



Journal of School Choice

International Research and Reform

ISSN: 1558-2159 (Print) 1558-2167 (Online) Journal homepage: <https://www.tandfonline.com/loi/wjsc20>

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To cite this article: Michael S. Merry (2020) Do Inclusion Policies Deliver Educational Justice for Children with Autism? An Ethical Analysis, *Journal of School Choice*, 14:1, 9-25, DOI: [10.1080/15582159.2019.1644126](https://doi.org/10.1080/15582159.2019.1644126)

To link to this article: <https://doi.org/10.1080/15582159.2019.1644126>



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Published online: 21 Jul 2019.



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Do Inclusion Policies Deliver Educational Justice for Children with Autism? An Ethical Analysis

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ABSTRACT

In this essay I ask what educational justice might require for children with autism in educational settings where “inclusion” entails not only meaningful access, but also where the educational setting is able to facilitate a sense of belonging and further is conducive to well-being. I argue when we attempt to answer the question “do inclusion policies deliver educational justice?” that we pay close attention to the specific dimensions of well-being for children with autism. Whatever the specifics of individual cases, both an attitude and policy of inclusion must permit parents to choose pragmatic alternatives, i.e., different learning environments, if educational justice is to remain the overriding goal.

KEYWORDS

Well-being; autism;
inclusion; educational justice

Given the long history in most countries of exclusion of children with autism from formal education, the assumed path to justice in many countries today leans heavily toward an attitude of *inclusion* (Corbett, 2002; Thomas & Vaughan, 2004), where the principle of equality is sometimes interpreted to mean that children with autism should be treated as if they actually weren’t different, and in need of a different kind of education. Accordingly, the standard case for educational justice for children with autism revolves around claims for equal treatment and due process, where the demand is that children with autism ought to have the same access to the resources necessary for an education as those who do not have autism (Feldman, Battin, Shaw, & Luckasson, 2013; Harrower & Dunlap, 2001). But for many children with autism, injustice already begins with school administrations and staff lacking the basic awareness, let alone preparedness, necessary to acknowledge that fairness norms also extend to those whose abilities deviate from the average.

In this essay I argue that when we attempt to answer the question “do inclusion policies deliver educational justice?” that we need to pay close attention to the specific dimensions of well-being conducive to the inclusion of children with autism. Moreover, I argue that while school professionals and para-educators undoubtedly have an important role to play in the placement

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and education of children with autism, parents usually are better positioned than school officials to know what is in their own child's interest. Accordingly, even as governments in many countries place inclusive education policies high on their political agendas (Pijl, Frostrad, & Flem, 2008), parents may exercise their moral and legal prerogatives in choosing educational alternatives. Irrespective of how expansive or restrictive educational liberties in a given geographic context may be, I argue that parents have no obligation to choose an educational environment for their child where his/her well-being is compromised, i.e., where s/he is susceptible to various forms of harm. Finally, I argue that inclusion for children with autism in the "least restrictive environment" (LRE), if it is to be justice-enhancing, must permit and even encourage pragmatic alternatives to the regular state/public school.

Because it is unlikely that I can provide a definition of educational justice to the satisfaction of everyone, for the purposes of this discussion I limit myself to the following features: at a minimum educational justice requires that persons receive what they are legally entitled to receive, which in the (admittedly vague) wording of the Individuals with Disabilities Act (IDEA), is described as a "free and appropriate education" (FAPE). It further requires that rights and opportunities generally be structured in such a way that all – and not only some – learners are able to benefit from their school experience irrespective of their personal characteristics, family background or current levels of motivation. Finally, educational justice is not synonymous with a school having a policy of inclusion; in order for there to be justice, inclusion must have value for the person in question; there must be meaningful access to the services provided; the educational environment must allow for a sense of belonging; and finally, the educational environment must contribute to a child's well-being.

Inclusion

As a fraught concept, one of the great difficulties with the idea of *inclusion* lies in simply ascertaining both its meaning and scope (Felder, 2018; Warnock & Norwich, 2010; Wilson, 1999). Does inclusion refer to a right or a need, or both? What is it that we think persons ought to be included in? Which categories of people need to be included? Is it self-evident that inclusion is always to be preferred? How one answers these and other questions turns on many factors. For instance, if persons are barred from entering a space, prevented from becoming a member of an institution, or denied access to opportunities that others enjoy merely because of some physical attribute (e.g., skin colour, body size), then there is *prima facie* evidence of exclusion of the morally troubling kind. Further, the most basic features of the equality principle – i.e., equal recognition, status and treatment – appear to be violated. And if and when the

evidence unequivocally suggests that this is the case, then condemning exclusionary behaviours is the right thing to do.

But inclusion and exclusion do not always occupy binary positions. Suppose, for instance, that there were good reasons to exclude, not to discriminate but rather because it was essential to the identity or purposes of an organization. Indeed membership (e.g., to a team, club, community) without boundaries of any kind is not only incoherent; to not exclude would work at cross purposes to its *raison d'être*. And thus the coach of a hockey team *should* exclude those unable to ice skate or aim a puck toward the opponent's goal; a sales manager *should* exclude individuals lacking the skills needed to sell a company's products; an orchestra *should* exclude those unable to play an instrument at the requisite level of dexterity; and a book club perhaps *should* exclude those unwilling to read and discuss the literature its group members have agreed upon. Similarly in education: it will seem to most readers entirely appropriate to exclude from the enrolment of a school for the blind those who are not visually impaired. The point of these illustrations is simply to underscore that preferring inclusion to reasonable forms of exclusion is not a foregone conclusion.

