 1960s. However, variations among states in this regard were, and still remain, extreme.

The national trend since 1945 has also been to centralize more functions at the state level. A prinicpal argument for state controls is that they can ensure equality and standardization of instruction and resources; for example, statewide regulation of some areas, such as vocational education, certification, accreditation, attendance, and curriculum, has not been seriously contested for some time. However, demands for equal opportunity in the 1960s spawned many new programs for children with special needs, indicating that state policymakers had become skeptical of local initiatives and local commitment to disadvantaged and minority populations in the absence of state regulation. The localities have been less than enthusiastic about state-imposed activites, especially if no additional funding is provided.

These changes in the state role are in large part traceable to the increased institutional capacity of state legislatures and educational agencies. The postwar expansion of education give higher priority to decisions concerning educational policies and budgets, and many legislatures have added staffs to assist their members in carrying out an influential oversight role. The size of state educational agencies has increased even more dramatically since the early 1960s due principally to the federal funds made available for carrying out administrative responsibilities for the categorical programs. Title V of ESEA also provided the states with discretionary funds for general administration, emphasizing program planning activities. Federal funds are significant not only because they support more than half the staffs of many agencies, but also because they have made possible the employment of more diverse, more specialized, and younger personnel.

Beginning in the 1950s, the great bulk of the litigation relating to educational equality was over issues of racial desegregation, but after the passage of the Civil Rights Act in 1964, claims for equal treatment of other minorities and special categories of children were tried in the courts. (These issues will be described in Part III.) Other significant court cases related to individual freedoms, such as the free exercise of religion, the right of free expression, or protection of personal privacy. The general trend has been for the courts both to support the personal rights of parents, of children, and of teachers and, at the same time, to mandate that schools be more aggressively positive on behalf of achieving equality for certain groups and individuals. The court decisions thus posed a new dilemma with regard to the role of government: How can its functions and authority be kept to a minimum so as not to invade individual, personal rights and, at the same time, be strong enough to prevent the discrimination that occurs when individuals or groups practice freedom of choice in schooling?

Local school officials have been on the firing line in dealing with the intrusion of the courts into educational policymaking. No aspect of entrenched practice has escaped legal attacks—governance, finance, student and employee personnel practice, curriculum, and relations with the community and other governmental agencies. The educational professionals, increasingly defensive, are reliant on lawyers, as they have found that any policy or decision they make may be challenged in prolonged and costly court actions.

The turbulence in educational policymaking during the 1960s is associated, as in earlier periods of social change, with the public perception that the schools might serve as agents of social reform. Demands for services and for innovations that would enhance equality of educational opportunity came from many publics, and, with uneven cadences, schools and school districts as well as state and federal governments responded. Congress and the state legislatures increased the financial support of the schools and established new precedents and objectives to govern the provision of local school services to previously neglected groups of students. Experimental programs of every variety proliferated. In short, until the late 1960s expectations were high that the schools would promote a better, more equitable society, both in the short and the long run. Also greatly heightened was the stress placed on a social institution whose governance and procedures for absorbing change dated from less strenuous times.

The Politicization of the System in the 1970s.

The New Activism. The 1970s brought to full flower virtually all the pressures on the educational system that took form during the 1960s. Although these pressures may have originated at different times in the past, they all seemed to converge with greater intensity by 1970. One effect was to highlight the inconsistencies among the array of policy positions discussed above, and to sharpen the competition among the interest groups seeking services and funding for favored programs. A new militancy characterized activists of the late 1960s and early 1970s who were typically unmoved by friendly modes of persuasion or compromises offered by educators. They did not hesitate to use the adversary techniques honed in the civil rights and anti-Vietnam War movements: demonstrations, picketing, lobbying, press and television coverage, and especially court injunctions and other forms of litigation. When school officials tried to satisfy one set of partisans they were sure to alienate others. An administrative and political style for dealing with contending groups that was based on ascribed professional expertise and organizational solidarity had formerly served well to perpetuate a "closed system" of educational policymaking that once enjoyed broad public support. However, it was far less effective against determined measures by those who intended to open up the system.

During the 1970s many local communities provided further evidence of growing politicization of the educational system. Perhaps the most prominent, divisive, and intractable issue was busing to achieve racial balance, the implementation of which often involved not just school officials but the police and the offices of mayors and governors as well. However, community groups were also frequently embroiled in controversies over textbook and curriculum content, over student conduct and discipline, and over decisions to close schools whose enrollments were declining. Teacher strikes were more numerous and longer lasting than before. School boards, once among the least visible of governments, often attracted large crowds to their meetings. Board members became generally more contentious and less willing to turn management and other decisions over to the superintendent and his staff. The turnover rate among superintendents increased.

Conflict in Washington. Politicization of the educational system was also on the rise in Washington. The change of administrations in 1968 brought to the White House for an eight-year period two Republican presidents who were not sympathetic to an active federal role in education. At the outset President Richard M. Nixon criticized the Great Society programs as ineffective and proposed that they be curtailed until research could reveal how funds could be more wisely utilized. The Democratic Congress proceeded virtually to ignore the Nixon proposals for new legislation, and the education committees of the House and Senate seized the initiative in reenacting the major federal education programs started in the 1960s. Congress approved several new categories of grants and consistently raised annual appropriations above the levels proposed in the Nixon and Ford budgets. Presidential efforts to veto the congressional appropriations were effectively resisted on several occasions by a newly formed umbrella organization of interest groups, the Committee for Full Funding of Educational Programs. A successful coalition of these numerous, diverse, and often feuding groups

was a true novelty on Capitol Hill.

President Nixon also made the highly controversial busing issue part of his vote-winning "Southern strategy" and curtailed the efforts of OCR to enforce Title VI. The slackening of federal enforcement activities with regard to school integration dovetailed with the efforts of congressional opponents to busing, who were able, after bruising conflicts in committees and in the House and Senate debates, to attach limiting amendments to the legislative enactments. Thus the Congress, which united in opposing cutbacks or major revisions of the federal aid programs, showed greater ambivalence over that key civil rights issue.

The States and Localities. The state and local educational agencies received continuous fall-out from the wars in Washington. Congress countered various hostile Administration moves, such as impounding funds, diverting them to purposes other than those specified in the legislation, or delaying the issuance of program regulations, by making the legislative provisions for implementation increasingly narrow and specific. The end result of the congressional zeal to monitor the use of grant funds was to prolong the process of preparing and obtaining approval of program regulations and procedures and to make the regulations even more lengthy and complex than before. After President Jimmy Carter came into office in 1977, some measures were taken by the Executive Branch to alleviate the "paper storm" involved in the administration of federal grant-in-aid programs generally, and the Education Amendments of 1978 eased paperwork requirements somewhat. This legislation also turned over more responsibility to the states for monitoring and enforcing federally supported education programs. However, the oversight procedures continue to impose, in the eyes of state and local officials, an almost intolerable burden.

In spite of these unpromising aspects of the political scene, it appears that the states and localities, after more than a decade of experience with federal funding, have attained some notable successes—and some notable failures—in carrying out intended purposes. For example, in a monumental congressionally mandated study of Title I, the most costly and comprehensive exercise in compensatory education, the National Institute of Education in 1978 reported favorable findings that influenced the reenactment of the program. A long-range influence on the federalization of the system results from the fact that, with the passage of time, separate networks of professionals responsible for adminstering each of the federal categorical programs have developed across all three levels of government. This cohesion may enhance their ability to advance the goals of particular programs, but it may also impede the efforts of school administrators to give balance to the various specialties within the overall system for provision of educational services.

Shrinking Enrollments and Resources. Tensions between the president and Congress, between courts and bureaucrats, and between the intergovernmental partners are endemic to American political life. Issues such as those besetting education persist for many decades, resurfacing from time to time in various guises, and are seldom put finally to rest. However, the intensity and the outcomes of political action at particular times often depend on whether the need for public services is increasing or decreasing and whether resources to support them are abundant, merely adequate, or slack. In the 1970s both factors contributed to conflict in educational politics: school enrollments were beginning to decline and the economic condition of the country worsened.

The baby boom that occurred in the two decades following World War II brought, by 1970, an increase in the number of children five to nineteen years of age from approximately 35 million to 60 million, a rise of about 70 percent. By the late 1960s, however, a dramatic and largely unexpected drop in the birth rate took place, so that for every 100 children under age five in 1965, there were only 78 in that age group by 1975. The shrinkage in the school-age population began to affect elementary schools by the late 1960s, and the secondary schools by the late 1970s. The population growth rates are not expected to change markedly in the near future.

Further, the economic condition of the country took a downturn as the instability of the Gross National Product (GNP) and the unusual combination of high unemployment and high inflation left both economists and politicians baffled. For instance, in the first six years of the 1970s, the Consumer Price Index consistently rose more than three percent without slackening much even when unemployment reached a postwar high of 8.5 percent in 1974-75.

Since the mid-1970s, the task of raising money has become increasingly difficult for many state and local governments. Several factors have contributed to this situation. First was the effect of the slow growth rate of the GNP. Second, there are regional dislocations that will mean that the economic growth that does occur will be spread unevenly. The large cities of the Northeast and Midwest, sometimes called the snowbelt cities, have experienced a serious economic decline. On the other hand, the firms and people who move to the sunbelt cities of the South and Southwest take with them the tax base and the employment opportunities that are being lost in the Midwest and the Northeast.

A third factor is particularly important for the financing of education. Although there are some revenue-increasing opportunities at the state and local level, the ability of these governments to increase their total tax yields is fast approaching an upper limit. However, if the portion of the GNP alloted to the public sector stabilizes or even decreases, it would still theoretically be possible for educational expenditures to increase if funds were diverted away from some other public service areas, such as transportation or welfare. However, education already receives a larger proportion of government expenditures than any other domestic service, more than twice as high a percentage as either highways or public welfare. Because of recent demands for new services such as public transportation and environmental protection programs, as well as the rapidly escalating costs of welfare, highways; police protection, health services, and the administration of justice, education supporters will find it difficult to capture a larger portion of state and local budgets. Thus, these factors make it unlikely that either new tax revenues or revenues from existing program areas will be allocated to education.

At the federal level, the proportion of funds allocated to education has been increasing since the passage of ESEA in 1965. Disaffection with increasing federal regulation of educational subventions, coupled with pressures that the federal government assume a larger share of welfare costs, institute a program of national health insurance, and increase the defense share of the budget (which has been

decreasing rapidly during this decade), make it unlikely that there will be any major shift in priorities toward education at that level of government. If new categorical programs are instituted, it is likely that they will be accompanied by the elimination of some other programs, such as impact aid. Thus for the educational sector merely to hold on to its current share of local, state, and federal budgets will be no easy task.

In the early 1970s some commentators believed that a decrease in the support of education would not be especially damaging. The expectation was that enrollments would decline, cost-saving techniques could be instituted, and the shortage of teachers in the 1960s would give way to an oversupply in the 1970s. If these predictions proved correct, then the rate of growth of educational expenditures would slow.[4] However, neither the strong pressure for the expansion of some educational programs, such as education for the handicapped and remedial education, nor the demand for additional special programs was anticipated at that time. Many analysts now believe that we have seen only the tip of the iceberg representing the increased costs of these programs.

For example, a growing number of states now require competency tests for graduation. These states can expect increased costs for remedial education programs if they require schools to provide special services for any student who does poorly on the mandated state competency tests. In Florida, for example, costs are expected to jump from $10 million to $26 million in one year.[5] Thus, the costs projected for new and expanded programs may far exceed the savings resulting from declining enrollments, decreased wage gains for teachers, or increased productivity.

School Politics in the 1970s. We have seen that the revolution in educational policymaking that began in the 1960s accelerated in the early 1970s. The search for equality continued as an expression of national policy when Congress resisted the efforts of two Republican presidents to cut back on the compensatory education programs and even extended benefits to additional categories of disadvantaged children. Concurrently, the regulation of program operations by state and federal officials became more detailed, and the flexibility reserved to local officials more constrained.

At the same time that many interests sought more extensive reforms in the system, the schools were still struggling with the implementation of desegregation plans. In most instances, these new reformers sought to justify claims for more equitable or preferential educational opportunities. Effectively organized and employing aggressive strategies, various groups routinely turned to litigation as a means of publicizing their claims as well as seeking redress of their grievances. Eyeball-to-eyeball confrontations between school officials, teachers, parents, students, and community groups made news across the country, and the schools were plagued by critical press coverage. The schools thus mirrored a "sectarian" national style, which, as Robert Wiebe has observed, "looked for boundaries that divided people, not common ground that bound them together." The consequence, noted Wiebe, is that a major casualty has been "the dream of moderation, accommodation, and cohesion."[6]

"Reform by accretion"—that is, the adding of additional programs and services to satisfy new demands—was the method of accommodation that schools had perfected over many decades. It had served them well as long as enrollments were rising, adequate revenues were available, and the public was quiescent. The 1970s reversed these conditions; and the most significant contribution to heightened conflict was the current and the prospective retrenchment of revenues arising from declining numbers of school-age children, the unfavorable economic situation of the country, and greater competition of education with other domestic public services. As the pie to be sliced became smaller, it is not surprising that the clamor of the hungry diners grew more strident.

