



Educational Justice

Liberal Ideals,
Persistent Inequality,
and the Constructive Uses of Critique

Michael S. Merry

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Education, like religion, is conservative. It makes haste slowly only,
and sometimes not at all.

—Carter Woodson, *The Miseducation of the Negro* (1933)

*Once more, for
Nicholas, Sophia and Peter*

FOREWORD

In *Educational Justice*, Michael Merry challenges taken-for-granted views about what constitutes a just school system. The book is impressive not only in the clarity and forcefulness of his arguments but also in the wealth of empirical, especially sociological, knowledge he brings to bear on his philosophical thinking. This gives his work a rootedness in the actualities of educational institutions that philosophy of education of a more self-contained sort lacks.

The challenges he introduces are especially directed at egalitarian liberal positions, many of which he sees as unreflectingly reproducing received opinion about such things as public education, inclusion, diversity, selection, and religious schools. As a philosophical liberal myself, I have found Merry's general approach and many of his specific arguments of great interest since they sometimes question beliefs I have held in these areas for a long time. It is not often that philosophers of education cast radical doubt on the paradigms within which people think. What enables Michael Merry to do this is to no small extent his immersion in the messy, empirical realities. His method of challenging egalitarian liberal views of a more dogmatic sort about education involves mounting conceptual critiques on the one hand, and confronting defenders of an idealized 'public school' with a battery of facts about school systems and about students' and parents' experience of them on the other.

I will say more about Merry's challenges in a moment. Although his *Educational Justice* is a very different kind of book from David Runciman's recent *How Democracy Ends* (Profile Books 2018), it has

struck me, having recently read both works, that they share something in common. In his book, Runciman reveals his doubts about the survival of democracy over the longer term. Among his reasons is that people in older democracies in North America, Europe and elsewhere have, over the last century, become so used to this form of politics that they take its continuing existence for granted. This has put them less on their guard than they should be in dealing with new forces that may be undermining it, whether social, like disaffection with the political system, economic, like powerful internet-based corporations such as *Facebook*, or technological, like the growth of intelligent and perhaps uncontrollable machines.

Like Runciman, Merry jolts us out of habitual ways of looking at things. But while Runciman's concern is with *factual* matters—how democracies die and whether their death is inevitable, Merry's is with the *philosophical* question of how best to conceive a just school system. To answer it, he claims, we need a radical critique of some beliefs that many egalitarian liberals among us hold. Among these is the belief that ordinary, public—in the American sense of non-private—schools are best suited to further the democratic ideal of justice. Much of Merry's book submits this kind of educational stance—about the public school as the key to fair educational provision—to stringent critique. Here are three illustrations.

Defenders of the public school want to preserve it from privatization, arguably exemplified by charter schools in the United States and academies in England. Only the public school, they believe, can form students as good citizens, is capable of democratic governance, offers equality of opportunity, etc. Merry's target is 'the "faith" in public schooling that refuses critique'. While he himself favors public schooling provided that it does in fact deliver an equitable and worthwhile education, he is fully aware, in a way that ideological defenders in his view are not, of the shortcomings of public schools *as they are in reality* and not in some nostalgic or utopian vision.

One of the foremost arguments for public schools, not least in the United States, is that in promoting racial and social class integration they help to bring about a more just democratic society. Once again, Merry forces the reader to reconsider that claim. While a minority of disadvantaged students benefit from being taught alongside more privileged classmates, get to university, and do well in life, the evidence suggests that integrated schools fall far short of what many want to believe to be the case.

This theme overlaps with Merry's views on religious schools. His focus here is the antipathy that many liberals feel toward them, since the education they provide is likely to be indoctrinatory. Yet again he aims to shake us out of our dogmatic slumber. He *accepts* the charge of likely indoctrination, but then asks whether indoctrination is always, all things considered, something to be avoided. He takes as his focus Islamic schools. Like some racial minority or working-class students, many Muslim students feel more comfortable and secure learning in the company of young people like themselves. Based on telling evidence of the stigmatic harm that many Muslims suffer in 'integrated' schools, Merry's view is that indoctrination may well be the lesser evil.

These three examples give a flavor of the approach Michael Merry adopts throughout this book. For me, the latter also prompts more general reflections about egalitarian liberals in education. An implication of his argument is that these cover a spectrum of different positions. Some have an ideological prejudice in favor of the common or public school that blinds them to its institutional defects. Others—and here I hope I can include myself—are strongly inclined in favor of it, but in a less dogmatic way. Yet others, including, I think, Merry himself, believe that educational justice often requires a more pragmatic approach, marked by a minimal initial predisposition toward a 'common school' ideal, without failing to recognize that this ideal often fails to satisfy the necessary conditions for justice, particularly for the more marginalized and vulnerable.

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PART I

Educational Justice: Preliminaries



CHAPTER 1

Introduction

In his seminal book, *The Structure of Scientific Revolutions*,¹ Thomas Kuhn argued that even when our beliefs may be warranted and our methods sound, much of the time our knowledge and understanding is tethered to a dominant ideology—or paradigm—that may prevent us from drawing the right kinds of inferences from the data we have. And because most of us are uncritically socialized into one or more dominant ideologies, we usually fail to notice how they imperceptibly influence the subject matter we study, the questions we think it important to ask, and the theoretical frames we use to interpret our experience. Relatedly, we often fail to recognize how prone we are to discount evidence, and perhaps even competing evidentiary standards, that conflicts with our present knowledge and understanding. And while improved and more accurate understandings are certainly possible within a dominant ideology, new theoretical insights are improbable so long as accepted orthodoxies hold sway.

Many of our beliefs about education are like this. As such, an improved understanding concerning our current and future educational predicaments may require a critical analysis concerning what many of us have long taken for granted. This analysis, I submit, requires that we first identify what the underlying beliefs are, and why they may be problematic for what they fail to consider. The analysis further requires that we have the intellectual courage to question the veracity of some of our beliefs, given how prone to error all intellectual endeavors are. And finally, the analysis requires that we not refuse to consider pragmatic

alternatives to our preferred strategies for fear of what our ideological adversaries might think. The demands of justice² should not be circumscribed by partisan politics.

But identifying which of our beliefs is problematic is particularly difficult to do given that much of the time these lay hidden from view. As unexamined assumptions, they steer how we think, which questions we ask, which methods of inquiry we choose, which institutions we favor, and which policies we think it best to pursue. And in unwittingly falling back on these unexamined assumptions, what we are willing to entertain as a path forward risks being bounded by that which is comfortably familiar. And thus as it concerns many of our policies aimed at fostering greater educational justice, Becky Francis and Martin Mills have observed that many of our favored initiatives ‘are well-intentioned but must inevitably be undermined by the primacy of the model in which they are enacted.’³

One way to extricate ourselves from this predicament is to reassert the value of *critique*, in particular critique of some of the most basic assumptions that motivate philosophers and empirical researchers but also policy-makers and practitioners, who care about educational justice. For by refusing to critically examine some of our own most cherished beliefs, we not only risk misconceiving the challenges we face; we may find that even our best attempts to remedy educational injustice are doomed to yield the same disappointing results.

But even if we are theoretically open to the value of critique, for many of us there is an almost predictably restive agitation that ensues: ‘Criticism is easy’ we say; ‘better to focus on making things better than telling us what is wrong.’ ‘We know what you’re against; now tell us what you’re for’ is another common reply, as is ‘It’s all well and good to stand back and criticize but what alternatives can you offer?’ And it is not unreasonable to prefer resolution to conflict, optimism to cynicism, or solutions to despair. I, too, am not enamored of the armchair critic who prefers to castigate the views of others while offering nothing in the way of constructive argument.

But neither do I take such a dim view of critique. Indeed critique serves a number of important, even constructive, epistemological functions. First, with its aim of offering a detailed analysis, critique can assist us in exposing, and in some cases even dislodging, bias. It is the very nature of bias that it inclines us to assume, think, and behave in ways about which we largely are unaware. Biases are notoriously difficult to

detect owing to their largely unconscious influence on our thinking, attitudes, and behavior. They powerfully influence our ability to hear, let alone accept, ideas we find strange or unpleasant. Moreover, biases generally incline us to ignore, or downplay, contradictory evidence we do not want to consider, even when intellectual honesty should compel us to evaluate *all* the evidence.⁴

When biases harden into inflexible convictions about ‘the way the world is,’ such that these convictions have the ring of unquestioned truth, we can even speak of *dogma*. Essentially an article of faith, dogma refers to those things we believe to be true, even when the preponderance of evidence points in the opposite direction, and even when those we aim to ‘help’ tell us that our thinking is misguided. Hence to subscribe to a dogma is to espouse beliefs that are impervious to challenge. The outcome of years of socialization, much of it occurring directly via the school, dogma—or what sociologist Pierre Bourdieu referred to as *doxa*—is the cumulative result of experience by which ‘the natural and social world appears as self-evident.’⁵ And when dogma influences a conceptual framework through which the world is viewed (echoing Kuhn’s understanding of a paradigm), its influence, as we have just seen, determines both the questions it is permissible to pose and the conclusions it is tolerable to permit. Dogma thus assumes the appearance of established fact, something thought heretical to question, akin to a Catholic approaching the Eucharist only to impugn the efficacy of the sacrament.

Critique has a second function, which is to expose and unsettle the workings of cognitive dissonance. *Cognitive dissonance* (CD) refers to the unconscious habit of concurrently espousing contradictory beliefs, values, or understandings, where one belief, value, or understanding of an empirical reality must be downplayed so that another, more fundamental, belief, or value might prevail. To take an educational example, cognitive dissonance describes both the *acknowledgement* that the empirical facts concerning how school systems function are consistently and reliably true (say, with respect to how labelling, discipline, and tracking mechanisms disproportionately harm poor, minority pupils in ‘integrated’ schools⁶), and at the same time accommodate the *belief* that ‘integrated’ school environments will lead to fairer outcomes for these same pupils. In the struggle to reconcile one’s beliefs to the empirical realities, either the belief must be jettisoned, or the contradiction must be rationalized, for instance by reading all contradictory evidence in a way that reaffirms one’s preferred belief.⁷ Each of us is prone to do this at one time

or another. But in the illustration above, it is the latter belief that must prevail for the majority of liberal educational scholars, even when—as I discuss later in Chapter 5⁸—the bulk of the evidence generally points away from this belief.

Hence in the quest for educational justice, critique can be a valuable method in helping us to recognize, on the one hand, the inclination to downplay contradictory evidence, and on the other hand, in helping us better understand how bias prevents our knowledge and understanding from altering our beliefs and behaviors. Therefore I submit that in the absence of critique, cognitive dissonance may be preventing us from recognizing how *an unconscious unwillingness to critically examine some of our most cherished beliefs can actually exacerbate educational injustice*.

This brings me to a third important function of critique, which is that it can help us to get clear about the injustices that matter most, what their causes might be, but also what it is realistic to expect under conditions of persistent inequality. Though few are naïve concerning the redoubtable challenges we face in seeking to mitigate educational injustice—both inside and outside of schools—many liberal philosophers, researchers, and ordinary citizens exhibit a strange optimism⁹ concerning the ability of institutionalized education to compensate for these persistent inequalities. But Terry Eagleton has observed that optimists, ultimately

are conservatives because their faith in a benign future is rooted in their trust in the essential soundness of the present. Indeed, optimism is a typical component of ruling-class ideologies...Bleakness, by contrast, can be a radical posture. Only if you view your situation as critical do you recognize the need to transform it. Dissatisfaction can be a goad to reform. The sanguine, by contrast, are likely to come up with sheerly cosmetic solutions. True hope is needed most when the situation is at its starkest, a state of extremity that optimism is generally loath to acknowledge.¹⁰

Forsaking unwarranted optimism is not a counsel of despair; nor does it entail denying the many benefits that a school can provide; nor, finally, does it require that we ought to portray casualties of the school system solely in terms of victimhood, as though underprivileged persons possess no intelligence, agency, or responsibility to respond to the unjust circumstances in which they find themselves.¹¹ But it does mean that we ignore at our own peril what decades of educational research has had to say not

only about the (in)ability of our present school systems to deliver justice much of the time but indeed about the many harmful effects of institutional schooling simpliciter, most especially for the disadvantaged.

Now of course critique cannot be the whole story. Mills and Francis elsewhere remind us: ‘There remains a moral imperative for those of us committed to the pursuit of [justice] in education to offer potential alternatives as well as critique of existing models.’¹² Hence taking educational justice seriously does not permit cynical resignation to our present state of affairs. As a constellation of ideals about how things can improve—predicated on the substantive hope that improvement is possible—justice demands that we push beyond what we have accomplished, knowing that we never finally arrive. In other words, there are myriad ways to promote justice, as it were, with a small ‘j.’ As such, my plea would be that we be open to pragmatic alternatives when our preferred route has yielded modest results, only works some of the time, or isn’t a realistic possibility to begin with.

Being open to pragmatic alternatives is not defeatist. Defeatism would entail abandoning the pursuit of worthy ideals. And thus by recommending that we be open to pragmatic alternative paths to educational justice I am not advocating that we ought to dismantle state school systems or prefer privatization schemes. Indeed, as I aim to show, *some of these pragmatic alternatives can be pursued within the school systems we have*. But as I demonstrate in each of the subsequent chapters, the systems we have—be they in Delaware, Denmark, or the Dominican Republic—are far from the best we can do. And in a world of profound structural inequality, where school-focused proposals for ameliorating educational injustice too often succumb to a sincere, if misguided, appeal for remedies that effectively leave everything just as it is (a scenario all too familiar to experienced teachers in large school districts accustomed to the ephemeral educational policies introduced by each new superintendent), an openness to pragmatic alternatives means that we cannot rule anything out in advance. *Refusing to be open to pragmatic alternatives, I argue, makes us complicit with educational injustice*. Yet whether the available alternatives are in fact justice-enhancing will depend on more than the inadequacy of the local state-public school options; they also turn on the superior ability of an educational alternative to respond to the needs of the community or to the more specific needs of the individual learner.

Whatever strategy one prefers, the pursuit of educational justice is dependent upon many different actors: e.g., parents, social workers,

teachers, administrators, coaches, tutors, and policy-makers. Yet because both educational philosophers and empirical researchers produce most of what is written about educational justice, in this book I principally limit my attention to their work. Philosophers are adept at identifying and delineating what the relevant principles of justice are or ought to be. They further are adept at helping us to think through the kinds of inequalities that matter from a moral point of view. But so long as philosophers exhibit little interest in examining the empirical realities that persistently thwart our best attempts to imagine a more just state of affairs, philosophy's contribution to educational justice is, at best, slight.

For their part, empirical researchers are adept at documenting, describing, and measuring inequalities of various kinds. Further, using rigorous evidence they can highlight which interventions seem to be working. But so long as many of these studies lack the theoretical tools necessary to adequately explain or predict the reasons for various measured outcomes; so long as many of the most pressing issues pertaining to educational injustice—e.g., stigma and racism—are not even considered as relevant variables in education research; and moreover, so long as researchers exhibit an unwillingness to consider pragmatic alternatives for reducing intractable inequality, the contribution of empirical research to the pursuit of educational justice, too, is slight at best.

We need both a theoretically *and* empirically informed account of educational justice, one that both can take measure of what the issues are, as it were 'on the ground,' while at the same time not flinching from the conviction that we can do better. This book represents a modest attempt to do just that. But by arguing that we can do better, I will not be introducing a novel theory; nor will I be introducing new empirical data. We have enough of each. Instead, I endeavor only to apply the tools of critique and ethical analysis to the arguments and evidence that currently underwrite some of our most cherished beliefs vis-à-vis education.

Hence my aim is not to criticize schools per se, let alone those whose vocation is to work in schools. *Rather it is to examine the beliefs concerning what schools ought to be doing, or indeed what it is even possible for schools to do.* In that endeavor, I will be asking whether these beliefs are, in fact, justice-enhancing. If and when they are, I offer no rebuttal. But if and when they are not, I submit that the beliefs in question may be ill-conceived, or else that they incline us to ignore contradictory evidence, leaving us right where we started. Educational justice,

I will argue, always permits multiple strategies. Yet some of these may sit uncomfortably alongside our prior commitments, such as the widely held belief I examine in Chapter 7 that religious schools have no role to play in the quest for greater educational justice. Further, as I argued earlier, in the face of many unyielding obstacles, pragmatic alternatives may be a necessary plan of action in seeking to realize our best ideals.

As I proceed I chiefly fix my attention on *liberal* philosophical beliefs. I am aware that no broad consensus among philosophical liberals exists apart from items like the importance of moral individualism, the equality of persons, and the distinction between public and private spheres. Indeed, philosophical liberals routinely debate questions such as where the thresholds of equality should be drawn, how principles like respect ought to be balanced against freedom of expression or whether tolerance ought to be accorded greater weight than attempts to promote anti-discrimination. This dissensus makes it difficult to paint, in broad strokes, a portrait of ‘liberalism’—philosophical or otherwise. Accordingly, where appropriate, I single out particular authors, or else point to an established consensus, as it concerns positions defended by a variety of philosophical liberals.

However, I also use ‘liberal’ to capture those—in countries on *all* continents—whose political beliefs are, roughly speaking, ‘center left,’ and, hence where the topics of this book are concerned, where the individual self-identifying as liberal holds certain things to be true about education, or at least essential: for instance, the importance of state-funded public education, the role of the school in promoting citizenship, a learning environment that is diverse and inclusive, etc. And thus, unless specified, it is around a loose constellation of liberal beliefs and positions concerning education that I address my arguments.

The decision to direct much of my critique against liberal positions will puzzle, and perhaps irritate, some readers fatigued by the current political climate, one in which any criticism of liberalism—perhaps especially in Europe, given the current fragility of the EU—is viewed as a gift either to conservatives or rightwing populists. But I focus on well-established liberal views for the following three reasons. First, conservatives rarely foreground their favored positions in the educational domain in terms of *justice*. Liberals, on the other hand, typically champion justice as their core business. Second, and certainly in the academy—where most educational philosophy and empirical research is produced—liberal theories and ideals remain dominant.

Indeed irrespective of the views circulating on main street, liberal views in educational scholarship approximate what I earlier referred to as ‘accepted orthodoxies.’

These orthodoxies, which prevail in tertiary faculties of education (not exclusively but especially in North America), as well as in a great many educational theory and research journals, tend toward the opinion that liberal views are self-evident, if not unassailable. And this opinion has inclined apologists to deflect, dismiss, or completely ignore perspectives that deviate from liberal pieties. As I discuss in Chapter 3, these pieties include a belief in an unadulterated ‘public’; or, as I discuss in Chapter 4, the belief that one of the school’s core purposes is to promote ‘citizenship’; or as I discuss in Chapters 5 and 6, the belief that educational environments conducive to justice should be ‘diverse’ and ‘inclusive’ in all the ways that matter.

But there is another reason why I restrict my attention to liberal perspectives in education, and that is the curiously trusting view of the state that many liberals espouse. In contrast, the Old Left—the pre-1960s political left in the Western world—knew that for all the state could be *compelled* under pressure to do for the people, or the public interest, the state was not benign but rather instantiated a potentially oppressive concentration of power. As such, for various self-serving reasons elected officials—even if they are members of the Labor Party, the Greens, or the Socialists—seem quite prepared to collude with others in the political and corporate sector, with the (perhaps unintentional) result that the ‘public domain’ and even the ‘public interest’ is circumscribed by an increasingly shrinking number of voices.¹³

It has been my experience that except when it is conservatives or fascist despots irresponsibly wielding political power, liberals look askance at radical critiques of the state—including where these concern state systems of education—as obsolete for having relied upon what they view as an outmoded revisionist history. I do not share this view. Rather my own intuitions come much closer to those of Louis Althusser, whose comments below were penned a half century ago, yet are still relevant today:

one ideological State apparatus certainly has the dominant role, although hardly anyone lends an ear to its music: it is so silent! This is the school [...] the Church has been replaced today in its role as the dominant Ideological State Apparatus by the school.¹⁴

It is false reassurance to dismiss radical leftist critiques such as Althusser's as *passé*. If anything, the sentiment behind his remarks has gained momentum, even if it is not explicitly premised on Marxist axioms but rather has splintered into copious different literatures, including postcolonial, feminist, critical race, disability studies, etc. Either way, the point I am stressing here is this: there is more than ample ideological space *to the left* of mainstream liberalism to take up the cause of educational justice.

And it is not only these more 'radical' literatures that continue to document the various harms perpetuated by state systems of education. Indeed the sub-discipline of sociology of education has never deviated from documenting the structural inequalities of school administration, financing, pupil tracking, and various other mechanisms deployed by state education systems that maintain and perpetuate, rather than mitigate, educational injustice. Even John Dewey, certainly no radical, at times expressed suspicion concerning the state's role in education. 'Is it possible,' he queried, 'for an educational system to be conducted by a national state and yet the full social ends of the educative process not be restricted, constrained, and corrupted?'¹⁵ Dewey's rhetorical question invites precisely the kind of critique that any healthy democratic society needs, including the view that the school, in addition to being part of the solution to educational injustice, is also part of the problem.

OUTLINE OF THE BOOK

Every scholarly undertaking requires that one set parameters, and this book is no exception. In no way do the topics that I address exhaust all that there is to say about educational justice.¹⁶ Yet to the extent possible, I have tried to focus on topics within the educational domain that arguably have received less critical attention.