Still, it is necessary to make explicit what the relevant features of inclusion are. I submit that inclusion must consist of the following four features. First, inclusion must have some value for the person in question. Here we recognize the importance of *voluntary association*: being a member of a cycling team, a neighbourhood association, or a Jewish community centre arguably only has value if and when its members voluntarily identify with the other members, as well as its organizational goals and activities. But the same can be said of many persons with autism, who can choose for themselves (or, alternatively, guardians on their behalf) whether they wish to be included or not in a particular activity or environment. Not wishing to be included, say, in a particular school in no way diminishes the importance of inclusion *per se*. The point is that the agents themselves must also be able to decide whether inclusion of a certain kind, or in a certain environment, gives their own life more value.

Second, in its broadest sense, there must be the possibility for *meaningful access*, both in terms of the rules that permit one to join, as well as the features of the built environment that enable one to enter the space. The rules may state that anyone is permitted to join, but if the facilities are accessible only to those able to climb stairs, then many persons with physical disabilities are *de facto* excluded, however unintentional the exclusion may be. Third, and importantly for this discussion in a narrower sense, it must be possible to enjoy a *sense of belonging*. This concerns not only the legal entitlement or physical access necessary to becoming a member, but also the sense of feeling welcome. To illustrate: being permitted to attend an event where I soon discover no one will sit with me, or talk with me, or where no one exhibits the slightest interest in what I have to say,

renders inclusion farcical. Similarly, for a child with an emotional or intellectual disability, merely being permitted to attend a school is not tantamount to inclusion if he or she is sequestered from everyone else, or has no realistic possibility of making friends.

Lastly, inclusion must *contribute to the person's well-being*, where well-being entails that it is possible to observe, relative to a number of basic indicators, how well a person's life is going. There are several competing theories of well-being (e.g., Griffin, 1986; Haybron, 2008), and its features need not be confined to protection and care. However, for the purposes of the ethical analysis, I restrict myself to the following four dimensions of well-being for children with autism in educational settings: (1) protection against sensory overload; (2) a need to communicate (perhaps in non-conventional ways); (3) a need to be understood; and (4) a need to be cared for (cf. Robeyns, 2016).

Inclusion and education

Pivoting now to education, policies drafted to promote inclusion are rightly motivated by the concern to redress the almost total historical exclusion of children with disabilities from regular schools. Indeed in many countries today complete exclusion is still the norm (Arnold, Yeomans, & Simpson, 2009; Slee, 2011). Following a long history of systematic exclusion from formal education, or in any case education received alongside those deemed “normal”, in the late twentieth century the needs, but also the rights, of children with disabilities slowly began to be recognized in the industrialized world. Increasingly, however, resource-strapped governments are turning to inclusion in regular schools as the most cost-efficient and logistically feasible means of delivering legal entitlements (Gubbels, Coppens & de Wolf, 2017), even when the implications for doing so have not always been well thought through.

Because the specific entitlements for children with disabilities vary from country to country, in what follows I largely restrict my attention to research emanating from the American policy context, not because it is the only, or even the first, country to adopt legislation concerning children with disabilities, but chiefly because disability law has been more rigorously tested in the United States. Moreover, American schools arguably have gone further than what one normally finds in most countries with respect to guaranteeing that schools comply with the law. As such, vis-à-vis disability rights the United States serves as a “best case scenario”.

Consider, for example, the legal demands of the Individualized Education Program (IEP), a legal document whose purpose and design is to ensure that children with an impairment receive adequate attention and support by the appropriate professional authorities. The IEP must be developed for students who are determined to be eligible under one or more of the disabilities listed as eligible disabilities under the IDEA. The IEP is motivated by the FAPE

requirement of the IDEA. The IDEA requires that eligible students with disabilities be educated in the “least restrictive environment”(LRE). To that end its purpose is to identify the needs, but also the strengths, of each student with a disability.¹ Its contents, implementation and enforcement must include input from a disability specialist, a special education teacher or case supervisor, a homeroom teacher, and the parent(s) of the child.

The IEP contains creative strategies for achieving both short term and long term benchmarks, where regular classroom participation is maximized to the extent possible, but in any case where the aim is an education in the LRE. The LRE, ideally, includes the regular classroom with most other students, but it is important to note that the law does not require this. The law states:

To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled (§300.114)

Only a particularly ideological interpretation would entail that children always be included in learning environments with nondisabled children. Indeed, inclusion may also include a separate resource room, a self-contained classroom, or para-educational alternative.

Many forms of inclusion entail little additional cost, provided that teachers are apprised of the disability, and appropriate differentiation takes place. A child with mild hearing loss, for instance, can easily experience full inclusion provided the teacher is aware of the hearing loss, faces the students when speaking, occasionally checks to see that the student in question is keeping up, understands instructions, and is able to participate. Similarly, a child manifesting certain difficulties with pronunciation, or correctly identifying certain phonetic blends, may only require some additional, and temporary, tutoring outside of class. However, in many cases inclusion incurs enormous public expense, in large part because the legal entitlements that parents enjoy virtually ensure that their child is entitled to “reasonable accommodation” in the LRE, often entailing the hiring of additional support staff, or, in cases where the facilities or personnel are lacking, private school placement.²

Now if IEPs, and inclusion policies more generally, are well-implemented, inclusion policies can indeed promote educational justice for children with autism, and indeed for children with a variety of different needs. At the same time, however, many failures with respect to the implementation of inclusion policies persist, even – as in the American case – decades after legal protections were ratified. These same legal protections have made it possible for parents to challenge school districts in the courts in a way that is less common in other countries. Each legal challenge is concerned with ascertaining what the demands of educational justice in specific cases are.