III. POLITICAL ACTIVISM IN THE 1970s: SELECTED CASE STUDIES

Introduction

In this chapter we seek to portray the activism of the 1970s in greater detail than in Chapter II by describing, in case study format, the four policy areas in which the most significant and energetic efforts were made to advance equality of educational opportunity. These four areas are: school finance, the education of women and girls, bilingual education, and the education of handicapped children. Each case study treats the political process holistically; that is, we identify the particular actors, institutions, and interest groups that were involved and show their relationship to one another, the changing interplay among them, and the policy and programmatic outcomes of their activities. Relevant efforts in these four areas are roughly contemporary and comparable in that they "took off from" the civil rights movement of the 1960s, they are prominent on today's agenda of school problems, and they will continue to influence the educational politics of the 1980s. They involve a broad spectrum of participants in local, state, and federal areas of action.

The cases are also similar in another important respect. All the reforms were intended to cause new policies and programs to be initiated within the existing system, under the authority of school governments and school officials already in place. In spite of their highly critical rhetoric and their adversarial stance with regard to what they saw as past and present discrimination in the schools, the activists sought remedies that were basically incremental in character. That is, they wanted to open up the system and add on to it, but they did not attempt to undermine it or even change the basic structure in any drastic way. In this sense, they reaffirmed the public faith displayed many times in the past—that the school system should be a standard bearer in the quest for social justice.

Reforming Systems of School Finance

Background. The last decade has witnessed a new wave of school finance reform that in part represents a renewal of concerns expressed by those educational administrators who attempted to reform school finance systems earlier in this century, but which also reflects some new values and some redefinitions of traditional values. Today's reformers contend that the attainment of equality of educational opportunity requires more than making some schooling available to all children. Struck by the enormous inequalities in the resources available to different school districts, their initial goal was to ensure that the quality of a child's education would not be dependent upon the wealth of the school district in which he/she lived.

However, in the last few years another element has been added to the proposals of the reformers that has substantially redefined the traditional definition of equality of educational opportunity: in some instances, inequality in resources is the preferred and just arrangement. More specifically, some reformers are now arguing that certain categories of individual pupils require higher expenditures than others to meet their educational needs and that school finance plans should reflect their differential needs. This redistributive element in school finance reform proposals asserts that resource inequalities among students are justified so long as they benefit the least advantaged rather than the most advantaged.

Since the early decades of the century, educational administrators, state department of education officials, and some state legislators had accepted more or less without question their familiar school finance formulas. Indeed, the political difficulties of altering well-entrenched funding patterns made the policymakers resistant to opening the Pandora's box of school finance reform. Then, in the early 1960s, economists, political scientists, and public finance experts in several universities produced research that laid bare the many inequities in the accepted formulas. Research of a different type was initiated by scholars such as Arthur Wise, then of the University of Chicago, and John E. Coons and his colleagues, then of the Northwestern University School of Law, and the Lawyer's Committee for Civil Rights under Law. They saw in constitutional law a means of remedying the inequities in school finance systems.

The lawyers, political scientists, and other scholars were aided in their efforts in the early 1970s by an outpouring of nationally prominent studies of school finance by governmental or private groups and task forces, including the National Education Finance Project, the Senate Select Committee on Equal Educational Opportunity, the President's Commission on School Finance, and the New York State Commission on Education. Fiscal data and technical expertise were also produced and disseminated by Syracuse University's Maxwell School of Citizenship and Public Affairs, the National Urban Coalition, the Education Commission of the States, the Ford Foundation, the National Conference of State Legislators, and the Brookings Institution. General support and publicity were provided by various civil rights and public interest organizations. These protagonists constituted the core of the school finance reform movement that has gained in strength and sophistication during the last decade. Thus, since its inception, the movement was not led exclusively by educators, but had significant political appeal for other groups and individuals interested in the innovative application of the Equal Protection Clause.

Reform Concerns and Proposals. When the issue of school finance inequities resurfaced in the 1960s, the concern was with the disparities among school districts in taxable property wealth and hence, per pupil expenditures. Even in states with equalizing grants, differences among districts in per pupil expenditures were found to be quite significant. A second concern was with the particular problems experienced by schools in urban areas that frequently face declining tax bases due to demographic shifts, high concentrations of the needy and educationally disadvantaged, a greater demand than in rural or suburban areas for urban services that compete for funding with education, and unusually high costs of goods and services. "Municipal overburden" is the general term given to these problems. State grants developed early in the century when urban areas were generally wealthier than rural areas had not been adjusted to reflect the changes in urban conditions.

Although there is endless variation in the design of reform proposals, most of those concerned with property-wealth related inequities fall into one of three categories. The first category consists of those proposals that attempt to strengthen and expand the already existing state aid programs. By removing the structural flaws and increasing the amount of the state grants, many wealth-related disparities can theoretically be reduced. According to Reischauer and Hartman, "Modifications such as these would leave the basic structure of school finance unchanged; the ultimate power to decide on the level of resources would still rest with the local school district, although the minimum permissible level would be raised along with state taxes."[7]

The second category of reform proposals consists of those that seek to equalize the fiscal capacity of all districts. Some actually propose redrawing school boundaries while others attempt to "guarantee that districts that make the same tax efforts on behalf of education . . . receive equivalent amounts of resources per student."[8] The latter is generally known as a "power-equalizing" plan.

The final category consists of those proposals that attempt to make the state goverment responsible for raising all educational revenues. Such schemes would undoubtedly result in a "leveling up" process in which low-spending districts would be raised to a level equal to the distrirts spending average or above average amounts on education. This remedy requires that more revenues be available for education. Conventional wisdom asserts that full-state funding would result in a loss of local control of programming as well as financing, although Joel Sherman's review of recent research questions the generally held assumption that "control follows the dollar."[9]

Reform Attempts. According to Richard Lehne, school finance reformers, encouraged by the stunning victories won in the courts in the 1960s by other activist lawyers pursuing equalitarian goals, turned to judges rather than to popularly elected legislators and executives to achieve their own objectives. Their argument, brought in the name of individual students rather than school districts, was that existing systems of funding public schools violated the Equal Protection Clause of the Fourteenth Amendment since the quality of education received by students depended on the wealth of the community in which they lived. Thus, the reformers sought to establish education as a fundamental right and the wealth of the student's community a suspect classification unrelated to legislative intent.

The first major success of the reformers was in the case of *Serrano* v. *Priest* in 1971 in which the California Supreme Court, relying on both the state constitution and the federal Constitution, ruled that the "quality of public education may not be a function of the wealth of . . . a pupil's parents and neighbors." Known as the "principle of fiscal neutrality," this standard did not specify any one school finance plan that would satisfy the Equal Protection Clause, but merely declared impermissible one of many possible systems. Thus, the reform of the school finance system is left in the hands of the state legislature. The *Serrano* decision triggered a wave of actions challenging the constitutionality of state school finance programs in more than thirty states. At the same time, some twenty

state legislatures made changes in existing methods of financing schools in the hope that state court decisions could be avoided.

The reformers were hopeful that the U.S. Supreme Court would accept the fiscal neutrality argument advanced in *Serrano* and make individual suits based on state consitutions unnecessary. Their hopes were extinguished when, in the case of *San Antonio School District v. Rodriguez* before the United States Supreme Court in 1973, that Court reversed a lower court ruling and held that a funding system based on the local property tax that reasonably serves to further the legitimate state purpose of universal free education by assuring a basic education to all children in the state is constitutional. The Court based its ruling on the decision of five of the nine judges that there was no suspect classification nor was education a Constitutionally protected fundamental right. For a time, at least, the *Rodriguez* decision seemed to end the involvement of the Supreme Court, and hence reliance on the Fourteenth Amendment, and it represented a setback for the movement to reform school finance.

The pace of reform slowed somewhat during 1974, although reformers did continue to win a few cases at the state level, sometimes on the basis of "equal protection" clauses and sometimes on the basis of a "uniformity" or "thorough and efficient" clause. The defeat in the *Rodriguez* case and the erosion of state budget surpluses that had acted as cushions in states undergoing reform made the necessary political coalitions more difficult to build. The reform movement became fragmented as a result of splits within and among education groups.

Recently the pace of reform has quickened. According to a survey of some 23 states, in almost all, school finance was identified as the major educational issue of 1977-78.[10] Moreover, the number of court successes has grown as reformers have broadened their concerns to include inequities other than just those attributable to taxable wealth. They are now demanding that school finance formulas take into account municipal service burdens and higher education costs of large cities on the grounds that these disparities, like those that are wealth created, result in inequities with no rational justification. The courts have recently responded to these demands in decisions in such states as New York, Ohio, and Washington.[11]

Reformers are also pushing even harder for distributional formulas that will take into account the special needs of particular types of children. Several states now employ one of a number of weighting methods. For instance, one method weights an elementary pupil at 1.0 and then attaches a higher weight to every other classification of student, such as handicapped, vocational, high school, or kindergarten. The difficulty is that no one knows how to adjust for differential pupil needs with any real precision, so the distributional arrangements have become a source of contention among the advocates of the high cost categories of students, each seeking a higher weight for their category. As Charles Benson explains:

> There is practically nothing that a school finance expert can say to lend rationality to this struggle. Such distributional arrangements as exist . . . are all strictly rule-of-thumb affairs. I know this absolutely, for I have done my share of writing the formulas.[12]

Constraints to Reform. Although the reformers have shown great ingenuity in developing new legal concepts, many of which the state courts turned down in the 1960s but are now willing to accept, many problems remain. As Michael Kirst puts it:

> The technical problems in meeting these new court mandates are serious. The courts are moving into the areas that scholars know the least about: how to adjust for pupil needs in some precise way, how to adjust for uncontrollable costs of education, how to adjust for something called municipal overburden. It was a lot simpler merely establishing "power equalizing schedules" so that equal property tax effort resulted in equal amounts of local school revenue.[13]

Beyond these technical problems, which strain the competence of the courts, the legislatures, and even the school finance reformers, there are also serious fiscal constraints to reform. Most reform plans, because they attempt to bring low-wealth districts up to the spending level of wealthier districts, require additional funds for education. In the early 1970s, many states undergoing reform were able to utilize state surpluses or untapped sources of public revenues. As the competition for scarce resources continues to intensify and state surpluses decrease, these outlets are becoming increasingly prohibitive.

Kirst believes that the school finance reform movement and a new spending/tax limitation movement are on a collision course in several states. American Tax Reform, begun by Howard Jarvis, and the National Tax Limitation Committee are capitalizing on vague public perceptions that government services are both ineffective and managed inefficiently. The Jarvis group is working to limit property tax rates while the latter group is attempting to limit government expenditures; both advocate reducing the size of government and slowing down its rate of growth. Although their successes are still minimal, the support they have recently generated is impressive. At the very least they have succeeded in making the growth of government a significant political issue. In those states where both movements are strong, it is unclear at this point whether reform will result in benefits to school children or to taxpayers.

Finally, there are massive political constraints which may, in the final analysis, be the most difficult to overcome. As Joel Berke postulates:

> Turning a potential constituency for reform into an influential, effective coalition may be the single most critical element in making the costs of reform bearable. Next would be the persuasiveness and the effectiveness of the political leaders: the governor and the legislative leaders. . . . Similarly, to what extent do noneducation interest groups coalesce to support or oppose reform proposals?[14]

As Berke presents it, whenever the pie is to be sliced differently, it is inevitable that conflicts will arise and inhibit unity among interest groups. Moreover, there are numerous emotion-packed issues engendered by reform proposals that increase the state share of educational expenditures, such as the ethic of local control, the threat of statewide teachers' strikes, and concerns regarding educational productivity.

The Federal Role in School Finance Reform. Despite the disappointment of defeat in *Rodriguez*, many reformers hope that ultimately Congress will step in to alleviate some of the disparities between and among states. The impact of federal funds on existing school finance systems thus far appears varied. Title I of ESEA, the largest federal aid to education program, has been quite successful in responding to central city and rural school finance inequities. Other categorical programs, however, typically fail to compensate urban areas for their special problems. Federal

aid as a whole fails to offset disparities among the property tax bases of school districts. However, an examination of the average federal revenue per pupil in the states shows that in general, states with a higher proportion of poverty or with lower educational expenditures receive more federal aid. In sum, federal aid is in general positively correlated with increasing proportions of poverty students both between and within states; it bears no relationship or possibly a negative correlation with an increasing proportion of low property valuation; and Title I, but not the other federal programs, partially favors central city districts and rural districts.