The book is roughly divided into three sections: (1) basic considerations for educational justice, (2) liberal educational commitments, and (3) educational ethics. To lay some of the foundations for the rest of the book, in the next chapter I canvas some of the basic features of justice, with especial attention to the equality principle, before turning to consider its relevance in the educational domain. I highlight, on the one hand, the importance of ideals, and the honest pursuit of those ideals. Yet on the other hand, I also argue that justice requires that we make a comparative empirical analysis concerning both the quality of schools that children attend, as well as the circumstances that profoundly

influence children's lives outside of school. In large part owing to the vast inequalities that obtain outside of the school, I demonstrate why there always will be irresolvable tensions inherent to the pursuit of educational justice, or justice *tout court*.

In the subsequent three chapters, I focus my attention on three prominent liberal beliefs. Each of these beliefs is interrelated rather than distinct and—as I further elucidate in the following chapter—perhaps best corresponds to this egalitarian idea: a democracy consists in relations of social equality, where citizens of different backgrounds (ought to) engage in free, cooperative interaction in a shared public space. In any case, I aim to show that while each liberal belief represents an attractive ideal, realizing these ideals remains improbable in most schools and school systems so long as we refuse to come to terms with their many internal contradictions. None of this means that the ideals themselves are unimportant or that we ought to cease caring about them. I want to be clear about that. At the same time, however, I argue that to conflate any one of them with educational justice is to substitute a false proxy.

Now because there may be some confusion about this choice of vocabulary, let me pause here to explain what I mean. A proxy is understood to be an approximation of something else. Proxies are commonly used in, say, physics, in order to reasonably conjecture about phenomena (e.g., the location of electrons) that we cannot (yet) directly observe; instead, we rely upon the 'behavior' of phenomena that we *can* observe—and even that only with the aid of a powerful microscope. But proxies become highly tenuous once we step into the social realm. To a coach looking for new recruits, being quick-footed may seem to be a proxy for athleticism, just as a sharp-witted individual to a comedy club manager may appear to be a proxy for a great humorist. But of course plenty of individuals who match either description are ill-suited to a career in sports or comedy.

Social scientists, too, use proxies all the time, typically as a way to measure something. Researchers may conjecture something about how 'religious' someone is by whether or not they hold an official church membership, or by counting how often they attend religious services. Or they may conjecture how 'politically involved' persons may be by asking folks how many times they have voted in elections or joined a community service project. But these proxies, too, are often false: they may tell us next to nothing about how religious or politically engaged someone is. More worryingly, we may even transpose

the proxy for the ideal itself, investing our time and resources improving (and defending) the proxy, rather than the goal that we're after.

And that, in short, is exactly what I will argue about the three liberal beliefs that I examine in Chapters 3–5. To be clear: nowhere in this book will I argue against the importance of state-public education, or the cultivation of citizenship, or the potential benefits of diversity in the educational domain. What I will contest, however, is that any of these is a reliable proxy for educational justice. Moreover, to the extent that these beliefs, for some, have hardened into dogmas, the prospects for educational justice remain circumscribed so long as we fail to differentiate the ideal from the real, and so long as doing that prevents us from disrupting the status quo.

And so, in Chapter 3 I examine the belief that *schools should be public*, in particular the belief that an education that satisfies the public condition is one best suited to deliver educational justice. I largely restrict my attention to the non-denominational state-public school, as it is perhaps best understood in the North American context. But in examining liberal defenses of the state-public school, I suggest that the standard arguments employed by mainstream liberal defenders are generally inadequate because they fail to provide a credible representation of their historical object, let alone effective remedies to our current problems. Indeed, many of these narratives, in my view, are grounded in fantasies about what state-public schools or teaching and learning, are or could be, as much as they are grounded in the historical realities of state-public schools or the realities of so-called privatization. I speculate whether the self-identification of the proponents of this cause as 'progressive' is not part of this ideological construction and if the underlying political agenda is not in fact more conservative.

In Chapter 4, I examine what for many readers will be the most deeply held belief of them all, viz., that *schools ought to foster citizenship*. It is a belief now sustained by decades of theoretical defense in the respective disciplines of political science, political philosophy, and philosophy of education. I scrutinize the liberal faith in the efficacy and morality of traditional citizenship education, and in particular the idea that citizenship education is likely to foster educational justice. In doing this, I discuss how citizenship education has been, and continues to be, practiced in most state schools and on youth. In challenging the liberal notion of citizenship education, I also challenge the liberal understandings of what it means to be a citizen, and how the social and political world of citizens is constituted. The first step will be to show that, historically, citizenship education has served mostly the unapologetic, and

often coercive, function of assimilating ‘non-standard’ children to the common culture, while confirming the values and lifeways of children whose cultural belonging is not in question. And understanding what schools are actually like is a necessary context for understanding normative theories in the liberal vein that seek to educate citizens and explain their relations to democracy.

In Chapter 5, I examine the belief that *schools must be diverse*. In particular I challenge the liberal notion that diversity serves as a good proxy for educational justice. First, I maintain that the story about how diversity might be accomplished and what it might do for students and society is internally inconsistent. Second, I argue that a disproportionate share of the benefits that might result from greater diversity often accrues to those already advantaged. Finally, I propose that many of the most promising and pragmatic remedies for deep structural injustice are often rejected by liberal proponents of ‘diversity first’ in favor of remedies that in most cases are practically impossible, and often problematic on their own terms. I argue that schools that are by geography and demography not ethnically or socioeconomically diverse still can successfully confront the obstacles that their students face in creating a life they have reason to value.

In the third section of the book, I continue with a critical examination of liberal beliefs but I pivot away from constructive critique toward an ethical analysis of specific issues, where the tensions can perhaps most vividly be seen. Each chapter is unique, both in terms of the subject matter, as well as with respect to how the relevant criteria I aim to apply. Accordingly, how I run out the ethical analysis in each chapter will be somewhat different in each case; the possibilities available to us may be more circumscribed by educational policies (as in Chapter 6), whereas others may allow more room for reasoned speculation (as in Chapter 8). The overriding goal in Chapters 6 and 7 will be to determine what the pursuit of educational justice under non-ideal circumstances might include, where both the evidence and arguments allow that alternate paths be taken. Conversely, in Chapter 8 I use constructed typologies to examine a more principled ethical dilemma, before turning to a hard empirical case. Though each case is ethically distinct and complex, what they share in common is a counterintuitive assessment whose implications are likely to be at odds with the conventional liberal wisdom.

I begin the ethical analysis in Chapter 6 by asking what educational justice might require for children with autism in schools where *inclusion* is normative. I argue that inclusion, in order to be meaningful, must do more than provide physical access; it must offer value to the person in question,

facilitate a sense of belonging, and be conducive to a child's overall well-being. I argue that when we attempt to answer this question we pay special attention to the specific dimensions of well-being conducive to the inclusion of autistic children, especially those concerning the risk of sensory overload and safety. I further argue, with respect to autism, that though they be fallible actors, parents in most cases are still better placed to know what is in their own child's interest, and that pragmatic alternatives must be available to procure educational justice for autistic children.

In Chapter 7, I consider another pragmatic alternative and ask whether (some) religious schools may have a role to play in the promotion of educational justice. In the philosophical literature, more often than not religious schools are viewed as corrosive to educational justice. While there are many complaints levied against religious schools, I principally concern myself with a charge most often brought against them, viz., that they are guilty of indoctrinatory harm. Without minimizing the harms of indoctrination, I nevertheless postulate that there are other harms for many individuals that are more severe *outside* the religious school. Accordingly, the full scope of harm should be taken into account when evaluating the indoctrinatory harm that some religious schools do. Once we do that, I suggest, justice not only may require that we choose the lesser harm but that we come to appreciate the justice-promoting role that many religious schools can play. To simplify matters, I focus my attention on the stigmatic harm done to Muslim children, and the role that Islamic schools might be expected to play in mitigating that harm.

In Chapter 8, I tackle a particularly contentious issue as it concerns educational justice: school selection. I ask whether it ever can be equitable for schools to select their own students. Educational justice ordinarily requires that children not have their educational experiences or opportunities determined by morally arbitrary features of their background. Indeed educational opportunities determined by unearned advantage or disadvantage offends against the equality principle, i.e., basic notions of fairness. But the question driving this ethical analysis is whether state-public schools are ever permitted to select their students, and if so, whether it is possible to structure selection procedures such that they aim to achieve equitable ends. I delineate, describe and defend what I believe the essential features of selection are, and also why we need to pay equal attention to both the outcomes as well as the processes leading to those outcomes. Provided the selection is motivated and guided by the right reasons, as well as appropriately monitored, I argue that selection can be equity promoting. I conclude by testing the theory with an empirical case.

Finally, in the short and concluding chapter, I return to my original plea, which is that we need to be more critical concerning certain beliefs we espouse that may prevent us from making more progress, without refusing to affirm the many ways in which schools can indeed be more justice-enhancing. I further emphasize the importance of opening ourselves to multiple paths to achieve greater educational justice, when and where the best empirical evidence consistently suggests that doing so is both reasonable and wise.

NOTES

1. Kuhn 1962.
2. I shall have much more to say about justice in the next chapter.
3. Francis & Mills 2012, p. 158.
4. The field of education is not unique but as we will see throughout the book, it is a field that is indubitably susceptible to research (questions/methods/results) being guided by the strong beliefs of the researchers. Concerning this tendency, educational philosophers Phillips & Burbules (2000, p. 3) enjoin their readers: ‘If researchers are to contribute to the improvement of education – to the improvement of educational policies and educational practices – they need to raise their sights a little higher than expressing their fervent beliefs or feelings of personal enlightenment, no matter how compelling these beliefs are felt to be.’
5. Bourdieu & Passeron 1977, p. 164.
6. See for example Darby & Rury 2018.
7. A related notion is called *belief polarization*, where the available evidence merely reinforces the prior beliefs of the individuals reviewing it.
8. But for a more detailed analysis of the subject, see Merry 2013.
9. Of course not every philosopher who writes on educational justice suffers from unwarranted optimism. Late in his philosophical career, Brian Barry (2005, p. 41) ruefully observed that ‘children start with, and grow up with, an enormous variety of different resources. On the basis of just a few facts about a child, such as its social class and its race or ethnicity, we can make a good prediction of where it will finish up in the distribution of earnings, the likelihood that it will spend time in jail, and many other outcomes, good and bad.’ And whether the focus is on education, or health, labor, media, or politics, Barry was more candid than most concerning the plethora of intractable problems likely to beset any theory of justice, including his own. Indeed the tone of his last major book, *Why Social Justice Matters* (2005), is the philosophical analogue to Beckett’s *Waiting for Godot*: justice never comes.

10. Eagleton 2015, pp. 4–5.
11. ‘One possible explanation,’ Bernard Boxill (2010, p. 8) writes, ‘of the apparently widespread tendency to ignore the responsibility of the oppressed to resist their oppression is the equally widespread tendency to profoundly underestimate the human resourcefulness of the oppressed.’
12. Francis & Mills 2012, p. 253.
13. Cf. Mills 1956.
14. Althusser 1971, pp. 260–261.
15. Dewey 1916, p. 97.
16. The panoply of topical candidates is broad but include—to name only a few—educational aims (White 2003; Whitehead 1967); teaching (Hostetler 2011; Strike & Soltis 2015); patriotism (Archard 1999; Merry 2019); child-rearing (Archard 2014; LaFollette 2010); moral education (Haydon 2006; Peters 1981); university admissions (Fullinwider & Lichtenberg 2004; Kotzee & Martin 2013); school choice (Clayton & Stevens 2004; Swift 2003); homeschooling (Dwyer & Peters 2019; Glanzer 2008); high stakes testing (Norris et al. 2004; Schrag 2004); grading and assessment (Close 2009; McCrickerd 2012); and curricular content (Pennock 2001; Hand 2008).

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CHAPTER 2

Justice and Education

In 2014 sixteen-year-old Nobel Peace Prize laureate Malala Yousafzai famously thundered before the UN: ‘One child, one teacher, one book, one pen can change the world!’ And around the world many share her belief that schools are the great hope of society and its future. For instance, David Baker, a self-described ‘neo-institutionalist,’ argues that formal education—together with large-scale capitalism and representative democracy—is ‘leading a social revolution.’ He reminds us that a more schooled society has a larger GDP, and that high levels of literacy in the industrialized world is a singular achievement of modern schooling. Further, the metacognitive and metapsychological effects, in terms of abstract thinking, improved decision-making, and problem-solving, are difficult to deny. Per pupil spending, test scores, and graduation rates, too, are all on the rise.¹

Baker further underscores the fact that the link between more schooling and population health is undeniably causal: more schooling translates into lower fertility rates, fewer deaths from infectious disease, and generally better health and longevity. The changes are more palpable in the developing world, much as they once were in what are now industrialized societies. UNESCO reports, for instance, annually celebrate the number of schools that have been established in the developing world, and the approximate number of students—many of them girls—who, though long systematically excluded, now attend school and increasingly complete more education than their male counterparts. Moreover, since the middle of the nineteenth century, the belief has spread around the

world that schools exist to ‘level the playing field’ of learning and opportunity for all children, but also that education is both an individual right *and* the responsibility of the state to guarantee that right.

Of course, even with widespread consensus on the importance of schooling, or the role of government in funding and managing education, much remains unsettled. For instance, ought school attendance to be compulsory? What should the principal aims of schooling be? How is the school supposed to be both ‘practical’ and ‘academic,’ and who ought to decide whether one receives one or the other? How ought the school to foster shared interests and commonality while also responding to the needs or interests of a particular community, not to mention the needs or interests of individual children? And finally, what is it reasonable to expect from teachers, administrators, individual schools, or indeed entire school systems? However one answers these questions, there is sure to be fairly broad agreement among policy-makers, researchers, employers, and ordinary citizens that the school exists to do more than introduce young people to the basics of literacy, numeracy, science, and math.

Indeed the inventory of what schools are called upon to provide has for decades steadily expanded, imposing logistical challenges on an already strained bureaucracy. Moreover, the growing list of things that schools are expected to do has ratcheted up the inherent tensions between parents and the state vis-à-vis questions of legitimate authority, in particular as these pertain to the content, scope, and duration of a child’s formal education. And not only has the disagreement about, and politicization of, what schools are for steadily increased; the questions that still circulate around these issues have been continuously debated, and philosophized about, for the past 200 years.

Even so, and notwithstanding profound disagreement about the putative purposes and priorities of state-managed school systems, there exists a strong consensus on all continents that schools are the ideal institutional setting for fostering a host of educational but also social and political, goods, even when these may be contentious, or all but impossible to realize. For example, liberal scholars resolutely maintain that the school must be *public*—free and accessible, and providing equitable treatment for all—even when the ‘public’ to which many children have access is nominal, if not simply overshadowed by private interests. Further, liberal scholars ardently believe the school to be the place par excellence where the virtues and dispositions necessary for democratic *citizenship*

are best fostered, even as teachers express ambivalence about their ability to cultivate these dispositions, and the school's own hierarchical norms chiefly encourage compliance. And in order for both the public and civic imperatives to come to fruition, one of the most recent, and insistent, liberal expectations in the twenty-first century is that schools ought to be *diverse*, even when in most cases the composition of neighborhoods, not to mention the expressive liberty of parents, make this requirement stubbornly elusive. Behind the foregoing liberal beliefs—and there are others—lies the deep-seated belief that state-public systems of education should promote *justice*.²

Now it would be difficult to deny that a 'schooled society' in many ways is superior to an unschooled one, for many of the same reasons proffered above. Even so, the evidence that I examine and discuss in this book suggests that state-managed school systems are not *for* justice at all, and arguably never have been.³ Indeed for all of the potential good that schools may do, there is abundant evidence to suggest that state-managed school systems are major contributors to educational *injustice*. On this point Becky Francis and Martin Mills do not mince words:

[...] in their reproduction of socio-economic inequality, schools are damaging – symbolically, but also more viscerally. They distribute (unequally) the credentials that facilitate access to material wealth, hence denying such access to some children. Moreover, the psychological implications for these children who are daily reminded of their 'failure' through the relentless ritualised distinctions of schooling further undermines their life-chances.⁴

Numerous volumes⁵ have been published over the past sixty-years corroborating Francis and Mills' observation, namely the school's harmful effects for millions of school children.⁶

This is not to say that millions of *other* school children do not thoroughly enjoy their school experience; or good things for individuals and for society at large do not come from getting an education; or even that school systems in various ways do not mitigate still worse forms of inequality. Nor, finally, is it to say that pupils are mere dupes who cannot resist the harms inflicted upon them. At the same time, however, it is possible to acknowledge these positive developments and still possess the candor necessary to observe that justice is not typically, or by design, one of the core aims of state-managed schooling. This is because many of the fundamental problems in our state-public educational systems derive

from the economic systems to which we have tacitly given our assent.⁷ Samuel Bowles observed this half a century ago:

The ideological defense of modern capitalist society rests heavily on the assertion that the equalizing effects of education can counter the disequalizing forces inherent in the free market system. That educational systems in capitalist societies have been highly unequal is generally admitted and widely condemned. Yet educational inequalities are taken as passing phenomena, holdovers from an earlier, less enlightened era, which are rapidly being eliminated. The record of educational history in the U.S. [and elsewhere], and scrutiny of the present state of our colleges and schools, lend little support to this comforting optimism.⁸

Researchers, policy-makers, teachers, and the general reading public too often have been loath to acknowledge, let alone attempt to resolve, the inherent contradictions in the educational aims that we want to realize.

Hence to be concerned about justice in schools requires that we pay at least as much attention to the less explicit, often insidious, institutional norms that at every turn threaten to *undercut* educational justice. For behind the curtains of idealization or political posturing, where the school continues to be imagined as some kind of ‘great equalizer,’ the forces of differentiation operate unimpeded: hidden curricula, sorting and selection mechanisms, variable teacher expectations and bias (where there is not already a chronic teacher shortage), and neoliberal modes of high stakes assessment and governance. Indeed, the contemporary empirical evidence continues to corroborate a scholarly observation made half a century ago: ‘Discrimination in education [is] precisely the anticipated consequence of the legislated structure of public education.’⁹ The result, as many before have both argued and demonstrated, is the reproduction of inequality, even as the goals of equality are loudly proclaimed.

Recognizing the reproductive function of schooling does not commit one to ‘structural functionalism,’ the idea being that schools are nefarious by design, or else the conviction that the influence of the school is overly determinative. Under this notion, children are mere pawns, lacking agency. I repudiate such a view. One can reject determinism and still discern the various ways in which the school’s institutional mechanisms too often serve to reproduce inequality, even when unintentional. Moreover, one can reject determinism and still appreciate the profound

influence of the larger economic and political context in which schools operate. And that context is one of massive inequality, i.e., one that militates *against* justice.

JUSTICE

But in what, exactly, does justice consist? Answering *that* question has occupied the minds of philosophers for centuries, whose tomes now fill many library shelves. Justice does not convey one idea but instead is susceptible to many interpretations and applications: liberal,¹⁰ Marxist, feminist, Catholic, anarchist, and libertarian are but a few of the ideological frames through which the tenets of justice are distilled. Yet opposing ideological orientations and conceptual ambiguities notwithstanding, most can agree that justice minimally requires freedom from arbitrary rule, domination, and deprivation; or that it requires an equal distribution and guarantee of basic rights. Most also can agree that a robust theory of justice requires enabling structural conditions on many fronts: e.g., in the domains of housing, transportation, the judiciary, health, and education. Yet beyond these basics there exists little consensus about its content and scope. Consequently we have many competing theories of justice, and multiple varieties of each theory. Over the past half century alone various liberal (and quasi-liberal) justice theories have been elucidated and defended, several of which pull in different directions.¹¹

Educational Justice

Attempts to apply specific theories of justice to the educational domain further complicate our task. Though education features prominently in the work of many philosophers—int. al. Aristotle, Locke, Rousseau, Kant, Mill, Dewey, and Whitehead—and both political theorists and political scientists routinely engage with the educational dimensions of justice, with the possible exception of Plato's *Republic*, as yet no comprehensive theory of educational justice has been worked out. Even in current liberal scholarship there is no consensus.¹²

One reason for this might be that educational research and policy has been motivated by *practical* concerns. Even when implicitly geared toward fostering more just outcomes, much of the time the focus remains squarely on finding 'solutions' that can be feasibly adopted and implemented. Or it may be that other fields, notably sociology, have

done some of this work already, in particular as it concerns the idea of equality.¹³ Further, interpreting ‘educational justice’ does not have any intuitively straightforward meaning and application; instead, in the educational domain, justice requires that we pay close attention to the needs of individuals in all of their variety. To illustrate: educational justice means that teaching and learning ought to be appropriate to the aptitude of children who learn fast but also those who learn slow. It requires that modifications be made, appropriate to the circumstances and needs of individuals, in order to compensate for disadvantage, disability and even cultural or linguistic difference.

Another reason we may lack a worked out theory of educational justice is that the institutional setting for educational systems and policy varies widely from one context to another, not only between, but also within countries. And it is worth asking whether questions of *educational* justice are self-contained, i.e., whether education occupies a sphere¹⁴ unto itself, or whether it is only possible to know whether an educational system is just once we consider its role within the basic structure of the society as a whole. In other words, even when motivated by justice concerns, the broader institutional context will impose constraints on what it is possible, or desirable, to pursue vis-à-vis education. And with respect to permissible inequalities, one school district may opt to invest more in extracurricular activities, another in extra staff or technology, and yet another in special education programming. In a world of scarce resources and widely divergent moral and political commitments, rarely is uniformity—even in small countries—desirable, not to mention feasible.