Inclusion queried

While a policy of inclusion appears to promise more educational justice for children with autism when compared to a long history of social isolation and academic exclusion from even basic educational entitlements, there has been considerable push-back from many quarters in this discussion (McLaren, 2013; Norwich, 2013; Warnock & Norwich, 2010). Some of the resistance is directed at the imprecision of the policy's aims. John Wilson, for example, has argued that the idea of inclusion is confused, and without some kinds of standards and selection it is not even possible to have a coherent understanding of education (Wilson, 1999). Still others object to its doctrinaire application. Mary Warnock observes:

The concept of inclusion springs from hearts in the right place. Its meaning, however, is far from clear, and in practice it often means that children are physically included but emotionally excluded [...] Inclusion should mean being involved in a common enterprise of learning, rather than being necessarily under the same roof (Warnock & Norwich 2010, p. 32).

Even when there are many things about which the parents and the school staff may agree (e.g., level of academic challenge, assignment modification, behavioral management, service costs, etc.), as a general rule many schools – even when there are strong legal protections, such as those in the United States provided by the Individualized Education Program (IEP) – are unable to do much more than provide the bare minimum.³ Indeed, children with autism, like many other children with disabilities, often receive little more than a warehousing experience, where schools – not unlike psychiatric wards – are but places of confinement and seclusion (Brooks, 2018; Titheradge, 2018; Truong, 2018).

Notwithstanding stringent legal requirements, for children with autism injustice often begins with schools not able – sometimes coinciding with school staff not *willing* – to provide the resources necessary for an education, let alone the sense of feeling included (Goodall, 2018). It should go without saying that inclusion whose access is not meaningful, where there is little sense of belonging, and where one's well-being is not promoted, is a pyrrhic victory for children with autism, and perhaps no victory at all. Thus while educational justice ought to point us toward, rather than away from, inclusion, we mustn't forget that so-called inclusive educational environments for many children exact a very high price. This is why it is crucially important that we do more than point to an ideal, let alone assume that the ideal entails that educational justice obtains when children with autism acquire the right to share the same institutional space with other children.

Ruth Cigman has noted that too often “the possibility of including everyone is asserted or assumed, and is in this sense essentially an article of faith. It is asserted in the face of a great deal of evidence to the contrary” (Cigman, 2007, p. 785). Here

she explains why many parents of children with disabilities often seek out pragmatic alternatives:

Many parents choose special schools because their children have been miserable and unable to learn in mainstream ones. Such parents often deny, after bitter experience, that it is *possible* for mainstream schools to adapt satisfactorily to the needs of their child. If respect is to be shown to parents who struggle for the retention of special schools, their capacity to reflect responsibly about the vital interests of their children must be taken seriously (Ibid, p. 781).

If we consult the empirical evidence, where the aim is not to justify, or merely describe, an inclusion policy, but rather to assess its aims, implementation and success rates, we are confronted with a narrative very much at odds with how proponents often express their belief in inclusion. That narrative is that regular schools often are sites of victimization for many children, those with disabilities generally, and children with autism in particular (Hebron & Humphrey, 2014; Sreckovic, Brunsting, & Able, 2014; Sterzing, Shattuck, Narendorf, Wagner, & Cooper, 2012; Zablotsky, Bradshaw, Anderson, & Law, 2013, 2014).

Autism

Autism is a neuro-spectral disorder whose characteristics do not neatly conform to one diagnosis or personality type. Each autistic person will share certain characteristics specific to autism, but not others, owing to the individuality of each autistic. However, a number of traits are endemic to autism, including atypical communication and social interaction, strong preoccupations with particular interests or hobbies, and a general discomfort in large group settings. Autism is four times more likely to occur in boys, but its occurrence is not determined by factors such as ethnicity, socioeconomic status or the educational level of the parents. Estimates vary, but currently it is believed that there are approximately 1.5 million children in the U.S. who have been diagnosed as autistic.⁴

With respect to communication styles, these differ dramatically among autistics; some are non-verbal, while others exhibit irony and a wry sense of humor; but perhaps a majority experience communication with non-autistics in very literal ways. Misinterpretations are common, from both sides. For example, autistics often report living with the frustration of being continually misunderstood (Robeyns, 2016). With respect to large group settings, autistics commonly experience sensory overload, as well as feelings of stress (Pijl et al., 2008; Segall & Campbell, 2014). Comorbid conditions with autism include dyslexia, attention deficit/hyperactivity disorder (ADHD), and obsessive compulsive disorder (OCD). General feelings of angst, low self-image and chronic feelings of isolation, too, are not uncommon (Sreckovic et al., 2014; Zablotsky et al., 2014).