Somewhat ironically, the federal government has probably had the most impact on variations in spending among different schools within single districts. *Hobson v. Hansen* in 1971 was the first case to test the constitutionality of intradistrict resource disparities. The court ruled that gross disparities were a denial of equal protection and set a minimum level of variation that would be tolerated. However, "the comparability requirement of Title I has provided statutory support for, and assured the widespread impact of, the principle of intradistrict equity that received judicial expression in *Hobson*."[15] Designed not to equalize resources, but to ensure that federal monies to Title I schools were additive, the "supplement rather than supplant" policy has had the indirect effect of encouraging local districts to correct existing inequities in the state and local funding provided to individual school sites.

One reason that federal aid is not more successful in equalizing expenditures nationally is that "vast leeway exists for the states to determine who is to benefit from federal funds."[16] Some reformers would like the federal government both to tighten up its administrative control over categorical programs and to restructure those programs which have no equalizing impact. Other reformers argue that the federal government should provide general aid to education to offset intrastate and interstate inequities. In 1972, HEW's School Finance Task Force, working with the Nixon administration, began drafting potential multi-billion dollar aid programs, funded through a value added tax, to help states comply with a potential decision for the plaintiffs in the *Rodriguez* case. However, following the *Rodriguez* decision in which the Supreme Court reversed the lower court ruling, and the release of a study by the Advisory Council on Intergovernmental Relations concluding that most states had the capacity and the constitutional responsibility to reform property tax and school finance systems without federal intervention, work on the plans ceased. Although the Education Amendments of 1974 acknowledged the importance of school finance reform by providing planning assistance grants to states undergoing reform, school finance reform was essentially put on a back burner in Washington. As Joel Berke explains it:

> The basic argument for federal entry into the field—that school finance systems create classes of children unfairly denied access to educational resources—has failed to develop an effective commitment from policymakers for at least five reasons: the competing conceptions or multifaceted nature of equalization (fiscal neutrality, disparity reduction, matching resources to pupil and district needs); the inability to develop convincing legislative solutions; the inexact but multibillion dollar cost estimates; the absence of a strong constituency for a federal school finance program; and a widespread skepticism about the capacity of additional general funds to accomplish improvements in educational quality.[17]

However, Congress has continued to nibble at the edge of the problem. The Education Amendments of 1978, besides appropriating additional money for state planning assistance grants, also requires the National Center for Education Statistics to publish an annual profile of each state showing the extent to which funding has been equalized among districts. The Act also mandates a three-year study, to be conducted by the HEW Advisory Panel on Financing Elementary and Secondary Education, analyzing problems in financing public schools.

Conclusion. Michael Kirst characterizes school finance reform as an elitist movement and observes that:

> It was not galvanized by an overwhelming bottom-up demand from the populace or professional educators. It came from an alliance of educational finance scholars, lawyers, foundation officers, the USOE, and the NIE. This interlocking network often sent lawyers as the first wave to sue the state. If a lawsuit was inappropriate, the reform group stimulated special state commissions or tried to spread the gospel through interstate meetings. . . . "Outside agitators" are terribly important in spreading the principles of school finance reform.[18]

Yet this relatively small group of reformers has left its mark in several areas. First, the reformers have had considerable success in arguing their cases before the courts, particularly at the state level. The court's willingness in the *Serrano* case to accept the claim that children residing in property-poor school districts constituted, like black children, a class that could not be denied an equal education inspired other interest groups, such as those representing bilingual children, handicapped children, and girls and women, to claim similar classifications grounded on linguistic ability, mental or emotional handicap, and sex. Their successes have also provided an impetus to those concerned with inequities in the distribution of other public services.

Secondly, the movement has frequently played a role in politicizing education at the state level. The courts generally do not specify a particular remedy but order the legislature to do so. Thus, once the case has been decided, the task of reform is turned over to the legislature where difficult trade-offs have to be made. In session after session, legislatures have become arenas of political conflicts among all the various interests affected by the effort to achieve equity: taxpayers, educators, city, suburban and rural residents, minorities, and so on. Those who have little previous political expertise usually gain it during a school finance controversy.

Finally, the movement has had some success in actually altering distribution patterns, although the successes have been fewer in number than hoped and those that did occur have frequently not alleviated the problems of concern. A recent Rand analysis of the results of reform in five states reports that, while tax imbalances have been altered, some of the poorer districts may be worse off than before: their per pupil spending still lags behind the wealthier districts, but their taxes have increased.[19] According to David Kirp, "The anticipated revolution has been overtaken and diffused by the political commonplace task of securing incremental change."[20] Given today's economic climate, it may become increasingly difficult for school finance reformers to build a coalition with the strength to push through major school finance legislation unless the state is forced to do so by the courts. However, the school finance

reform movement, after a decade of experience, appears quite strong and has shown an ability to move creatively and aggressively in new directions when one line of attack loses potency.

Eliminating Sexual Discrimination in Education

Background. Sex discrimination in education did not emerge as a national political issue until the 1970s. However, several women's organizations, most notably the National Organization for Women (NOW), had been interested in the problems of women's educational equity since the 1960s. Demanding an end to sex-role stereotyping and sex discrimination at all levels of the educational system, these groups challenged some local and state educational agencies but found them unresponsive and unsympathetic to their demands. As the number of women's groups expanded, many began working at the federal level to build support for women's concerns. There they concentrated their efforts on exposing and eliminating both sexual biases found in textbooks and standardized tests, and discriminatory practices in vocational and career education, counseling, competitive athletics, and the hiring and promotion of academic women. At the early stages the principal groups were, among others, the Women's Equity Action League (WEAL), the National Women's Political Caucus (NWPC), and the American Association of University Women (AAUW).

Earlier developments in Washington eased their efforts to some extent. Eleanor Roosevelt, chairperson of President Kennedy's 1961 Commission on the Status of Women, had convinced the president to issue an executive order prohibiting discrimination in the hiring and promotion of women in the federal bureaucracy. This action had two results. First, it set the precedent for the Equal Pay Act of 1963; Title VII of the Civil Rights Act of 1964, prohibiting sexual discrimination in employment; and President Johnson's Executive Order 11246, requiring affirmative action to eliminate discrimination by employers under federal contract. The latter action provided the basis for WEAL's subsequent demand that the government eliminate sex bias in education institutions since most receive federal funds.

Secondly, many of the women government employees hired as a result of these actions formed an internal nucleus of support for efforts to eliminate sex bias in federally funded education programs. Specifically, in 1972 the Commissioner of Education established the Task Force on Impact of Office of Education Programs on Women within HEW. The task force issued a report charging that OE's $5 billion in education aid programs were supporting widespread discrimination against girls and women throughout the educational system. OE responded to the report's findings and recommendations by issuing in 1973 an implementation plan. While this plan was never fully put into effect, it did serve to create an awareness of women's issues within the Education Division of HEW.

Title IX of the Education Amendments of 1972. Meanwhile Representative Edith Green (D., Oregon) and Senator Birch Bayh (D., Indiana) began pressuring Congress to include a title in the Education Amendments of 1972 that would prohibit discrimination based on sex in federally funded education programs. They were supported in their efforts by relatively few lobbying groups because those women's organizations that were organized for congressional lobbying were concentrating on the Equal Rights Amendment. Moreover, most education groups considered the issue of relatively minor importance. In fact, the implications of the Title were overlooked by Congress as well as the interest groups. However, in June 1972 the Education Amendments, including Title IX, were signed into law.

Title IX states: "No person in the United States . . . shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal assistance. . . ." The impact of Title IX on sexual discrimination is analogous to that of Title VI of the Civil Rights Act of 1964 with regard to race, color, or national origin except that Title IX is limited to educational programs and has been interpreted, until recently, to include employment practices.

The implications of Title IX gradually became clear as the Office of Civil Rights (OCR) began the process of writing the regulations. OCR, bogged down with enforcement of other civil rights legislation, exhibited an unwillingness to tackle the controversial issues of implementing the legislation. It was a full two years before the regulations were completed. Meanwhile many members of Congress had decided that they opposed Title IX and set about to dismember it. Some of the more controversial aspects of the law were its potential impact on college revenue-producing athletic programs and its implications for membership policies of social fraternities and sororities, voluntary youth organizations, and honorary associations. Concerns were raised too about physical education classes, private undergraduate college admissions policies, sexually segregated sex-education classes, and scholarships designated for men or women only.

It was at this stage of the policy process that the pro-Title IX lobbying groups began to have some effect. By the time the law passed in 1972, the women's groups were more experienced and better staffed. Disillusioned by OCR's recalcitrance in implementing the legislation and by congressional efforts to limit the impact of the Act, they worked to build support for Title IX. Some forty groups, including women's groups, student groups, civil rights groups, and education groups, formed a coalition known as the National Coalition of Women and Girls in Education. The coalition's objectives were to apply pressure on the White House, to monitor HEW's progress in implementation, and to lobby in Congress. While the group had to tackle such anti-Title IX groups as the National Collegiate Athletic Association, the American Football Coaches Association, state school boards associations, and various higher education groups, the coalition succeeded in keeping Title IX on the books with relatively few amendments and in forcing HEW to complete the regulations in 1975. In July of that year, Title IX became operative.

The coalition is currently monitoring the enforcement process and has had to fight against continued attempts on the part of Congress, the courts, and OCR, to emasculate the legislation. In late 1978, a Justice Department task force reported that Title IX remained virtually unenforced and suggested that perhaps the Justice Department should be given responsibility for federal anti-sex discrimination programs. An April 1979 article in the *Phi Delta Kappan* entitled "Judicial Dismemberment of Title IX" observes that recent court decisions have "challenged the legality of part of the athletics section and questioned the en-

forceability of much of the rest of the Title IX regulations."[21] Thus, the coalition has not been able to lighten its pressure at the federal level. However, the members of the coalition have also realized that local grass roots action is needed to put pressure on local school systems to comply with the federal law since OCR is incapable of investigating all the charges.

The Women's Educational Equity Act of 1974. Women's groups also gained lobbying experience and sophistication in their efforts to have the Women's Educational Equity Act passed. First conceived in 1971 by a secretary for the House Education and Labor Committee, the idea was quickly picked up by WEAL, AAUW, NWPC, and several other organizations. The coalition wrote a preliminary draft of the bill in 1972 and then got in touch with Representative Patsy Mink (D., Hawaii) who agreed to sponsor the bill in the House. A month later, Senator Walter Mondale (D., Minnesota) asked to sponsor the bill on the Senate side.

As finally shaped by its supporters and sponsors, the bill authorized funding for projects or research with the aim of improving women's education. It also authorized the creation of an Advisory Council on Women's Educational Programs in the Office of Education. The bill was introduced twice before House hearings were held in 1973. At those hearings, support was provided by women's interest groups and educational organizations, including the Association of American Colleges; American Council on Education; Association for Supervision and Curriculum Development; National Education Association; American Personnel and Guidance Association; National Vocational Guidance Association; and National Student Lobby.

When introducing the bill in the Senate, Mondale characterized it as the "logical complement to Title IX." The Nixon administration, however, opposed the bill as part of an effort to minimize new categorical programs and to consolidate existing programs. Finally, in late 1973, the lobbying groups and congressional sponsors agreed to incorporate the Women's Educational Equity Act into the Special Projects Act of the Education Amendments of 1974. The Special Projects Act, which included seven new programs as well as some existing programs, was designed both to prevent the Administration from not funding the programs and to prevent the programs from competing with one another while paying lip service to Nixon's consolidation efforts. For example, if the Administration wished to fund a popular program like Sesame Street, it would have to fund the entire Act because the seven new programs were guaranteed 50 percent of any appropriation. Tucked away unobtrusively in the Education Amendments of 1974, the bill had no trouble getting passed and was signed by President Ford soon after he took office in August 1974. Despite an authorization level of $200 million for the first three years, the Special Projects Act was funded at only $39 million the first year, of which $6.3 million went to the Women's Educational Equity Act.

In the Education Amendments of 1978, Congress authorized several significant changes in the Act. First, the Women's Educational Equity Act was removed from the Special Projects Act and received its own separate authorization as Title IX-C of ESEA. The authorization level was raised to $80 million. Secondly, Congress ordered that 75 percent of all appropriations over $15 million be used to assist local education agencies in achieving compliance with Title IX regulations. While this modification is significant in its intent, Carter's 1980 budget request is for only $10 million. Thirdly, Congress mandated that program administrators develop priority areas for funding. HEW has proposed that one of these areas be the funding of projects to aid the neediest girls and women, including both low-income women and those discriminated against on the basis of race, national origin, or handicap. Thus the program administrators may help to alleviate the perception that the program is benefiting middle-class women rather than the more obviously disadvantaged.

Recourse to the Courts. Women have also taken their demands to the courts. There they have brought suits charging sexual discrimination in vocational programs, competitive athletics, admission to academically selective high schools with higher standards for women than for men, the exclusion of pregnant women from school, and the release of pregnant women teachers in the first few months of pregnancy. Interest groups have supported women bringing suits by helping to defray lawyers' fees and other costs and by filing *amicus curiae* briefs. Additionally, these groups have brought class action suits on behalf of women. Generally, however, the organizations have not sought relief from the courts until their efforts to influence policy through the political process have failed. They have been more successful with the courts when the issue has been a clear-cut example of exclusion than when the issue has revolved around the legalities of sex-separate programs.