Additionally, educational justice further requires that rights and opportunities 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. And, of course, educational justice requires that persons receive what they deserve. But justice must also require that more advantaged children not be neglected but that they, too, receive an appropriately challenging education. And educational justice requires that we not only think in terms of individual needs but also the broader, societal objectives—and both the institutional norms and political will required to reach those objectives—of the school system. For instance, educational justice might require that we pay attention to the explicit aims of liberal learning, the meanings and purposes of a public institution, the importance and uses of inclusion, the aims and purposes of citizenship, and the readiness for labor market participation.

Irrespective of how one prioritizes these aims, at the root of all justice theories lie basic moral intuitions about *fairness*.¹⁵ In very broad terms, fairness denotes impartiality, where the rules and conditions of engagement are transparent, where persons receive what they deserve, and where no one individual or set of individuals is given preferential treatment. However, as I demonstrate later in this chapter with respect to the partiality parents express toward their own children, fairness does not preclude such preferential treatment. Moreover, apart from identifying some basic principles requiring serious consideration, most of the time we will only be able to assess whether a situation is fair by examining specific cases. I will consider a number of relevant cases throughout the book. In any case, where the basic principles in political philosophy are concerned, fairness is understood to be derivative of the principle of *equality*.

Equality

The basic point of equality as a normative principle is not that everyone has similar things or achieves similar outcomes; that would be undesirable both for the ways in which it would constrain individual liberty but also other social goods. Just as individuals may be capable of, or aspire to, different things, so too will society benefit not from everyone being exactly alike but rather from a diverse array of perspectives, talents, and skills. Fundamentally, then, taking equality seriously means that one's moral status and standing in relation to others ought not be determined by genetic inheritance, family wealth, place of birth, or biological sex. It further requires that some mechanisms are in place to ensure that persons are not discriminated against for any of these reasons.

Where education is specifically concerned, the equality principle also requires that children not have their educational experiences determined by their postcode, ethnic status, first language, or parents' educational background. It also means that children should not have to attend schools where the institutional mechanisms label, sort, and discipline young people in discriminatory ways or where differential treatment is based on morally arbitrary characteristics rather than need. While differences in natural talent¹⁶ might justify different levels of educational challenge, and even the rewards that accrue to those who exercise their talents,¹⁷ as a general rule educational opportunities ought not to be arranged in ways that offend against basic notions of fairness.

But the equality principle also requires that basic notions of fairness are also used to inform how the institutions of a society can be arranged

to guarantee and fairly distribute rights, resources, and opportunities. That is, equality requires that state-public institutions be designed so as to promote equitable ends for all concerned to the extent possible. In other words, equality should inform how we promote a set of institutional arrangements capable of yielding greater fairness than our current reality. In this endeavor, a major challenge remains how to strike the proper balance between the interests of individuals to pursue those things they have reason to value, without compromising the needs and interests of others, which also require protection.¹⁸

Consider how the principle of equality might bear upon questions of educational justice. Much of the current philosophical debate—largely dominated by those self-identifying as liberal egalitarian—is about *which kinds* of inequality matter, as well as *how much* inequality above an acceptable threshold ought to be permitted. This is because while justice can be understood in some absolute sense—it is better in most cases to be literate than illiterate given both the intrinsic and instrumental benefits—justice also has an important positional dimension, viz., how well someone is doing relative to others. Thus when the State deems education a collective responsibility and provides schools for its citizens, the outcome is more just than if it did nothing at all, or only provided schools for some and not others. A failure to provide ‘equal access’ to an education would violate the egalitarian presumption of moral equality between persons, and the corresponding entitlement that persons have to stand in relations of equality with fellow citizens.¹⁹ But justice also requires that we make a comparative *empirical* analysis²⁰ concerning both the quality of schools that children attend, as well as the circumstances that profoundly influence children’s lives outside of school.

In recent years two perspectives²¹ on equality of opportunity have come to dominate much of the discussion in political philosophy. Both sides invoke Rawls.²² On the one side stand so-called ‘adequacy egalitarians,’²³ who apply the equality principle not by concerning themselves with inequality gaps—between rich and poor, say—but rather by determining what the minimal threshold adequate for a decent life ought to be. Certain deficits, such as malnourishment, are inherently bad irrespective of whether others suffer from the same deficit; adequate nourishment, then, is a non-fungible good. With respect to education, adequacy-focused egalitarians argue that the threshold must be adequate not only to enter the labor market and become economically self-reliant but also to participate in democratic politics as an equal member of society.

Satisfying the level of adequacy for everyone up to the threshold is what matters and no one should be permitted to fall below that threshold. In other words, inequality is permitted above, but not below, the threshold; accordingly, important restrictions are imposed on the *kinds*, but also on the *degree*, of inequality permitted. On this reading of equality, determining precisely how and which resources should be redistributed above the threshold can only be determined by democratic deliberation within a particular context. For example, equality may require that more public funding and resources be allocated for special education for the severely disabled but this is not a foregone conclusion; indeed, the same (democratic) deliberation could yield a consensus that extra resources be spent on programs for the gifted.²⁴ The point is that above the threshold adequacy proponents allow for discretion in responding to the exigencies of context, as well as variable human circumstances and need.

From the other side of this debate stand those²⁵ who object to the concern with ‘adequacy’ on the grounds that it allows for too much inequality above the threshold. On this more priority-based reading of equality, priority should be given to the least advantaged, full stop. Thus in the educational domain it ought to be the poor, disabled and marginalized who are given priority in the distribution of scarce goods and opportunities. If more scarce resources are devoted to the disadvantaged than the majority or the most talented, egalitarians of this ilk insist that some priorities—alleviating disadvantage—simply trump adequacy standards. If this means that the disadvantaged receive more scarce resources than others, then so be it. In other words, unfair inequalities may be permitted *only* when there are other reasons for allowing and even promoting them, for example, so that important benefits redound to the less advantaged.

Irrespective of which of these liberal interpretations of equality one prefers,²⁶ both are amenable to robust egalitarian interpretation and application. Similar outcomes—both of which incidentally also permit considerable *inequality*—can be reached by adopting either interpretation. As with most ethical dilemmas, much will depend on the way in which the different principles are understood and applied, the variables in each case, the abundance or scarcity of resources, and the possible outcomes specific policy decisions may have. For instance, both will need to decide where the baseline for equality must be set, and moreover what it must be set *for*. Should the minimum threshold of equality require

that material resources be equally distributed? Which content should be required to satisfy a minimum threshold? How might the preferences of individuals (e.g., teachers, children, parents) factor into these decisions? Even if we succeed in answering these rather difficult questions, we still must address the matter of how much inequality above the threshold should be permitted.

However the principle of equality is stated, there are several formidable difficulties. Surely one difficulty is that even a ringing endorsement of the principle from all sides of the debate will not settle the matter concerning the need to interpret and apply the relevant terms in ways satisfactory to all parties. A second difficulty is that equality of opportunity, as expressed either by the sufficiency or priority notion of equality, is almost always understood in relation to the state-public institutions—the ‘basic structure’²⁷ in the lexicon of Rawls—of nation-states. It therefore tends to ignore inequalities on a *global* scale, a non-trivial feature with profound implications for education but also for health, employment, citizenship, due process, and much else besides. While cosmopolitan justice theory has endeavored to extend the equality principle to global concerns (e.g., on matters of trade, immigration, debt relief, climate change, etc.), it is difficult to see how equal opportunities on *this* scale are even remotely realizable in the world we now inhabit. Indeed, it remains exceedingly difficult to achieve this even at the *state* level, even in the smallest and most homogenous societies.²⁸

A third difficulty is this: there inevitably will be trade-offs between equality and other principles, and more often than not these trade-offs cut against equality.²⁹ Because there are equally strong reasons to care about other values and principles (e.g., liberty, excellence, privacy, cultural membership, etc.), individuals will inevitably rank their priorities differently. Some situations may call for *principled* trade-offs, as so often happens in school choice decisions, for instance, where liberty more often than not is the defeater; others situations may call for *practical* trade-offs, for instance when equity-promoting alternatives to the current institutional arrangements—some of which I explore in Chapters 6–8—can, and ought to be, pursued. To illustrate these tensions, let us look at a principled trade-off more closely, one that bears directly on questions concerning educational justice.

Parental Partiality

Plato's radical proposal that we abolish the family as a basic condition of a just society will strike most of us as beyond the pale; equally unpalatable is the idea that we ought to 'level down' the benefits of intimacy, i.e., deny some children love as a way of redressing the imbalance. Putting aside the logistical improbabilities, even at the level of argument both proposals intuitively seem to entail larger offenses against justice. And thus stated as a principle, parental partiality (PP) expresses the value of the family, and in particular is meant to capture the special reasons why parents are morally justified in lavishing time, attention, and love on their own children.³⁰ With few exceptions parents are better placed than most to know, understand and attend to their own children's basic needs, and, when paired with unconditional love, this undoubtedly is in the child's interest.

Now if all parents were more or less equally positioned (in terms of geography and social networks), well equipped (in terms of intelligence, education, resources, and time) and disposed (in terms of temperament and emotional and physical resilience) to care for their children, there might also be a sense in which we could speak of PP promoting equality. But we all know that the reality is different, and the child who is loved enjoys an important advantage over children who are not loved very well or even not loved at all.³¹ Hence as with other kinds of goods, the unequal distribution of love and attention, too, is a matter relevant to educational justice. And it is not only children who benefit from the intimate relations of a family. In addition to the duties of partiality that parents have toward their own children, parents, too, have an important interest in loving, and being loved, by their own children. Indeed, in most cases PP not only contributes to a child's well-being; it also contributes to the well-being of the parents, even when caring for one's child involves incredible stress and sacrifice, both in terms of one's personal liberty and financial resources.

Of course, just because parents have these complementary duties and interests vis-à-vis their own children does not mean that they are permitted to do whatever they want. Parents who fail—whether through incompetence, abuse or neglect—in their duties to raise their children to a minimally acceptable level may be expected to forfeit this prerogative; indeed in many societies the state may take children away from their parents because, to borrow the provocative phrase from Mill, the parents

arguably commit a ‘moral crime.’ Moreover, not all expressions of PP are conducive to a child’s ability to flourish. But as a general rule, and also as a matter of justice, parents *are* permitted—indeed encouraged—to do more for their children than they do for others. Indeed, some³² argue that the value of the family constrains the demands of educational equality, in much the same way that Rawls prioritizes the Liberty principle over the principle of fair equality of opportunity.³³

Yet surely one obvious difficulty here is that the unequal benefits of love and affection are borne out of intimate relations and these cannot—indeed *should not*—be ‘distributed’ in the same way that other kinds of resources can without transgressing the value of the family, and in particular without violating important moral obligations one has to one’s own child. So there is a hard tension here, one that demands some kind of trade-off. Of course trade-offs need not be a zero-sum game; principles can complement and reinforce one another. For example, whereas liberty and equality are frequently in tension, this need not always be the case: equality also entails securing equal liberty for all. And though, or perhaps because, things are very different in the real world, taking equality seriously means, to take but one example, that wealthy citizens should not enjoy greater influence than poor citizens in the exercise of their political liberty.

Similarly, equality-valuing parents who can offer reasons for favoring PP over equality measures that would diminish that value may still insist that something, rather than nothing, be done about the unfair inequalities affecting the lives of other families, especially when certain kinds of inequality can be shown to fundamentally compromise a person’s well-being. Access to affordable healthcare, housing, nutritious food, and other social services, contribute in significant ways to ‘equality of condition.’³⁴ Indeed families ought not to be deprived of a warm place to sleep, a safe neighborhood, dietary information, reading glasses, or good schools just because they are poor. When these kinds of goods are more equally distributed, then we can speak of more, rather than less, justice. Moreover, provided these goods are distributed in the right spirit—for example, by treating others with dignity, or not contributing to a social stigma by singling out members of a particular group—the outcomes are more likely to be justice-enhancing.

Now if greater equality of condition obtains, as it arguably does in some countries, some liberal philosophers believe that parents can pursue PP with a clean conscience, so long as doing so is not motivated by

competitive advantage.³⁵ But I think there are reasons to be deeply skeptical of this view, i.e., whether we can rest assured that inequality mitigating initiatives—including those that target young children—will advance justice in a substantive way.³⁶ For now, however, the point is that the principle of equality can motivate us to challenge unfair advantages and to think hard about how to improve upon the existing situation. But of course if we are to be serious about our egalitarian principles, then we also will want to make a candid assessment about (a) whether our preferred values or principles are in fact self-serving, and (b) whether our beliefs about how best to mitigate equality can be supported, consistently and reliably, by empirical evidence.

TAKING STOCK

As the foregoing discussion suggests, a number of theoretical difficulties already attend simply interpreting and prioritizing equality in the pursuit of justice. Yet matters become immensely more complicated once we begin applying these theoretical understandings to the real world. This does not mean that educational justice is a fool's errand, or that strategies to mitigate inequality ought to be abandoned; it does, however, mean that the challenges are ethically complex, particularly, as we have seen, when the principle of equality is amenable to different understandings and applications.

Hence rather than using equality as a shibboleth for meting out justice, we will need to be alert, first, to the tensions that inevitably arise when other valid principles work at cross purposes; and second, we need to be alert to the particulars of individual cases, where it is important that we consider all of the relevant variables—including possible risks and benefits. From either side of this debate there doubtless will be different intuitions about *what* it is possible to equalize, *which* thresholds matter, *where* the lines should be drawn, and, given the inevitability of hard tensions, about *whether* and *when* it is morally permissible—versus morally complacent—to make the trade-off.

But a few things hopefully have become clear by now. First, even when there is widespread agreement about the importance of educational justice, there is no consensus concerning its 'correct' meaning, application or demands. Relatedly, even when various educational strategies are non-objectionable in terms of their aims, the evidence often does not support what its advocates would have us believe. Second, however

it is that we wish to parse educational justice, including whichever trade-offs we believe it justifiably necessary to make, there will be no easy ‘solutions,’ and options, alternatives and success rates for various experiments will vary considerably from one context to another. Third, most theoretical but also policy-related responses to injustice tend to focus on the formal institutions—daycare centers, hospitals, schools—when in fact arguably the inequalities that matter most occur in the private domain. Finally, where it is possible to pursue educational justice, i.e., to improve upon the current situation, there almost certainly will be *multiple paths* necessary for getting us there. Deciding what they are, or could be, or who they are for, will depend on many different things, not least of which are the constitutional liberties and the institutional mechanisms that render educational alternatives viable in the first place.

Further, as we have seen, one formidable obstacle to educational justice warrants special emphasis. This is the possibly insurmountable challenge occasioned by the importance a majority of us ascribe to family life, in particular the special prerogatives parents enjoy to shape and direct aspects of their children’s upbringing. These same prerogatives can, and are, used to make decisions about what is in a particular child’s interest, even if we also know that there always will be disagreements—even between parents—concerning what those particular interests are, and moreover even when we know, in a world of scarce resources, that securing one child’s interest may unwittingly harm other children.

These are inescapably hard ethical tensions because persons committed to egalitarian principles can—on the most charitable reading—invoke another principle that allows one to say that justice is ‘unreasonably demanding’ when it infringes on other things one has reason to value. PP is quintessentially that principle, and, as we have seen, more often than not its exercise cuts against the principle of equality. Certainly, the duties that parents have to their own children constitute an important element of justice. At the same time, it is precisely these prerogatives where the real obstacles to justice lay, with respect to educational opportunity, or opportunity *tout court*. And thus perhaps the most disturbing outcome as it concerns educational justice is that we can happily endorse egalitarian policies while giving up nothing of real value where equality appears to matter the most.

Now it stands to reason that if the most significant inequalities occur in the home that states ought to step up efforts to ‘equalize’ family life. Yet for all the good state mediations may do, targeted early childhood

interventions that aim to mitigate inequality—e.g., postnatal home visits, parenting classes, or mandated preschool attendance—often proceed from a deficit perspective concerning those ‘in need of help.’³⁷ These well-intentioned programs also frequently target poor and minority neighborhoods, and thus are predicated on middle-class notions of ‘good parenting.’ Additionally, many of these programs are experienced as needlessly intrusive in the private affairs of family life. Hence to avoid the moral difficulties of state meddling in the private domain, most egalitarian liberals have fixed their attention on ways to reduce inequality that involve tinkering with the school system such as it is.

EDUCATIONAL POLICIES FOR JUSTICE

To illustrate some of these tensions, below I briefly consider three popular educational strategies. The first two strategies target inequality inside the school, while the third strategy targets inequality outside the school. Each aims to promote educational justice and each also enjoys very strong support among liberal educational reformers. The first policy initiative specifically addresses the general failure to leverage increased resources to the benefit of the most disadvantaged. The point of each of these illustrations is *not* to suggest that we ought to abandon attempts to make them work. To the contrary, I would insist that each represents progressive idealism at its best.

Weighted Pupil Funding

As a redistributive measure, weighted pupil funding (WPF) roughly requires increased per pupil spending for children with greater educational needs, such as those with disabilities or whose parents earn below the official poverty line. The aim of WPF is both to compensate for disadvantage and improve educational opportunity.³⁸ As an egalitarian measure, WPF can make an important difference: it can prevent schools saddled with more acute disadvantage from slipping further behind. Egalitarians strongly support WPF, believing that it is an effective way to mitigate the effects of poverty. But how well does WPF do in mitigating inequality? Below are some reasons to guard against unwarranted optimism.

First, though it can mitigate some of the effects of disadvantage, WPF tells us very little about how the additional resources contribute to a child’s learning. This is because school boards allocate WPF in various

discretionary ways, and it remains difficult to determine whether the relevant services will reach the right students. Second, WPF does nothing to prevent schools having poverty concentrations in the first place. That is, WPF does not address *neighborhood effects*, nor does it address the fact that poor neighborhoods, and the families who live there, are disadvantaged in a variety of other respects. Third, and relatedly, WPF does nothing to subtract from what more privileged families are able to enjoy by simply avoiding high poverty schools and neighborhoods in the first place. Thus to support WPF *and* PP in equal measure is effectively to leave the most relevant kinds of inequality undisturbed, i.e., those that occur outside the school generally, and within the sphere of intimacy more specifically. While WPF certainly can help to alleviate the effects of poverty and disadvantage, as a policy instrument its effects in compensating for social disadvantage are ambiguous at best. These observations are not meant as an argument against WPF; rather, they serve to underscore the importance of coupling this strategy with other, much broader, justice-promoting interventions. What remains improbable, however, is whether the most relevant equality-promoting resources—ones normally associated both with family life and what John Ogbu³⁹ called ‘community forces’—can be redistributed in the first place.

As a general rule, redistributive accounts of equality are predicated on beliefs about how justice will be accomplished once spending amounts are equitable. There is no question that justice requires that spending amounts—and the distribution of material resources generally—ought to be fair, i.e., proportionate to need. Yet the difficulties with redistributive accounts involve determining (a) which resources matter and (b) whether any amount of resources available in the school can meaningfully compensate for a host of noninstitutional resources generally unavailable to poor children. These include, but are not limited to: college and career advice, homework assistance, museum visits, summer camps, cross-cultural exchanges, etc., all of which are common middle- and upper-class parenting behaviors. The upshot is that one can wholeheartedly endorse full equity with respect to resource distribution—including, in the educational domain, the use of WPF—while simultaneously invoking all of the non-distributive benefits of PP insofar as this entails the transference of social capital.

Integration

Yet another strategy aimed at educational justice is school integration. Equality-motivated integrationist arguments typically maintain that schools integrated by race/ethnicity and especially social class will improve the *peer effects*, which means that children can learn at least as much from each other as they do from their teachers. Further, integration arguments are predicated on the belief that the presence of more middle-class children in the school translates into greater overall *parental involvement*, and these benefits will redound to families with less social capital. A related belief is that schools with more middle-class children will assist in *retaining teachers*, which contributes to the stability of the school. Again, these beliefs are widely endorsed among egalitarian liberals.⁴⁰ Even so, there are many difficulties with the integration-for-equality account.

Surely one problem is to conflate *desegregation* or *spatial mixing* with the more demanding conditions of true integration, which presumably would ensure real equality of opportunity.⁴¹ Yet for equality of opportunity to get any traction at all, there first would need to be equality of recognition, status, and treatment. Equality of treatment here would not entail sameness, but, rather like the egalitarian logic driving WPF, it would be proportionate to need. But the integration-for-equality beliefs that maintain that mixed schools will—or are even likely—to produce outcomes of equality is difficult to reconcile with virtually everything empirical research has reported about mixed schools for the past half century. Indeed, it has become a platitude to observe that school systems—such as they currently are—largely serve to *reproduce inequality*, and the more mixed the school is (by social class, but also by ability, ethnicity/race and even culture/religion), the more stratified the educational experience in that school we should expect.

Now while there is evidence that schools with more middle-class children succeed in retaining their staff at higher rates than high poverty schools, there is little evidence to support the claim that (a) the best teachers are assigned to teach the pupils with the greatest need, or (b) that either peer groups or classrooms—beyond the age of eight or nine—are very heterogeneous with respect to social class background or ability, *no matter how mixed a particular school might be*. Indeed, most schools, including most magnet schools that were designed to mitigate segregation, continue to be organized in ways that benefit the more privileged

students, and in several European countries children are selected as young as 10 or 12—largely along social class lines—to follow different tracks of secondary education. Further, as we saw in the previous chapter with WPF, school integration accounts also largely ignore the enormous gap separating what children do with their (preferred) peers and families *outside of school*.⁴²

With respect to the idea that the involvement of more middle-class parents will somehow benefit less fortunate children in the school, this is an egalitarian belief devoid of any corroborating evidence. It is true that schools with a higher concentration of well-educated parents often bring more resources with them. But parents with more social capital principally concern themselves with navigating the system in order to benefit their own child, for instance by pressuring school officials to create a gifted/talented track, challenging staff decisions regarding class assignment, or to simply switch schools when things do not go their way. Again, these observations are not meant as an argument against school integration *per se*; in rare instances an integrated school can live up to egalitarian ideals. At the same time, egalitarian arguments for integration too often fail to come to terms with the fact that a mixed school is almost never ‘integrated,’⁴³ and as such, is not a proxy for educational justice.