Autism was long believed to be a psychiatric disorder, or disease, and even the possibility of education for the first century of state schooling in industrialized countries was barely considered, insofar as that would have required a cure.⁵ Accounts from parents of autistic children in the 1960s and before nearly always included stories about how local public schools simply refused to allow their children through the door, usually leaving them only the options of home-schooling or institutionalization, where the institution was something more like an asylum, not a school. This social practice is still the *modus operandi* in many countries, even after the nominal acceptance of the rights of disabled children (Powell, 2015). But, as I demonstrate below, where autistic children *are* given full access to public education, their attendance can invite new difficulties, both for the autistic child, but also for the school staff.

The price of inclusion for children with autism

Teasing, bullying and physical and verbal aggression are routine occurrences for children with autism in regular schools (Blake et al., 2016; Cappadocia, Weiss, & Pepler, 2012; Hebron & Humphrey, 2014; Wang, Iannotti, & Nansel, 2009), in part owing to the difficulties they experience with impulse control and emotional and behavioral regulation.⁶ Often triggered in social situations where there is sensory overload, this is particularly true for those whose autism is comorbid with ADHD and other compulsive behaviors that draw attention to oneself. These experiences often lead to physical, psychological, and social and educational harms, and they correlate strongly with depression, loneliness, anxiety, low self-esteem, self-harm, and in extreme cases, suicidal tendencies (Norwich & Kelly, 2004; Rose & Espelage, 2012; Shea & Wiener, 2003; Swearer, Wang, Maag, Siebecker, & Frerichs, 2012; Van Cleave & Davis, 2006). But even when bullying or teasing are absent, overstimulation, stress, and frustration for children with autism are commonplace, none of which is conducive to a child's well-being.

Where the attitudinal and dispositional characteristics of school staff are concerned, the literature is fairly consistent: in most countries a majority of teachers lack the training, time or patience to try to understand the needs of a child with autism (Dymond, Gilson, & Myran, 2007; Fennell & Dillenburger, 2018; Segall & Campbell, 2014), especially when as many as thirty-five *other* children demand a teacher's time and attention. Burnout is worryingly common (Boujut, Popa-Roch, Palomares, Dean, & Cappe, 2017; Ruble & McGrew, 2013). These recurring phenomena make it unlikely – though not impossible – that the well-being of children with autism in regular schools can be fostered.

As for the parents, many routinely express deep frustration and anger with the inefficiency, and even absence, of services for children with autism their schools (should) provide. Additionally, even in the American context, where legal entitlements are robust, many parents report how infuriating and exhausting it is to fight the school in order to get even the most basic services

for their child. Only the most educated and assertive parents generally succeed in pressuring the school to do what the law requires (Dymond, Gilson, & Myran, 2007; Little, 2003; Whitaker, 2002). But as we have seen, compliance is not tantamount to inclusion of the morally relevant kind.

Taken together, the stresses of the child with autism, the real or imagined incompetence of the school staff, and the victimizing behaviors of the peer group combine to create great difficulties for the realization of educational justice in regular schools for children with autism, which in any case is a far cry from the bare minimum that schools routinely provide. Indeed in most cases the school need only demonstrate that they have satisfied the rudimentary requirements of the IEP, consistent with a basic understanding of a “free and appropriate education” (FAPE).

Again, none of this means that inclusion policies are pointless or ill-conceived. Implemented in the right way, inclusion policies can promote educational justice for children with autism, and indeed for children with a variety of different needs. At the same time, however, justice will remain elusive so long as teachers are not given adequate training, or so long as schools are chronically understaffed, and certainly so long as many continue to deny that schools too often *aggravate* injustice through their own institutional organization and behaviors, in particular those (e.g., labelling, grouping strategies, pull-out instruction) that generally lean toward the non-inclusive. Indeed even under a policy of inclusion, many children with autism are harmed by simply *being in school*, irrespective of whether the child is cognizant of the harm.

Educational justice for children with autism

Earlier I delineated what I believe to be four essential features of inclusion: value for the person in question, meaningful access, a sense of belonging, and general conditions conducive to well-being. Consistent with these features, the following considerations should be paramount in the quest for educational justice for children with autism. The first concern should be with the well-being of the child in question, not with pursuing a political ideal (Colker, 2006).⁷ Concern with the child’s well-being means paying close attention to his/her individual needs, lived experiences, and, where possible, his/her expressed preferences. Further, Adam Cureton (2007, p. 395) cautions:

we should not damage or impair, but rather aim to improve or provide opportunities to improve the rational capacities of ourselves and others. We should also attempt to reason with others rather than manipulate them. And, we ought to possess respectful attitudes towards people as sources of value. This does not mean we have to adopt their values ourselves; instead, we must respect their ability to pursue their own ends.

Cureton is of course aware that young children are not (yet) the sort of agents capable of “pursuing their own ends”. The well-being of young children is heavily dependent upon adult care (Merry, 2007), and that care for children with disabilities is arguably even more crucial. Indeed, as we have seen, well-being for children with autism typically entails protection against sensory overload, a need to communicate, a need to be understood and a need to be cared for. But procuring educational justice for children with autism also means resisting the urge to equate the needs of any two children with autism, given the manifold differences between them.

