

Justice for All? Special Education 2000 and the politics of difference

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Abstract

In this paper I will argue that New Zealand's Special Education 2000 policy demonstrates the way in which seemingly just and fair policies can lead to occurrences of injustice and unfairness to some of those on whom they impact. What this debate turns on is the justice of a policy which takes as its starting point the unquestioned premise that the educational needs of all disabled children and young people will be best served in local state-funded schools rather than in day-special schools and the legitimacy of the decisions and actions of policy makers and bureaucrats based on this premise. Drawing on Iris Marion Young's conceptions of justice and her notion of "oppression" and "domination" (Young, 1990, p. 37), as two social conditions that define injustice, I will argue that SE2000 in its conception and enactment serves to perpetrate, rather than mitigate, injustice with respect to schooling options and choices, on some disabled children and young people and their families.

Introduction

Special Education 2000 (SE2000), a new policy that was to set the direction for the provision of special education in the New Zealand public school system, was introduced in 1996; the policy built on the principles espoused in the 1989 Education Act which enshrined the rights of all children and young people between the ages of 6-15 to receive their education at their local state school. The stated aim of this policy was "to achieve, over the next decade, a world class inclusive education system that provides learning opportunities of equal quality to all students" (Ministry of Education, 1996, p. 5). A key tenet of the policy was that all children and young people with special needs should receive their education in regular school settings. While the exact nature and characteristics of a "world class inclusive education system" were not defined, and have never been, it is fairly clear that the changes introduced in the policy were intended to 'to make it easier for students with special needs to enrol at their local school...' (Wylie, 2000, p. 70). This policy direction was in line with what was described as an "international move towards inclusion of all children with special education needs in local educational settings" (Ministry of Education, 2005, p. 18); it would be reasonable to say that SE2000 was framed within a context in which, with respect to the educational needs of disabled children and young people, the sine qua non of "inclusive education", was every student accessing "the curriculum as a fulltime member of an ordinary classroom alongside other students of a similar chronological age" (Ballard, 1996, p. 33). For the purposes of this paper I shall refer to this concept hereafter simply as "inclusion".

Inherent to the notion of inclusion, is the belief that the regular school setting is the optimum place for all disabled children and young people to receive their education ; the corollary, of course, is that day-special school settings are less than optimum places for disabled children and young people to receive their education. The premise that the best educational option for all disabled children and young people was to access their education at regular state-funded schools appears to have been a given in SE2000, so, it is perhaps unsurprising that there was no real consideration of the role or place of day-special school provision in the policy despite the fact that there were approximately 30 day-special schools serving approximately 1500 children and young people, a small but significant number and despite the fact that the schools were considered to be providing good educational provision for those who attended them (Pickering & Wilton, 1996). As I have argued elsewhere (McMenamin, 2008), a plausible explanation for the lack of attention to special school provision is that there was an expectation among the policy makers that the implementation of SE2000 would lead to a decline in the number of children enrolled in special schools and thus, over time, the decline in that type of provision and the realisation of the "world class inclusive education system" they

envisaged. While this may be a plausible explanation for it, the lack of attention to the role of special school provision raises other moral questions related to the justice and fairness of proceeding in this way and the essential justice and fairness of the policy itself. This is the perspective from which the impact of the policy will be explored in this paper. Justice is an abstract concept and while at the abstract level the philosophical ideal of “inclusion” may serve the cause of justice, I would suggest that at the level of practice, policies of inclusion may not. Certainly as Gewirtz puts it,

... it is not possible to resolve the question of what counts as justice in education at a purely abstract level ... what counts as justice can only be properly understood within specific contexts of interpretation and enactment (2006, p. 69).