Early Childhood Education

Now if the most significant challenges to justice occur in the home, then it stands to reason that we ought to think about ways that we might address this. Early Childhood Education (ECE) represents such an initiative. As with WPF, the aim of ECE is to compensate for disadvantage, where children are believed not to receive sufficient education-related stimulation in the home. Additionally, many urban poor children are faced with environmental hazards, including exposure to lead, malnourishment, and gang and domestic violence. What sociologist James Coleman⁴⁴ and others long ago recognized is that these features of a child’s life are both consequential and enduring, and hence that the ‘achievement gap’ is established long before children arrive at the school doors, irrespective of which school they attend.

Though differences vary considerably from country to country, and even district to district, ECE programs generally target preschool age children and their primary aim is to compensate for these developmental

gaps through an assortment of interventions and services in a variety of settings: daycare centers, preschools, and even in the home. Coinciding with experiments in desegregation, a variety of well-funded and carefully coordinated studies emerged in the United States in the early 1970s that seemed to herald their success. With time, measurable gains were reported in multiple studies so long as there was staff continuity, a manageable cohort size, and continual encouragement and debriefing opportunities facilitated by trained coordinators. Consequently, other countries began an attempt to replicate this alleged success.

The Netherlands, for instance, has invested more than 4 *billion* euros in ECE since 2002, targeting children roughly from the ages of two-and-a-half to seven from disadvantaged backgrounds. The emphasis in the interventions has been on both cognitive as well as social, behavioral and emotional elements of a child's development. As elsewhere, the aim has been to prevent children from beginning their formal schooling without significant educational delays. But as two careful research studies have recently shown, while some programs that combined both a center-based and home-based approach were more successful, the more general results are profoundly disappointing.⁴⁵ These studies indicate that the programs until now have demonstrated negligible added value to the development of young children over and above the regular preschool groups. Among other explanations, researchers have conjectured that (1) more attention was paid to structural characteristics of the programs than to the process quality; (2) more attention was paid to methods used than to professional development of the staff; and finally that (3) more attention was paid to developing a child's language skills to the detriment of other developmental domains, including numeracy skills and socio-emotional development. Additional obstacles cited included wide variability in defining and serving target groups; doubts about staff quality; and the sheer variety of unproven programs.

Regardless of the national or local context, ECE is very expensive to staff, resource and operate. Additionally, they also are difficult to sustain when programs are chronically underfunded, when urban poverty correlates strongly with high mobility, and when staff turnover in these programs is a routine occurrence. Moreover, targeting the instrumental barriers to academic achievement does not ensure that teachers and staff will not bring their implicit (and explicit) biases with them, most notably

the assumption that poor children possess an ‘word gap’ that justifies denying them dynamic and agentic learning experiences.⁴⁶

Now to be fair, very few educational researchers believe that these policies aimed at reducing educational inequality will serve up full-orbed ‘solutions.’ When pressed, they generally acknowledge that these strategies at best can help us mitigate the most egregious kinds of inequality. Moreover, both empirical researchers and educational philosophers are of course very much aware of the deep injustices in our school systems on the one hand, and the general failure of even our best policies to achieve something that approximates our best educational ideals on the other. Empirical researchers painstakingly describe these problems year in and year out; meanwhile, philosophers, for their part, theorize about how these challenges might be overcome. Yet both camps remain committed to the view that schools, properly funded, staffed, designed, and directed, can make an important contribution to educational justice.

I share the commitment to proper school organization, funding, and staffing, and also support well-thought out efforts to reduce inequality via policies like WPF. Yet what these, and many other examples to follow in subsequent chapters, should make clear is that good intentions and plenty of fiscal resources can work hand-in-hand with a great deal of educational injustice. Many will insist that the answer is to simply persevere, redoubling our efforts as it were. But as I aim to show, justice also does not require that we bang our heads against the wall, or simply out of habit pursue the same strategies in every case simply because we want to believe things were otherwise. Instead, justice must consist in pursuing multiple strategies.

CAVEATS

Given the considerable variability in higher education in terms of private versus public status, endowment size, ranking, and curricular orientation, I largely will restrict my analysis to the business of primary and secondary *schools* and *school systems*. My reasons for doing this are threefold. First, in industrialized societies it has been, and will continue to be the case, that the vast majority of children between the ages of four and seventeen will attend school for at least a decade of their lives, if not many more. More often than not, the state also *compels* school attendance. Second, the vast majority of theoretical and empirical studies on educational justice, irrespective of whether notions of justice are made explicit, focus on what

occurs in primary and secondary education. And third, both primary and secondary schools can indelibly impact the lives of young people—whether for good or for bad—in ways that few institutions can.

As I proceed I aim to pay at least as much attention to the empirical research as I do to the theoretical arguments needed to make sense of what the empirical research is saying, or refuses to say. In the preface to her classic ethnographic study on school desegregation, sociologist Mary Metz wrote, ‘we need to know what [schools] do, why they do it, and with what consequences, before we prescribe what they should do differently.’⁴⁷ Much of the analysis and argument I present in this book is motivated by precisely this kind of intellectual honesty. To that end, I aim to provide *a synthetic approach to educational justice*, one that avoids the pitfalls of escaping into idealized abstractions that bear little relation to the various and sundry obstacles we face, but also the realistic opportunities we ought to consider.

Further, while it is customary for political philosophers to do so, with the possible exception of Chapter 4, where I examine liberal conceptions of citizenship, I will not rehearse the details of any liberal or non-liberal theory of justice.⁴⁸ The conscious decision to not lean on, or mechanically apply, the particulars of any one philosophical theory will perhaps frustrate some readers. But I intentionally refrain from deploying a specific theoretical framework of educational justice for the following reasons.

First, as we have already seen, each theory of justice is contested in terms of its requisite features, its scope, and its degree of ‘demandingness.’ As long as ideal theories of justice are fraught with serious problems (e.g., complex equalities⁴⁹), and seem to produce more disagreement than minimal agreement among philosophers, I submit that it is better that we work to mitigate serious forms of *injustice*, such as exploitation, oppression, and discriminatory exclusion.⁵⁰ Second, I aim to avoid the problem of an historical, and often jargon-laden, abstraction, a problem endemic to much political theory, and philosophy,⁵¹ and, as Charles Mills avers, which too often abstracts away from realities ‘crucial to our comprehension of the actual workings of injustice in human interactions and social institutions, and thereby [guarantees] that the ideal-as-idealized-model will never be achieved.’⁵²

None of this is to deny the valuable uses of ideal theorizing. For instance, as I have tried to show earlier in this chapter, abstracting away from the messy realities of life as we know it can help us to get clear about the principles that we have reason to care about, and further assist

us in defining and ranking them in terms of importance. Moreover, one of philosophy's great contributions is to imagine and defend ideals toward which we ought to strive, looking for ways to instantiate principles of justice in our nonideal practices. By the same token, theories of justice that ignore or sidestep empirical reality not only fail to provide us with useful normative guidance; too often they also will have us chasing at windmills. Normative proposals for specific reforms can be defended only in the light of a knowledge of what is feasible, of how different institutions interact, and the risks attached to different reforms, each of which involves detailed empirical knowledge.⁵³ John Dewey expresses this sentiment well:

We cannot set up, out of our heads, something we regard as an ideal society. We must base our conception upon societies which actually exist, in order to have any assurance that our ideal is a practicable one [...] The problem is to extract the desirable traits of forms of community life which actually exist, and employ them to criticize undesirable features and suggest improvement.⁵⁴

This is not to say that empirical realities ought to constrain what it is possible to imagine; that would be to commit the most basic of philosophical errors, viz., to confuse the 'is' with the 'ought.' But throughout the book, my arguments will be predicated on the understanding that educational justice can only be understood and pursued when we carefully and honestly examine the social-historical context and therefore when we combine fundamental principles with a rich understanding of empirical reality. And *empirical reality, importantly, is much bigger than any one country, state, region, province, or local school district*. I therefore ask of my readers that they bear this in mind when I may fail to zoom in on the policy context of their individual interest or expertise.

For the purposes of the ethical analyses I examine in the second half of the book, I believe it will suffice to enlist the equality principle, where equality is meant to signal both what is *fair* and, to use Amartya Sen's phrase, what is *justice-enhancing*. As a normative principle equality can help us do three things: first, it can help us to identify the inequalities that matter from a moral point of view. Second, it can help us to figure out how we might design or reform our social institutions so as to reduce, and in some cases perhaps even eliminate, unfair inequality. Third, it can help us to navigate hard decisions concerning the

distribution of (often scarce) resources and opportunities. In some cases, doing that which is fair or justice-enhancing will be intuitively straightforward; in other matters, such as the case I examine in Chapter 7, educational justice may require trade-offs; in still other cases deciding what educational justice requires may remain unsettled. The paramount goal will be to apply the equality principle to difficult ethical questions, where the task is to ascertain what educational justice requires, which is to say, both what is fair, as well as what it is most reasonable to expect in light of the highly inequitable circumstances in which both formal and informal education takes place.

I have devoted a great deal of attention in this chapter to many of the theoretical concerns political theorists and philosophers have regarding justice broadly construed. However, in Chapters 3–5 I will offer a more empirically informed examination of three prominent—and inter-related—liberal commitments as many believe these putatively relate to educational justice.⁵⁵ And thus in addition to the more general claim that schools ought to promote justice, in the next three chapters, I will be particularly concerned with a constellation of beliefs that, for some, function as dogma inasmuch as each is assumed to be self-evident. Taken together, they constitute a widely espoused conviction that the school is responsible for preparing children and youth to take on the adult roles of political, social, and economic citizens in an environment that embraces the full demographic diversity of the public.

NOTES

1. Baker 2014.
2. Adams & Bell 2016; Ayers et al. 2009; Bull 2008; Kumashiro 2009; Osler 2016.
3. There is an additionally flawed assumption that mere *access* to school—or, if one already has access, then simply more schooling—implies more justice than one in which there is less schooling. UNESCO reports on the percentage of children around the world attending school is widely celebrated as a marker of progress, where previously there was none. Yet much of the time this belief that one's situation has improved is wishful thinking, if not simply wrong. See especially Harber 2009.
4. Francis & Mills 2012, p. 257.
5. E.g., Bowles & Gintis 1976; Epp & Watkinson 1996; Freire 1970; Gomberg 2007; Goodman 1962; Harber 2004; Hart 1969; Holt & Fromme 1964; Illich 1971; Jackson 1968; Mayer 1961; McLaren 1989; Neill 1960.

6. These—alas, depressing—sentiments echo down through the ages, even if many of these schools were run by the Church. From Michel de Montaigne’s sixteenth-century *Essays*, for example, we read: ‘The discipline of our schools has always been a thing of which I have disapproved...visit one of these colleges while the lessons are in progress; you hear nothing but the cries of children being beaten and of masters drunk with anger. What a way of arousing an appetite for learning in these young and timid minds, to lead them to it with a terrifying visage and an armful of rods! This is a wicked and pernicious system.’ Compare Fyodor Dostoevsky’s nineteenth-century autobiographical lament from his *Notes from the Underground*, ‘Damn that school, damn those dreadful years of penal servitude!’ About his own schooling, George Bernard Shaw lamented, ‘My school not only failed to teach me what it professed to be teaching, but prevented me from being educated to an extent which infuriates me when I think of all I might have learned at home by myself.’ And finally, from George Orwell’s autobiographical account in *Such, Such were the Joys*, we read: ‘Your home might be far from perfect, but at least it was a place ruled by love rather than by fear, where you did not have to be perpetually on your guard against the people surrounding you. At eight years old you were suddenly taken out of the warm nests and flung into a world of force and fraud and secrecy, like a goldfish into a tank full of pike. Against no matter what degree of bullying you had no redress.’
7. Jencks 1988.
8. Bowles 1971.
9. Coons, Clune & Sugarman 1970, p. 7.
10. As the dominant discursive frame, all liberal theories of justice aim to specify, if only in broad strokes, the rights, and responsibilities persons should have or enjoy, and how those rights and responsibilities should promote or at least compliment the interests of those possessing them. Rights and responsibilities is a language ordinarily cashed out in terms of reciprocity, which entails determining what fellow citizens—or, on more cosmopolitan conceptions (Caney 2005; Carens 2013; Pogge 2008; Scheffler 2003; Tan 2004), fellow *humans*—owe one another.
11. They include justice as fairness, luck egalitarianism, left libertarianism, democratic equality, human capabilities, and civic republicanism, to name some of the more prominent theories, but there are multiples variants of each.
12. See for example the various liberal contributions in Allen & Reich 2013.
13. See especially Coleman 1966; Jencks 1972, 1988.
14. Walzer 1983.
15. Barry 1989; Rawls 2001; Roemer 2009; Scanlon 1998; Solomon & Murphy 1999.

16. Rawls held that natural assets are ‘neither just nor unjust.’ (1999a, p. 86). Cf. Anderson (1999: 331).
17. See Merry 2008.
18. As a more specific articulation of equality, *equality of opportunity* dictates that in the distribution of opportunities in any given society the competition should be fair. For most liberal philosophical accounts, in particular those heavily indebted to John Rawls, the articulation of the principle is intentionally calibrated to favor the ‘least advantaged,’ a standard of fairness requiring a basic threshold of equality below which no one should be allowed to fall. This standard is to be devised with the aid of a heuristic device, viz., the ‘veil of ignorance.’ From behind this veil we are invited to choose the principles that rational but also self-interested persons think best for a just and fair society, not knowing in advance where we may end up in the distribution. Rawls (2001) maintained that we would choose the following two principles: (1) equal basic liberties for all, and (2) social and economic equality. Rawls also held that persons similarly talented and motivated should enjoy fair chances in the competition for public offices and social positions. That is, persons with similar native endowments (talent and ability) and the initiative or motivation to put those talents to effective use, ought to have more or less the same opportunities to do so irrespective of their family and social class origin. More than that, justice also will entail incentivizing more talented and motivated persons to cultivate their respective talents in ways that inevitably yield personal gains with the proviso that those gains also redound to the least advantaged.
19. Anderson 2007.
20. And of course this comparative analysis will need to compare how schools are doing both relative to schools both inside and outside of a particular district, state, region, or country.
21. I restrict my attention to these two perspectives, though it is the case that there are three different ‘patterns’ of distribution that might be favored: priority, adequacy, and strict equality. Rather than getting mired in these debates, I am using the term ‘equality’ very broadly to cover all three.
22. Not incidentally, in focusing on *opportunity*, both sides also take also the capitalist economy as a given.
23. Anderson 2007; Satz 2007. Sometimes the term ‘sufficientarian’ is also used. See Shields 2016.
24. Gutmann 1999.
25. Brighouse & Swift 2009a; Casal 2007.
26. And of course some would say that neither adequacy or priority are interpretations of equality strictly understood.

27. The basic structure for Rawls consists in a society understood as a fair system of cooperation whose purpose is to shape interactions between equal citizens. Features of the basic structure include the political, economic, and social domains, and as such may encompass the labor market, health care, education, and transportation. Many forms of voluntary association are not included in the basic structure, though they may be constrained by it. And thus, for example, while family life per se does not count as a public institution, some of what goes on in the family is a matter of public concern, and is therefore may be subject to monitoring by a legitimate state authority.
28. This likely explains why Rawls restricted his defense of ‘justice as fairness’ to nation states. See Rawls 1999b.
29. Though it is worth noting that not everyone agrees that justice involves tradeoffs between different values. Dworkin (2002), for instance, thinks that once we have interpreted these values properly they will fit together in a coherent whole.
30. Schrag 1976; Thomas 2005.
31. Liao 2006.
32. Brennan & Noggle 1997; Lomasky 1986.
33. Though Rawls’s liberty principle governs a set of basic liberties which don’t include any parental rights.
34. Cf. Berliner 2006; Rothstein 2004. Rough Equality of condition, sometimes known as ‘equality of outcome,’ describes a state in which people have approximately the same material wealth and income, or in which the general economic conditions of their lives are alike.
35. Brighouse & Swift 2009b. Yet even when PP is constrained by egalitarian concerns, parents reproduce inequality in all kinds of ways (e.g., etiquette, foreign travel, museum visits, table talk, homework assistance, etc.), such that the *motivation* hardly seems to matter from the standpoint of equality.
36. Swift (2003) has also proposed that we ought to ban elite private schools (in the UK), given how they grossly exacerbate educational inequality. It is true that banning elite schools—improbable though this is—may reduce the institutional options available to wealthier parents and doing this may interrupt the furtherance of certain privileges. However, Swift argues that under nonideal conditions (such as we have) justice may permit parents to select an elite school for one’s child in order to receive an ‘adequate’ education. Clayton & Stevens (2004) offer a strong egalitarian critique of Swift, arguing that a solidarity principle requires that we do more than ‘our fair share’ *precisely because* others are likely to do less. Elsewhere (Merry 2013) I argue that both views are unpersuasive, in particular the belief that the social capital of the more educated will ‘rub

off' on the poor, or, for that matter, that the poor or stigmatized benefit from being educated alongside the more privileged. In any case, as we have seen, it is doubtful whether either set of proposals—focused as they are on the school system—will do anything to interrupt the transfer of social capital *that matters most*; nor would these proposals likely prevent other educational strategies from being pursued, such as selecting alternative schools or private tutoring—both of which currently enjoy enormous popularity, and not only among the more affluent.

37. Merry & Voigt 2014.
38. Ladd & Fiske 2011.
39. Ogbu 2003.
40. Anderson 2010; Swift 2003.
41. Darby & Rury 2018; Merry 2013; Shelby 2016.
42. Tooley 2008.
43. Carter & Merry 2019.
44. Coleman 1966.
45. Driessen 2018; Fukkink et al. 2017.
46. Adair et al. 2017; Sperry et al. 2019.
47. Metz 1978, p. ix.
48. For a sampling of liberal theories of justice, see inter alia Barry 1995; Dworkin 2002; Pettit 1997; Rawls 2001; Scanlon 1998; Sen 2009. Non-liberal theories of justice (e.g., feminist, post-colonialist, Marxist, anarchist, Catholic, etc.) are too numerous and too diffuse to mention.
49. Michael Walzer (1983, p. 19) describes complex equalities this way: 'In formal terms, complex equality means that no citizen's standing in one sphere or with regard to one social good can be undercut by his standing in some other sphere, with regard to some other good. Thus, citizen x may be chosen over citizen y for political office and then the two of them will be unequal in the sphere of politics. But they will not be unequal generally so long as x's office gives him no advantages over y in any other sphere – super medical care, access to better schools for his children, entrepreneurial opportunities, and so on.'
50. Cf. Bader 2005; Colker 2007.
51. Indeed it would be fair to say that most political philosophy and theory hardly engages with empirical research. Decades back, C. Wright Mills had already noticed a similar phenomenon in the social sciences and referred to this tendency as 'grand theorizing,' and in his classic, *The Sociological Imagination*, he incisively identified the problem with 'grand theories':

The basic cause of grand theory is the initial choice of a level of thinking so general that its practitioners cannot logically get down to observation. They never, as grand theorists, get down from the higher generalities to problems

in their historical and structural contexts. This absence of a firm sense of genuine problems, in turn, makes for the unreality so noticeable in their pages. One resulting characteristic is a seemingly arbitrary and certainly endless elaboration of distinctions, which neither enlarge our understanding nor make our experience more sensible. (1959, p. 33)

52. Mills 2005, p. 170. For a response to Mills, see Shelby 2013.
53. Of course many political philosophers hold the opinion that empirical work enters at a later stage. In other words, the nonideal ought to follow the ideal. What I question is whether the ideal can offer us much normative guidance when it prescinds so dramatically from the world such as it is.
54. Dewey 1916, p. 81.
55. But of course not every belief has been theorized for the same length of time or to the same degree. For instance we find an argument that education should be ‘public’ already in Aristotle’s *Politics*, where the notion of citizenship is also strongly implied, if not worked out until much later, principally in the early to mid-twentieth century with the expansion of national school systems. Diversity, meanwhile, only explicitly emerges as a prominent concern for educational theorists in the late twentieth century, even though we already can discern its epistemological importance in Mill’s *On Liberty*.

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PART II

Educational Justice: Appraising Three Liberal Commitments



CHAPTER 3

Educational Justice and the Public School

Over the past three decades, liberals have bewailed the ongoing assault on state-public schools by the forces of neoliberal privatization in its many guises.¹ Debates about these and other matters are especially polarized in the Anglophone world, where public and private often are both rhetorically and politically pitted against one another in controversy concerning space, investment, distribution and governance. Indeed, debates on the importance of public education take place within a larger conversation about the meanings and significance of the public in urban and political sociology and geography. In this wider debate ‘public space’ is depicted by one group of scholars as a socially open and accessible space where meeting and interaction occurs, tolerance for diversity is enhanced, democratic values prevail, and art, theater and performance flourish.² Conversely, other scholars express a sense of loss or nostalgia about public space being eroded and hence under threat.³ Indeed many vociferously defend the idea that there is an unmitigated ‘demise of *truly* public space’⁴ and that public spaces urgently need to be ‘defended’.⁵

This imaginary is at least as old as some of the earliest attempts to get a state-public education system off the ground. Historian Lawrence Cremin eloquently captures its optimistic essence in his description of the Protestant idealism of Horace Mann, arguably the most influential nineteenth century educational reformer in the United States:

Once public schools were established, no evil could resist their salutary influence. Universal education could be the ‘great equalizer’ of human conditions, the ‘balance wheel of the social machinery’, and the ‘creator of wealth undreamed of’. Poverty would most assuredly disappear, and with it the rancorous discord between the ‘haves’ and the ‘have-nots’ that had marked all of human history. Crime would diminish; sickness would abate; and life for the common man would be longer, better, and happier.⁶

Though few people are so naïve as to believe that schools are a panacea for all of society’s ills, or that schools could ever level its most implacable inequalities, suffice it to say that Mann’s optimism is very much alive and well in the twenty-first century. Indeed, as we saw in the previous chapter with the ‘neo-institutionalists’, many scholars, policy-makers and ordinary citizens today continue to exhibit faith in institutionalized schooling to usher in a brighter future for the human race. In this chapter I suggest that this optimism is simply another word for cognitive dissonance, and as such hinders our ability to properly assess the current state of affairs.