Second, though professionals have much to offer in terms of emotional and educational support, i.e., in terms of providing care, where the administration of professional care may conflict with the values and/or preferences of the parents, the latter should take precedent. It is particularly important to defer to the parent when it is demonstrably the case that a child’s well-being is compromised in the institutional setting. This does not mean that a parent is always right about what is in his or her child’s interest – that would be patently absurd. For example, a district court (Roncker v. Walter, 700 F.2d 1058, 1063, 6th Cir. [1983]). decided with the school and *against* the parents of a severely mentally handicapped child who insisted on him being mainstreamed in a regular (versus separate) school, even when the child had no capacity to interact or even communicate with his peers, and even when it had been shown that the separate facility was favorable to the child. However, predicated on the integrationist presumption, the Sixth Circuit Court later overturned this ruling.⁸

As the Roncker case clearly illustrates (and as many readers themselves can readily attest), parents do not possess infallible judgment concerning what is in their child’s best interest. Any parent can be unreasonable, misguided, and in some cases even harm their child. But these moral failures do not alter the fact that it is parents who generally are more likely to understand their child’s needs, and to care for their child – particularly when they are young – in ways that third parties seldom can or do. As Merry & Howell (2009, p. 363) write, “a parent’s love for a child, when fully realized, is without parallel in human experience. Parents know their children as no one else knows them. Parents who love well love unconditionally.” Further, except where there is clear evidence of harm, parents enjoy strong moral and legal prerogatives to make decisions on behalf of their own child, and only in part because young children are not capable of looking after themselves.

These prerogatives – enshrined in many countries in constitutional law – extend to the choices parents make for their child vis-à-vis the education they receive. In any case, parents are neither legally nor morally obligated to send their child to a regular school, either in order to satisfy a political ideal or to benefit other people’s children. Cigman (2007, p. 782) explains why she shares this view:

There is the worrying implication that parents have a duty to avoid sending their children to special schools *in order to* protect the feelings of children other than their own, and *irrespective* of the difficulties experienced by their own children in mainstream schools. This suggests that parents of children who are already vulnerable in all sorts of ways have a duty, in Kantian terms, to treat their children as means to the ends of other children's well-being.

Third, educational justice expressed as inclusion will turn on more than legal entitlement to attend the regular school; it also matters what the institutional context is realistically able to render in terms of service providers, speech and occupational therapy, respite care, coordination of services, etc.

Further, depending on any number of different variables (e.g., proximity, transportation options, facilities and staff, but especially a child's general well-being) some parents will prefer a separate specialized school. Some of these schools are private and expensive. Yet many schools catering to the needs of autistic children also operate within the public sector, including a large variety of public charters in the U.S., where they must navigate a complex labyrinth of federal, state and contract law (Mead, 2004).⁹ Given the history of *de jure* exclusion and inequality, separate schools of *any* kind are anathema to strong proponents of inclusion. But separation, Ruth Colker reminds us, "need not result in inequality if it is accompanied by adequate services and positive recognition"; in other words, she adds, "it need not be the equivalent of invidious segregation" (Colker, 2007, p. 1420; cf. Merry 2013).

At the same time, however, specialized schools, too, are no guarantee of educational justice. Dire shortages of qualified staff in many countries may incline specialized schools to hire persons who lack the requisite expertise to adequately support exceptional children. For example, currently in the Netherlands more than 4000 children with autism between the ages of four and eighteen currently do not go to school at all because they do not receive an education – either in regular or separate schools – adapted to their needs. This figure does not include thousands of other children currently not attending school owing to a lack of special education provision.¹⁰ Ironically, as again evidence from the Netherlands suggests, in some countries staff also may be paid less than their counterparts in non-specialized schools (Vissers, 2018). But of course this is not always the case. Many specialized schools in fact do a much better job of providing an ethos of care and support owing to their school mission to serve specific populations, one that requires certain dispositions and values from its staff in order to deliver that care. Specialized schools serving children with autism also preeminently aim to provide a learning environment where sensory overload can be minimized.

Meanwhile, in increasing numbers other parents are opting for home-schooling (Hurlbutt-Eastman, 2017) for their child, if for no other reason than their dissatisfaction with the level of institutional care; still other parents

are opting for a combination of different approaches, particularly where respite services are available. Whatever the specifics of individual cases, if educational justice is to remain the overriding goal, both an attitude and policy of inclusion must permit pragmatic alternatives, i.e., different learning approaches and environments. Regular schools cannot be the only settings capable of delivering educational justice; no school, no matter how inclusive, can be all things to all people. Each child, parent and institutional context will be different, making it difficult to extrapolate from an inclusion policy to the needs of any particular child with autism.

Conclusions

In asking whether inclusion policies can deliver educational justice, I have limited my focus to children with autism in school settings. Even when there is widespread agreement about the importance of inclusion, its meaning is amenable to different understandings and applications. Owing to the particulars of individual cases, I have tried to show that the notion of inclusion alone cannot settle the question concerning how best to interpret the “least restrictive environment”, as the juridical notion of inclusion in the United States is commonly expressed. Each child and educational context will be different. In other words, there is no definitive answer to the question “do inclusion policies deliver educational justice for children with autism?”, both because institutional settings vary and because children with autism are each unique.

Ideally educational justice requires that the terms and conditions of inclusion, to the extent possible, should include the input of children with autism. However, where the actors lack the relevant decision-making capacity – as certainly is the case with younger children with autism (and young children tout court) – then a triage involving multiple actors is appropriate, one that includes education and disability specialists, but one where the preferences of the child with autism also should have consultative weight. Yet while the decision concerning justice for the child with autism should be informed by an array of educational and disability professionals, ultimately the decision in most cases should rest with the parents, even if the decision concerning how to finance the placement should not.