In the following sections of the paper I will explore the influence of SE2000 on the specific and real context of the day-special school sector and will suggest that SE 2000, a seemingly just and fair policy, was not in fact, fair and just to all those upon whom it impacted. I will argue that the way the policy was framed and constituted, in turn framed and constituted special school provision unfairly and created a context for the occurrence of injustice and unfairness. Rizvi and Lingard (1996) make the very salient point that injustice has “a material reality that is readily recognised by those who are subjected to it” (p. 11). They were referring to realities such as hunger and poverty; however injustice is equally felt in terms of unequal treatment, lack of voice, stereotyping and marginalisation all of which, I would suggest, day-special school communities, hereafter referred to as special school communities, experienced or were made vulnerable to under SE2000. I will begin by examining how unfairness was implicit in and fundamental to the policy and how this fundamental unfairness set the context for injustice with respect to the special school communities. Following from this I will draw on Young’s (1990) notion of oppression and domination as the two social conditions that define injustice, to demonstrate the nature of unfairness and injustice that I contend was made possible under SE2000. I will conclude by suggesting that the question of what counts as justice in education and a fair educational provision for disabled children and young people is controversial and admissible of many morally equal answers and that in exploring the policy from a philosophical perspective one must conclude that SE2000 failed to meet the requirements of justice.

A single, simple solution

SE 2000 espoused the aim to achieve a “world class inclusive education system” which, as I have argued earlier, by definition meant an education system in which all children received their education at regular state-funded schools. More particularly, the object of the policy was to achieve the inclusion of all disabled children and young people into regular state-funded schools and, by implication at least, the end of day-special school provision. Under SE2000, justice in education for disabled children and young people was conceived as and equated with inclusion; the premise that this was the best educational option for all disabled children and young people appears to have been a given in the policy. It would seem that SE2000 was underpinned by particular assumptions about what constituted justice in education for all disabled children; assumptions that meant that questions related to the justice or injustice of the particular definition and organisation of inclusion promoted by the policy were not asked. I would contend, then, that a fundamental and essential injustice in the policy, was that it promoted only a single vision of justice with respect to the needs of the children and young people it was designed to serve. SE2000 was, I would suggest, based on a notion of “simple equality” (Walzer, 1983) which sees equality as being synonymous with sameness; sameness of treatment and sameness of experience. In the case of disabled children this equates to sameness with non-disabled children and also with other disabled children. However, it would seem to me that this conception of justice with respect to the education of disabled children belied the complexity of the issue that the policy was designed to address. Questions of justice and social justice, I would suggest, are unlikely to be resolved simply and, as Terzi (2010) points out, “... the question of a fair provision ...” for disabled children and young people is “extremely controversial” (p. 2). Walzer (1983) describes justice as “a human construction” and argues that “it is doubtful that it can be made in only one way” (p.5). Similarly Rizvi and

Lingard (2009) argue that social justice does not have “one essential meaning - it represents discourses that are historically constituted and it is a site of conflicting and divergent political endeavours” (p.257). In SE2000 there appears to be no acknowledgement that there could be different but morally equal views and understandings of the conception of education as a “good” for disabled children and young people, or that there could be different but morally equal views and understandings of the right way to proceed to enable disabled children and young people to benefit from this good. Codd (1987) makes the point that,

If policy-makers and practitioners are to arrive at defensible moral judgements about how they ought to treat exceptional children and their parents, they must strive to reach each particular judgement through an exploration of the moral assumptions that lie behind it and a careful consideration of the more general principles to which it relates (p. 79).

It would seem to me that SE2000 shows little evidence of any exploration of moral assumptions: rather, two of the three original goals of the policy, “to develop a clear, consistent and predictable framework for resourcing special education and to provide special education resourcing wherever the child attends school” (Wylie, 2001, p. 19), suggest that what attention there was to the issue as a matter of social justice was focused essentially on the fair distribution of resources. Young (1990) argues that contemporary theories of justice are not sufficiently broad in their conception and that the distributive paradigm particularly, tends “to restrict the meaning of social justice to the morally proper distribution of benefits and burdens among society’s members” (p. 15). SE2000 demonstrates just such a lack of breadth in its conception of the scope of social justice with respect to the education of disabled children and young people. If we accept that education policies are, as and Sullivan (2005) contend, “... based upon beliefs about the nature of education in society” (p. xvii), then it would be fair to expect them to reflect the plurality and complexity of the beliefs held in the society from which they derived. SE 2000, I would argue, did not. Young (1990) describes how assumptions about structures and systems are often left unchallenged. In the case of employment, for example, she writes

... when philosophers ask about the just principles for allocating jobs and offices among persons, they typically assume a stratification of such positions. They assume a hierarchical division of labor in which some jobs and offices carry significant autonomy, decision-making power, authority, income and access to resources, while others lack most of these attributes. Rarely do theorists explicitly ask whether such a definition and organisation of social positions is just (p. 22).

