

# **A Complex Question by Any Measure: Issues of justice in the education of disabled children and young people**

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## **Abstract**

*There is a well-known and oft-quoted adage that the true measure of a society is how it treats its weakest and most vulnerable citizens. The apparent simplicity of this statement belies the complexity of the issues to which it pertains. The question of just and fair educational provision for disabled children is one such complex issue. Despite widespread acceptance of inclusive education, the question of the place of special school provision within the inclusive education context remains controversial in a number of jurisdictions. So, while some would argue that the presence of special schools is a measure of the failure of a society to treat its disabled children and young people justly and fairly, others would argue that it is a measure of its success. This paper examines and explores this issue. Drawing on the work of Walzer, Nussbaum, and others and with reference to the New Zealand context, I suggest that in relation to place, just educational provision for disabled children and young people is a complex issue and requires more than “simple equality”; the provision of special schooling as an option for these children would seem to attend to this complexity and thus, arguably, is consonant with the demands of justice. The paper concludes by suggesting that with respect to education, the argument for the presence of special schools as one measure of a society’s success in its treatment of disabled children and young people is not an unreasonable one.*

**Keywords:** Justice, inclusion, disabled children, special schools

## **Introduction**

It would be fair to describe inclusion/inclusive education as the pervasive motif of progressive educational thinking with respect to disabled children and young people. Over the last twenty years and more countries across the world have moved to implement policies of inclusion and inclusive education which, while they reflect and are shaped by the different particularities of the political and social environments of each country or jurisdiction, are all similar in their concern for realising the rights of disabled children and young people to education and, more specifically, their right to receive that education at their local school with their non-disabled peers.

However despite what seems to be widespread acceptance of the concept of inclusion, the question of the place of special school provision within the inclusive education context is still the subject of debate and controversy (Terzi, 2010). While some argue against strongly against special schooling (Barton, 1997, Dyson, 2001; Higgins et al., 2008; MacArthur, 2009), others argue in support of it (Cigman, 2007; Croll & Moses, 2000; Head & Pirrie, 2007; Hornby, 1999; Lindsay, 2003;).

Regardless of all of this, special schools remain a feature of many education systems however they occupy a somewhat invidious position. In many policy and educational environments the accepted orthodoxy asserts the moral probity of regular school provision and, thus by implication at least, the corresponding iniquity of special school provision. The view that separate provision is by definition unjust and an affront to the rights of disabled people in general, and disabled children and young people in particular, would seem to have been accepted as a core and fundamental principle by many policymakers and commentators at both national and international levels. Policies in many jurisdictions proclaim a commitment to the goal of all disabled children and young

people receiving their education in the local school alongside their non-disabled peers. The measure of just educational provision for disabled children and young people under this regime is constituted as that which obtains when all are educated in regular school settings alongside their peers and special schools are no longer available, a situation that has been referred to by some as “full inclusion” (Cigman, 2007). For those who support “full inclusion”, the continued presence of separate special school provision marks the failure of policies of inclusion and represents continuing injustice for disabled children and young people, hereafter referred to as disabled children.

But is this in fact a true representation of the situation or could it be that the continued presence of special school provision simply represents a more nuanced interpretation of what is required to achieve just educational provision for disabled children? In this alternative interpretation, far from representing injustice, continued special school provision could, arguably, represent the material enactment of one aspect of justice in education for some disabled children. In the following sections I will explore this question. The paper begins with a brief outline of key features of inclusion pertinent to this paper. Following from this I will examine how under inclusion special school provision is constructed and constituted as an injustice to disabled children. I will then offer a critique of this perspective and in the following sections argue for an alternative perspective in which special school provision can be seen to serve the cause of justice in education for disabled children. The paper concludes with the proposition that with respect to education, the presence of special schooling as one measure of a society’s success in its treatment of disabled children is a reasonable one and eminently justifiable.

## **Inclusion**

Inclusion has been described as a “slippery concept”, and, certainly, it is a concept and term, which admits of a variety of interpretations. While more recently conceived of as a transformative agenda for broad school reform and change (Mitchell, 2010), the most common understanding still and “probably the most frequent use of the term is to refer to children with disabilities participating in mainstream education” (Ballard, 2004, p.318). It is this understanding of the term and, more specifically, its use to denote the situation that obtains when all disabled children attend and receive their education in local regular schools that will be adhered to in this paper.