Conclusion. The success of the advocates for girls and women in education in meeting their objectives has been mixed and often difficult to ascertain. In part, this is a result of the very nature of their demands. Women's advocates have typically not asked for separate, highly visible programs such as have the advocates for non-English-speaking and handicapped children. Instead they have demanded equal access to already existing programs and the elimination of sex-role stereotyping. The subtlety of the latter change makes it particularly difficult to measure. For example, it is far easier to find out whether a school district with substantial numbers of Spanish-speaking children is providing a bilingual program than it is to determine whether counselors in the school exhibit sex bias in their counseling practices.

Women's groups have been successful at making sex discrimination in education a national political issue. However, even this statement must be qualified. The majority of the members of Congress and the executive branch have shown only superficial interest in the issue. Many of the officials who have been strong advocates of civil rights causes in other areas have been either inactive or opposed to sexual equality. To a large degree, debate has focused on narrow issues such as the possible effects on revenue-producing athletics, fraternities and sororities, and sex education classes. The media have frequently played up these controversies to the exclusion of the less emotion-laden issues. Legislative successes have usually resulted from the unobtrusiveness of the provision, as with the Women's Educational Equity Act, or because its full implications were not brought into the open before passage, as with Title IX. On the other hand, administrative officials have tended to view enforcement of regulations against sex discrimination a nuisance and of less importance than enforcement of regulations against racial discrimination. Their persistent reluctance to en-

force the regulations, coupled with Congress' dubious support of Title IX and unwillingness to appropriate substantial funds to help solve the problems of eliminating sexual discrimination, will impede the process of change.

Women's advocates have also had qualified success in their efforts to utilize the judicial process. Many of the most vexing problems have yet to be resolved in the courts, such as whether Title IX applies to school employees as "beneficiaries" of federal funds. Additionally, the courts have consistently refused to consider the charges of sex discrimination as violations of the Equal Protection Clause of the Fourteenth Amendment. Rather, they have relied on Title IX and HEW regulations, both of which are more restricted in scope. The effect of this choice of legal standard is to define the controversy as a political rather than a constitutional problem. Finally, individual litigants in many instances have had to go through the cumbersome and lengthy process of filing a complaint with OCR because in a 1975 case a federal appeals court stated that "it is clear that no individual right of action can be inferred from Title IX. . . ." However, in 1979 the Supreme Court overturned that decision, stating that individuals do indeed have a private right to sue under Title IX.

Women's interest groups clearly have made gains in terms of their own organization and political savvy. During the 1970s, the groups were successful at recruitment and at becoming skilled in a variety of lobbying techniques, including the development of legislative proposals, the collection and presentation of material to support their cause, behind-the-scenes pressuring of Congress and administrative agencies, the use of the media, and the filing of lawsuits and briefs. In addition, they have managed to build effective, although tenuous, coalitions with education, student, and civil rights groups.

Success in translating victories at the national level into programmatic and policy changes in local schools will depend on whether the current coalition of support can be maintained and can mobilize grass-roots support. The changes sought are in deeply ingrained stereotypes and in the relations between the sexes that many people find either threatening or laughable rather than laudable. Thus, a whole generation or more may pass before the results of current efforts are fully realized.

Extending Services to Limited-English-Speaking Students

Background. Bilingual education is not a new issue in American public education. For over a century and a half school authorities have intermittently struggled with the demands of various ethnic minorities that their native language be taught in the schools and even that it be used as the language of instruction. By the middle of the last century, bilingual programs were not uncommon in urban areas, particularly in the Midwest. Nineteenth-century German settlers, because of their relatively high status and political clout, were perhaps the most successful in forcing the schools to provide bilingual education. But clashes between immigrants and nativists became more prevalent and more severe by the turn of the century. By World War I pro-Americanism and anti-immigration sentiment had resulted in the elimination of most bilingual programs and, in many cases, foreign language instruction was actually forbidden in the elementary grades.

During the 1950s and 1960s, first the civil rights movement and then the Black power movement provided an impetus for ethnic groups, including Mexican Americans, American Indians, Puerto Ricans, and Asian Americans, to seek remedies for their own disadvantaged status. Education was viewed by many as a means by which low-income and low-status ethnic groups could learn the skills necessary to compete in American society, yet their children could not readily benefit from the schooling that was offered. In 1967, twenty-one states, including California, New York, Pennsylvania, and Texas, had laws requiring English as the language of instruction in the public schools, and in seven states teachers could receive criminal penalties or lose their teaching licenses for teaching bilingually. On the other hand, claims for equality in access to the benefits of education had been receiving sympathetic treatment at the national level in the wake of court cases affirming the Equal Protection Clause and the Civil Rights Act of 1964. First the Spanish-speaking minorities and then other ethnic groups began in the late 1960s to pressure their congressional representatives for help.

Advocates for the Spanish-speaking minorities have been by far the strongest and most vocal. *El Congreso*, the National Congress of Hispanic American Citizens (formerly the Raza Association of Spanish Surnamed Americans) is the umbrella lobbying group representing Spanish-speaking organizations, primarily Mexican-American groups in the Southwest. *El Congreso* has been quite effective at coordinating the lobbying of Congress, and has been involved in drafting legislation, collecting supportive material, eliciting letters of support, locating congressional witnesses, and lobbying individual legislators, particularly those from the Southwest. It has also been able to draw support from Hispanic caucuses within the labor movement. The United Steel Workers, the United Auto Workers, and the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) have all lobbied and testified in support of bilingual education.

Three Puerto Rican organizations on the East coast—the Puerto Rican Forum, the Puerto Rican Association for National Affairs (PANA), and Aspira of America, Inc.—have also been quite influential, especially through their contacts with Senator Edward Kennedy (D., Massachusetts) and Senator Jacob Javits (D., New York). Other ethnic lobbying organizations include the advocates for Indian Americans and Asian Americans, although the latter have been less well organized politically.

The ethnic organizations have enjoyed relatively widespread support among education groups. The National Education Association (NEA), the American Federation of Teachers (AFT), the American Association of Community and Junior Colleges (AACJC), the National School Boards Association (NSBA), the Council of Chief State School Officers (CCSSO), and the National Association for Bilingual Education have joined with numerous linguistic experts in supporting federal funding of bilingual programs.

Congressional Initiatives. In 1968, Congress for the first time authorized bilingual educational programs by adding the Bilingual Education Act as Title VII to the Elementary and Secondary Education Act. Prior to that Act, the only federal funds used to provide assistance for non-English-speaking students had come through Title I of ESEA. Several factors contributed to this new congressional initiative. First was the arrival in Florida of hundreds of thousands of Cuban refugees following the Castro Revolution, for whom Dade County, Florida, began to provide

bilingual programs in 1963. Congress subsequently cited these programs as models. Second, there was a growing recognition on the part of several senators, most notably Ralph Yarborough (D., Texas), that Mexican-American children had been neglected by American public schools. Yarborough and others reported that these children were frequently punished for speaking Spanish on the playground, and many had actually been labeled retarded because of their inability to speak English. Achievement levels for non-English-speaking children were significantly below those of English speakers, and dropout rates were much higher for those who did not speak English. Third, the civil rights movement of the 1960s had strengthened the commitment of the federal government to equality of educational opportunity. Thus a responsive chord was hit when newly aggressive Hispanic groups argued that instruction offered in English effectively excluded Spanish-speaking children from the benefits of schooling. As in the case of handicapped children, identity of treatment resulted only in inequality. In effect, special programs were needed if Spanish-speaking children were to obtain an education.

Title VII authorized grants to local educational agencies for the development and operation of demonstration programs. To be eligible, a child had to be between the ages of three and eight and from a home in which English was not spoken and in which the parents did not make more than $3,000 annually. The program was not designed exclusively for Spanish-speaking children but applied to "children of limited English-speaking ability." Title VII did not support a philosophy of entitlement in which every eligible child was guaranteed access to a bilingual program. Instead, it was intended only to fund model programs for curriculum development, teacher training, and the stimulation of state and local programs.

Title VII was clearly a congressional initiative. In fact, the Johnson administration opposed a separate categorical program because it felt that Title I could be interpreted broadly enough to cover the need. However, the Act had strong, although limited, support in Congress, particularly among members from districts with high concentrations of ethnic minorities. While Title VII was worded ambiguously in order to attract support, even in 1968 there was substantial disagreement over the philosophy and content of bilingual education, a disagreement which has increased since passage of the Act.

Supporters differed on the benefits of the "maintenance" versus the "transitional" model of bilingual programs. Transitional programs are designed to teach children English as quickly as possible so that they may enter the regular school program. In this instance, the program is considered compensatory in nature. On the other hand, supporters of maintenance programs argue that the native language and culture should continue to be taught to the children from ethnic minorities even after they attain English language competence. The most extreme advocates believe that bilingual-bicultural education is for everyone and that the goal is the creation of a bilingual-bicultural society. Virtually all of the ethnic lobbying groups subscribe to maintenance programs. While supporters of federal funding of transitional programs may disagree on the benefits of the maintenance approach, they all agree that the only justification for federal funding is that non-English speakers should be guaranteed access to the benefits of education, and such access can be achieved at less cost through transitional programs. Many also believe that maintenance programs will lead to social separation and bitter linguistic politics.

The controversy between transition versus maintenance has stirred continuous debate in the Executive Branch. For example, a 1971 HEW manual stated that "it must be remembered that the ultimate goal of bilingual education is a student who functions well in two languages on any occasion."[22] However, a 1974 HEW policy memorandum stressed:

> The cultural pluralism of American society is one of its greatest assets, but such pluralism is a matter of local choice, and not a proper responsibility of the federal government. . . . It is clearly the intent of Congress that the goal of federally-funded capacity building programs in bilingual education be to assist children of limited or non-English speaking ability to gain competency in English so that they may enjoy equal educational opportunity—and *not* to require cultural pluralism."

Forceful though these assertions are, in reality Congress has never made its intent clear, and thus the controversy between transitional versus maintenance models continues.

In 1972, Congress strengthened its commitment to bilingual education by reserving a minimum of four percent of all appropriations to the Emergency School Aid Act (ESAA) for such programs. Although the Act is designed to aid school districts undergoing court-ordered desegregation, the bilingual provision was based on the assumption that such programs would be a tool in carrying out desegregation plans involving national origin students. While Title VII and ESAA are the two major funding sources for bilingual programs, there are also various other Acts and programs that provide additional limited funding for a variety of projects.

The Education Amendments of 1974 amended the 1968 Act in significant ways, primarily as a result of the support and leadership of Senator Kennedy and Senator Alan Cranston (D., California) and the skillful lobbying techniques of the ethnic orgnizations. The 1974 Amendments strengthened the maintenance aspects of the Act by permitting programs to be funded through high school and by specifically denying the sufficiency of English-as-a-Second Language (ESL) programs, which teach English without the use of the native language as a medium of instruction. The Amendments also expanded the authorized spending levels, emphasized the preparation of bilingual teachers, removed the poverty criterion for eligibility, and extended the bilingual approach to such programs as adult and vocational education. Finally, the new law stressed the need for greater research and greater priority for the program within the Office of Education. However, the law remained vague on the philosophical questions of the federal role.

The Nixon administration opposed the bill much more strongly than the Johnson administration had opposed the original Act. At first, the Office of Management and Budget argued for a phase-out and consolidation approach as part of a general policy of eliminating unnecessary categorical programs. Later the Executive Branch agreed to a one-year extension, and then, following the *Lau* decision (discussed below), and the recognition that its views were opposed even by many Republican members of Congress, the Administration decided to press for relatively minor limitations in the Senate bill, many of which they succeeded in incorporating in the final Act.

In the years since the passage of the Education Amendments of 1974, the program has been repeatedly lambasted as a failure. In April 1977, OE released its most extensive evaluation of the program, which concluded that federally funded projects often provided expensive, highly segregated programs that left children less skilled in English reading and vocabulary than children not in such programs. Moreover, it was found that bilingual programs did not improve children's feelings about schools or themselves. Finally, 85 percent of the project directors said that the children remained in the programs after they could function in English.

Critics of the program, including some past supporters, maintain that:

> after nearly nine years and more than half a billion dollars, there is little guidance about the best ways to provide transitional bilingual education, little evidence about whether it is educationally effective at all, an inadequate supply of teachers and curricula even if it were, and no examination of other approaches which may be equally or more effective.[24]

Others argue that:

> What bilingual education is more than anything else . . . is a jobs program. . . . It's fought for because it's a way of giving jobs and recognition and status to Spanish speakers, who traditionally have been at the lowest end of the socioeconomic level. It's at that level that they fight for it, and are going to keep on fighting for it.[25]

On the other hand, the ethnic organizations and other supporters argue that the evaluation studies are technically flawed and out of date and that any problems with the programs are due to poor administration by OE and a lack of competent teachers. According to one scholar, "The studies currently available . . . swallow elephants and strain on gnats in analyzing the effectiveness of this instructional approach."[26] Additionally, they deny that ethnic positions reflect separatist tendencies and maintain that one goal of bilingual programs is to promote an understanding that each ethnic culture is a part of the larger American culture. Finally, they argue that even if the programs are not as effective as hoped, they are far better than the inhumaneness and inequality inherent in doing nothing at all.