Whatever the details of individual cases may be, I have argued that a policy of inclusion is not a proxy for justice. Educational justice vis-à-vis inclusion must signal more than legal entitlement or formal access: it must have value for the person in question; there must be meaningful access; and, it must allow for a sense of belonging. Ultimately, however, educational justice for children with autism must entail utmost consideration for the child’s well-being, where at a minimum well-being is understood to include protection from sensory overload, a need to communicate, a need to be understood, and a need to be cared for.

Ultimately, however, educational justice also will require moving beyond a custodial care approach, such as the one I have used to frame this ethical analysis. Each of the criteria of well-being that I enlisted imply that children with autism principally need to be cared for and protected. However, the overarching goal of education is also to provide effective instruction and to equip children with the skills they need to be as independent as possible, and function effectively in their environment to the greatest extent possible. Hence educational justice finally must entail not only that there is protection and care of children with autism, but also the goal of increasingly active participation and independent functioning in their environment.

Notes

1. Functional Behavioral Assessments (FBA), which are only required when a student has been suspended in excess of 10 school days, represent an additional step that may be implemented in order to determine the function of a student's behavior. This may include monitoring levels of frustration, the degree of acceptance by one's teachers and peers, and whether or not there are adequate resources and trained personnel present. When agreement between parents and teachers about the current placement of the student is difficult to procure, mediation may be necessary.
2. For instance, Florida's school choice programs allow parents to choose the best educational setting – public or private – for their child. The McKay Scholarship Program for Students with Disabilities provided over 31,000 Florida students with special needs the opportunity to attend a participating private school during the 2017–18 school year. See <http://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/mckay/>.
3. On March 22, 2017, the US Supreme Court ruled 8–0 in favor of students with disabilities, saying that meaningful, “appropriately ambitious” progress goes further than what the lower courts had held. This case (*Endrew F. v. Douglas County School Dist. RE-1*, No. 15–827, 580 U.S. ____ [2017]) has the potential to “affect the education of 6.7 million children with disabilities” as the Court struggles “to decide whether it should require public schools to do more under a federal law that calls for them to provide a free education that addresses the children's needs.” In an amicus brief submitted by the Office of the Solicitor General, the Supreme Court was urged to take the case stating that the 10th U.S. Circuit Court of Appeals had set the bar – a standard of “merely ... more than de minimis” educational benefit – too low.” Thus, for over 30 years, “this Court has held that if a State provides a program ‘reasonably calculated to enable the child to receive educational benefits,’ then it ‘has complied with the obligations imposed by Congress and the courts can require no more. No parent or educator in America would say that a child has received an ‘appropriate’ or a ‘specially suitable’ or ‘proper’ education ‘in the circumstances’ when all the child has received are benefits that are barely more than trivial.”
4. Centers for Disease Control and Prevention: <https://www.cdc.gov/ncbddd/autism/data.html>; see also: <https://www.nationalautismcenter.org/autism/autism-today/>.
5. Bruno Bettelheim incorporated autism into a faulty Freudian framework wherein the problem was dislocated from the organism of the child into the behavior and psyche of the “refrigerator mother”.

6. Exact percentages of children with autism who are bullied are virtually impossible to come by given the high degree of variability of services between school districts, individual schools, and even classrooms, but several sources suggest that the figure approximates 60% in the U.S. See for example: <https://www.cbsnews.com/news/survey-finds-63-of-children-with-autism-bullied/>.
7. Colker's (2006) analysis is a sustained critique of the integrationist presumption behind IDEA legislation (see 20 U.S.C.A. § 1412; West Supp. 2005), explicitly based on the narrow logic used in the *Brown* decision concerning school integration. There is, however, some legal precedent for preferring alternative settings to better serve the needs of disabled individuals. See *Olmstead v. L.C.*, 527 U.S. 581, 587 (1999).
8. In light of the questionable educational benefits, Colker (ibid: 817) argues that the Circuit Court's decision merely "serves a cosmetic benefit."
9. Further, in districts using vouchers and tax credit scholarships, a disproportionate number are given to children with disabilities. See also: <http://www.spero.academy/blog/1613843/how-to-choose-the-right-school-for-autism>; <https://thebestschools.org/features/recognized-schools-for-children-with-autism/>. In other countries, for example the Netherlands, state supported separate schools (*speciaal onderwijs*) have long existed to serve the needs of children with disabilities. Whether these services are always adequate to the needs of children with disabilities is, however, another matter. See *infra*, note 10.
10. See <https://eenvandaag.avrotros.nl/item/eerste-hulp-bij-thuiszitten-4000-kinderen-met-autisme-zitten-gedwongen-thuis/>.

Disclosure statement

No potential conflict of interest was reported by the author.