Accordingly, in what follows I aim to critically examine the liberal defense of the state-public school, as it is, or as it is imagined to have been. Offering a critique of the liberal defense of the state-public school does not mean that I oppose public education, or side with those who would like to privatize everything. The inequities associated with highly variable funding schemes, teacher shortages, or neighborhood segregation will not be solved by providing every parent with a voucher, or ‘chartering’ urban districts, or more generally by fostering an ethos of competition among schools.⁷ Given the ever widening gap between the ‘haves’ and the ‘have nots’, to say nothing of the global ravages of unchecked capitalism, the claim that the ‘free market’—left to its own devices—is the answer to the problems of our educational or political systems makes no historical or ethical sense. Hence when I argue that the pursuit of educational justice requires that we consider pragmatic alternatives, nowhere do I advocate for the dismantling of the state-public school.

In my view quality schools ought to be public in the best sense of the word: free and available to all, everywhere, at the point of entrance; challenging and appealing to the intrinsic motivation to learn in all children; and entailing the cultivation of knowledge, dispositions and competences necessary for preparing young people to engage with the wider world.

If and when state-public schools are failing in these endeavors—as they inevitably will—then the proper response is to do better, underscoring the importance of public institutions serving the public interest. I therefore make no common cause with those seeking to undermine or replace public institutions, or with critics who delight in reviling those whose task it is to teach and administer in state-public schools.

That said, as I proceed I will argue that the standard arguments employed by most liberal defenders of the state-public school—most especially those articulated by North American scholars—are themselves inadequate because they fail to provide a credible representation of their historical object, let alone effective remedies to our current problems. Indeed, narratives suggesting that the ‘sky is falling’ tend to be, in my view, grounded in fantasies about what state-public schools, or teaching and learning, are or could be, as much as they are grounded in the historical realities of state-public schools or the realities of so-called privatization. This contention is not unrelated to the observation that the liberal defense of state-public schools is most often undertaken by those with economic, social, and racial privilege ‘on behalf’ of the variously disadvantaged, who may or may not share the same loyalty to these institutions.

This lends the liberal, and often paternalistic, defense of the state-public school an air of the ideological, in the sense of defending one’s own interests in the (unconscious) guise of protecting something else. In this chapter, I speculate whether the self-identification of the proponents of this cause as ‘progressive’ is not part of this ideological construction, and if the underlying political agenda is not in fact more conservative.

THE SCHOOL AS PUBLIC INSTITUTION

Few public institutions generate more discussion and debate than schools, and it is not difficult to see why. In most industrialized countries the vast majority of children between the ages of five and seventeen attend state-public schools (even if in many cases the school is not ‘secular’ strictly speaking); more often than not attending school is mandated by law; schools staff tens of thousands of administrators and teachers on public money; teacher unions in many countries are a powerful political force; together with local school boards, states decide what children

will or will not learn; testing regimes implemented by schools decide the fates of millions of young people; schools are places where many of us first come into contact with others whose backgrounds and beliefs are decidedly different; and schools are the institutions most likely to have a lasting impact on the lives of those who, in most cases, spend the better part of their youth and adolescence attending them. Arguably no single other public institution has such a direct and lasting impact on the lives of millions of citizens. It is therefore not possible to overstate the significance of schools.

On the other hand, the State's role in education has never been uncontroversial. Indeed, long before social scientists began documenting the various ways in which schools were designed from the beginning to sort, rank and exclude, many balked at the idea that the State ought to determine what children should learn. Philosophers were sometimes the most outspoken critics. In his *On Liberty*, John Stuart Mill asserted that a 'general State education is a mere contrivance for molding people to be exactly like one another [and] in proportion as it is efficient and successful, it establishes a despotism over the mind'.⁸ Mill went even further in condemning the State's attempts to bias the opinions of its citizens on disputed subjects—which certainly must include history, religion, politics, the literary canon and much else besides—as 'evil'. Karl Marx also exhibited general distrust toward the State's influence in education, arguing in his *Critique of the Gotha Programme* that both 'Government and Church should [be] equally excluded from any influence on the school'.⁹ More recently, linguist Noam Chomsky expostulated against a benign view of state education:

As to what the schools teach to defend people against [state propaganda], the answer is simple: zero. The schools are quite on the opposite side: they are part of the disinformation apparatus [...] they are institutions for indoctrination, for imposing obedience, for blocking the possibility for independent thought, and they play an institutional role in a system of control and coercion. *Real* schools ought to provide people with techniques of self-defense, but that would mean teaching the truth about the world and about the society, and schools couldn't survive very long if they did that.¹⁰

Liberal defenders of the state-public school in particular are generally loath to admit that there is more than a kernel of truth in these radical

perspectives. Yet it is difficult to deny that state-managed school systems ‘are part of the disinformation apparatus’, not to mention the many ways in which schools have long played an active role in exacerbating inequality. As Becky Francis and Martin Mills put it, ‘while social inequality begins with the family, it is schooling that formalizes it, certifies it, structures it and entrenches it’.¹¹

Now of course whatever criticisms we may have of state-managed educational systems—and in this and subsequent chapters I will catalogue many of them—we also cannot fail to appreciate the risks entailed by the state *abandoning* its current role in education, particularly its ability to coordinate and finance educational services on a large scale. But these worries cannot permit us to ignore the fact that state-public schools are also politicized and polemicized institutions, either demonized as monopolistic, or else believed to embody the very best of what a liberal democratic society concerned with the ‘public interest’ can achieve. In this chapter I am concerned mostly with this latter claim.

To illustrate a standard defense of the state-public school ideal, consider a recent article in the leftist weekly, *The Nation*, entitled ‘How to Destroy a Public-School System’. Daniel Denvir,¹² the author of the piece, depicts the struggle of a group of embattled parents and teachers at a local elementary school in Philadelphia which had been slated—due to persistent poor academic performance—for charter conversion, under the aegis of the Mastery Charter Schools foundation. The article goes on to chronicle the campaign to convert Philadelphia’s ‘failing’ schools into successful charter schools, and the economic leverage wielded against teacher unions, the district, and those community members who chose to defend their ‘community’ schools. The report concludes with a snapshot of a Philadelphia high school plagued by violence, under-performance, and staff and student alienation. For those defending state-public schools against privatization, this school’s problem boils down to resource inequity. The most salient positive characteristic of the state-public school system that Denvir and others wish to save is its connection to community, and its unfulfilled promise of democratic governance within individual classrooms, schools and across the district.

A similar example from *The Guardian* (incidentally also left-leaning) in the UK reinforces this pattern.¹³ The leadership of Roke primary school in Croydon—a multiethnic community just south of London—was identified by Ofsted, the national evaluative entity, as ‘inadequate’,

and the Department of Education ordered that it become an academy operated by the Harris Federation, a not-for-profit charity not dissimilar in mission from the Mastery Charter Schools of Philadelphia. Parents resisted the takeover, preferring a relationship with the local secondary school as the remedy to their ‘failure’, but in the fall of 2014 the school was officially reopened as Harris Academy. The elementary school was thus ‘divorced’ from the local school authority, as would have been the case in Philadelphia. The author of the story describes the academy movement as ‘the razing of state provision throughout the world. In the name of freedom, public assets are being forcibly removed from popular control and handed to unelected oligarchs’. In a related *Guardian* story, another author suggests that it is the teachers, students and parents that make a school what it is, not the authorities running it. Notable in the British context is the emphasis again on local ‘community’ control as an aspect of democracy, undone by the State and its corporate clients. Schools are depicted as public goods, not private commodities.

These narratives from the liberal press echo an academic and quasi-academic discourse about the ‘Life and Death of the Great American School System’—to borrow the title of Diane Ravitch’s bestseller¹⁴—which has provided at least an air of legitimacy to these arguments. Michael Fabricant and Michelle Fine,¹⁵ for instance, two well-respected and progressive researchers, describe the hunger strike of Latino parents in Chicago demanding changes to their local high school, an action that eventually led to the construction of the most expensive public school building in Chicago history in one of the city’s most economically challenged areas. But their choice of exemplars is very instructive of the double-bind in which liberal defenders of *the* state-public school find themselves.

First, this is a highly atypical history of how state-public school systems respond to the demands of minority parents, and a highly atypical example of how minority parents voice, or more often, don’t voice their interests. Second, Fabricant and Fine are attracted to the idea of a local ethnic, disadvantaged community choosing to advocate for an innovative schools-within-a-school design, a design choice supported in part by funding from the Gates Foundation, the source of much of the rationale and funding of the charter networks liberals love to hate. Similarly,

Ravitch herself cites the English class in the high school she attended in Houston in the 1950s as an exemplar of the state-public school she would like to save, but mentions only in passing that hers was a Jim Crow segregated school, from which Blacks and Hispanics were barred. Across the board, in this fight to save *the* (or their) state-public school liberals must resort to a discursive strategy of nostalgia, an evocation of ‘the way we never were’ in Stephanie Koontz’s¹⁶ apt phrase, to evoke the kind of education they prefer, or long for.¹⁷ Progressivism in this usage loses much of its utopian quality, and instead falls back into an ideological conservatism.

The liberal defense of real or imagined state-public schools, and its real or imagined heritage, is not limited to the Anglo-American context. The specific forms of this defense vary according to the particular histories of state-provided education in different localities, including the different purposes that citizens tend to believe are best or necessarily fulfilled by *their* state-public schools. State-public schools in France and Japan are meant to instill loyalty to a shared French or Japanese culture, so as to produce citizens, respectively, loyal to France or Japan; Canadian state-public schools are meant to provide individual opportunity for social and economic advancement, to be the engine of the fulfillment of the ‘Canadian Dream’ (the post-Trump, ostensibly friendlier version of the ‘American Dream’); schools in most countries—from South Korea to South Africa—are believed to promote democratic citizenship, social cohesion, workers for the labor market, and so on. But these defenses also usually partake of a familiar set of general propositions about what constitutes the ideal public sphere generally, and why schools in particular ought to embody certain positive aspects of ‘publicness’.

THE IDEAL PUBLIC SCHOOL

Ideals exhort us to attain a better state of affairs than the one we presently have.¹⁸ They denote goals and aspirations whose purpose is to inspire and forge imaginative possibilities; ideals do their work when then succeed in galvanizing both personal and public support. Some ideals may come and go, but ideals that stand the test of time continue to serve as a benchmark for what we have yet to achieve. They inspire us

to reimagine what they mean or require, and can assist in exposing our present (mis)understandings of the ideal in ways that unwittingly exclude others.

Consider again the *equality* principle, which I introduced in the previous chapter: as an ideal its earliest articulations in Western political discourse were narrowly applied to propertied, able-bodied, heterosexual, ‘white’ males. That is to say, even on a broad interpretation—as equality of access, recognition, treatment or opportunity—most of the world’s population has simply not been included in the definition.¹⁹ Over time, its meanings, applications and guarantees in domains as diverse as education, citizenship and family law gradually have been expanded to include women, homosexuals, the disabled, ethnic minorities and even asylum seekers. Yet the distance between what we say equality means and how it continues to be selectively applied—as the current migrant ‘crisis’ in Europe agonizingly shows—reminds us that the full expression of any ideal is impossible to attain given the scope of non-ideal conditions that inhibit its pursuit. Power and wealth concentrations, a lack of political will, and both the personalized and institutionalized manifestations of sexism and racism are but a few of the obstacles that routinely thwart the realisation of ideals.

Like equality, related concerns bear upon the ideal of a *public*. We have to be alert both to the ideal’s ambiguities as well as the gaps that most certainly exist between the abstract ideal and the concrete real. For instance, the Greek agora is often portrayed as a true public space, but even there large parts of the adult population, including women, long-term aliens and slaves, were denied full citizenship and consequently had no right to participate in its political life. In the next chapter I explore many ways in which school systems have, and continue, to demarcate and exclude, all with a view to maintaining an order necessary for learning the lessons of citizenship. Yet with respect to its ‘publicness’, we first need to ask this question: in what does ‘publicness’ consist in connection to education?

All liberal philosophers who engage with the issue define state-public schooling in terms of the criteria necessary to ensure political legitimacy for the public, the degree of cultural support for an institution, or ‘an account of the justice of political arrangements.’ There are two basic sources of this legitimacy: that schools are fulfilling their purpose of teaching students accepted necessary skills and knowledge; and that schools have political legitimacy, i.e., related specifically to the democratic premise of a society. Recent

liberal philosophical defenses of the state-public school²⁰—not coincidentally each of them emanating from the United States—delineate further what some of the necessary conditions of this political legitimacy are.

A first condition is that there be fair participation in shared governance, something I understand to mean that the issues entailed in decision-making should be accessible to the relevant public, whose informed preferences and opinions about how schools operate also should be taken under advisement. Liberals admit that representative and aggregative participation—the model in many countries of voting for the local school board, for instance—has been largely a failure with respect to engaging broad participation. A small percentage of voters turn out for such elections, and those who represent either majoritarian or special interests dominate school boards.²¹ These public institutions are also notoriously unresponsive to the ‘interference’ of the public, like parents. With the consolidation of school districts over the past century, leading to districts encompassing multiple communities and neighborhoods, the distance between school boards and their constituents has grown. To correct this failure, liberals recommend a cure of deliberative democracy in which teachers, parents, older students and other community members are encouraged to create parallel governing structures. Yet however attractive this remedy might appear, it would seem to depend, in the final analysis, on a great deal of unwarranted optimism about local communities and citizen organizations, and their possible relationships to totalizing bureaucracies like the state-public school system.

A second condition for political legitimacy is that state-public schools respect liberty and pluralism. At a minimum, respecting liberty entails accommodating a certain amount of choice with respect to parental and student preference; respecting pluralism, too, would require that schools be sufficiently diverse both in structure and organization in order to accommodate a range of interests and needs. But of course most liberals—and here I chiefly have philosophical liberals in mind—freely admit that state-public schools, for the most part, do not and have not respected either. Conflicting demands between majority and minority values almost inevitably disadvantage minority students, despite laws that attempt to ensure freedom of expression and non-discrimination. Of course the views of the local majority can sometimes be trumped through consideration of minority values, as well as through consideration of the law. The legal victories of disabled persons in the United States, for instance, while not perfect, have enjoyed unrivaled success

when compared with virtually any other national context, largely owing to the effective political campaigning of disabled persons themselves.

At the same time, however, the ‘rights’ of minorities, even when they constitute a local numerical majority, must still be weighed against the preferences (and prejudices) of the cultural majority: an all-too-familiar reality in Muslim-majority neighborhoods in European cities. In any case, the preferences of the majority—buttressed typically by politicians, school boards, school administrators and the national culture itself—always structure the everyday practices of state-public schooling, *in every society*. Neither ‘integration’ nor ‘multicultural’ curricula have been sufficient to ensure consistent respect for the non-standard persons who populate state-public school buildings: even when schools are almost completely segregated by race/ethnicity/class, the controlling mindset informing educational norms tends to be that of the dominant class, expressed through the structures and administration of schooling, *even when the children of that class are permanently absent*.

Political legitimacy entails yet a third condition for state-public schools, viz., that they offer ‘equal opportunity’. The ideal is perhaps most commonly associated with public education and is meant to denote fair access to a level playing field on which all children, irrespective of ability or social standing, have a fair chance to receive an education sufficient for personal success and social advancement. But if that is the condition of legitimacy, the vast and persistent inequalities of opportunity and outcome in schools across the world might then indicate that state-public schools are not legitimate public institutions. Liberals lay blame for the admittedly pervasive inequality on neoliberal policies that have decreased school funding and redistributive practices generally, and on propaganda that maintains that poverty and discrimination are not more powerful than teachers in accounting for achievement. The preferred solution is an increase in tax revenues and higher investments in education, along with a return to active desegregation and anti-poverty government action. But even if one agrees with the critique of neoliberal divestment in state-public education, and agrees that government might take a more active role in relieving segregation and poverty, there is more than a little wistfulness in forgetting that before there was the ‘new poverty’ of neoliberalism there was an ‘old poverty’ and in most places even deeper, with more overt inequalities.

A fourth condition necessary for political legitimacy is that state-public schools provide a political education for democratic life. Very

quickly the liberal argument is that there needs to be curricular attention, across disciplines, to the role of citizens in decision-making, and to the creation of ‘democratic schools’ in which students and teachers could actively practice democracy. The active promotion of democratic goals in curricula and pedagogy tends to run up against the problems of respecting liberty and plurality, but from the other direction. Many parents, teachers and students take school to be the place where individual goals of social and economic betterment can be pursued, and are not motivated to give their time to ‘political education for democratic life’, which they tend not to see as promoting their own interests. Yet however valuable we might find it, ‘citizenship education’, as envisioned by its liberal defenders is hardly anywhere to be found in most state-public schools.²² I devote more attention to these matters in Chapter 4.

The professionalism of teachers is a fifth condition arguably necessary for the political legitimacy of state-public schools, normally involving training and certification necessary for ensuring high quality standards among staff. But professionalism of teachers has an uncertain relationship with those ideal/imaginary aspects of state-public education that are democracy-promoting. Many teacher educators are ambivalent about promoting professionalism because it conflicts with other beliefs about who teachers are and what they (ought to) do. On the one hand, increased recognition of teachers as professionals seems to legitimate teacher education itself, to constitute an argument for better compensation, to increase the symbolic capital of teachers generally, and probably to increase the learning and development of students. Professionalization of teachers may also compete with the ‘expertise’ of local parents and community values, and potentially erodes the possibilities for democratic community organizing based on shared interests and status. Also, and perhaps more important, it is arguably difficult to sustain the identity between the ‘professional teacher’ (the expert, the technocrat) and the ‘caring teacher’ who acts as a parental surrogate. The demand for professionalism also conflicts with the reluctance of citizens of education schools to recognize differences between teachers, to acknowledge the existence of a continuum of ability, motivation and competence among teachers, even among themselves, at the top of the hierarchy of teachers. But if the expertise of teacher educators does not ensure the professionalism of teachers in state-public schools, then the struggle for status within the Academy, always a losing proposition for the perennially marginalized ‘ed-school’²³ is further complicated.

THE REAL PUBLIC SCHOOL

Everywhere there are enormous challenges in realizing the political legitimacy of state-public schools, and this is no secret to educational scholars and policy-makers. Indeed, these phenomena are documented year after year in dozens of countries and appear in hundreds of publications, popular and academic, and the problems are usually the same that were present at the historical beginnings of state-public schooling. Nor should any of these well-documented dysfunctional features of state-public schooling come as a surprise to public school apologists, whose ideas I canvassed in the previous section, or for that matter the liberal professoriate *tout court*. The systemic injustices of state-public schooling are what this (North American) professoriate routinely and unapologetically teach its students about the history and theory of schooling. Nor should it be surprising to said professoriate that increased and more justly distributed funding, better teacher preparation and better teacher pay, progressive curricula and pedagogy, democratic governance, cultural inclusion, free lunch—all of which I would likewise embrace for my own children and those of others—have not generally made state-public schools less unsatisfactory than they are and have always been for a large proportion of the students who attend them.