The Senate has remained firm in its commitment to bilingual programs as evidenced by statements in the committee report for the Education Amendments of 1978 in which it said that the programs had:

> shortcomings that sounded disturbingly familiar— inadequate efforts in research and evaluation, insufficiently qualified staffs and programs for teacher training, little understanding of the relationship between bilingual and bicultural approaches, the need for a new definition of an eligible child, personnel limitations within USOE . . . and congressional appropriations insufficient to meet growing needs. . . . The committee is pleased to note that its faith in the efficacy of bilingual education is being affirmed.[27]

The House, on the other hand, has given the program less complimentary marks and suggested new limits on funding and on the duration of local projects. The result was relatively minor changes in the law, although the purpose was restated to emphasize that children with the greatest need should be served first and that the goal of the program is to help them achieve competence in English. The Education Amendments of 1978 somewhat broadens eligibility requirements by defining an eligible child as one with "limited-English proficiency" rather than limited-English-speaking ability. On the other hand, programs can be funded for only five years and greater emphasis is put on research, evaluation, and teacher training. Finally, bilingual programs funded under ESAA are transferred to the Office of Bilingual Education.

Since the inception of the Bilingual Education Act in 1968, appropriations have grown from $7.5 million to $150 million. Instruction is carried on in some 70 languages, although Spanish accounts for 80 percent of the program. In a 1977 report OE found that the states were playing a limited but growing role in bilingual education. While the number of states that either mandate or permit bilingual education had grown significantly, 12 states still had laws prohibiting it. Moreover, only 12 states, three territories, and the District of Columbia provided state funds for bilingual education, and in most states federal funds exceeded state funds. OE estimated that perhaps as many as two to three million children whose command of English was limited were not being served by any bilingual program.

The Courts and the Office of Civil Rights. In addition to the carrot of federal funds, the government has been wielding a stick. In 1970, OCR issued a memorandum, based on a provision of the Civil Rights Act of 1964 barring discrimination on the basis of national origin, that informed school districts that they must take affirmative steps to rectify English-language deficiencies. This memorandum was the basis for the unanimous decision of the Supreme Court in the *Lau* v. *Nichols* case in 1974 that held that 1800 Chinese-speaking students in San Francisco, who had received no special instruction in English, had been effectively foreclosed from any meaningful education. Two lower court rulings had stated that the school district had not violated the Equal Protection Clause, but when the *Lau* petitioners took the case to the Supreme Court, the United States filed an *amicus curiae* brief arguing that no matter how the Court construed the principles of the Equal Protection Clause, HEW's interpretation of the Civil Rights Act outlawed the school district's action, an argument that the Court accepted. The Supreme Court, by basing its decision on the OCR regulations, was able to avoid the constitutional issue and premise its decision on a statute. Hence the Court left the issue to political resolution. Significantly, one justice argued that the statutory claim was dependent on the size of the non-English-speaking student population. This approach is clearly at odds with the concern for individual rights on which the Equal Protection Clause is based.

Moreover, the Court did not specify any one remedy; it simply outlawed the "sink or swim" approach. In 1975, OCR and OE approved a list of "*Lau* Remedies"—the source of a great deal of subsequent controversy. The guidelines state that if a school district has 20 or more students of the same language group who have a home language other than English, affirmative steps are required. While the guidelines prescribe bilingual-bicultural programs, they do state that other alternatives may be accepted if they are equally effective at providing equality of educational opportunity. However, the burden of proof is on the school district, and one official stated the complaint of local districts this way: "How can you prove something is equally as good as something else which nobody has proved the worth of?"[28] On the other hand, proponents of bilingual education consider the *Lau* remedies "too limited in scope, the discretion afforded by local officials too broad, and HEW's enforcement efforts wholly inadequate."[29]

The *Lau* decision has had significant impact on the progress of bilingual education. For instance, it legitimized the equity demands of non-English speakers. It was the impetus for the Equal Educational Opportunity Act of 1974 in which Congress extended the Court rulings to all public school districts, regardless of whether they received federal funds. The *Lau* ruling also energized federal efforts at enforcement and led to the passage of new laws allowing or mandating bilingual education in some states. Finally, it spawned additional lawsuits. Arguments by school officials that justify their inaction on the basis of budgetary constraints, collective bargaining agreements, the limited number of students affected, and the undesirability of segregating students have not been legitimized in these cases.[30] The segregation issue, however, has presented the most difficult problems for the courts and OCR. Critics of bilingual education have charged that such programs are highly segregated, despite the federal provision that as many as 40 percent of the students may be English speaking. Generally, the courts have ruled that bilingual education is no substitute for desegregation, particularly if such programs do not rectify English language deficiencies. On the other hand, ethnic segregation in effective programs designed to ensure civil rights have been accepted by the courts and OCR as *bona fide* ability groupings.

Conclusion. Despite the many controversies that have infected the issue of bilingual education, the ethnic lobbyists have managed to maintain and expand the federal commitment to such programs, primarily through the strong support they have garnered in the Senate. While the *Lau* decision did not specify maintenance programs as the only remedy, its refusal to uphold "sink or swim" programs did help convince the House and the Administration that some federal role was appropriate. Significantly, Professor Josúe Gonzales, a proponent of the maintenance approach, was recently appointed director of OE's Office of Bilingual Education. Gonzales adheres to the view that a transitional approach "helps maintain the outdated 'melting pot' syndrome which discourages cultural pluralism in American society."[31]

On the other hand, the lobbyists have not succeeded in forcing the government to meet all their demands. For instance, the legislation does not represent a firm commitment to maintenance programs, Congress has not agreed to an eligibility program that would make bilingual programs a right of all non-English-speaking children, and the OCR has not required bilingual-bicultural programs to achieve compliance with the Civil Rights Act. Additionally, lobbyists have been embarrassed by a lack of evaluations demonstrating the effectiveness of bilingual programs, by charges that programs segregate students, and by challenges to the appropriateness of any federal role beyond that of ensuring programs to teach children English. Such questions as who is to receive funds, for how long, at whose expense, and for what types of programs will continue to rankle bilingual supporters.

The problems of ethnic lobbyists do not stop there. Specifically, the cultural, political, economic, religious, and social differences within and between groups, as well as the varying degrees of ethnic attachments among individual members have created severe constraints to lobbyists' efforts at maintaining a united front. For example, an intense controversy over a bilingual program in Chicago pitted Greek American parents against one another in 1973. Disagreements over which of the many varieties of Spanish should be taught have also cracked the ranks of Hispanic groups. Before Senate hearings on Title VII in 1973, a PANA representative strongly complained that Puerto Ricans were not getting their fair share of program funds when compared to those going to Mexican Americans. If a program that has been expanding at the rate of the Bilingual Education Act can engender these types of geographic, group, and intragroup controversies, one can only wonder what will happen if funds are cut back because of declining public resources.

Providing Services to the Handicapped

Background. Historically, handicapped children, those who require special education services because of mental, physical, emotional, or learning problems, have been denied, for the most part, the right to a public education. When public educational programs were available, they were usually designed for children with one of a few particular types of handicaps, such as deafness or blindness, and the services were provided in schools or institutions separate from local schools and funded by the state. Even though schools of this type were established as early as the 1820s in some states, their numbers grew very slowly. Local efforts were even more meager. Ironically, when state compulsory education laws began to be passed in the late nineteenth century, handicapped childen in many states were denied access to public schooling through provisions that allowed for the exclusion of children who could not, in the opinion of the local superintendent, profit from an education. In other jurisdictions, it was legitimate to deny services if there was no appropriate program available or if the child was in need of special transportation. Thus, in those states parents who were determined to educate their handicapped children were forced to rely on costly private programs. Gradually, throughout the twentieth century, a few states began to upgrade their special education programs through statutes requiring local districts to provide services and through categorical grants. However, these state efforts were relatively few in number with extreme variations among states.

With the development of the postwar civil rights movement, the parents of handicapped children began to organize and demand educational services not as a matter of charity, but as a civil right. Parental advocates, working in conjunction with professional educators and concerned citizens, constituted the core of a broad-based, grass-roots movement that has made itself felt at the local, state, and federal levels of government.

One of the first self-organized parent groups was United Cerebral Palsy, which began in 1945 when a parent of a child with cerebral palsy ran an advertisement in the *New York Times* asking if there were other such parents who would like to meet together. A similar ad was run in 1948 by the parent of a mentally retarded child and resulted in responses from 200 other parents. Comparable groups evolved in much the same manner throughout the country. At first, the purpose of these early groups was to provide much needed support through discussions of mutual problems and anxieties. However, they quickly began to assume other purposes, including self-education, the promotion of public awareness, the organization and provision of programs to meet the needs of particular groups of children, and lobbying for appropriate legislation.

These parent groups have grown in size, number, and political sophistication since the early postwar years. Many are now national organizations with affiliate groups in all states and many localities. A listing of only a few demonstrates their range and scope: Association for Children with Learning Disabilities, Epilepsy Foundation of America, National Association for Retarded Citizens, National Society for Autistic Children, United Cerebral Palsy, National Federation for the Blind, and National Association for the Deaf.

In 1970, the Bureau of Education for the Handicapped (BEH) in OE created and funded a National Information Center for the Handicapped, known as Closer Look, to help parents of handicapped children in their efforts to ensure the provision of education and other needed services for their children. Closer Look, besides publishing a newsletter for parents, provides up-to-date facts about new state and federal laws, helps to explain to parents their legal rights, encourages the growth of coalitions of organizations for the handicapped, and works closely with parent groups in every state.

Many professional organizations also have worked to secure benefits for handicapped children. The Council for Exceptional Children (CEC), founded in 1922, today includes 67,000 special educators from many "exceptionality" areas and is organized into local chapters and state federations. In the early 1960s CEC joined with the National Education Association and several other education organizations to lobby for passage of ESEA. Then, in 1969 it established the Governmental Relations Unit and intensified its lobbying efforts at the federal and state levels. Frederick Weintraub, in his capacity as assistant executive director for governmental relations, aided in drafting the Education for All Handicapped Children Act, P.L. 94-142. CEC also has organized a political action network that attempts to develop the political leverage necessary to implement the Council's policies at the state and local level, while retaining the capability to quickly mobilize a unified force to lobby at the federal level. The network coordinators are given specific instructions in dealing effectively with legislators; in following the action of general assemblies, reading and monitoring the progress of bills, and plugging into the communications network of CEC; and in providing information when requested. The CEC has been joined in its efforts by other educational organizations such as the National Education Association (NEA), the American Federation of Teachers (AFT), and the Education Commission of the States (ECS).

At least two legal organizations now provide aid to parents seeking legal redress: the National Center for Law and the Handicapped and the Legal Advocacy Network for the Disabled. Additionally, various organizations of state officials, such as the Special Education Subcommittee of the National Governors' Association, the National Association of State Directors of Special Education, and the Education Commission of the States have pressured the national government for greater federal funding of special education programs and fewer restrictions on federal funds.

Advocates for educational services for handicapped children have enjoyed the support of prominent politicians with a special interest in handicapped children. For instance, President Kennedy, who had a retarded sister, and Hubert Humphrey, who had a retarded grandchild, both worked diligently to stimulate federal legislation. In fact, because of the emotional appeal of the handicapped issue, and the intensive lobbying efforts of special interest groups, Congress as a whole has been unusually sympathetic in recent years to the demands of the handicapped. Most legislation for the handicapped has passed both houses of Congress by wide margins, and some has passed unanimously. Moreover, in the Vocational Rehabilitation Act of 1973, as amended in 1974, Congress authorized a White House Conference On Handicapped Individuals. Its purpose was to provide a national assessment of the problems and potentials of the handicapped; to generate national awareness of these problems and potentials, and to make recommendations to the president and Congress. Held in 1977, the Conference was attended by some 2500 persons, 50 percent of whom were handicapped, and resulted in a three-volume final report, including an implementation plan, that detailed the health, educational, social, economic, and other concerns of handicapped individuals.

Recourse to the Courts. As parents found school officials at the local and state levels unresponsive to their demands, they began to question the constitutionality of compulsory education laws and local practices that excluded handicapped children from a public education. Beginning in 1970 parental challenges based on the Fifth and Fourteenth Amendments began to meet with success. Two of the most precedent-setting of these right-to-education lawsuits were *Pennsylvania Association for Retarded Children (PARC)* v. *Commonwealth of Pennsylvania* in 1971 and *Mills* v. *Board of Education of the District of Columbia* in 1972. In the former, PARC brought a class action suit in a federal district court against the Commonwealth of Pennsylvania on behalf of all mentally retarded children. Witnesses testified that all retarded children were capable of benefiting from an education, if only in the sense that they could be made less dependent on others. The state agreed to a court-approved consent agreement with PARC that provided that no law could be applied that would postpone, terminate, or deny mentally retarded children between the ages of 6 and 21 access to a publicly supported education. Other requirements of the agreement included equal accessibility to preschool education, placement of children in the least restrictive school environment, the right of parents to a due process hearing, and monitoring of compliance plans by court-appointed masters.