References

- Arnold, C., Yeomans, J., & Simpson, S. (2009). *Excluded From School: Complex discourses and psychological perspectives*. Stoke on Trent, UK: Trentham Books.
- Blake, J., Kim, E. S., Lund, E. M., Zhou, Q., Kwok, O., Benz, M. (2016). Predictors of bully victimization in students with disabilities: A longitudinal examination using a national data set. *Journal of Disability Policy Studies*, 26(4), 199–208. doi:10.1177/1044207314539012
- Boujut, E., Popa-Roch, M., Palomares, E. M., Dean, A., & Cappe, E. (2017). Self-efficacy and burnout in teachers of students with autism spectrum disorder. *Research in Autism Spectrum Disorders*, 36, 8–20. doi:10.1016/j.rasd.2017.01.002
- Brooks, L. (2018, December 14) 'Ungoverned' use of restraint and seclusion in Scottish schools criticized. *The Guardian*. Retrieved from <https://www.theguardian.com/uk-news/2018/dec/14/ungoverned-use-of-restraint-and-seclusion-in-scottish-schools-criticised>
- Cappadocia, M. C., Weiss, J. A., & Pepler, D. (2012). Bullying experiences among children and youth with autism spectrum disorders. *Journal of Autism and Developmental Disorders*, 42, 266–277. doi:10.1007/s10803-011-1241-x
- Cigman, R. (2007). A question of universality: Inclusive education and the principle of respect. *Journal of Philosophy of Education*, 41(4), 775–793. doi:10.1111/jope.2007.41.issue-4
- Colker, R. (2006). The disability integration presumption: Thirty years later. *University of Pennsylvania Law Review*, 154(4), 789–862. doi:10.2307/40041286
- Colker, R. (2007). Anti-subordination above all: A disability perspective. *Notre Dame Law Review*, 82(4), 1415–1484.

- Corbett, J. (2002). *Supporting inclusive education*. London, UK: Routledge.
- Cureton, A. (2007). Respecting Disability. *Teaching Philosophy*, 30(4), 383–402. doi:10.5840/teachphil20073044
- Dymon, S., Gilson, C., & Myran, S. (2007). Services for children with autism spectrum disorders. *Journal of Disability Policy Studies*, 18(3), 133–147. doi:10.1177/10442073070180030201
- Felder, F. (2018). The Value of Inclusion. *Journal of Philosophy of Education*, 52(1), 54–70. doi:10.1111/jope.2018.52.issue-1
- Feldman, M. A., Battin, S. M., Shaw, O. A., & Luckasson, R. (2013). Inclusion of children with disabilities in mainstream child development research. *Disability & Society*, 28(7), 997–1011. doi:10.1080/09687599.2012.748647
- Fennell, B., & Dillenburger, K. (2018). Applied behavior analysis: What do teachers of students with autism spectrum disorder know. *International Journal of Educational Research*, 87 110–118. doi:10.1016/j.ijer.2016.06.012
- Goodall, C. (2018). Inclusion is a feeling, not a place: A qualitative study exploring autistic young people's conceptualisations of inclusion. *International Journal of Inclusive Education*. Online Early. Retrieved from. <https://www.tandfonline.com/doi/full/10.1080/13603116.2018.1523475>.
- Griffin, J. (1986). *Well-Being: Its meaning, measurement and moral significance*. Oxford, UK: Oxford University Press.
- Gubbels, J., Coppens, K., & de Wolf, I. (2017). Inclusive education in the Netherlands: How funding arrangements and demographic trends relate to dropout and participation rates. *International Journal of Inclusive Education*. Online Early. Retrieved from. <https://www.tandfonline.com/doi/full/10.1080/13603116.2017.1416684>.
- Harrower, J., & Dunlap, G. (2001). Including children with autism in general education classrooms: A review of effective strategies. *Behavior Modification*, 25(5), 762–784. doi:10.1177/0145445501255006
- Haybron, D. (2008). *The pursuit of unhappiness: The elusive psychology of well-being*. Oxford, UK: Oxford University Press.
- Hebron, J., & Humphrey, N. (2014). Exposure to bullying among students with autism spectrum conditions: A multi-informant analysis of risk and protective factors. *Autism*, 18(6), 618–630. doi:10.1177/1362361313495965
- Hurlbutt-Eastman, K. (2017). Teaching the child with exceptional needs at home. In M. Little (Ed.), *The wiley handbook of home education* (pp. 222–245). London, UK: John Wiley & Sons.
- Little, L. (2003). Maternal perceptions of the importance of needs and resources for children with Asperger syndrome and nonverbal learning disorders. *Focus on Autism and Other Developmental Disabilities*, 18, 257–266. doi:10.1177/10883576030180040701
- McLaren, S. (2013). Is inclusive education right for every child? An account by the parent of a child with high and complex needs due to autism spectrum disorder. *Kairaranga*, 14(3), 26–34.
- Mead, J. (2004). *Charter schools and the law: Establishing new legal relationships*. Norwood, MA: Christopher-Gordon Publishers, Inc.
- Merry, M. (2013). *Equality, citizenship and segregation: A defense of separation*. New York: Palgrave Macmillan.
- Merry, M. S. (2007). The well-being of children, the limits of paternalism and the state: Can disparate interests be reconciled? *Ethics and Education*, 2(1), 39–59. doi:10.1080/17449640701284909
- Merry, M. S., & Howell, C. (2009). Can intimacy justify home education? *Theory and Research in Education*, 7(3), 363–381. doi:10.1177/1477878509343193
- Norwich, B. (2013). *Addressing tensions and dilemmas in inclusive education*. London: Routledge.