I would suggest that SE2000 was correspondingly underpinned by assumptions that were left unchallenged and not explicitly questioned, assumptions such as: that inclusion would constitute justice in education for all disabled children and young people or; that state-provided education, where all children receive the same education in the same settings, would be the optimum for all disabled children and young people. Underlying these is the key assumption that the views, values and beliefs informing this model of inclusion would be universally accepted by all those on whom they impact and by the wider society generally.

Walzer (1983) describes Aristotle’s view that, “the system of education in a state must ... be one and the same for all, and the provision of this system must be a matter of public action” (p.202), as “simple equality in the sphere of education” (p.202). This description would seem to be apposite to SE 2000. I would suggest that the orthodoxy underpinning the policy, in essence, applies Aristotle’s theory to disabled children. The state’s support for “inclusion” is equated with justice and fairness in education for disabled children whereby “everyone gets access to the same thing in the same form” (Walzer as cited in Rizvi & Lingard 2009, p. 268). However, with respect to the education of disabled children and young people, it would be fair to contend that justice is unlikely to be achieved by a policy that is predicated on a form of simple equality as was the case with SE 2000. Walzer (1983) argues that “simple equality is neither achievable or desirable. It is not achievable because people do not have the same means and capacities, and it is not desirable because people do not have the same needs” (p. 13) this is a view that has particular resonance when we are thinking about

the means, capacities and needs of disabled children and young people. Fazal and Rizvi (1996) similarly argue against the idea that “centralised uniformity of educational provision” is sufficient for achieving social justice in education for disabled children and contend that the acknowledgement of differences in the “capacities and aspirations of students and parents” should not be a risk to the notion of social justice (p.22). I would argue that fundamental to the unfairness implicit in SE2000, was the promotion of centralised uniformity of provision and the lack of recognition of the differences in the “capacities and aspirations of students and parents”. The policy proposed a limited solution to a complex issue and demonstrated a lack of recognition of the plurality of views about what might constitute justice in education for disabled children and young people. This in turn led to the absence of any articulated vision or role for special schools in the policy’s putative “world class inclusive education system” which, as I shall discuss later in the paper, left the schools vulnerable to injustice in a number of ways. However, before discussing that I will briefly describe another way in which the position taken in SE2000 is demonstrably unfair to those, such as teachers and parents of disabled children and young people and others, who believed that special school provision had a place as an alternative to the state-conceived option of inclusion.

Unequal Treatment

While SE2000 would appear to demonstrate the concept of “simple equality in the sphere of education”, the same could not be said of actual practice in relation to state-funded educational provision for all children in New Zealand. In fact, it would be not unreasonable to argue that the New Zealand state-funded education system reflects a complex, rather than a “simple” approach to equality. The state funds and supports a variety of options other than that regular local school. Options such as Kura Kaupapa schools, integrated religion-based schools and Rudolph Steiner schools, all of which are founded on a range of beliefs, values and philosophies about the nature and purpose of education as a good. In funding these alternative options the state is, arguably, giving tacit support to the plurality of views, values and beliefs about the nature and purpose of education as a good and the range of provision needed to accommodate this plurality. However, the converse would seem to apply with respect to the education of disabled children and young people under SE 2000. In this policy there is no support, tacit or otherwise, for alternative views, values and beliefs either about the nature and purpose of education as a good for disabled children, or the range of provision needed to accommodate these views, values and beliefs. This, I would argue, constitutes an injustice to those who supported and wished to maintain special school provision as an alternative option: they were treated differently from others who sought state support for other types of alternative provision. The views, values and beliefs of those who supported special school provision, were, unlike those of other groups, given little or no acknowledgment or support. The funding and support of a multiplicity of school options demonstrates that, by default at least, the state accepts that a single system is not sufficient to the needs of all children. However, SE2000 articulated the opposite view in relation to the education of disabled children; a single system was promoted as not only sufficient to the needs of all disabled children but as essentially the only moral option. This position, which must be seen as an injustice to those people who held beliefs that differed from the state’s view about appropriate educational provision for this particular group of children, set the context for the injustice and unfairness that I will discuss in the following sections.