Although the PARC agreement applied only to mentally retarded children, the *Mills* suit was on behalf of all handicapped children. The decision of the federal district court in the *Mills* case established the right of all handicapped children to an appropriate and free education and the right of parents to be informed and to appeal decisions regarding their child's placement. When the D.C. Board of Education claimed that funds were not available to implement the decision, the court responded that if funds were insufficient to finance all the programs, then the available funds would have to be expended equitably in such a way that no child was entirely excluded. Thus, cost considerations were not judged an adequate justification for denying educational services to the handicapped.

Following the judicial successes of the plaintiffs in these two cases, similar suits were filed in more than 30 states. Several of these cases successfully challenged racially and culturally discriminatory testing procedures in the diagnosis and placement of children. Many states, attempting to

avoid litigation, passed new legislation mandating public education for the handicapped. In 1970 there were only 11 states with mandatory education for the handicapped, but by 1976 all but one state had enacted such legislation. State outlays for handicapped children climbed dramatically, increasing from $900 million in 1972 to an estimated $2.48 billion in 1976.

Federal Legislation. The effects of the *PARC* and *Mills* cases were felt not only in the state legislatures, but also in the Congress, where lobbyists for the handicapped intensified their efforts. Congress had authorized some grants to states to assist them in providing educational services to the handicapped in early amendments to ESEA and had established the Bureau of Education for the Handicapped. However, in the early 1970s congressional attention to the handicapped escalated dramatically, especially with the passage of Section 504 of the Rehabilitation Act of 1973 and the Education for All Handicapped Children Act, P.L. 94-142, in 1975.

Section 504 is a brief statement, similar to Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of handicapping conditions under any program or activity receiving federal financial assitance. Although the law provides no federal funds to help educational agencies implement the mandate, the Office of Civil Rights is authorized to withhold funds to any local educational agency failing to comply.

Regulations that accompany Section 504, which were not finally issued until April 1977 after the passage of P.L. 94-142, hold the state education agency (SEA) responsible for the compliance of all local districts under its authority. Should one district fail to comply, HEW funds received by both the district and the SEA can theoretically be terminated, in whole or in part. Among the regulations is the requirement that all future school sites must be free of architectural barriers that exclude handicapped students. Districts do not have to renovate every existing building, but their education programs must be accessible to the handicapped. The National School Boards Association estimates that the renovation mandate will cost about $1.5 billion.

The regulations also require that school districts establish "childfind" programs to identify and locate every handicapped child not receiving a public education and ensure that a free and appropriate education is available to each. If a student must attend a private institution to receive such an education, then such services must be provided without cost. Each student must be individually evaluated by a group of trained personnel to determine his or her special educational needs, and a periodic reevaluation is required. A system of procedural safeguards must be instituted to ensure that parents are notified of their child's placement or transfer and given an opportunity to examine the child's records and to appeal any decision made by the school. Finally, handicapped students must be educated in the least restrictive environment—that is, to the maximum extent possible, they must be educated with non-handicapped children.

In its first opportunity to interpret the regulations, *Southeastern Community College* v. *Davis*, the Supreme Court unanimously restricted what is meant by affirmative action for the handicapped. According to the decision in the case, which was brought by a deaf woman seeking admission to a postsecondary training program for nurses, in order to accept the applicant, the college would be required to make adjustments in its program that would be "far more than the modification the regulation requires." This case may well have important implications for advocates for the handicapped who are seeking educational services beyond those provided to non-handicapped students. For example, in a case now under consideration in Pennsylvania, parents are asking that the schools provide year-round education for the handicapped.

The passage of P.L. 94-142 in 1975 further extended the federal efforts of the early 1970s. Although federal funding for special education was made available with the Education Amendments of 1974, a greater effort was needed to relieve the fiscal burden placed upon states and localities by court cases. Moreover, the best information available to Congress indicated that of the more than eight million handicapped children in the United States, at least half were not receiving an appropriate education and one million were entirely excluded from public education. While some state laws contained guarantees and safeguards similar to those in Section 504, most did not. After four years in the making, P.L. 94-142 passed with overwhelming majorities in both houses despite the serious opposition of the Ford administration, which believed that the bill would greatly expand federal control of education and would cost the government too much. Threatened with a veto, Congress lowered the legislation's authorizations although the regulatory aspects remained intact. President Ford, though still reluctant, decided not to veto the legislation. The successful passage must be attributed to the intensive and sophisticated lobbying effort of the advocates for the handicapped and to the strong leadership of particular legislators, such as Senator Harrison Williams (D., New Jersey) and Representatives John Brademas (D., Indiana) and Albert Quie (R., Minnesota).

Implementation of Handicapped Legislation. The passage of P.L. 94-142 represents a significant breakthrough for those who have labored for equal educational opportunity for the handicapped. At the same time it presents challenging implementation problems for educators since many of the requirements exceed the existing capabilities of the educational system. According to Janet Simons and Barbara Dwyer, P.L. 94-142 is:

> the first time the federal government has so precisely defined instructional style, the rights of parents and children to due process, and state and local responsibilities for monitoring instruction. To satisfy the mandates of this multifaceted legislation, state and local educational agencies have had to modify significantly their organizational, administrative, behavioral, and attitudinal practices."

While few people disagree with the intent of the law, the implementation of all its provisions has created difficulties and some serious conflicts among the many persons affected, including handicapped children and their parents; special education teachers, regular classroom teachers, and other professionals; school boards and administrators; SEA and other state agency officials; state legislators and executives; BEH officials; federal legislators; and the staff of many parent advocacy and professional education organizations. As we summarize the major provisions of P.L. 94-142, we will indicate those aspects that have been particularly controversial during the implementation process.

By September 1, 1978 every state and locality that expected to receive funds under P.L. 94-142 was to have made available to all handicapped children aged 5 to 18 (and aged 3 to 5 unless inconsistent with state law) a free,

appropriate public education. However, there were few financial incentives for local districts to implement the law on schedule. To achieve compliance, local districts frequently had to increase their special education budgets by as much as 50 to 100 percent in the first year of implementation. Yet the per pupil allocation that local districts actually received in 1977-78 was only slightly more than $35. Local and state policymakers expressed outrage at the funding formula, because even if the law were fully funded, it would provide for only 5 percent of the national average expenditure per pupil in the first year, gradually escalating until 1982 when it would become a permanent 40 percent. State and local officials have complained bitterly about both the low level of authorized funding in the early years when start-up costs are high and the failure of Congress to fund fully the Act. For example, Congress and the president agreed to an appropriation level of only 12 percent for the 1979-80 school year although the Act authorizes a 20 percent level.

The Education Commission of the States (ECS) has pointed out that in order to be eligible for any federal assistance, states must make a full legal and financial commitment to the specifications of P.L. 94-142, a commitment which is binding regardless of the extent of the federal assistance. These immediate obligations, ECS argues, are inconsistent with the gradual phase-in of federal assistance over a five-year period.

State educational agencies are responsible and will be held accountable for ensuring that all requirements of the act are carried out. This means the SEAs must approve, monitor, and evaluate all educational services to the handicapped, even though these services might be provided by other state agencies such as departments of mental health, mental retardation, corrections, and human services. The methods of achieving compliance with the SEA supervisory role vary greatly among the states. Some simply produce informal interagency coordination agreements, while others have enacted statutes and developed regulations investing the SEA with supervisory powers. In either case, the interdepartmental "turf battles" have frequently slowed the delivery of services to the handicapped.

While it is not uncommon for informal or formal arrangements between agencies with overlapping jurisdictions to be developed at the state level, the fact that the federal government imposes compliance requirements on only one of the agencies has made the negotiations more complex. Many states have asked, "Just how big a stick does BEH expect our SEA to carry?"[13] ECS passed a resolution opposing the specific language of P.L. 94-142 regarding the state role because it conflicts with the constitutions and statutes of several states.

Moreover, some of those responsible for implementation charge that P.L. 94-142 may alter the state role in relation to the local district. In a number of states, the SEA has traditionally fulfilled only a "technical assistance" function. However, the law now requires that local districts submit plans to be approved by the state and that the local district's effectiveness be monitored by the SEA. If the local districts refuse to comply, then the state is required to offer services, a function specifically prohibited in some states. One federal official has noted that one year after the law went into effect, only three states had monitored and evaluated local districts according to federal requirements. According to another report:

> P.L. 94-142 may deeply affect the relationship between the SEAs and their LEAs [local educational agencies]. It will require opening up new avenues for cooperation and trust. It will realign responsibilities and power. . . . What new precedents it may set for the state vis-à-vis the local districts remains to be seen."[14]

Although the specifications are more detailed in P.L. 94-142, many are very similar to those of Section 504, especially the requirements for childfind programs, individual assessments, due process, and least restrictive environment. Unlike Section 504, P.L. 94-142 specifies that no more than 12 percent of the school-age population can qualify in the funding formula as handicapped and only one-sixth of those as learning disabled. It appears quite possible now that the 12 percent figure is higher than needed, although many teachers and admnistrators consider the cap on the learning disabled too restrictive. Others argue that enlarging that category would result in the inclusion of many children who are not seriously disabled.

The Act also mandates that each child diagnosed as handicapped must have an individualized education program (IEP), which must contain detailed instructional objectives and reflect a group planning effort, including teachers, parents, and other professionals. IEPs have proven advantageous as incentives for keeping data in one place, for group meetings, and for parent involvement. On the other hand, many regular and special teachers complain that, because of the paperwork involved, IEPs significantly reduce the time available to spend with the children. Additionally, many teachers fear that IEPs may represent binding contracts and if all the objectives are not met, they might be held legally responsible.

Teachers' reactions to the least restrictive environment (mainstreaming) requirement have been similarly mixed. While most find that the class as a whole, as well as the handicapped child, benefits from mainstreaming, many teachers, with the backing of the NEA, have demanded more in-service training and modifications in class size, scheduling, and curriculum design, as well as overtime pay for extra time spent complying with the Act. Many of these demands may yet become issues at the bargaining table and complicate teacher negotiations.

Due process requirements have brought some complaints from those they were designed to protect—the parents of handicapped children. School districts may be required to get numerous signatures from parents, and it has been reported that some parents feel these multiple signatures are an imposition. Even those parents who willingly attend the meetings may come "uninformed of the program options available for their children, intimidated by the large number of professionals at the meeting, and unsure of what instruction their children will receive, even though they consent to and sign the IEP."[15]

Both the IEPs and the broader due process requirements entail a significant increase in paperwork for state and local districts. Many of the implementers have complained that the amount of paperwork seriously inhibits their ability to administer the program. This complaint has generated some concern in Washington since one of the central themes of the Congress and the Carter administration is the reduction of paperwork burdens on education agencies. In the Education Amendments of 1978, for instance, Congress established a separate council to "eliminate ex-

cessive detail and unnecessary and redundant information requests."

Perhaps the conflict most likely to erupt on a large scale is that between parents of handicapped children and those of the non-handicapped. If the state or local district is unable to raise new money to meet the requirements of P.L. 94-142, then services to non-handicapped children may have to be cut back in order to comply with the law, a problem of concern to many legislators, school board members, administrators, and teachers, as well as parents. According to John Callahan of the National Conference of State Legislators:

> . . . when a special interest group so dominates the particular political process that it writes the bill to meet its particular agenda, and not the agenda of the public at large—the parent of the normal child, the normal child, the taxpayer, etc.—you're creating a disservice. You're creating a balance in the political process which will be corrected at a later date, and this is why I mention this backlash. I think, unless special education . . . tries to fit its program in with the overall education [program], they're saying they're above the fray, and they're more important than anyone else. That just doesn't wash.[36]

Additionally, it is predictable that parents of the non-handicapped will begin to demand that IEPs be developed for their children to ensure that each child receives an education appropriate to his/her learning needs and that they be guaranteed due process. The workload implications for the educational system of these additional demands are staggering, apart from their effects on the instructional process.

The foregoing is only a sampling of the problems that have arisen in the implementation of P.L. 94-142. As one scholar described the implementation of a state statute very similar to P.L. 94-142:

> The array of actors who must implement the . . . law includes state and local administrators from a broad range of human service, rehabilitation, and education agencies; child assessment and instructional staffs in the local school districts; teacher unions; university communities; parent-consumer and advocacy groups; and state and local governments. In considering how to orchestrate the efforts and participation of all these elements so that imaginative and useful outcomes emerge, one can begin to grasp the dimensions of the problem of implementation. If one also considers the idiosyncratic ego, power, and recognition needs of the individuals involved, it becomes clear that the process is an awesome one."

