

property-rich districts, except in random instances. Second, the Court held, there must be an absolute deprivation of some right or interest rather than merely a relative one before the deprivation because of inability to pay will bring into play strict scrutiny. “The individuals, or groups of individuals, who constituted the class discriminated against in our prior cases shared two distinguishing characteristics: because of their impecunity they were completely unable to pay for some desired benefit, and as a consequence, they sustained an absolute deprivation of a meaningful opportunity to enjoy that benefit.”²⁰⁶⁷ No such class had been identified here and more importantly no one was being absolutely denied an education; the argument was that it was a lower quality education than that available in other districts. Even assuming that to be the case, however, it did not create a suspect classification.

Education is an important value in our society, the Court agreed, being essential to the effective exercise of freedom of expression and intelligent utilization of the right to vote. But a right to education is not expressly protected by the Constitution, continued the Court, nor should it be implied simply because of its undoubted importance. The quality of education increases the effectiveness of speech or the ability to make informed electoral choice but the judiciary is unable to determine what level of quality would be sufficient. Moreover, the system under attack did not deny educational opportunity to any child, whatever the result in that case might be; it was attacked for providing relative differences in spending and those differences could not be correlated with differences in educational quality.²⁰⁶⁸

Rodriguez clearly promised judicial restraint in evaluating challenges to the provision of governmental benefits when the effect is relatively different because of the wealth of some of the recipients or potential recipients and when the results, what is obtained, vary in relative degrees. Wealth or indigency is not a *per se* suspect classification but it must be related to some interest that is fundamental, and *Rodriguez* doctrinally imposed a considerable barrier to the discovery or creation of additional fundamental interests. As the decisions reviewed earlier with respect to marriage and the family reveal, that barrier has not held entirely firm, but within a range of

²⁰⁶⁷ 411 U.S. at 20. *But see id.* at 70, 117–24 (Justices Marshall and Douglas dissenting).

²⁰⁶⁸ 411 U.S. at 29–39. *But see id.* at 62 (Justice Brennan dissenting), 70, 110–17 (Justices Marshall and Douglas dissenting).