Oppression

Young (1990) argues that a conception of justice should see people as doers and actors who:

... seek to promote many values of social justice in addition to fairness in the distribution of goods: learning and using satisfying and expansive skills in socially recognised settings; participating, informing and running institutions, and receiving recognition for such participation; playing and communicating with others, and expressing our feelings, experience, feelings and perspective on social life in contexts in which others can listen (p.37).

Social justice, she contends, concerns the degree to which a society contains and supports the institutional conditions necessary for the realisation of these values. It seems to me that the under SE2000 the realisation of these values was compromised for those in special school communities: special schools were constituted in such a way that they were compromised as “socially recognised settings”, the recognition received by those who were involved in the institutions was similarly compromised, and the force of the orthodoxy of inclusion was such that it is doubtful that the context was one in which others, particularly those in positions of influence, were really able to listen with understanding to the feelings and perspectives of those in the special school communities. Taking Young’s idea further, given the above, I would suggest that, under SE2000, the special school communities experienced the social condition that she describes as “oppression” and which is one of two conditions that, she argues, define injustice. Young sees oppression as structural and systemic rather than, as it is traditionally seen, as “the exercise of tyranny” (p. 40). She defines it thus:

... oppression refers to the vast and deep injustices some groups suffer as a consequence of often unconscious assumptions and reactions of well-meaning people in ordinary interactions, media and cultural stereotypes, and structural features of bureaucratic hierarchies and market mechanisms- in short, the normal processes of everyday life (p. 40).

Young sites oppression within the parameters of “the normal processes of everyday life” and the “ordinary interactions” between people. Processes such as the development and implementation of education policies would fall within this ambit. She argues that it is not possible to give one “essential definition of oppression” and explicates a set of categories she calls the “five faces of oppression”: exploitation, marginalisation, powerlessness, cultural imperialism and violence. As I will outline below, two of these, marginalisation and cultural imperialism, seem to me to have application to the experiences of New Zealand special school communities in a policy environment in which the prevailing orthodoxy was inclusion.

Cultural Imperialism: The “othering” of special school communities.

It would be fair to argue that in an environment in which the policy stance and prevailing orthodoxy was “inclusion” the voices of those who deviated from that view were to some extent silenced or at least muffled. As Pirie and Head (2007) explain:

... inclusion is a term that invokes notions of justice and compassion, of equality, fraternity and human rights. These are core values in modern democratic societies. To interrogate the notion of inclusion is thus to court the accusation that one is fundamentally opposed to these values (p.21).

It is not unreasonable to suggest that in the inclusive policy environment of the 1990’s, support for special school provision was seen by some as opposition to inclusion. Those who articulated such support were in effect saying the “unsayable” and, it could be argued, were thus constituted as in some ways morally inferior in their thinking. The following excerpt gives some indication of the feeling at the time.

Ample evidence has been provided in this book to illustrate the importance of including all students in the mainstream of regular education ... Yet parents may decide that it is best to accommodate their children in segregated schools ... In this case, it is questionable whether the option selected by the parents is in the interests of the child (Ryba, 1996, p. 223).