Inclusion is concerned with issues of justice and human rights; in many Western countries inclusion developed in response to perceived injustices and inadequacies in the way the education of disabled children and others was delivered under the banner of “special education”. Inclusion is underpinned by a belief in the inviolable right of all disabled children to attend local regular school settings, and by the social discourse of disability that understands disability as created and constructed by social attitudes and arrangements, rather than as being peculiar to an individual and related to impairment. Consonant with the social discourse of disability, is the belief that regular schools and school systems can and must adapt so that all children and young people, irrespective of their particular personal attributes, can have their learning needs met and can participate together in the common endeavour of schooling (Dyson, A., & Millward, A., 1997).

With respect to the question of place, it is a core tenet of inclusion that the regular school setting is the optimum place for all children and, particularly, for all disabled children, to receive their education; the corollary, of course, is that special school settings are less than optimum places for disabled children and young people to receive their education. Under this particular discourse any educational arrangement other than the participation of all disabled children in regular class settings at all times is constituted as “exclusion” and as an injustice; special school provision is correspondingly constituted as the most extreme example of exclusion and thus as an injustice to disabled children.

Inclusion as a question of human rights and ethics has a considerable moral claim; the argument that in a democratic and just society all children and young people should be able to receive an education of high quality and fitted to their needs at a local regular school is, I would suggest, unassailable. Similarly it would be difficult to disagree with the argument that justice requires that disabled children should be entitled to attend and receive their education in local state-funded schools alongside their non-disabled peers. However that the argument that special school provision is an offence to justice can claim the same moral veracity and worth is, I would suggest, less convincing despite the certainty of those who argue against special schooling.

## **The Certainty of Inclusion**

Inclusion is different from any other fields of inquiry in that it is premised on an answer rather than a question? That answer, of course, is that inclusive education is superior in one or other way to non-inclusive education. (Dyson, 1999,p.43)

Dyson's comment points to a key feature of inclusion, its certainty. In the writings of activists and academics, and in national and international policy statements, there would appear to be an unquestioning acceptance that the goal of all disabled children receiving their education at their local ordinary school which underpins inclusion, and only this goal, equates to just educational provision. Thomas, Walker and Webb (1998), describing the turn away from special school provision, explain that "inclusion won mainly because it is *right* that it should have done so. Arguments for inclusion are principled ones, stemming from concern for human rights." (p. 308) Here we can see evidence of the certainty of the moral rectitude of inclusion at play, "arguments for inclusion" are described as "principled ones"; the implication that hangs from this statement is that arguments that differ from this position are not. Perhaps, with respect to the issue of place at least, it would not be unreasonable to agree with Corbett's (1997) view that at its most extreme, there is a danger of inclusion becoming a form of "politically correct bullying" (p. 57).

Special schools do not have a right to exist.

(Dissent, 1987, p. 97, as cited in Barton, 1997, p. 235)

This is the cry, albeit often more subtly stated, of those who argue for the particular form of inclusion in which special school provision is seen as an anathema and the epitome of exclusion in our educational systems. Concomitant with the move to inclusion has been a call for the closure and removal of any type of special school provision (Barton, 1997; MacArthur, 2009). This has been argued for on the basis that special school provision is antithetical to inclusion and that the presence of special schools represents the failure of inclusion and thus the failure of justice in education for disabled children. For those promoting inclusion, special schools are perceived as the *bete noire* and the tangible representation of injustice in education for disabled children. For those who take this view, the presence of special schools is an indictment on the societies and education systems in which they endure.

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. "Segregation" is, of course, a term that has essentially negative connotations and 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 and this is clearly an unconscionable state of affairs. But whether it is fair to apply this connotation to the provision of alternative special schooling settings is another question. Cigman (2007) argues that this view is based on a premise that special schools are inherently humiliating or demeaning; she challenges the premise that in retaining special schools, societies are sustaining a practice that is fundamentally indecent, a view she attributes to the Centre for Studies in Inclusive Education (CSIE). Cigman argues that while this view may have been accurate in respect of "old-style segregated education", it is now out-dated and not applicable to special schools in the late 20<sup>th</sup> and early 21<sup>st</sup> centuries. Certainly, in the current New Zealand educational context there is little real evidence to support such a pejorative view of special schooling. Enrolment in special schools in New Zealand is a choice that is made by parents rather than a direction enforced by the educational authorities. In addition, the quality of education offered in the schools has been attested to by the Education Review Office (ERO) which conducts reviews of all schools in New Zealand approximately every three years (ERO, 2010). A brief random search of some of the special school reviews on the ERO website revealed many positive reports with frequent references to inclusive and respectful learning environments, high-quality learning and teaching programmes, enthusiastic students, responsive teachers and good community and school relationships. Despite this special school provision is, in New Zealand, as in many other countries, still framed as negative and damaging by many who promote inclusion and is, thus cast as a morally questionable type of provision.