Indeed the inclination to rally to the defense of the state-public school is curious to observe considering how celebrated and canonized among its defenders radical critics of the state-public school system are.²⁴ From *Deschooling Society* author Ivan Illich, for example, we read:

Curriculum has always been used to assign social rank [...] Even now many people wrongly believe that school ensures the dependence of public trust on relevant learning achievements. However, instead of equalizing chances, the school system has monopolized their distribution.²⁵

A few pages later, he adds,

The equal right of each person to exercise his competence to learn and to instruct is now pre-empted by certified teachers.²⁶ The teachers' competence, in turn, is restricted to what may be done in school. And, further, work and leisure are alienated from each other as a result: the spectator and the worker alike are supposed to arrive at the work place all ready to fit into a routine prepared for them.²⁷

If those sentiments sound either too discouraging or jaded to the reader, consider Phillip Jackson's arguably tamer *Life in Classrooms*, where we find the following observation:

teachers may [insist] that they operate 'democratic' classrooms, but in a very real sense their responsibilities bear some resemblance to those of prison guards [and] in schools, as in prisons, good behavior pays off.²⁸

It would not be a stretch to say that Jackson's book—one I was assigned to read in my own graduate school training—is a kind of lament about the travesty institutionalized schooling had become by the 1960s. And remarkably, in the decades since these scathing criticisms, the barrage of criticism has not abated. Perhaps even more remarkable, the most unrelenting criticisms of the school system come not from advocates of 'privatization' or of homeschooling but rather from folks who have labored for many years within the system, folks like John Taylor Gatto, thirty-year veteran of public school teaching in New York and twice awarded 'teacher of the year'. Echoing his radical comrades from decades before, it is worth quoting him at length:

School is about learning to wait your turn, however long it takes to come, *if ever*. And how to submit with a show of enthusiasm to the judgment of strangers, even if they are wrong; even if your enthusiasm is phony. School is the first impression we get of organized society and its relentless need to rank everyone on a scale of winners and losers; like most first impressions, the real things school teaches about your place in the social order last a lifetime for most of us. Work in classrooms isn't important work. It fails to speak to real needs pressing on the young. It doesn't answer burning questions which day-to-day experience forces upon young minds. Problems encountered outside school walls are treated as peripheral when in truth they are always central [...] Think of school as a conditioning laboratory, drilling naturally unique, one-of-a-kind individuals to respond as a mass, to accept continual ennui, envy and limited competence as only natural parts of the human condition.²⁹

But perhaps the most enduring critic of the 'state-public school' from the 60s onward is French sociologist Pierre Bourdieu: his 'reproduction' theory³⁰ remains absolutely central to most understandings of how social institutions work to sustain 'distinctions' or, to put this another way, inequalities. 'Reproduction theory', as it came to be called, depends

crucially on the ideas of *habitus* and *illusio*, notions developed over the long course of Bourdieu's career. The habitus can be understood as a system of dispositions underlying the motivations, cognitions, beliefs and actions of any social subject. The habitus (of individuals) is both structured by the social configurations characteristic of the existing social environment, which it in turn restructures through its actions in the world. Bourdieu has likened habitus to libido, insofar as it is constituted primarily as a system of interests and desires, not consciously represented as such. It is through habitus that a social subject gains a 'sense of the game' (*illusio*), which allows one to play his or her part in the social field 'naturally'.³¹

The naturalness of the game for its players is the precondition also for a kind of *symbolic violence*, whereby those in a dominated position (like teachers in a state-public school, for instance) tend to perform in ways required of one in this position without question or resistance, even when these performances do not benefit them socially. Often subordinates perform their subordinate roles with a distinctive passion, seemingly unaware that these performances serve to legitimate their subordination. In fact, the very lack of conscious consideration in terms of costs and benefits is the essence of 'playing the game', which is always played, as it were, for its own sake. In the educational milieu, this concatenation of rituals and valuations organized around mutual positions in a field of power, tend to guarantee the 'passing of the mantle' from the privileged to the privileged, and the 'passing of the porridge' from the dis-privileged to the dis-privileged. While the system permits some to rise above their station and others to fall from theirs, for Bourdieu, the school is the 'cognitive machine' that permits and encourages this reproduction of the social order.³²

As I argued in the previous chapter, the point I am making is *not* that schools are deterministic, totalizing institutions, or that pupils have no agency; rather, it is that each of the liberal critics I have cited—not to mention literally scores of critical pedagogues³³ and educational ethnographers³⁴—has *always* been critical of the state-public education system, and their texts are the meat and potatoes of foundations of education courses in North American universities, presumably because they succeed in identifying what is chronically wrong with so much of state-public schooling. Despite what appears to be consensus about the shortcomings of state-public schools, those who declaim the 'death of the public school' appear not to have learned the lessons they themselves have

preached, and continue to advocate remedies that have been historically ineffective. Indeed, the accounts I offered earlier of the educational crises in Philadelphia and Croydon call for these very same ‘fixes’.

While there are many proposals on the table—local control of curriculum v. state control of curriculum, more testing v. less assessment, more rigorous teacher training v. the elimination of traditional teacher training—they invariably include discourse about *fiscal resources* and *teacher distribution*. And what fair-minded person, for instance, could disagree with the idea that schools should be funded equitably? Or who could disagree that we need a committed army of teachers who are well-trained but also unfailingly committed to educating our children? Moreover, who wouldn’t agree that teachers ideally should be equitably distributed throughout an educational system so that all, rather than only some, children have the chance to be adequately challenged? Given their centrality to the state-public school defense, let us briefly look at these two items a bit more closely.

Fiscal Resources

Fiscal resources are an important contribution to educational justice and as such strengthens the case for a robust state-public education. Children born into adverse circumstances or with extra challenges to overcome should have extra resources available to them in order to close the distance between them and those whose parents are able to do so much more for them outside of school. Resources can also make many other justice-based strategies possible. They include, but are not limited to, reducing class size; value-added measures that track minority achievement; homework reduction; after school mentoring and summer enrichment programs; bilingual instruction; optometric and audiological diagnostic services; extra staffing; school community clinics, and much else besides. Where these have been well-designed and implemented, many of these initiatives have enjoyed modest success; that is, they have mitigated inequality to some measurable degree, at least in the institutional settings where the political will exists to see them through more than one election cycle. What makes the appeal to extra resources justice-enhancing is that it is predicated on the equality principle, which demands that the poor receive more resources to compensate for their disadvantage if there is to be even a modicum of educational justice.

But that does not mean that additional funding is able to solve, or even significantly mitigate, some of the most intractable problems. First, unequal resources, usually conceived exclusively as unequal *financing*, goes to the very fabric of state-public education, certainly in large countries where local control (whether regional, provincial, state or municipal) is paramount. But irrespective of the country or the specific context, it is a truism that local knowledge often is the best kind of knowledge for addressing the needs of local school children. Part and parcel of this favoring local control is to see ‘top-down’ approaches as anathema. Second, it one thing to offer schools, or school districts, extra resources; it is another to ensure that earmarked funds actually reach those who need and deserve it. School systems are notoriously inefficient in distributing fiscal resources to those most in need of help. Additional resources in school also does nothing to address poverty concentrations from forming in the first place; nor, as I discussed in the previous chapter relative to parental partiality, is increased per pupil spending able to affect what better positioned families are able to do for their children, both inside and outside of school. Third, additional fiscal investment may purchase specialized staff, new buildings, libraries and computer labs but still leave disadvantaged children alienated from learning—and hence falling further behind—if other resources are absent. Those resources—difficult to replicate and impossible to purchase—will include things like strong leadership, positive school climate, appropriate discipline, nurturing teachers, a motivated peer group, involved parents, role modeling, career guidance and consensus on academic goals.³⁵

Let me be clear: *fiscal resources matter*. It goes without saying that without money there is no school, there are no teachers, there are no books, computers, etc. Moreover, and equally important, resources should be equitably distributed. As an ethical rule of thumb, within the same geographic area one school in location x should not be able to spend twice as much on the education of their pupils in location y . Inequalities, however, are not necessarily inequities. What matters is not whether actual per pupil spending amounts are exactly the same but whether they are adequate to address the pupil populations they serve.³⁶ In many countries funding schemes are systematically allocated on the basis of need. Accordingly, schools serving more children born into poverty or with special educational needs frequently are eligible for additional (or ‘weighted’) pupil funding. Therefore schools serving high concentrations of pupils from disadvantaged backgrounds often have more resources at their disposal to use the money as they see fit. Yet

while extra fiscal resources may keep a school from slipping further down the league tables, or enable some schools to hire badly needed staff, it is common wisdom that much more hangs on the success of any given school than the size of its budget. Even in advanced democracies with relatively high standards of school funding, with schemes for redistribution of resources according to need, racial disparities and ‘achievement gaps’ have not been overcome, and in some cases, have widened.³⁷ The expansion of both the urban charter school movement in the United States and the academy school movement in the UK, has at least in part been motivated by the insight that traditional state-public schools have not been effective in leveraging increased resources to the benefit of the disadvantaged students they serve.

Teachers

Undoubtedly one of the most crucially important resources essential to any child’s education is an effective teacher. Effective teachers ordinarily will have high expectations for all of their students, they will aim to treat all of their students equitably, i.e., according to need. Further, where the most disadvantaged children are concerned, arguably the most effective teachers will also serve as positive role models: caring individuals with relevant cultural competences, and valuing each and every student for who they are irrespective of family background, personality traits, motivation to learn or demonstrated ability.³⁸

Unfortunately, however, effective teachers are not in abundance; indeed most countries struggle with a significant teacher shortfall, and even when there are enough teachers to go around, relatively few will be above average. And, typically it is a truism that far too many schools serving high concentrations of disadvantaged children are more likely to have teachers with less experience and fewer qualifications. Hardly any schools provide poverty training or anti-racist training.³⁹ Pupils with less experienced teachers are more likely to be in schools with poor behavior management in place, and pupils with teachers who have fewer terminal degrees in their area of teaching are less likely to be adequately challenged.⁴⁰ Compounding these problems, many of these schools struggle to retain their teachers and principals—often because they are simply demoralized by what they are expected to do—adding to the sense of instability with which many high-needs schools struggle.⁴¹ One way to change this is to offer better teachers strong fiscal incentives to work in schools with more challenging pupils.

Equitable teacher distribution—assuming it can be feasibly devised and sustainably implemented—represents an important contribution to educational justice and further strengthens the case for a robust state-public education. But again, on its own teacher distribution can only do so much if the conditions necessary to support and retain high quality teachers are absent. Retaining teachers under adverse conditions—which more often than not begins with laboring under onerous certification requirements during an already stressful period of teacher training—is an uphill battle. As C. K. Jackson aptly puts it, ‘teachers have little financial incentive to teach at undesirable schools. Since observably better teachers will be hired over weaker teachers and all teachers are likely to apply for the most desirable jobs, schools with undesirable working environments will have teachers of lower average quality’.⁴² But even if we were to solve the distribution quandary, we still would be faced with formidable challenges concerning how best to train, support and assess teachers.

On the other hand, in many circles to even broach criticisms of public school teachers is tantamount to launching a full-on assault against state-public education itself. Here we encounter a myth about who or what the ‘public school teacher’ actually is, viz., an autonomous, student-centered agent. Contrary to this myth, teachers most often serve as agents of the state, and as such are entrusted with implementing its learning and assessment objectives, which include using pre-selected course materials, administering standardized tests, advising for class placement and carrying out disciplinary procedures. ‘The teacher’, Sara Lawrence-Lightfoot observed, ‘although establishing a central and dominant role in the classroom, lives within the constraints and boundaries of the institutional norms of the schools and has very minimal autonomy and self-defining power’.⁴³

Even those, like Linda Darling-Hammond,⁴⁴ who champion teacher education (reform), and enhanced teacher agency, as the main levers to increasing state-public school success and legitimacy, are acutely aware of the perennial shortcomings of traditional teacher education. But the reforms that Darling-Hammond and others have managed to enact, built on intensive assessment and model of the professional, i.e., effective, teacher tend to perpetuate the notion that teachers are and must be ‘in control’ of their own classes, while simultaneously subjecting teachers subject to the reformers’ hegemonic vision, and regulatory schemes. This may signal a return to an underlying message of compliance that has been characteristic of teacher education for the past century, rather than the dawn of new era of ‘agency’.⁴⁵

ASSESSING THE LIBERAL DEFENSE OF PUBLIC SCHOOLS

As I earlier pointed out, the challenges associated with improving schooling for all students, and especially those with the greatest needs, should come as no surprise to the liberal defender of the state-public school. Each succeeding year's academic scholarship testifies again to the lack of freedom and plurality, equal opportunity, shared participation, democracy and professionalism—to recall the list of legitimating factors—endemic to state-public schooling. One could even plausibly argue that most scholarly careers in education (and perhaps sociologists in particular) have centered around documenting these daily features of state-public school life, where those who have documented the failures of state-public schools are the most keen to circle the wagons against any perceived threat to the institution of state-public schooling itself.

All of this points toward a classic instance of cognitive dissonance, where—as I explained in Chapter 1—one belief, value or understanding must give way to a more fundamental one, one that effectively functions as dogma, i.e., something we must believe to be true even when the evidence points in the opposite direction. That is the most charitable interpretation. But seen from a more critical perspective left of mainstream liberalism, it might be reasonable to conjecture whether the defense of 'the public school' is just misguided nostalgia for a state of grace that never was, or else a utopian fantasy in which capitalism really doesn't produce intractable disparities of wealth, power and opportunity? And could it be that this misguided nostalgia is the inevitable corollary to an ideological frame that valorizes an imaginary—versus a real—public?

Not necessarily. For instance, it could be the case that we simply have an instance of the insider–outsider dynamic, where it is perfectly acceptable to complain and criticize one's *own* system but not for others to do the same. For example, member of a particular 'group', say, persons identifying with a label such as LGBTQ(I), may exemplify all manner of internal difference, dispute and strife among their own members but with outsiders assume a united front in the face of stigmatization, discrimination, fear-mongering and physical violence. Similarly, citizens may routinely vilify the serious imperfections of their public health care systems, yet then proudly defend and even celebrate them to outsiders (as was the case concerning the National Health Service at the 2012 Olympics in London), the point ostensibly being that a deeply flawed

and massively underfunded system is better than no system at all. There is something to this insider–outsider explanation, but it is questionable whether the analogies work quite so well in the case of state-public education. As I have argued, many of the criticisms of the state-public education system come not from outsiders but rather from those who are badly served by it. Indeed, many of the struggles to find alternatives to what ‘the local public school’ has to offer one’s own child have been launched by the marginalized and poor.

It could also be the case that one’s defense of the state-public school is motivated by the concern to *reform* rather than to relinquish it to the arbitrary machinations of the free market. For example, staff of a hospital, environmental agency or housing bureau may find their respective institutions to be poorly managed and inefficient. In that case internal reform is a sensible response, even when the steps one must take are time-consuming, exasperating, expensive, and difficult to implement. On the other hand, it is difficult to imagine the actors in any of these scenarios being opposed to *alternatives* to the services that they provide, let alone profound structural changes that may bring about an entirely different way of more effectively providing those services.

Yet again, that kind of openness is difficult to find among many of state-public education’s most vocal defenders. Two sets of actors—university researchers on the one hand and teachers/administrators on the other—typically are employed by state-funded institutions that are sedulously committed to their own legitimacy and maintenance. Could it then be the case that both sets of actors are too much a part of the dominant model to recognize that an unwavering defense of state-public schools, *no matter how unlikely they are to be justice-enhancing*, is simply an untenable stance? The dominant model, as reformers willing to look inside as well as outside the system point out, is of course one encompassing legislation and massive investment from state governments, but also politicians, academics, teachers, administrators and social workers (to name but a few). And notice that all of these actors, to one degree or another, are dependent upon this leviathan of a system and hence are keenly (if unconsciously) invested in maintaining the status quo. As Gatto observes: ‘school is too vital a jobs project, contract giver, and protector of the social order to allow itself to be “re-formed” [...] Even reformers can’t imagine school being much different’.⁴⁶

Again, my aim here is not to repudiate the idea of a public as this concerns important political ideals, or for that matter, essential features

of the education system that do a great deal of good, both for individual learners and the public at large. Instead, I remind the reader that I am taking issue with the circle-the-wagons defense of ‘public education’ against any and all criticisms from outside the liberal camp. In other words, I am calling into question the liberal ‘faith’ in public schooling that curiously makes itself both impervious to critique and incapable of reform. Indeed the knee-jerk defense of ‘the public school’, and the concomitant fondness for *what never was*, not only instantiates the cognitive dissonance I referred to earlier; more troublingly, it engages in a strange kind of disavowal, a psychological rationalization that indefensibly reconciles what educational research has been saying for more than 50 years with what needs to happen to begin to correct it.

Taking always the ‘idealistic’ view (which again, incidentally opposes the history and theory commonly taught in university education departments⁴⁷) in each case motivates liberal advocates of the state-public school to reject all manner of reform as a threat to ‘the public’. These views together represent a fantastical take on the ‘public sphere’ sharply at variance with more critical leftist understandings. Moreover, to the extent that fanciful notions of this public are rhetorically invoked as cures for what ails us now, in my view these defenses merely exhibit bad faith, and as such approximate James Baldwin’s more general observation about modes of domination: ‘We have constructed a history which is a total lie, and have persuaded ourselves that it is true’.⁴⁸

THE IMAGINARY PUBLIC⁴⁹

I have asked whether the defense of the public might not actually serve the interests of those most negatively affected by state-public schools, and further whether there might be an unwitting blindness to the many structural failings of the state-public school system. Additionally, I surmised the possibility that in this blindness there also was a kind of denial about how particularistic, non-inclusive, coercive and unequal state-public schools are. In other words, how is it that this knowledge of the *real* is so consistently eclipsed by faith in an *ideal*, or an imagined essence?

Now one role for educational theorists, liberal or not, is to help critically engage state-public education, with all its current flaws, restrictions, and oppressions, and to help build knowledge that enables the imagination of new possibilities, aims, practices and structures for the execution of democratic ideals. And one powerful reason that motivates many

people to do just this is that they simply cannot think of a better way to educate a diverse society than via the systems we already have. But the fact is that most contemporary liberal defenders of the state-public school do not seem so much interested in developing a normative theory of state-public education—where the distance between the ideal and the real can be explained sociologically, philosophically, economically or through some other disciplinary logic—as they do in simply promoting faith in a kind of transcendental, i.e., imaginary, institution. But this kind of ‘critical engagement’ with state-public education offers us very little in the way of imagination that isn’t already severely circumscribed.

The Imaginary has an important place—as distinct from, but not opposite to, the ideal, the real, and other social-psychological categories—in the theoretical constructions of several influential nineteenth- and twentieth-century theorists, including most notably Marx and Freud. Yet arguably the most important modern theorist of the imaginary is Cornelius Castoriadis, who combined both Marxist and psychoanalytic concepts in his extensive writings on ‘imaginary institutions’. For Castoriadis, the imaginary is the foundation out of which all symbolic activity, rational and real, is generated. The meanings of the imaginary are both cultural and social, like those associated with the foods ‘we’ prefer and the foods that ‘we’ find disgusting. Another part of the meaning of the Imaginary derives from personal associations and attachments, most often unconscious. In bureaucracies, it is readily apparent that the common rituals, forms, functions and values that characterize everyday institutional life are always already invested with high degrees of libidinal energy disproportionate to what could be attributed to their ‘objective’ meanings or functions, or even their idealizations.

The signifier *public school* refers, in this scheme, first—at the level of the manifest appearances—to actual physical structures and the social institutions contained therein. *Public school* also signifies the social functions of the school and the network of social roles constituted by schools. But these concrete referentials and first-order symbolic representations of the school hardly exhaust the range of significations flowing from *public school*. ‘The modern view of the [state-public school]’, to paraphrase Castoriadis,

is only partially correct. To the extent that it presents itself as *the* truth about the problems of the institution, it is only a projection. It projects onto the whole history of the institution [e.g., state-public school] an

idea taken not ... from the actual reality of these institutions ... which, despite the vast movement of rationalization, have never been and are still no more than partially functional, but from what this world *would like* its institutions [e.g. state-public school] to be.⁵⁰

Public school in the imagination of a person invested in social and psychological ways to its survival—in the same way that this person might be attached to the survival of family or country—means more, and something different, than what a disinterested observation of the neighborhood school would suggest.

Castoriadis saw the institutional imaginary—meaning both the institution (school, prison, hospital) as an integrated whole with its own productions, and the actors who inhabit the institution and moment by moment make it what it is—as the displacement of the *is* by the *ought*. That is, an institutional actor imagines her world according to how the institution presents itself, historically, rather than according to how the institution actually functions, not to mention its effects on society, on its own agents, and on its clients, patients or students. To place this dynamic, as it relates to the individual, within a properly psychoanalytic framework, we might speak of the subject inclined to see herself in the reflection of the institution, so that in order to avoid narcissistic injury the institution must be imagined in such a way that the subject's worth is preserved.

And thus with respect to the institution itself, representations of the state-public school as justice-enhancing, equitable, participatory, democratic, and professional—emanating from the broader field of state-public education itself—are *imaginary* inasmuch as they project what defenders of the public would like state-public schools (and their own academic bastions) to be, rather than what state-public schools in fact are, most of the time. These imaginary institutions are also self-representations, and the sense of the integrity of the self for those within the field of the state-public school depends on the 'survival' of this institution *in its imagined form*.

In everyday terms, people tend to see themselves as mirror images of the institutions and organizations in which they have invested not just their time and energy, but their sense of identity. Denizens of this educational field—professors and teachers, who of course themselves were once school-attending students—find themselves now in a situation where dispositions are out of line with the field and with the 'collective expectations' of its normality. In situations of crisis or sudden

change, especially those seen at the time of too-rapid movements in social space, agents often have difficulty holding together the dispositions associated with different states or stages, and some of them, often those who were best adapted to an earlier institutional state of affairs—or in Bourdieu’s vernacular, the previous state of the game—have difficulty in adjusting to the newly established order.⁵¹ And thus confronted with momentous changes in institutional conditions—the rise of charter schools, academies, and other alternative challenges to traditional state-public schooling, the politicization of teaching, economic pressures caused by neoliberal ‘reform’, new technologies, and dramatic demographic changes within schools, including rising numbers of children with ‘special needs’—educational professionals find that accustomed, and time-honored ways of practice and understanding are no longer functional, if they ever were.

This internal disruption can be understood, from one side, as the motivation for reform, and from the other side, as the motivation for circling the wagons against the external threat to ‘the way we do things here’. The Imaginary, Castoriadis suggests, is the psychological apparatus through which one might do both at the same time: *change with the times while attempting to preserve the past*. And thus we see the Imaginary in liberal scholarship that positions a highly idealized state-public school—with its inspiring promise of fostering ‘civic equality’, ‘democratic accountability’, ‘inclusiveness’ and all things necessary for the ‘common good’—opposite to any kind of substantive reform or alternative, invariably depicted as a ‘threat’ to state-public education. In the best of times, reforms and alternatives are portrayed as well-intentioned, yet inevitably flawed and inconsistent successes, no matter how justified parents may be in seeking out the alternative, or how well those alternatives may be functioning in comparative terms.