Young (1990) argues that justice requires “participation in public discussion and processes of decisionmaking” and further that everyone should have the “right and opportunity to participate in the deliberation and decisionmaking of the institutions to which their actions contribute or which directly affect their actions” (1990, p. 91). But in an environment in which “inclusion” had assumed a kind of moral force, I would suggest that there was little opportunity for real “public discussion” or few chances for those who favoured alternative arrangements to be able to “participate” effectively in decision making about the shape of educational policy and provision for disabled children and young people in New Zealand. It would seem

to me that what was in play at this time, and in subsequent years, was a form of what Young calls “cultural imperialism” (Young, 1990, p.58). As she explains it:

To experience cultural imperialism means to experience how the dominant meanings of a society render the particular perspective of one’s own group invisible at the same time as they stereotype one’s group and mark it out as Other (p. 58).

I would contend that, under SE2000, the perspectives of those who were involved with or supported special school provision were, to some extent, made invisible, and that the nature of special school provision was certainly stereotyped within the wider education context and seen as “Other”. Young argues that “cultural imperialism involves the universalization of a dominant group’s experience and culture, and its establishment as the norm” and describes how “Often without noticing they do so, the dominant groups project their own experience as representative of humanity as such...” (p.59). Cigman (2007), in a similar vein, talks of “the project of universal inclusion” (p.776) and describes the dispute between those who argue for the closure of all special schools and those who argue for the right to send their children to special schools as a dispute about universality; the proponents of the closure of special schools are in essence making claims about what is “best for every child without exception” (p.776). Following from these ideas, I would suggest that under SE2000 the notion of inclusion, as all children and young people gaining their education at the regular school, was universalised and established as the “ideological norm” with the effect that those who supported alternative provision by way of special schools found themselves, as Young puts it, “...defined from the outside, positioned, placed, by a network of dominant meanings they experience as arising from elsewhere, from those with whom they do not identify and who do not identify with them” (Young, 1990, p. 59), marginalised in fact.

Marginalisation: Special schools on the outside.

Thus while marginalisation definitely entails serious issues of distributive justice, it also involves the deprivation of cultural, practical and institutionalised conditions for exercising capacities in a context of recognition and interaction (Young, 1990, p. 55).

Young draws our attention to the way in which marginalisation has wider significance than can be captured solely in terms of issues of distributive justice. Marginalisation also concerns issues of justice that relate to recognition, valuing and acceptance. Under SE2000, special education policy was constituted as “inclusive education policy”, with the attendant understandings that term brought and that have been discussed earlier in the paper. An effect of this, I would suggest, was that special school communities were, to some extent, deprived of the “practical and institutionalised conditions for exercising capacities in a context of recognition and interaction”. The context in which the special school communities found themselves was not one of “recognition and interaction”, rather their position was increasingly compromised within the wider educational and social community to the point that their very presence came to be seen by some to represent the failure of inclusion and there were calls for their closure. (Gordon & Morton, 2008; Higgins et al., 2008; IHC, 2009; Kearney & Kane, 2006; MacArthur, 2009; Matthews, 2009; Wills, 2006). It would be fair to argue that the preferred and supported policy position of inclusion that was implicit in SE 2000, and the lack of any stated vision for the future of special schools in the policy, created a situation in which special school provision was constituted and positioned as the lesser educational option, a kind of school of last resort. Much of the force of the argument against special school provision rests on the notion that the purpose of special school provision is to segregate disabled children and young people. Cigman (2007) argues that this view is based on a premise that special schools are inherently humiliating or demeaning, a view which, she argues, while it may have been accurate in respect of “old-style segregated education” is now outdated and not applicable to special schools in the late 20th and early 21st centuries. However special school provision was, by implication at least, framed in this way under SE2000 and thus cast as a morally questionable type of provision. “Segregation” is a term which, it would be fair to say, has essentially negative connotations. The term implies an enforced setting apart of groups of people on the basis of a particular characteristic such as