### **Troubling the Certainty of Inclusion**

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. (Carr, 2001, p.471)

The issue of the place of special school provision for disabled children is, I would argue, one such controversy that turns on “different visions of human flourishing” and is “inherently, evaluative, ethical and philosophical” in nature. Codd (1987) tells us that ethics “relates to the moral justification of what we do or intend to do in situations that provides alternatives for human action” (Warnock, 1971, p.13 as cited in Codd, 1987, p.70). Under the philosophy of inclusion, just educational provision with respect to place is constituted only as that which obtains when all disabled children attend and receive their education at their local school; no alternative is countenanced. But is this an ethically defensible position? Cigman (2007) describes this particular conception as a “universalist” argument and its proponents as “universalist inclusionists” who are in essence making claims about what is “best for every child without exception”(p.776). With moral questions such as these, as Carr argues, “there must and should be room for disagreement”. But inclusion in taking a “universalist” position appears to allow no such room for the accommodation of any “different vision” in relation to what might constitute just educational provision.

This single, limited vision of what constitutes just provision corresponds with Walzer’s (1983) notion of “simple equality” whereby equality is synonymous with sameness; sameness of treatment and sameness of experience. Walzer describes “simple equality in the sphere of education” (p.202) as that which corresponds with Aristotle’s view that, “the system of education in a state must...be one and the same for all”(Aristotle as cited in Walzer, 1983, p.202). This description seems apposite to the conception of justice that underpins the idea that all disabled children should be educated in local regular schools. With respect to place, inclusion would appear to constitute justice and fairness in education for disabled children as the circumstance whereby, “everyone gets access to the same thing...” (Walzer, as cited in Rizvi & Lingard, 2009, p.268). However, I would contend, that in this context, “simple equality” is unlikely to be sufficient to achieve just provision for all disabled children without exception. 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 argument has particular resonance here. Disabled children are characterised by heterogeneity in their means, capacities and needs; given this heterogeneity, it is, as Rizvi & Lingard (1996), suggest likely that “centralised uniformity of educational provision” will be “insufficient for achieving social justice” (p.22) for all of these children without exception. But this is essentially what, in terms of place at least, inclusion promotes; a uniformity of provision that Cigman (2007) suggests fails to recognise the multiple realities that attend disability and its lived experience.

### **An Alternative Perspective**

In contrast to the notion of inclusion as described above, the provision of special schooling, arguably, represents not only an acknowledgement of the difference in “capacities and aspirations of students and parents” (Rizvi & Lingard, 1996, p.22) but also recognition of the inadequacy of “assumptions of uniformity” (Rizvi & Lingard, 1996, p.22) to the task of achieving just educational provision for all disabled children. Special school provision can thus be constituted as representing one facet of justice in education for disabled children and a just response to “what Marx called, “rich human need”, that is to say the need for an irreducible plurality of opportunities for life activities” (Nussbaum, 2006, p.167).

Undoubtedly, as discussed earlier, inclusion is concerned with issues of human rights and justice in education for disabled children. However the proposition that to achieve justice and secure the human rights of these children in the sphere of education requires that there be no alternative educational provision than the local regular school seems to me to be flawed. As Nussbaum observes “... the issue of justice for the disabled is a complex and multifaceted issue” (Nussbaum, 2002.). This observation is clearly pertinent to the sphere of education and certainly applicable to the question of what constitutes just educational provision for disabled

children. In the light of this observation, Nussbaum adjures us to think about the wide variety of desires, aspirations and needs of these children and their families when considering the issue of just educational provision. Special school provision, I would argue, demonstrates one aspect of a society's endeavor to give equal and fair consideration to the variety of desires, aspirations and needs of disabled children and their families. Justice surely must require attention not only to the rights of those who favour the local regular school but also to those who favour special schooling. However for some who promote inclusion the right of choice would appear to carry little weight and the choice of a special school placement is constructed as almost a form of deviance.