Thinking and behavior during a period of stressful transition results in actions and discourse that, like neurotic symptoms, are not strictly functional or compliant to the reality principle. Historical reason is rendered as nostalgia, for example. Here we might conjure Walter Benjamin’s Angel of History,⁵² who, backing into the future, imagines a past that was better than the present, and projects this nostalgia onto the world at his back, which he is not yet ready to see for itself, or to confront in a hopeful or constructive manner. The local communities in which schools are supposed to be grounded were not what they are supposed to have been, somewhere in the misty past. Yet to attempt to construct a

future on that basis, which is to say, to attempt a reconstruction of these imagined communities in the real world, is not likely to deliver much educational justice for those who need it most.

CONCLUSION

In this chapter I have tried to show that there is something deeply suspicious about the rhetorical public that many of its advocates ardently defend, particularly as this pertains to standard defenses of the state-public school. Accordingly, I have argued that the defense of the public is an imaginary one, imaginary because said defenses suggest unwitting blindness to the dramatic shortcomings of state-public education systems almost everywhere, shortcomings that used to be the staple of leftist critique of the State, but also state-controlled education.

My goal has not been to impugn the value of a state-public education or to cheapen the heroic efforts of ordinary teachers doing the hard day-to-day work in state-public schools. Rather my aim has been to make sense of the conditioned defense of state-public schools by looking closely at the rhetoric liberal defenders of the state-public school use, and bringing these, in fact rather conservative, representations into contact with the undeniably persistent historical reality that state-public schools are usually particularistic, non-inclusive, coercive and unequal. And this is just another way of saying that state-public education systems are responsible for reproducing, and in many cases exacerbating, educational injustice.

Additionally, I have argued that the sort of defense most often heard concerning the public often entails preserving and reproducing the institutions from which its defenders stand most to benefit. Of course to defend that which butters one's bread is neither irrational nor wrong per se, but it might just cast a shadow of doubt on the integrity of a defense of institutional norms that align so closely with one's self-interest. At a minimum a self-interested defense should give one pause when said defense of a public 'under threat' so often seems intransigently opposed to any substantive reforms, or pragmatic alternatives, no matter how bleak the current state of affairs in any school, or school district, maybe.

Nothing in what I have argued should incline us to repudiate state-public schools, or indeed public institutions writ large. To the contrary, I again underscore my own unstinting support for state-public education for each of the reasons I delineated in the chapter's introduction: schools should be robustly public in facilitating universal access to challenging

instruction, to social opportunities to interact and learn from one's differently positioned peers, and to meaningful and realistic possibilities for upward mobility. The fact that state-public schools may continue to fall short of their ideals is no reason to cease supporting and improving them. But as I have tried to show, even the strongest support for state-public education should not lead us to a reflexive and hence uncritical defense wherever and whenever a critique is launched against it. As I argued in Chapter 1, critique is an essential first step in the direction toward something more justice-enhancing: it can help us to expose bias, unsettle the workings of cognitive dissonance and also temper our expectations concerning what it is realistic to expect under conditions of persistent inequality.

Nor should our love for the public incline us to retreat into fantasies about what the public is, effectively denying what in our heart of hearts we know to be the case, and in any case that which is consistently contradicted by the bulk of empirical research. An imaginary public is hardly a proxy for justice. Hence if we take the public ideal seriously, we will recognize that a commitment to the public also entails an equally strong commitment to its critique. But standing tall next to the public educational ideal is its ideological twin: citizenship education. Since the earliest days of state-managed education, liberals have argued that among the school's core responsibilities is to foster citizenship. In the next chapter I examine what I believe to be flawed about this faith and why it matters for educational justice.

NOTES

1. Katz & Rose 2013; Lipman 2013; Lubienski & Lubienski 2013; Meier & Gasoi 2017; Ravitch 2013; Saltman 2007; Watkins 2012.
2. Lofland 1989; Valentine 2008; Watson 2006.
3. Atkinson 2003; Mitchell 1995, 2003; Sorkin 1992.
4. De Magalhães 2010: 560, emphasis in original.
5. Low 2017, p. 2.
6. Cremin 1961, pp. 8–9.
7. Chubb & Moe 1990; Friedman 1962; Tooley 2005.
8. Mill 1978, p. 106.
9. Marx 1938, p. 21.
10. Chomsky 1992, pp. 61–62.
11. Francis & Mills 2012, p. 257.
12. Denvir 2014.
13. Monbiot 2013.

14. Ravitch 2011.
15. Fabricant & Fine 2012.
16. Koontz 1992.
17. See e.g., Egan 2002; Reese 2013.
18. Emmet 1994; Rescher 1987.
19. Parkinson 2012.
20. Curren 2000; Feinberg 2016; Gutmann 1999; Higgins 2011; Knight-Abowitz 2013; Parker 2003. Some of the ideas explored in the following paragraphs are loosely based on the defense of public ideals provided in Knight-Abowitz.
21. Kirst 2008; Newman 2009.
22. I would maintain that a very different kind of ‘citizenship education’—one inclining toward materialism and consumerism (Molnar 2013; Norris 2011)—is very much part of the everyday life of schools, and tends to lead to the very kind of disengagement in public life that those at the top of the field of education studies routinely lament.
23. Labaree 2004.
24. Bowles & Gintis 1976; Freire 1970; Hart 1969; Illich 1971; Jackson 1968; Katz 1968; Neill 1960.
25. Illich 1971, p. 12.
26. Illich continues, ‘Skill teachers are made scarce by the belief in the value of licenses. Certification constitutes a form of market manipulation and is plausible only to a schooled mind’ (ibid., 15).
27. Ibid., p. 22.
28. Jackson 1968, pp. 31–34. He continues, ‘...school is a place where things often happen not because students want them to, but because it is time for them to occur [...] Here then are the four unpublicized features of school life: delay, denial, interruption, and social distraction. Each is produced, in part, by the crowded conditions of the classroom’ (ibid., pp. 13, 17).
29. Gatto 2009, pp. 63–64. He continues, ‘most historical accounts of schooling are so negative [that one has] to wonder how this exercise of pedagogy ever passed the test of time with its original parts nearly unchanged’ (ibid., 100).
30. Bourdieu & Passeron 1977.
31. See Bourdieu & Wacquant (1992) for a relatively concise exposition of these concepts.
32. Bourdieu 1977.
33. Apple 1982; Anyon 1979, 1980; Aronowitz 2008; Giroux 1983; McLaren 1989; Shor 1992, 1996; Shujaa 1994; Tate 1997.
34. Lee 2005; Macleod 1995; McCarty 2002; Thorne 1993; Valenzuela 1999; Vaught 2011; Willis 1977.

35. Elmore 2000; Hampton 2014; Klar & Brewer 2013; Kraft et al. 2015; Newmann et al. 1989.
36. Duncan & Murnane 2011; Hanushek 2003; Rivkin et al. 2005.
37. Lewis & Diamond 2015; Reardon 2016.
38. Carter & Darling-Hammond 2016.
39. Carter & Merry 2019.
40. Clotfelter et al. 2007; Hanushek et al. 2004.
41. Santoro 2018.
42. Jackson 2009, p. 214.
43. Lawrence-Lightfoot 1978, p. 4.
44. Darling-Hammond 2006, 2010.
45. Labaree 2004.
46. Gatto 2009, p. 84.
47. This arguably is more the case in North America than in many other parts of the world.
48. Baldwin 2010, p. 103.
49. In the following paragraphs I am indebted to my conversations with Bill New.
50. Castoriadis 1987, p. 131.
51. Cf. Bourdieu 2000, p. 160.
52. Benjamin (1968, p. 131) writes, ‘There is a painting by Klee called *Angelus Novus*. An angel is depicted there who looks as though he were about to distance himself from something that he is staring at. His eyes are opened wide, his mouth stands open and his wings are outstretched. The Angel of History must look just so. His face is turned towards the past. Where we see the appearance of a chain of events, he sees one single catastrophe, which unceasingly piles rubble on top of rubble and hurls it before his feet. He would like to pause for a moment so fair, to awaken the dead and to piece together what has been smashed. But a storm is blowing from Paradise, it has caught itself up in his wings and is so strong that the Angel can no longer close them. The storm drives him irresistibly into the future, to which his back is turned, while the rubble heap before him grows sky-high. That which we call progress, is this storm’.

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Educational Justice and Citizenship

More than any other public institution, schools are assigned the task of producing ‘good citizens,’ ensuring that when children grow up and leave school, and perhaps even before, they are prepared (even if not necessarily inclined) to practice the civic virtues most valued in their respective societies. Illustratively, Stephen Macedo observes that nothing less than the ‘core purpose of public schooling is to promote civic ideals.’¹ Among these civic ideals or aims is to inculcate basic knowledge and understanding about state institutions and the purposes of government. This liberal model of civic education, which continues to prevail across contemporary North/South American and European school systems, but also elsewhere in South and East Asia, Australia and parts of the Middle East, mirrors to a large degree T.H. Marshall’s² model, wherein social citizenship, the highest form of citizenship, rests on political participation and access for all to the enjoyment of civil rights.

This liberal faith in the school as a ‘laboratory for citizenship’ is very deeply held. It is a faith predicated on the belief that the ‘civic life’ of schools has a life of its own—quite independent of how the rest of society functions—and thus has had, and continues to have, an immense impact on how other institutions function. In other words, this is a faith that has eschewed radical critiques of the school in favor of a more optimistic view. The question is whether this optimism is warranted. I do not deny that state-public schools across the world, through one or another form of citizenship education, manage to provide young people with at least a minimal understanding of their respective political systems,

basic constitutional rights, the purposes of government, and some direction—explicit or not—toward becoming citizens. Additionally, I generally agree that schools can succeed in facilitating modest forms of ‘civic engagement,’ such as student government and community service.³

At the same time, however, the question of who means what by ‘citizenship,’ ‘civic education,’ or even ‘civility’ remains very much contested.⁴ For instance, there is evidence to suggest that citizenship policy and discourse is an elitist and racialized discourse.⁵ Further, it has been argued that citizenship education policy as expressed in curricula and classrooms tends to reduce to basic knowledge about political institutions, and—in part owing to the values and cultural practices of its teachers and administrators—generally rewards students who demonstrate both moral and intellectual conformity.⁶ Hence there are reasons to be skeptical about whether schools are capable of doing what many claim they ought to do with respect to citizenship, not to mention whether the core principles invoked to justify citizenship education are tenable in the first place.

In the scholarly literature, there is a broad range of ideals, conceptions and measures of citizenship put forward by political scientists and theorists, social and political psychologists, as well as civic education scholars. A coherent analysis does not permit me to examine each of these. Instead, I will focus my attention on liberal philosophical conceptions of citizenship education, and I reconstruct and synthesize what I believe to be the most prominent and influential views. My reason for focusing on *liberal* views of citizenship is fairly straightforward: both inside and outside the academy, liberal views arguably receive the most attention and sustained defense. Indeed, in the political science, political theory and political philosophy literatures, it is liberal views that have long dominated the field; liberal understandings of citizenship in educational theory, too, continue to enjoy unrivaled influence. Thus by critically examining liberal notions of citizenship education, I aim to scrutinize the liberal understandings of what it means to be a citizen, and how the social and political world of citizens is constituted.

After expounding liberal conceptions of citizenship education, both on theoretical as well as evidential grounds I argue that they are both morally and politically problematic inasmuch as they depend upon an imposed and coercive conditioning that undermines the very legitimacy they aim to ensure. I further argue that efforts to rescue citizenship education by appeals to dissent are empirically naïve for what they suppose

about schools, where dissent is most often interpreted as misbehavior, and whose institutional design resists any outcome other than the status quo. I argue that unless and until liberal (but also ‘agonistic’) defenders of citizenship come to terms with the institutional realities of schools and school systems, their theories—by abstracting away from these realities—not only offer us little normative guidance; more problematically they offer us a false proxy for justice. I conclude by suggesting that while schools are able to manage the basics of citizenship well enough, perhaps the better strategy to pursue for those concerned with, and invested in, the furtherance of citizenship education is to concentrate on making our schools more just institutions than they currently are.

LIBERAL CONCEPTIONS OF CITIZENSHIP

Among theorists who explicitly link citizenship to its educational precursors, most believe that normative theories of liberal citizenship represent understandings that are essential to the education every child should receive; indeed it should feature prominently in the curricula and instruction of all state-public schools.⁷ While there continues to be a lively theoretical debate among both political scientists and political philosophers concerning the precise meanings, requirements and scope of citizenship, in discussions on *citizenship education*, Amy Gutmann’s views are emblematic of the liberal sensibility. More than that, her views about the importance of setting a high bar for citizenship have strongly influenced academic discussion over the past three decades. I therefore give her work special consideration.

At the heart of Gutmann’s civic education narrative is the idea of ‘conscious social reproduction’ (CSR),⁸ consisting in knowledge about the political institutions and processes that make liberal democratic institutions possible, as well as the attitudes and dispositions necessary for constructing, maintaining, participating in, but also critiquing the power structures or modes of governance. In order to facilitate CSR, citizens need to come into contact with a plurality of individuals and their ideas from which they can reflect, make comparative judgments, and take decisive action. Further, citizens will need to cultivate the capacities for critical self-consciousness, a kind of moral reasoning necessary for discussing and debating on complex social and political issues. Citizens also will need to cultivate the appropriate civic virtues necessary for public deliberation, the idea that disagreements and disputes should be

non-coercively settled using methods of discussion in which arguments and evidence for or against a position are considered in terms of equal status and recognition. It is important to stress that this is very much an *ideal* theory, insofar as it does not presuppose an existing school or social environment in which this kind of learning or self-cultivation actually occurs. But it is also important to note that Gutmann simultaneously presupposes some unspecified kind of learning theory, with complementary environment, that would facilitate the work necessary to potentially realize these ideals.

A capacity for deliberation roughly describes the ability to engage with others on matters of social and political importance in a respectful manner, exhibiting a give-and-take that recognizes both the significance and seriousness of other points of view. Where principled differences exist, deliberation stresses the importance of finding common ground. Deliberation should be contextually sensitive but must proceed rationally, permitting only ‘publicly accessible’ reasons. Echoing Gutmann, Matthew Clayton maintains that civic education will prepare

deliberative citizens [to] display a set of skills and virtues related to deliberative interaction: skills related to articulating a position and the reasons for its affirmation; listening skills; the ability charitably to understand the views of others; analytical skills that facilitate a critical assessment of different positions; an appreciation of the benefits of exchanging ideas; and a commitment to reason rather than to employ attractive slogans or rhetoric.⁹

Finally, integral to Gutmann’s notion of civic education are two supporting principles, viz., non-repression and non-discrimination.¹⁰ *Non-repression* entails emphasizing the importance of consideration for views that do not enjoy widespread support. In other words, non-repression requires that room be left for *dissent*. Meanwhile, *non-discrimination* entails universal access to a political education adequate for participating in democratic politics.¹¹ Each of these elements is tied together by the principle of *legitimacy*, which means that publicly accessible reasons are necessary for procuring un-coerced consent and validating collective agreements, ones used to reproduce the political offices and institutions necessary for political stability.¹² Much more could be said about Gutmann’s or any other liberal theory of citizenship, but those supplementary details—such as the specific content or methods that ought to

be used to best facilitate or express these ideas—are not necessary to capture what are undoubtedly the most important, foundational and widely shared principles.

CITIZENSHIP THEORY AND PRACTICE: MIND THE GAP

Most liberal normative theorists working in this field, including Gutmann, are well aware that the citizenship education on offer in schools fails miserably to correspond to their prescriptions. Indeed, much of the normative work in this field is motivated by precisely such an awareness. Neither are these same theorists naïve concerning how difficult it is in practice to insulate schools from other social forces so that they can assist in cultivating, say, critical thinking and the ability to conceive and fair-mindedly evaluate incremental changes to the current political status quo.

Accordingly, liberal theorists generally regard ‘dissent’—derivative of the principle of non-repression—as a necessity within democratic societies. Schools, they argue, must teach students how to exercise this prerogative. For instance, Meira Levinson¹³ hearkens back explicitly to Dewey’s notion that citizenship education ought to prepare students *for* democracy, not just teach them *about* democracy. She situates her arguments in the context of contemporary political struggle and its attendant rhetoric, where its primary purpose is to help remedy inequality and injustice, to close what she calls the ‘civic empowerment gap.’ Civic education, enacted through curricula and ‘progressive’ pedagogy, is conceived as potentially emancipatory for the disempowered, as the lever by which to finally achieve the promises of democracy. Citizenship education becomes, then, a component of a more general, transformational multicultural education,¹⁴ and a critical social studies education that seeks to teach students about the ‘true’ history of their respective countries, rather than the mythic history to which students are routinely exposed in traditional textbooks.

Now some of the ‘skills necessary for dissent’ that liberal theorists have in mind represent respectable, if modest, endeavors; they include a willingness to empathically consider perspectives one does not agree with, or the aim to cultivate the ability to assess the merits of counter-arguments and evidence. Nobody is required to change their minds. On the other hand, many of the skills seem akin to the bland ‘civic competences’ frameworks¹⁵ promoted by empirical researchers

writing on the subject, or the knowledge and skills of deliberative argumentation often promoted by social studies advocates,¹⁶ leaving one to wonder how far-reaching the resulting dissent could be. The basic position these scholars assume is that we live in a world of many perspectives and values, and that we as individuals cannot take them all for our own, but the aim is that we not only learn to get along with one another but also come to better understand and appreciate our differences, and work toward a consensus-building necessary for political stability.

Though many theorists, too, explicitly recommend community organizing, power analysis, and action civics, dissent in this classroom scenario generally serves the cognitive function of making alternative viewpoints visible, as arguments, but dissent does not signify—let alone allow for—permanent alienation or conflict. The goal of dissent, in the liberal paradigm, is to supplement rational deliberation, not to replace it with the demand to make a decision on political grounds, that is, on the basis of power.¹⁷ Indeed, dissent appears to imply little more than respectful disagreement with a particular policy, or set of policies, favored by a ruling political party. But dissent is almost never construed as principled opposition to the existing economic and political order.¹⁸ And the agnosticism about whether dissent should lead to political decisions, even when the ‘cause is just,’ underscores the issue with most liberal democratic conceptions of deliberative democracy itself, because political decisions do follow from dialogue, even when we cannot say the dialogue produced the decisions in any straightforward way. That is to say, the ‘decisions’ arising out of deliberative dialogue rarely include, let alone represent, the views of the dissenters.¹⁹ Without at least a preference for the efficacy of dissent, decisions tend to be made on the basis of power, which almost always resides outside the bounded framework of the dialogue.

Accordingly, other liberal proponents²⁰ of civic education—who may identify themselves ‘progressive,’ ‘agonistic,’ or even ‘radical’ instead of liberal—want to go further and foreground dissent as the most critical element in ‘democratic education.’ Attempting to step outside the normative framework of philosophical formulations like Gutmann’s, these theorists recognize that real schools are often governed by competition rather than cooperation, that labeling practices and tracking mechanisms assign children to altogether different school experiences, and that standards and testing discourage deliberative dialogue and encourage compliance and conformity. They have not missed the fact that speaking truth

to power in schools most often does not end well for the speakers, especially when these speakers do not inhabit the social identities with the presumptive legitimacy to speak.

Quentin Wheeler-Bell, for instance, is not naïve concerning the yawning gap separating civic education as imagined and defended by liberal scholars and the very different political reality into which schoolchildren are eventually thrown. He also is more mindful than most concerning the tendency of historically privileged groups to isolate themselves from everyone else. He argues for an ‘ally approach’ to citizenship education, one that would entail facilitating spaces and opportunities both for members of marginalized groups, as well as those who are privileged, to come together, discuss contentious issues, and invoke the sense of solidarity necessary for addressing class domination and democratizing the economy. He further argues that a ‘critical autonomous’ education will help the marginalized learn ‘how [...] to acquire the language, knowledge, skills, and dispositions to properly frame their oppression and challenge the power structures [and] provide students with the critical autonomy needed to maneuver through unjust social institutions and re-network the capital they acquire to advance social movements aimed at eliminating poverty.’²¹ Elsewhere he calls for a ‘spirit of activism’ borne out of a ‘child-centered education [that] can be used to develop a collective sensibility to harness the social power necessary for creating a deep socialist democracy.’²²

Yet while his critical approach to citizenship represents a welcome alternative to the standard liberal narrative foregrounding dissent, it remains just as difficult to imagine schools in *any* society permitting, let alone actively facilitating or fostering, what Wheeler-Bell has in mind. Indeed, underlying his recognition of the structural inequalities of our capitalist system lies both a resolute adherence to the core liberal positions regarding citizenship, and a corresponding faith in the ability of schools to make good on these ideals. Thus even when criticizing liberal conceptions of citizenship, he shares with other liberal normative theorists the same quixotic faith in the idea that state-public schools have as one of their core tasks to sow the seeds of free and equal citizenship, of moral character, and not only where it is possible to reflect upon a variety of different ideas about the good life, but also where possibilities for mutual respect abound.