race or, more pertinent to this discussion, disability. Without doubt, historically, disabled people have been segregated from society and deprived of the right to live an ordinary life as others do. However with respect to special schools in New Zealand in the 1990's and today, there was and is no enforced setting apart of disabled children into these schools. Parents did and do make a choice to enrol their children in the special school simply on the basis that in their view it would be the best educational option for their child. There is no direction from any educational authority. Given this, it would seem an injustice to frame New Zealand day-special schools as "segregated" with all the connotations and opprobrium that term implies. However this "outdated" (Cigman, 2007) view of special schools appears to have been espoused under SE2000 which, it would seem to me, promoted the idea advanced by some that it was no longer "appropriate to operate with separate classes, separate schools and separate administration systems" (Ryba, 1996, p.53). This position, which I would suggest was ethically questionable, meant that the educational quality and moral worth of what the special schools offered to disabled children and young people was essentially devalued. As a consequence of this special school provision would have been more likely to be devalued and marginalised in the wider education and social context as would the educational experiences of those children and young people attending these schools and the work of those teaching in the schools. This situation could hardly be described as providing special school communities with the "practical and institutionalised conditions for exercising capacities in a context of recognition and interaction" (Young, 1990, p.55). In addition the failure to acknowledge a valued role for special schools under SE2000 would seem doubly unjust given that, arguably, there was no guarantee at that time that regular school system could meet the needs of every disabled child and young person. The expectation of the policy was, after all, that the "world class inclusive education system" would take a decade to achieve. Surely then, justice would demand not only that alternative options must be maintained but also that they must be valued for, if the alternatives available are devalued or marginalised, then a likely consequence is that those who receive their education in those settings may also be devalued and marginalised. It could be argued that a perverse effect of SE2000 was that the government, by failing to articulate clear support for special school provision in SE2000, was responsible for the potential stigmatisation and marginalisation of the disabled children and young people who attended these schools; some of the those for whom the policy aimed to achieve social justice.

Domination: Bureaucracy as boss

Young (1990) defines domination as consisting in "institutional conditions which inhibit or prevent people from participating in determining their actions" (p. 76) and describes how the "expansion of bureaucratic administration over increasing areas of work and life brings with it new experiences of domination" (p.78). The impact of this, she argues, is bureaucratic domination whereby "increasingly the activities of everyday work and life come under rationalized control, subjecting people to the discipline of authorities and experts in many areas of life"(p.76). "People experience bureaucratic domination...as clients and consumers subject to rules they have had no part in making" (p.78). In tandem with this Young discusses the notion of the ideology of expertism which, she argues, is a phenomenon that makes challenging bureaucratic domination difficult.

In the ideology of expertism, the knowledgeable and only the knowledgeable have a right to rule, because they are the masters of the objective and the value-neutral discipline applying to the area of social life in question and thus their decisions are necessary and correct (p. 80).

This analysis of domination with respect to bureaucracy and the ideology of expertism is pertinent to the experience of special school communities working in the policy environment created by SE2000, for in this policy we can see the confluence of the two factors. As explained earlier, there was a move internationally to include all disabled children and young people in local educational settings" (Ministry of Education, 2005) and, it would appear that this position was uncritically adopted by the policy actors in the educational bureaucracies here. In the case of special schools the particular bureaucracies they were subject to were the Ministry of Education (MOE) and Special Education Services (SES) which was later subsumed into the