Conclusion. During this decade, the advocates for the handicapped have met with a large degree of success. Court decisions, permanent federal legislation, and statutes in many states now guarantee the right of all handicapped children to an education. These legislative and judicial accomplishments are partially attributable to the size and political sophistication of the network of organizations representing the handicapped, and to the level of commitment of the members, particularly those who are parents. At the same time, the very nature of the issue—the addition of educational services for many children who in the past were totally excluded from the educational system—spontaneously engenders widespread emotional support, although that support is sometimes coupled with economic apprehensions. While many question how the handicapped should be educated and at whose expense, almost no one is willing to argue publicly that they do not have a right to education like non-handicapped children.

Still, there are major obstacles that must be faced. The courts are being forced to confront the problem of how "needs" are to be cast into judicially manageable form, now that the Constitutional entitlement to an education has been affirmed. Asking the courts to rule on the "appropriateness" of a particular education may well challenge their competence and will complicate the needs issue even further. Additionally, while some handicapped children and parents view placement in a regular classroom as exclusion in effect, others view separation as stigmatization and demand that they be mainstreamed so far as possible. According to David Kirp, "These disparate claims [present] the real possibility that whatever action a school [takes]—whether placing or failing to place a particular type of student in a special education program—might result in a constitutionally-based grievance."[38]

The dilemmas of implementing the federal legislation also loom large. While it is probable that the school-site delivery conflicts will diminish as standard operating procedures are developed and shortages in trained school personnel are alleviated, the parent lobbying organizations will no doubt have to continue to monitor and evaluate progress at the local level to ensure compliance with the intent of the law. But it is unlikely that the intra- and intergovernmental conflicts resulting from controversies over the financing and control of education for the handicapped will diminish as quickly. Special interest groups are currently lobbying for the extension of guarantees of individual treatment for other categories of children, such as the gifted and talented, postsecondary handicapped students, and handicapped children under the age of three. Should the demands for extension of guarantees ultimately encompass all children, political conflicts over control and financing will no doubt become even more heated.

Conclusion

Each of the four cases illustrates that political conflicts over various educational issues differ considerably with regard to the matters under contention and the decision-making processes which come into play. In an effort to sort out the elements of conflict and then to summarize their combined impact on the educational system, it is helpful to utilize components of the political system as a framework for analysis. We begin with a comparison of the issues themselves, then move on to the principal actors and public agencies: the interest groups, the courts, the legislatures, and the administrators. Also considered are funding, regulatory, and implementation processes. Finally, we conclude with a summary of the significance of the new activism, as portrayed by the cases, for the operation of the schools.

The Issues. None of the four major issues in the case studies is entirely new in the history of American education. For example, controversies over bilingual instruction and school finance formulas were at times important preoccupations of localities and states in the past. What represents a different thrust is the emergence of the four issues as expressions of the national policy for advancing equality of educational opportunity, a policy that the federal government decided could no longer be left to the states and localities to resolve at will. The issue of school finance is something of an exception, but even in this case the reformers who were unsuccessful in obtaining the desired U.S. Supreme Court ruling on equity of financial

provisions lobbied subsequently for federal subventions that would encourage the states to pursue their own equalization efforts.

The issues are probably most divergent in the depth of changes in public attitudes and in educational policymaking and operations that their resolution would require. For example, discrimination against women is based on deeply held stereotypes that may not be fully eradicated for a generation or more, no matter how energetic the shorter-run efforts to change them may be. Other issues, less emotional or ideological in character, might be resolved rather quickly *if* the requisite resources of knowledge, energy, and money could be mobilized. That is, of course, a very large "if."

The remedies for overcoming discrimination in delivery of educational services tend to be based more on ambition and high hopes, and to some extent on forcing action from school officials, than on reliable information or consensus about what would be the most educationally sound or feasible programs of remediation in individual school districts, schools, or classrooms. This tendency for advocates, and even policymakers and professionals, to "over-run" the existing capabilities of the system was well exemplified in the 1960s by the design and enactment of Title I of ESEA, which gave the educators a lot of money for compensatory education programs that they were uncertain how to spend to good effect. The legislation for education of handicapped children follows this precedent by mandating specific program elements whose meaning and efficacy have yet to be fully probed by the professional specialists in the field.

The case histories also indicate that the definition of equality varies among the claimants. For example, the women's groups and some of the fiscal reformers use the concept to mean essentially "identity of treatment." On the other hand, advocates for bilingual education define equality with reference to the children's particular needs and tend to argue that "identity of treatment" would actually result in denying them equal opportunity. Further, this conflict over the definition of equality is matched by continuing conflict over the strategies espoused for overcoming discrimination. In the case of handicapped students, for example, advocates for the severely handicapped tend to regard placement in regular classes as ineffectual and urge the provision of differentiated services. At the same time, those seeking benefits for mildly retarded children consider their placement in special classes to be stigmatizing and urge "mainstreaming" into regular classes. These conflicts over the definition of and strategies for attaining equality echo the controversies that began in the 1960s over the respective merits of desegregation—or "mainstreaming"—of disadvantaged students in regular activities as opposed to making them the special beneficiaries of compensatory services. Because of the elusive and protean quality of the concept of equality, ambiguity and disputes among all concerned about its meaning in practical terms is a virtual certainty.

The Interest Groups. Our sample of interest groups shows considerable diversity in their size and other important attributes. Judging by the relative success of the numerous groups interested in handicapped children, a broad membership base is an asset in attaining favorable legislative enactments and funding. The highly organized and active parent advisory groups collaborating with the special education professionals are especially effective in lobbying, in educating parents as to their rights, and in maintaining a watch on the activities of the schools. Public sympathy with the difficulties faced by severely handicapped children and their families and the support they receive from policymakers tends to be less equivocal than that offered to those who are disadvantaged by poverty or minority status.

The advocates of school finance reform may lack extensive organizational backing but have the compensating advantage of high-level expertise, which gives them a respectful hearing from policymakers. The women's groups, which represent many middle-class as well as disadvantaged women, must contend with widespread perceptions on the part of the public and policymakers that they are trying to advance a "bourgeois" cause. OCR officials give credence to this perception, contending that they receive many more complaints of discrimination from advantaged women than from those who are poor. To counter this opinion, women's groups seek, against considerable odds, to establish broad-based support for their demands. The advocates for bilingual education have to deal with the opposite problem; they have to overcome the barriers imposed by the stereotypes, the economic disadvantages, and the syndrome of second-class citizenship suffered by minority populations.

The case studies confirm to some extent a tendency among interest groups that has been widely observed. That is, they may be able to rally members of divergent views and be well unified in the initial stages of articulating demands; but once some success is obtained, factions develop which make presenting a united organizational position more difficult. Sometimes the factions appear willing to exhaust themselves in battle with each other at the cost of losing the larger war. This tendency to fragmentation is perhaps most apparent among the advocates of bilingual education, but all the activist groups show some internal divergence on programmatic sub-issues. And there is little evidence of common effort among the groups; the various categories of need tend to be strictly compartmented when demands are made for political remedies. Noel Epstein says that the groups have become "rivals for injustice."[9] While there have been a few occasions on which activist groups have formed coalitions with the broad-based education, labor, or public interest groups, outreach efforts generally have been given low priority, especially by those in our sample whose objectives are most narrowly focused.

The interest groups are also quite typical in their efforts to concentrate as much influence as possible, at the appropriate time, in a variety of policy arenas—the courts, particular state legislatures, the Congress, federal agencies, and so on. The accomplishments of the past decade indicate that they have all acquired a large degree of sophistication in political maneuvering.

Interplay of Judicial, Legislative, and Administrative Processes. The case studies all display a high degree of congruence with the four-stage pattern of judicial-legislative response to issues of equal educational opportunity described as follows by Kirp:

> The equity claim is cast in constitutional terms after political efforts fail (or, in some instances, are not attempted); a minimalist version of the claim then achieves judicial recognition, even though . . . a judicial reluctance to move beyond minimalism in the face of fact and value indeterminacy constrain[s] constitutional decisions; federal and/or

state legislative action produces an essentially political solution of the distributive-justice issue; the courts' new task involves interstitial interpretation of broad equal-educational-opportunity statutes.[40]

The most common variation in this pattern is that, with regard to the issues of school finance, bilingual education, and education for the handicapped, some state legislatures have instigated reforms in advance of anticipated challenge in the courts. While key court decisions have been crucial victories for each of the interest groups, they have all, with the exception of the handicapped, fallen short of establishing a federal Constitutional guarantee for equality of educational opportunity. This "minimalism policy" of the courts to rely on statutes and regulations rather than the Constitution frustrates the activists, and it renders more onerous and more protracted their tasks of obtaining remedies and of monitoring the implementation of regulations promulgated by federal and state administrative agencies. The case data also indicate how crucial the continued willingness of a few friendly congressional leaders to sponsor and spearhead the passage of the enacting and appropriation bills is to legislative success.

In the second round of court involvement—that is, actions brought to interpret the applications of the statutes and the regulations—favorable decisions based on statutory clout are typically preferred by the interest groups over those deriving merely from the agency regulations. In any event, the process of drafting and updating the regulations has become increasingly complex and heavily influenced by lawyers, and has imposed much paperwork on school personnel. Program administration at federal, state, and local levels has also taken on an adversarial cast, well exemplified by the due process provisions of the statutes and regulations applying to educational services for handicapped children. Facing the threat that "interstitial" court interpretations of the statute might render them culpable, the school officials are far more likely to be cautious than innovative or aggressive in carrying out the mandated programs.

Cost Considerations. Quite understandably, the activist groups have concentrated on issues of equity and ignored the cost implications of their proposed remedies for past discrimination. Their position has been, and still is, that the prospects for greatly reduced resources for education in the future is simply irrelevant to the removal of illegal forms of discrimination. The courts do not have the power to levy taxes or alter a state's system for financing education, but they have ruled that public bodies must reallocate available resources to fund court-ordered remedies. They have stated that the inadequacies of a school district "whether occasioned by insufficient funding or administrative inefficiency, certainly cannot be permitted to bear more heavily on the 'exceptional' or handicapped child than on the normal child."[41] Thus, school officials have not been able to plead lack of funds as a justification for failing to implement the required programs.

The costs of program implementation for the various types of reform vary considerably. Programs for handicapped education will be most costly in the future, and states and localities have already incurred heavy start-up costs in carrying out the new mandates. The additional outlays for bilingual education and for equalization of opportunities for women, on the other hand, are relatively modest. However, the prospects for any extensive reform of state school finance plans depend upon the availability of revenue surpluses that would be needed to equalize the resources of less wealthy districts. In the absence of school finance reforms, the existing inequities among school districts in provision of educational services may well be exacerbated by the additional costs of compliance with the new statutes and court rulings.

The public is more likely to accept the need to redistribute resources in the cause of equity and justice if there are no serious losers in the process. But opposition builds up rapidly when the process puts pressure on available resources. The principal evidence from the case studies that this has already occurred is found in the demands that localities and states are making for greater fiscal assistance from the higher levels of government and in the growing influence of taxpayer groups favoring curtailment of governmental services. However, greater political tensions centered on the added costs of the new programs are predictable in the months to come.

The Significance of the New Activism. The twenty-fifth anniversary of the 1954 *Brown* decision of the U.S. Supreme Court was widely observed in May, 1979. At that time it was noted that one legacy of the victories which outlawed racial discrimination was the stimulation of a greater awareness of injustice among other minorities. According to Louis Nuñez, staff director of the U.S. Civil Rights Commission,

> If you combine all the constituencies of this commission now—racial minorities, women, the aged, the handicapped, religious groups—you're talking about a majority of the nation. You're talking about maybe reducing the oppressors to 20 percent of the population—20 percent oppressing 80 percent. . . . It's amazing, the sense of injury. Once it was simple—we knew we had all those racists. . . . But who is right and who is wrong is not that readily apparent any longer.[42]

Anyone who tries to make a distinction among the competing claims or to grasp the seemingly endless issues, demands, and histories of each group of the disadvantaged is likely to feel overwhelmed. While the activists who have worked with such energy and success during the 1970s to extend equality of educational opportunity have introduced a greater measure of justice, they have at the same time severely taxed the capacity of regulatory agencies having finite resources to determine those groups with the most justifiable requests for government support. The dilemma has become: if most of the people are victims, who are the oppressors?

IV. THE SYSTEM IN TRANSITION: ASSESSMENTS AND PROSPECTS

Introduction

Although Chapter III of this study focuses on the activities of the new claimants for educational equality who came into prominence during the 1970s, it should be remembered that they depict but a few of the many events creating stress on the American educational system. These other stresses are discussed in the latter sections of Chapter II, where it is pointed out that the convergence of forces seems potentially strong enough to make significant changes in the system itself. In this brief summary we will step back from the current situation and try to see it in larger and longer perspective.