- Norwich, B., & Kelly, N. (2004). Pupils' views on inclusion: Moderate learning difficulties and bullying in mainstream and special schools. *British Educational Research Journal*, 30 43–65. doi:10.1080/01411920310001629965
- Pijl, S. J., Frostad, P., & Flem, A. (2008). The social position of pupils with special needs in regular schools. *Scandinavian Journal of Educational Research*, 52(4), 387–405. doi:10.1080/00313830802184558
- Powell, J. (2015). *Barriers to inclusion: Special education in the United States and Germany*. London, UK: Routledge.
- Robeyns, I. (2016). Conceptualising well-being for autistic persons. *Journal of Medical Ethics*, 42(6), 383–390. doi:10.1136/medethics-2016-103508
- Rose, C. A., & Espelage, D. L. (2012). Risk and protective factors associated with bullying involvement of students with emotional and behavioral disorders. *Behavioral Disorders*, 37 133–148. doi:10.1177/019874291203700302
- Ruble, L., & McGrew, J. H. (2013). Teacher and child predictors of achieving IEP goals of children with autism. *Journal of Autism and Developmental Disorders*, 43, 2748–2763. doi:10.1007/s10803-013-1884-x
- Segall, M., & Campbell, J. (2014). Factors influencing the educational placement of students with autism spectrum disorders. *Research in Autism Spectrum Disorders*, 8, 31–43. doi:10.1016/j.rasd.2013.10.006
- Shea, B., & Wiener, J. (2003). Social exile: The cycle of peer victimization for boys with for boys with ADHD. *Canadian Journal of School Psychology*, 18, 55–90. doi:10.1177/082957350301800104
- Slee, R. (2011). *The irregular school: Exclusion, schooling and inclusive education*. London, UK: Routledge.
- Sreckovic, M., Brunsting, N., & Able, H. (2014). Victimization of students with autism-spectrum disorder: A review of prevalence and risk factors. *Research in Autism Spectrum Disorders*, 8, 1155–1172. doi:10.1016/j.rasd.2014.06.004
- Sterzing, P. R., Shattuck, P. T., Narendorf, S. C., Wagner, M., & Cooper, B. P. (2012). Bullying involvement and autism spectrum disorders: Prevalence and correlates of bullying involvement among adolescents with an autism spectrum disorder. *Archives of Pediatrics and Adolescent Medicine*, 166(11), 1058–1064. doi:10.1001/archpediatrics.2012.790
- Swearer, S. M., Wang, C., Maag, J. W., Siebecker, A. B., & Frerichs, L. J. (2012). Understanding the bully dynamic among students in special and general education. *Journal of School Psychology* 50, 503–520. doi:10.1094/PDIS-11-11-0999-PDN
- Thomas, G., & Vaughan, M. (2004). *Inclusive education: Readings and reflections. Inclusive education*. London, UK: Open University Press.
- Titheradge, N. (2018, November 12). *Hundreds of pupils spend week in isolation booths*. Retrieved from <https://www.bbc.com/news/education-46044394>
- Truong, D. (2018, May 26) A photo emerges and a Virginia school system's use of exclusion comes under scrutiny. *Washington Post*. Retrieved from https://www.washingtonpost.com/local/education/a-photo-emerges-and-a-va-school-systems-use-of-seclusion-comes-under-scrutiny/2018/05/26/c8f75658-3693-11e8-9c0a-85d477d9a226_story.html?utm_term=.666557ae1ecb
- Van Cleave, J., & David, M. M. (2006). Bullying and peer victimization among children with special health care needs. *Pediatrics*, 118, 1212–1219. doi:10.1542/peds.2005-3034
- Visser, P. 2018. Dissatisfaction with Special Education: How is it that we earn the same as our colleagues in the regular primary school? [Onvrede bij speciaal onderwijs: Hoezo krijgen wij evenveel als collega op de basisschool?] *Trouw*. Retrieved from <https://www.trouw.nl/samenleving/onvrede-bij-speciaal-onderwijs-hoezo-krijgen-wij-evenveel-als-collega-op-de-basisschool-~a9f39f88/>

- Wang, J., Iannotti, R. J., & Nansel, T. R. (2009). School bullying among adolescents in the United States: Physical, verbal, social and cyber. *Journal of Adolescent Health, 45*, 368–375. doi:[10.1016/j.jadohealth.2009.03.021](https://doi.org/10.1016/j.jadohealth.2009.03.021)
- Warnock, M. and Norwich, 2010. *Special educational needs: A new look*. London: Bloomsbury.
- Whitaker, P. (2002). Supporting families of preschool children with autism: What parents want and what helps. *Autism, 6*, 411–426. doi:[10.1177/1362361302006004007](https://doi.org/10.1177/1362361302006004007)
- Wilson, J. (1999). Some Conceptual Difficulties about Inclusion. *Support for Learning, 14*(3), 111. doi:[10.1111/1467-9604.00114](https://doi.org/10.1111/1467-9604.00114)
- Zablotsky, B., Bradshaw, C. P., Anderson, C., & Law, P. A. (2013). The association between bullying and the psychological functioning of children with autism spectrum disorders. *Journal of Developmental and Behavioral Pediatrics, 34*, 1–8. doi:[10.1097/DBP.0b013e31827a7c3a](https://doi.org/10.1097/DBP.0b013e31827a7c3a)
- Zablotsky, B., Bradshaw, C. P., Anderson, C., & Law, P. A. (2014). Risk factors for bullying among children with autism spectrum disorders. *Autism, 18*(4), 419–427. doi:[10.1177/1362361313477920](https://doi.org/10.1177/1362361313477920)