...the continuation of such schools has often been as a result of parental choice. While one sympathizes with the difficulties particular parents may face over such decisions, from the perspective adopted in this paper such practices cannot be used as a ground for supporting this system of provision. (Barton, 1997, p 235)

From this point of view, the right to be included in the regular school assumes greater moral probity than the right to participate in a special school setting so that it is claimed that:

Even a superbly well organised special school offering the highest quality curriculum and educational input to its children has no right to exist if that same education can be provided in a mainstream school. (Dissent, 1987, p.97 as cited in Barton, 1997, p.235)

But, it is difficult to reconcile a denial of the option of choice to some disabled children and their families with the requirements of justice. Such a denial would appear to show a lack of respect both for the moral dignity of these people and for their right to choice in aspects of life that affect theirs and their children's flourishing. Nussbaum (2006) contends that respect for a plurality of values is a requirement of living in a pluralistic democracy, choice she argues, "is good in part because of reasonable pluralism: other fellow citizens make different choices, and respecting them includes respecting the space within which those choices are made" (p.184). In a pluralistic society allowing choice "is an aspect of respect for human dignity" (p.186); the presence of special schooling insofar as it enables choice of educational provision demonstrates, I would suggest, a society's respect for the human dignity of those who desire that option. Furthermore, Nussbaum(2006) suggests, that respect for human dignity requires recognition that each person is an "end, and cannot be sacrificed to a larger social good" (p.177). Denial of the right to choose a special school placement on the grounds that such a choice may compromise the aims of inclusion would seem to come dangerously close to treating some disabled children and their families as "mere means to the ends"(Nussbaum, p.70) of inclusion.

Inclusion is predicated on "the assumption that the regular school provides an education worth being included in" (Slee, 1996, p.110), while for many, and possibly most disabled, children this may be a fair assumption, there are also some for whom it will not. It has yet to be shown that regular schools "have clear academic and social benefits over special schools for all students all of the time (Shaddock et al, 2009. p. 78.) In New Zealand, for example it would appear that there is considerable variation in the educational experiences of disabled children in regular schools and that some regular school provision is inadequate to the needs of these children; both ERO (2010) and the New Zealand Human Rights Commission (2009) have drawn attention to the difficulties faced by disabled children and their families in relation to inclusion in the local regular school. Similarly, both in New Zealand and elsewhere, parents have reported their children in local regular school settings experiencing bullying, social isolation, social and academic exclusion, and inexperienced and unsympathetic teachers (Shaddock, 2009; Lange, C. & Lehr, C., 2000). For some children then, the removal of special schooling as an alternative would surely constitute an injustice for, as Walzer (1983) so acutely observes, "education distributes to individuals not only their futures but their presents as well"(p.198); "justice" he points out "has to do not only with the effects but also with the experience of education" (p.198). If, by providing the alternative of special schooling the "presents" of some disabled children are enhanced and their educational experiences better suited to their needs, surely it is incumbent on any society to do so, and in so doing for it to be seen as a measure of justice and fairness rather than injustice.

Terzi (2008), discussing the debates about the issue of fair educational provision for disabled children, 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 a world in which inclusive education is the dominant orthodoxy and pervasive motif in educational thinking with respect to disabled children, this question could appear otiose - the answer is, of course, inclusion. However, as I have attempted to show in this paper, while inclusion may be a necessary condition for justice in education for some disabled children it is not a sufficient condition for all and so the question stands. With Terzi, I would suggest that at its core the issue of just educational provision for disabled children is fundamentally a philosophical and moral question; the answer to such a question is not one which necessarily admits of certainty (Codd, 1987). Codd (1987) suggests that moral questions are concerned with “the ends of our actions, such as the obligations we have to others...”(p.70). With respect to the education of disabled children, morally, societies must have an obligation to promote just arrangements and limit injustice insofar as possible. Walzer (1983) tells us that “justice and equality can conceivably be worked out as philosophical artefacts, but a just and egalitarian society cannot be” (p.xiv). Similarly Gewirtz (2006) argues that “it is not possible to resolve the question of what counts as justice in education at a purely abstract level, and that what counts as justice can only be properly understood within specific contexts of interpretation and enactment. (p.69) Both these comments point to the fact that judgements about the justice and fairness of educational arrangements and provision can only be determined by examining the material reality of those on whom any such arrangement impacts. The argument that special school provision is an injustice to disabled children, I would suggest, fails to attend to the lived realities of the disabled children who attend these schools and who experience a valued and valuable education therein. It similarly fails to attend to the reality that as of yet we cannot guarantee that local regular schools can provide an appropriate and satisfactory educational experience for all disabled children.

The question of what constitutes just educational provision for disabled children is certainly complex and multi-faceted; the issue of place, considered here, is just one aspect of this complexity. Inclusion proposes that a single, simple solution is all that is required to serve the interests of justice with respect to where disabled children go to school, and that special school provision is by definition an injustice. In this paper I have proposed an alternative position and have argued that both practically and morally, special school provision can be shown to serve the interests of justice and mitigate injustice for some disabled children and their families. Following this, I would argue, that with respect to education, the proposition that special school provision can be seen as a measure of a society’s success in its treatment of disabled children is a reasonable one and eminently justifiable.

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