MOE and know as Group Special Education (GSE). Croll and Moses (2000) examined local policy making in England with respect to special schools through the 1980's and 90's and draw some interesting conclusions that have relevance here. They argue that considerations of policy and practice in special education are strongly influenced by philosophical and ideological view and beliefs and that policy is "strongly influenced by the ideas, beliefs and convictions held by individuals in key positions" (p.185). They further contend that "inclusionists among education policy-makers appear to be convinced that their own ideas are *right* and they seek to persuade others to seek their vision" (p.186). Ball (1993) describes how "collections of related policies, exercise power through a production of 'truth' and 'knowledge' as discourses" (p.14), which are "about what can be said and thought, but also about who can speak, when, where and with what authority" (p.14). Under SE2000, those in positions of influence and authority were the people who worked within SES and the MOE. These people assumed the role of the "knowledgeable" and it is they who in their positions in the bureaucracy were the ones who had the authority to speak and determine actions with respect to the policy and it was to their "discipline" that special school communities were subject. The influence of the bureaucracies was demonstrated in actions such as there being only limited information related to special school provision on the MOE website and the apparent unwillingness (Wylie, 2001) of those in SES, later GSE, to discuss special school provision as an option when advising parents of disabled children and young people about educational choices. Despite this, as I have argued elsewhere (McMenamin, 2008), under SE2000, special schools experienced quite dramatic growth (McMenamin, 2008): growth which may have been seen as a significant threat to the aims of the policy by those policy actors who were charged with driving it forward and who, I would argue, were ideologically committed to it. Young (1990) talks of how "...government and private agencies subject clients and consumers to meshes of microauthority" (p.79), this description could be aptly applied to the bureaucracies' response to the growth in special schools; a response which included increased compliance requirements, and, most significantly, a change to the enrolment process for entry to a day-special school. The significance of this change was that it had the effect of providing the MOE with the means to control the numbers of students enrolling in day-special schools. It also meant that those wishing to enrol their children in special schools became the only group of parents who had to get ministry permission to enrol in a particular state-funded school. This change resulted in a situation in which the state was, in effect, perpetrating a kind of inverse discrimination whereby it determined the educational choices of a particular group of children and young people on the basis of their abilities. This is a situation which does not occur in the New Zealand education system for any other group. In addition, the right to decide what was the best educational option for them was, for some disabled children, taken away from those closest to them and invested in a state bureaucracy, GSE. This must certainly constitute bureaucratic domination at its most assertive. Special school communities, thus, found themselves "constrained by structural and bureaucratic imperatives", and "... subject to rules they had no part in making" (Young, 1990, p. 78). Young argues that while the "formalism, universality and impersonality" (p. 78) of bureaucratic rules are supposed to protect them from being tainted with any particular values, "... in their application the decision-maker's feelings, values and particular perceptions inevitably enter" (p. 78). I would argue that, under SE2000, the values that "inevitably" entered the bureaucratic rules imposed on special school communities were informed by the dominant ideology of inclusion which resulted in those rules being demonstrably unjust and unfair to those in the special school communities.

Conclusion

Terzi (2008), discussing the debates about the issue of fair educational provision for disabled children and young people, asserts that "there is a crucial but neglected philosophical core to the issue" (p.3), which centres on the "fundamental question: what constitutes a just educational provision for students with disabilities..." (p.3). In this paper I have tried to use a philosophical perspective to expose how under SE2000 a particular view of what constituted just and fair educational provision for disabled children and young people, created the context for special school communities to be subject to injustice and unfairness.

The notion that the optimum educational setting for all disabled children and young people was the local regular school was, under SE2000, a given and constituted as the ideal and only moral choice; there was no indication that it could be otherwise. The basis for this view was not articulated in the policy but it would seem to me that the question of what constitutes just and fair educational provision for disabled children is controversial and admissible of a number of morally equal answers. Carr (2001) makes the following profound point:

The truth is that since educational controversies turn mostly upon different visions of human flourishing there will always be (indeed in a society like ours, there must and should be) room for disagreement concerning what are clearly inherently evaluative, ethical and philosophical issues (p. 471).

The question of what counts as a just educational provision for disabled children and young people, I would argue is “inherently evaluative, ethical and philosophical” in nature and views about it reflective of different versions of human flourishing. The role of policy in mediating ethical issues is complex but, as Codd (1987) says:

The ethical issues of special education can never be eliminated at the level of policy or legislation; they must constantly be kept alive through vigilance and critical questioning (p.80).

This paper represents an attempt to critically explore New Zealand’s special education policy from a perspective of justice and in relation to its impact on special school communities. Young argues: “For a social condition to be just, it must enable all to meet their needs and exercise their freedom; thus justice requires that all be able to express their needs” (p.34), it has been my contention in this paper that under SE2000, all those affected by the policy were not able to express their needs and exercise their freedom; thus, following Young, it would seem to me that SE2000 failed to meet the requirements of justice.

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