It is well to remind ourselves that the educational system

has undergone some previous transformations that occurred neither rapidly nor at an even pace throughout the country. Virtual freedom of family choice in the matter of schooling long prevailed in this country, and the development of free common schools went on for nearly a century. The movement toward professional dominance of educational policy, with its resulting centralization and bureaucratization, took several decades to reach its zenith. The post-World War II expansion and "unlocking" of this structure, as well as its continuous scrutiny by a multitude of critics and other observers, has been underway for more than two decades. Thus, an extrapolation of historical trends would not typically support sudden upheavals or dramatic confrontations over reform proposals. Rather, changes in the system usually have occurred gradually and sometimes almost imperceptibly.

It is also well to be attentive to the cyclical character of many of the reforms—and proposals for reform—of educational governance and practice. A recent work by Butts stresses this perspective. He reviews at length the ideological elements of comtemporary pluralism, including the "new ethnicity," and "the neo-conservative political philosophy," and concludes as follows:

> If the signposts of the future are the upthrusts of ethnicity, localism, regionalism, religion, and kinship, it should be pointed out that this is exactly what we had two hundred years ago when the founders of the American commonwealth sought to overcome those very pluralistic elements in the framing of a political community and a constitutional order whose motto became *E Pluribus Unum*. . . . [N]otions of private education, based upon those same elements of traditional pluralism, were exactly the characteristics of the schools and colleges of the colonial period before the founders and their successors sought to replace them by proposing a public education that would be universal, free, common, and eventually secular and compulsory."

Observers who are well aware of the shortfalls of schooling in the past and the insistent demands with which educators are trying to cope today may place little stock in the adage that "the more things change, the more things stay the same." The stresses on great numbers of schools are very apparent to all persons who read regularly in the newspapers about the schools that must close in the wake of voter refusals to pass tax referenda, about the arrest and jailing of striking teachers, and about the self-destructive use of drugs and alcohol and the violence and criminal acts of school-age youth. While it is true that the schools have adapted to much social turbulence in the past, the direction that public education will take in the future is far from clear and undisputed. One finds many thoughtful assessments that agree about the seriousness of the current situation but that nonetheless offer quite different views about future eventualities and desirable remedies. At the risk of overgeneralizing and neglecting subtle points of arguments, we suggest that the predictions tend to fall within the bounds of at least three different scenarios. The first gives highest priority to estimating the grave hazards involved in weakened expressions of the value of community; the second promotes the value of attaining greater efficiency in the present federalized system of public education; and the third stresses the value of placing confidence in pragmatic, but ambivalent, public policy goals.

The Search for Community

The first position about the future of public education gives much weight to the destructive and divisive effects of the social and political traumas of recent decades—the Vietnam War, Watergate, political assassinations—that manifest themselves in distrust and cynicism about governmental institutions and leaders, low voter turnouts, disinterest in civic undertakings, and the hedonist pursuit of individual goals characterizing the "me" generation. That a marked change in social values has occurred is not illusionary. A recent poll by Yankelowich, Skelly, and White, the market researchers, reports the following findings:

> Eight years of research and in-depth interviews with 2,500 people reveal that the old puritan values are going down the drain. Self-denial for family and the future, conformity to accepted standards, hard work as a virtue in its own right, . . . —all, all are trickling away.
>
> In their stead are new values: Self-fulfillment—knowing who one is and acquiring a "sense of meaning"; self-gratification—"an emphasis on the individual, even if at the expense of others"; self-expression—demonstrating one's own individuality."

The researchers found in 1970 that half of the population had adopted the new values to some extent. Approaching the 1980s, the percentage had risen to 80 percent.

If these findings are clues to a sustained trend that will continue to erode public support of, and participation in, civic life, then the values of community sought in and through the system for public education are in serious jeopardy. Some observers interpret the activism of the 1970s that sought greater personal freedom and equality of educational benefits for disadvantaged children as more closely related to advancing individualism than to promoting political principles of justice for all. We did not find much evidence, except in the case of the school finance reformers, that the activist groups were concerned about the effects that added demands would have on the unity of the nation or on the viability of the educational system itself.

The most gloomy prognosticators see the search for the common good as now so seriously impaired that they question the very survival of the public schools. And the remedies that might reverse individual disillusion and alienation—such as a rebirth of awareness of man's common destiny or a sense of moral responsibility—would take a long time to exert effective influence on society and its institutions. Such pessimism exerts a paralyzing effect on offering "band-aid" measures for an ailing patient.

The Promotion of System Reform

The promoters of a far more sanguine scenario simply leapfrog the threat of changing social values or of disintegration, or at least assume that the erosion of traditonal values of community will, in due course, be transmuted into more salutory public attitudes. Some justification for their position is offered by numerous recent public opinion polls which indicate that citizens continue to support the public schools more than they do other public services, but want them to be more effectively operated.

The second view of the potential for dealing with current problems is pragmatic, relatively short-range, and incrementalist in the thrust of desired reform. In brief, it concentrates on establishing a working partnership between the levels of government by bringing about better articulation and productivity within the newly federalized system of education. This involves such measures as reduc-

tion of program proliferation and overlapping services, rationalizing uncoordinated systems of categorical aid and civil rights mandates, reducing unnecessary regulatory and adversary procedures, and improving the capabilities of state and local school personnel to deal with complex and still evolving forms of intergovernmental dependence. The continuance of the present federal categorical aid system is viewed as desirable to provide:

> needed guarantees and protections for target groups that have long been the victims of discrimination and neglect. Reform proposals must address the problem of molding . . . helter-skelter policies into a simpler and more coherent system, while maintaining those strings necessary to accomplish federal objectives in the decentralized governance structure of American public education. This interpretation . . . suggests a modest agenda for future changes in strategy, funding, and administration.

Thus, the goal of preserving and advancing equal educational opportunity is placed in a "rational" institutional matrix; the goal of freedom—if interpreted in terms of local autonomy in educational policy making—is constrained, and confidence in future suryival is placed on optimizing the value of efficiency.

The Values of Ambivalence

The third scenario suggests policies and organizational strategies reminiscent of those adopted by President Franklin D. Roosevelt during the Depression. Unfettered by concerns about efficient or rational structures for governmental organization, he initiated a bewildering array of programs that sometimes overlapped and competed with one another in order to attack problems of resource allocation that the national government had not previously attempted to solve. Some programs failed to produce, others were declared unconstitutional, but many survived to the present day. Roosevelt's unstructured approach to problem solving generated an outflow of bureaucratic creativity and much needed public confidence and enthusiasm—as well as a backlash of vitriolic criticism from those who considered his policies to be indefensible utilizations of public revenues to benefit economically disadvantaged groups in the population. In any case, the momentum of New Deal reforms for advancing domestic social reform was brought to a rather long halt by World War II and its aftermath of conservative politics.

However, the times have changed. Lawrence D. Brown has recently documented a striking contemporary parallel to balancing mixed objectives. He studied the federal health care system whose costs, like those of the educational programs, have mushroomed during the 1970s.[22] He describes how the federal government is nurturing in tension two opposed approaches, and states that, to some observers, such a policy is contradictory and absurd, on a logical par with simultaneously appealing against smoking on the one hand, while subsidizing tobacco growers on the other. While many may consider the health care system, like the educational system, to be another demonstration of the incapacity of our political system to resolve crises in a consistent fashion, Brown sees another side to the argument. He says,

> By avoiding hard choices, by following its instincts to pull and haul and bargain and compromise, by reconciling in public policy two opposed policy models, the political system may have worked its way toward the most reasonable solution possible, given our present uncertainty about facts and values in the health care realm. One present practical solution amounts to institutionalized ambivalence. . . . This untidy political solution may prove over time most effective in protecting equality of medical services from its critics and, not least important, from its friends.[23]

The phenomenon of "institutionalized ambivalence" among the agencies responsible for the delivery of public services is not limited to the health care field, and even education has already departed somewhat from its traditional espousal of the goal of efficiency by advocating the provision of alternative, and sometimes inconsistent, structures and programs for instructional services. Perhaps the greater politicization of the public educational system will eventuate in public policies that exemplify the "most reasonable solution" possible to the old problem of balancing the ambiguous and conflicting purposes of education—policies that may appear contradictory but that reflect the national ambivalence over the values of equality, freedom, and efficiency.

NOTES

1. David Easton, *The Political System* (New York: Alfred A. Knopf, Inc., 1953), p. 129.
2. R. Freeman Butts, *Public Education in the United States: From Revolution to Reform* (New York: Holt, Rinehart and Winston, 1978), pp. 264-265.
3. Beryl A. Radin, "Equal Educational Opportunity and Federalism," in *Government in the Classroom*, ed. Mary Frase Williams. Proceedings of the Academy of Political Science 33(1978): 83.
4. Robert D. Reischauer and Robert W. Hartman, *Reforming School Finance* (Washington, D.C.: Brookings Institution, 1973), pp. 35-36.
5. Ellis Katz, *Educational Policymaking 1977-78: A Snapshot from the States* (Washington, D.C.: Institute for Educational Leadership, 1978), p. 9.
6. Quoted in Butts, p. 366.
7. Reischauer and Hartman, p. 76.
8. Ibid., p. 84.
9. See Joel D. Sherman, "Changing Patterns of School Finance," in *Government in the Classroom*, ed. Mary Frase Williams. Proceedings of the Academy of Political Science 33(1978): 69-76.
10. Katz, p. 5.
11. For information about these cases, see Michael W. Kirst, "The New Politics of State Education Finance," *Phi Delta Kappan* 60(1979): 427-432.
12. Charles S. Benson, "Educational Finance: Policy and Research Issues After the Tax Revolt" (Paper presented at the Annual Meeting of the American Educational Research Association, San Francisco, California, April 11, 1979), pp. 10-11.
13. Kirst, p. 429.
14. Joel S. Berke, *Answers to Inequity: An Analysis of the New School Finance* (Berkeley, California: McCutchan Publishing Corp., 1974), p. 118.
15. David L. Kirp, "Law, Politics, and Equal Educational Opportunity: The Limits of Judicial Involvement," *Harvard Educational Review* 47 (1977): 134.
16. Berke, p. 157.
17. Joel S. Berke, "Federal Education Policy on School Finance After Proposition 13" (Paper presented at the Annual Meeting of the American Educational Research Association, San Francisco, California, April 11, 1979), p. 13.
18. Kirst, p. 428.
19. See Stephen J. Carroll and Rolla Edward Park, *The Search for Equity in School Finance* (Santa Monica, California: Rand Corporation, 1979).
20. Kirp, p. 123.
21. Paul Thurston, "Judicial Dismemberment of Title IX," *Phi Delta Kappan* 60(1979): 594.
22. Noel Epstein, *Language, Ethnicity, and the Schools: Policy Alternatives for Bilingual-Bicultural Education* (Washington, D.C.: Institute for Educational Leadership, 1977), p. 20.
23. Ibid., p. 21.

24. Ibid., p. 60.
25. Ibid., p. 38.
26. Ibid., p. 74.
27. David G. Savage, *Education Amendments of 1978* (Arlington, Virginia: National School Public Relations Association, 1979), p. 41.
28. Epstein, p. 15.
29. Herbert Teitelbaum and Richard J. Hiller, "Bilingual Education: The Legal Mandate," *Harvard Educational Review* 47(1977): 140.
30. See Ibid., pp. 155-161.
31. Epstein, p. 17.
32. Janet M. Simons and Barbara Dwyer, "Education of the Handicapped," in *Government in the Classroom*, ed. Mary Frase Williams. Proceedings of the Academy of Political Science 33(1978): 100.
33. Bruce O. Boston, *Education Policy and the Education for All Handicapped Children Act (P.L. 94-142): A Report of Regional Conferences, January-April 1977* (Washington, D.C.: Institute for Educational Leadership, 1977), p. 30.
34. Ibid., p. 26.
35. Simons and Dwyer, p. 105.
36. *Options in Education: Education for the Handicapped*, Program No. 36-37 (Washington, D.C.: Institute for Educational Leadership, 1976), p. 15.
37. Milton Budoff, "Engendering Change in Special Education Practices," *Harvard Educational Review* 45(1975): 525-526.
38. Kirp, p. 131.
39. Noel Epstein, "25 Years After *Brown*, A Rivalry for Injustice," *Washington Post*, 13 May 1979, p. C1.
40. Kirp, p. 128.
41. Quoted in Teitelbaum and Hiller, p. 157.
42. Quoted in Epstein, "25 Years After *Brown*," pp. C1, 4.
43. Butts, p. 372.
44. Charles S. Seib, "The 'Me Generation' of Newspaper Readers," *Washington Post*, 1 June 1979, p. A13.
45. Joel S. Berke and Elizabeth J. Demarest, "Alternatives for Future Federal Programs," in *Government in the Classroom*, ed. Mary Frase Williams. Proceedings of the Academy of Political Science 33 (1978): 66.
46. See Lawrence D. Brown, "The Scope and Limits of Equality as a Normative Guide to Federal Health Care Policy," *Public Policy* 26 (1978): 481-532.
47. Ibid., p. 532.

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