As we have seen, this faith follows from the unyielding conviction that state-public schools have a special civic mission, as Macedo’s earlier remark

underscores, but also because schools are thought to bring children together from different backgrounds, and the differences children bring with them to school help to facilitate thoughtful encounters with others who espouse different conceptions of the good life, which in turn will encourage reflection upon one's own beliefs and assumptions. For instance, Sarah Stitzlein postulates that schools, owing to their 'publicness,' will produce what she calls 'desirable citizens' interested in the 'common good.' At least, she adds, if we can just keep privatizing forces at bay, or prevent schools from being 'run like a business.' But if we manage that, then it stands to reason that schools could supply myriad opportunities to 'work collaboratively to understand, question, and challenge the practices of social and political life as they work together to address shared problems or create mutually beneficial ways of life.'²³ This faith is also echoed in the following remarks from sociologist Kendra Bischoff, who articulates the civic mission of schools with characteristic liberal optimism:

Schools play a unique role in civic education as compulsory, structured, non-familial institutional affiliations for young people ...[they serve] as an alternate political sphere for children – an institutional context where schools provide, to varying degrees, opportunities for students to practice leadership skills, volunteerism, and to closely interact with other individuals who hold different views, live different lifestyles, and engage in different activities in and out of school. Schools might be viewed as children's workplace, their civic domain, and a place where they can effect change.²⁴

The meaningful encounters with different opinions, preferences and lifestyles that Bischoff describes are meant to encourage reflection upon one's own beliefs and assumptions, i.e., to assist in fostering autonomy, an idea I return to later.

For now it will suffice to remind the reader that beyond the basics of knowledge about the constitution, the purposes of government or the electoral process, this liberal faith in the school's capacity to teach 'critical citizenship' is simply unwarranted. It is unwarranted because it is belied by the conditions of deep structural inequality endemic to most schools, and indeed to entire school systems. This faith is also belied by the unpreparedness and unwillingness of most teachers to broach sensitive issues or facilitate 'deliberative interactions' in classrooms of diverse background and opinion, not to mention parents who do not want their

child's education 'politicized'; and finally, this faith is belied by the ways in which most schools are designed to promote and reward competition, rule compliance, deference to authority and nationalist loyalty. Indeed with the possible exception of a few 'radical' classrooms, and even fewer 'radical' schools, those who deviate from the state-approved systems of accountability do so at their own peril.

I will have more to say about the liberal principles themselves below, but for now my point is simply that the faith liberal theorists exhibit in civic education leans heavily toward the ahistorical, given many of the dubious purposes for which schools were designed.²⁵ Of course liberal theorists emphatically deny this, claiming that such an understanding is polemical. Instead they appeal to a 'wide consensus' that the school's 'inclusive' civic purposes, from the beginning, were central to the development of state-public education. It is difficult to deny that there is a 'wide consensus' among liberals concerning the school's civic mission. The problem is that this academic and highly idealized consensus is virtually unrecognizable to those tasked with 'doing citizenship' in schools.

It is important not to misconstrue what I am saying about ideal theory. As I argued in Chapter 2, ideals have an important role to play in justifying standards we need in order to identify the injustices we want to correct, as well as to assess our progress in aspiring to do better. Constructive critique, too—the sort of thing I am doing here—relies upon normative ideals in order to detect bias, or cognitive dissonance, and more generally flawed thinking and practice, making it possible to reconsider and revise untenable positions we may hold.

So the problem with liberal citizenship theories, the one I am highlighting here, at any rate, is *not* that they engage in ideal theorizing. Rather it is that they prescind from the institutional realities of schools and school systems, realities in most cases not remotely conducive to fostering the outcomes liberal theorists have in mind.²⁶ As such, it is questionable whether these idealized theories are able to offer us much in the way of normative guidance concerning how citizenship ought to be enacted in state-managed schools. And in the main these are schools which, Clive Harber reminds us, continue to be 'essentially authoritarian institutions, however benevolent or benign that authoritarianism is, and whatever beneficial aspects of learning are imparted.'²⁷

This is not to say that schools are *only* authoritarian, or that these were the *only* purposes for which schools were designed. As I argued in Chapter 2, of course there are many noble aims that continue to

operate alongside ignoble ones; and of course it is possible to distinguish between ‘good intentions’ and mixed outcomes. It also may be the case that it is still reasonable to believe that state-public schools, notwithstanding their many flaws, might conceivably tilt toward something more closely approximating justice than they currently do. But this liberal idealism needs to be tempered with a healthy dose of historical realism.

CITIZENSHIP AND HISTORICAL AMNESIA

To better appreciate the historical amnesia that nourishes the dogma of the school as a civic enabler, as well as to underscore the cognitive dissonance required to believe that the history of schooling was somehow otherwise, it might be instructive to recall what the ideological seeds of the modern school system are. Those seeds lie in the French Enlightenment, though its germination, growth and expansion occurred, first, in the Netherlands at the beginning of the nineteenth century and, later, under the auspices of a militarist Prussian state. The Prussians, and subsequently the Germans, established national systems of education whose operational model was one of administrative efficiency, and it is this model that ushered in the modern era of massive investment in educational systems for nation-states throughout the industrialized world.²⁸

Now it would be difficult to deny hints of justice in the belief that education was then, or is now, a shared civic responsibility rather than an entitlement exclusively available to the children of the wealthy. Similarly, it would be difficult to deny hints of justice in the conviction of early American reformers like Dewitt Clinton, Benjamin Rush, Horace Mann, Thomas Jefferson and Noah Webster that literacy and numeracy were the birthrights of citizenship.²⁹ Further, nearly a century ago, the American Political Science Association suggested that civics education not be limited to the study of government, but rather its aim should be ‘to give the pupil an intelligent conception of the great society in which he is a member, his relation to it, what it requires of him, how it is organized, and what functions it performs [...] the study of governmental organization and the functions of public authority ought therefore to be the center or core of any [...] course whose chief aim is to inculcate sound ideals of citizenship, to emphasize the duties of the citizen, and to afford any grasp of public problems.’³⁰ This perspective on the appropriate scope of citizenship education has persisted ever since, as can still be seen clearly

in the kinds of civics classes required for graduation from most secondary schools in several countries today.

At the same time, however, the belief in the aims of a ‘noble’ citizenship education is itself doubtful given that the ideology behind these aims, and not only in the United States, was unapologetically ‘Protestant [...] assimilationist and moralistic.’³¹ The belief is further unsubstantiated insofar as historical scholars have repeatedly shown how administrative efficiency came to define much educational ‘reform’ during the so-called ‘progressive era,’ such that by 1918 Alexander Inglis could confidently describe in his *Principles of Secondary Education* how the modern school system operated to promote deference to authority, and manage and direct the interests and sympathies of pupils to care about little else except how they might contribute to the wider economy. Notwithstanding innumerable reforms, among which we must include the almost unfathomable expansion of responsibilities that have fallen to state-public schools—and the bureaucratic swelling that has accompanied this expansion—arguably little has changed in the century since Inglis wrote. If anything, these expectations have been ramped up.³²

Since the advent of state-supplied education, those in charge of schooling have claimed the transformation of children and teens into adult citizens as one of their primary goals, even if in practice the execution of that goal was nearly always subservient to other, more instrumental, aims, and to less liberal conceptions of citizenship, within which minority assimilation to dominant values and language are valued more than political participation. Indeed, from most of the progressive reforms came the shared conviction that education—or rather, schooling—ultimately must serve the purposes of the state,³³ which is to say, the ruling elite that happens to be in power at any given time; hence, schooling must be designed so as to ensure assent to the social and institutional order, with the individual’s natural dispositions and talents sorted and steered according to one’s ‘probable destiny.’

And indeed, from the beginning all national school systems were designed, as with other official processes of naturalization, to include or exclude. Indigenous groups, recent immigrants, cultural and religious minorities, and in many times and places girls were systematically excluded. For example, reformer Richard Henry Pratt—founder of the infamous Carlisle School—believed that to ‘kill the Indian’ using a vast network of boarding schools (or ‘residential schools’ as they are known in Canada) was a noble campaign to transform hundreds of thousands of

Native Americans into ‘acceptable citizens’ by removing Native children from their families and forbidding them to speak their languages or practice their cultural and religious traditions.³⁴ Cultural and actual genocide has been the result.³⁵ Similarly, as ‘waves’ of immigration in the late nineteenth and early twentieth centuries were to swell the population of a still very young United States, nativist sentiments were not uncommon among other prominent educational reformers. In 1909, professor and later dean of the Stanford Graduate School of Education, Ellwood Cubberley, could proclaim, without embarrassment, that it was the school’s task to

break up these groups or settlements, to assimilate and amalgamate these people as a part of our American race, and to implant in their children so far as can be done, the Anglo-Saxon conception of righteousness, law and order, and popular government, and to awaken in them a reverence for those things in our national life which we as a people hold to be of abiding worth.³⁶

Official discourse from educators, policy-makers, and ordinary citizens about schooling and students has certainly become decidedly more ‘multicultural’—indeed we live in a day and age when every occasion demands a perfunctory nod to ‘diversity’ and ‘inclusion’—but unapologetic linguistic and cultural assimilation of minority and immigrant children continues to be the rule.³⁷ Thus while the Protestant-infused candor of Cubberley’s remarks may be less characteristic of our own age, the assimilationist *sentiment* is still widely shared and remains consistent with the institutional norms of schools on every continent.³⁸

Curiously, however, in education and policy circles many continue to espouse the (unsubstantiated) belief in the ability of state-public schools to deliver equality and inclusion, with the (equally unsubstantiated) belief that state-public schooling is inherently ‘progressive,’ both in content and method. But in the twenty-first century, in particular in our populist era, blatantly racist and anti-immigrant rhetoric is now commonplace among an alarming number of schooled citizens and politicians. Indeed, these political arrangements correspond to reality, on most continents, where the rhetoric of citizenship is ubiquitous, yet where the ethnocentric attitudes behind this rhetoric—and concomitant policies—ceaselessly drive home the idea to millions that they are not welcome.

One need not point to any of the dozens of openly nationalist and xenophobic populist parties; it will suffice to consider the existing rhetoric and policies of *mainstream* political parties whose ideas of citizenship are inextricably tied to ever stricter requirements for proving that one is a ‘good citizen.’ These mainstream parties are run by well-established political elites,³⁹ who for a long time now have seized upon citizenship discourse as a tool to shore up support from their base. In doing so they share with their populist cousins the same proclivity for a Manichean logic that separates the ‘good citizen’ from those former US presidential candidate Hillary Clinton deemed the ‘deplorables,’ or if one prefers the words of former French president Nicolas Sarkozy, the ‘scum’ (*racaille*).

In the European context, this ruling elite generally consists in a small but powerful political and academic coterie whose experience and opinions converge to an alarming degree, sharing as they do a very similar elitist cultural and educational background. Not unlike their Protestant counterparts in the American colonies during the nineteenth century, this shared social, cultural and economic background bears directly upon citizenship as used in (racialized) political discourse and education policy. Indeed both academic and political elites dictate the content and scope of ‘good citizenship’: they decide what citizenship requires, why it is urgent, who needs it most, and why schools ought to be the instrument for purveying it. And would that it were merely rhetoric; fences have gone up along the borders in Central and Southern Europe; nearly all European countries unashamedly and systematically stigmatize and exclude the Roma; some countries have even amended their constitutions or adopted new legislation in order to more expeditiously deport their own citizens.

Most liberal advocates of citizenship education are of course not ignorant of this history, or the contemporary and morally dubious purposes to which citizenship is enlisted. But they nevertheless consistently exhibit a non-critical faith in the power of schools to produce ‘good citizens.’ In doing so, they conveniently elide the conditions of deep inequality that are endemic to schools, and indeed to entire school systems. They also generally elide the copious ways that national educational systems sanitize, even patently falsify, their own histories in order to encourage loyalty to a favored view of the past and the privileged place of the majority population in that narrative. James Bernard Murphy reminds us:

It should be no surprise that in order to teach civic values, [textbooks] in every epoch have sanitized, distorted, and falsified history, literature, and social studies to inculcate racism; nationalism; every manner of religious, cultural, and class bigotry; Anglo-Saxon superiority, [imperialism], Social Darwinism, anti-Catholicism, and anti-intellectualism.⁴⁰

Again my point here is *not* that the gap between the empirical ‘is’ and the normative ‘ought’ leaves us with no ways of imagining real improvements. Indeed, absent ideals, it is difficult to imagine meaningful reform on any front. I am therefore very much aware that the normative descriptions offered by liberals capture not the schools we *have*, but the schools its authors believe we *need*.

And in canvassing this history, I am also mindful of the genetic fallacy: ideas and values currently promulgated by educational institutions could be sound, irrespective of their origins and independent of the motivations of their early advocates. Moreover, people’s understandings of core educational and citizenship values have changed over time, with the evolution of democratic systems. This one can see in terms of present understandings of parties to whom relevant educational and citizenship values apply; how to conceptualize the values themselves; what’s included in the register of values people think worth promoting in school, or which may be salutary for citizenship, and so forth. But as I aim to demonstrate below, the difficulties with liberal conceptions of citizenship education run deeper than this.

LIBERAL CITIZENSHIP REVISITED

Allow me to return to Gutmann’s idea of CSR, which requires that individuals come into meaningful contact with others from different backgrounds on terms of equal status and recognition; cultivating the capacity for critical self-consciousness; and engaging with others in a process known as ‘deliberation’ for the purposes of democratic decision-making. The reader may remember that for Gutmann CSR not only will supply students with the attitudes and dispositions necessary for constructing, maintaining and participating in democratic decision-making; it also putatively will equip students with the dispositions to critique power structures and modes of governance. In other words, a capacity for dissent.

The problem, I maintain, is that virtually all of the evidence points in the opposite direction. Indeed the difficulties with Gutmann's theory, or any other liberal variant of civic education, are not only evidential; the principles themselves do not hold up under scrutiny. I begin with the principles. For the sake of brevity, I limit my focus to some difficulties with *political stability* and *legitimacy*.

Principles

The interdependent features of *political stability* and *legitimacy* are noteworthy in liberal citizenship theory, both for what the former implies about the necessity of maintaining the status quo, as well as for what the latter implies about the faith liberals have that the consent offered by citizens hasn't been coercively conditioned in the first place.⁴¹ Now, of course, 'instability,' on the standard liberal account, occurs when laws and institutional practices are found to be unjust and undesirable; this state of affairs is then meant to provoke protest and change so that a state of stability can once again be reached. Thus stability, the argument runs, is not desired so that the state can maintain power, but rather so that citizens can function smoothly within it, content with the laws that reflect their will. So political stability, to borrow a Rawlsian phrase, can be fostered for the 'right reasons.' Even so, when liberal theorists assert that the purpose of citizenship education is to 'ensure the stability and preservation of the liberal state,' or to 'give citizens the ability to participate effectively in the political sphere,' it is not only difficult to conceive of any room for dissent against the political and economic systems we have—be they in Taiwan, Lebanon, South Africa or Greece; it is difficult to conceive of any political activity at all that does not conform to that which the state has expressly allowed.

But the difficulties with liberal citizenship theory do not merely concern whether or not political stability conforms to the right kind of reasons, or whether or not dissent in any meaningful sense is permitted. The real moral conundrum concerns whether the authority of the state can be legitimate in the first place when that same authority is used to instill the very educational content deemed by the state essential for manifesting 'good citizenship.' If legitimate political authority requires the free and authentic consent of the governed, then the very consent of the

citizenry on which legitimacy rests is dubious when it has been imposed and conditioned by the state. Harry Brighouse articulates this objection succinctly:

Something is puzzling about the idea that liberal states may regulate the educational curriculum by mandating a civic education aimed at inculcating the values on which liberalism is based and behaviors which sustain it [and thus] what confidence can we have in a judgment of how much conscience to cede to a body which we know has deliberately shaped our judgment to cede?⁴²

Brighouse suggests that liberals might solve this quandary either by getting out of the citizenship business altogether, or else by according less priority to legitimacy as a regulating principle. He repudiates both. On the one hand, he says, schools have a proper role to play in fostering healthy civic outcomes; on the other hand, he argues, legitimacy ought not to be tossed aside as a rudimentary liberal principle simply because it is inconvenient for achieving some other aim. Consent can only be authentic when the *principles themselves* can be meaningfully scrutinized and assessed.

Brighouse's remedy is to introduce the idea of an 'autonomy-facilitating' education that would (somehow) operate independently of citizenship education. He understands autonomy to entail developing the capacity to compare, consider and choose from among a range of options for oneself; to formulate a conception of the good; having made considered choices and developed a conception of the good from among a range of options; and finally, to govern oneself on the strength of considered alternatives, remaining open to the possibility of revising one's commitments with the passage of time. The virtues of autonomy will also presumably enable persons to exhibit 'public reasonableness,' i.e., the capacity to evaluate different points of view, and to respectfully engage in deliberation and debate with others with whom one does not agree. And thus with respect to citizenship, an autonomy-facilitating education would encourage, but not require, children to subject their beliefs to rational criticism, perhaps especially those that require informed and authentic consent to a government whose function also entails shaping consent.

In light of the demands of autonomy delineated above, it is curious that Brighouse appears unworried about the prior non-autonomous

inculcation of liberal democratic principles. He argues that consent to those principles *becomes* authentic, i.e., autonomously espoused, once young people are encouraged to devote ‘an appropriate amount of critical attention’ to them. But in addition to this unhelpfully vague formulation, the bar he sets for ‘authenticity’ is so low that nearly everyone is able to satisfy it. And in any case, ‘autonomous consent’ as he formulates it does not seem capable of escaping the paradox of *conditioned* consent, which dilutes the meaning and value of legitimacy on which the state’s authority to mandate civic education putatively rests.⁴³ Nor, finally, does an ‘autonomy-facilitating’ education seem a likely outcome of schooling *tout court*, in particular for those subject to harm by its institutional practices designed to apportion rank and opportunity.

Evidence

Moving now to the evidence, suppose we take the first condition of CSR—meaningful contact with others different from oneself: there is little reason to be optimistic that the vast majority of schools in *any* country can satisfy this condition, let alone develop meaningful interactions under prevailing conditions of mutual recognition and respect, given the high indices of segregation between and within neighborhoods and between and within schools⁴⁴; given the deliberate ways in which bureaucratic school organization ensures minimum contact through selection, tracking and grouping⁴⁵; given the ways in which peer groups function⁴⁶; and finally given what we know about middle-class parental behavior, in particular the lengths to which well-educated (but especially white) parents will go in order to avoid their child attending a school with ‘too many’ poor (but especially non-white) children.⁴⁷

Taken together, these things mean that beyond the primary school most children seldom interact with others from a different cultural, social class or religious background in any substantive way. And it is an open secret that school systems facilitate this. For example, by the time most children reach the age of 12 in many European countries, a single test score (sometimes mediated by a teacher’s advice) largely determines whether one will attend classes with others very different from oneself. These institutional norms also dictate that the possibilities for cultivating ‘critical consciousness’—at least for young people belonging to the majority group—are few and far between.

Or suppose we consider again the principle of non-discrimination. Remember that this concerns access to a ‘political education adequate for participating in democratic politics.’ But considering that schools don’t typically supply students with much more than basic knowledge and understanding of the constitution, the electoral system, or the voting right, the result is in fact a form of political education that aspires to political stability, which almost by definition will favor dominant ways of thought and action.⁴⁸ Meanwhile, with respect to the principle of non-repression—whose ostensible purpose is to allow for unpopular points of view—again, all evidence points toward schools *repressing* dissent, not encouraging it. As anthropologist Jules Henry documented some decades ago now:

The Schools have never been places for the stimulation of young minds [...] the primary aim of education has been to fetter the mind and spirit of man rather than to free them [...] The early schooling process is not successful unless it has accomplished in the child an acquiescence in its criteria, unless the child *wants* to think the way the school has taught him to think. He must have accepted alienation as a rule of life.⁴⁹

Indeed the empirical evidence⁵⁰ each year documents innumerable instances of what James Banks⁵¹ has called ‘failed citizenship,’ where mostly poor, mostly minority youth continue to disengage from whatever schools are trying to teach them about how to be a ‘good citizen.’ While it remains the fashion in some quarters to refer to these children as ‘at risk,’ ‘dropouts’ or ‘school leavers,’ educational researchers have been demonstrating for more than half a century that it is more accurate to say that these students are *pushed out of school*, and not only into a world where the ‘good citizenship’ of stigmatized groups is routinely questioned, but more generally into a world of structural exclusion and diminished opportunities that awaits those without academic credentials and skills.⁵²

The upshot is this: the CSR of democracy liberal theorists like Gutmann envisioned that state-public schools would provide everyone was long ago revealed as the social reproduction of inequality.⁵³ Indeed, the preponderance of educational research consistently documents the ways in which schools are designed to prevent ‘democratic education’—at least as envisioned by liberal theorists—from ever getting off the ground.⁵⁴ Readers sympathetic to the liberal conception of

citizenship education will of course emphatically disagree, insisting that reproduction theories and revisionist histories have been ‘debunked’ by rosier ‘neo-institutional’ assessments and by subsequent historical research. But the evidence and arguments I have adduced say otherwise.

CITIZENSHIP EDUCATION: A MODEST PARS CONSTRUENS

Though I have been quite critical of liberal citizenship theory, none of what I have argued means that schools have nothing to offer, or that the social reproduction of inequality is the whole story. After all, the state-public school possesses the institutional means to offset many harms. For instance, many school systems provide free health services, meals, and remedial tutoring; many schools have passionate teachers and mentoring programs; many school systems provide free access to computers, books and extracurricular activities; and provided that children have access to many years of good quality education, schools can provide a path to future economic self-reliance. I do not deny any of that.

Nor, as I argued in Chapters 2 and 3, should my criticisms be taken to mean that there is zero possibility for reform or resistance, or that ‘success stories’ do not occasionally appear.⁵⁵ Formal education has certainly contributed to the improvement of the lives of those historically consigned to the domains of the illiterate and innumerate, with concomitant limitations on well-being across the spectrum, and to whatever measure of social and economic mobility allowed by our capitalist order. The skills and knowledge necessary for effective political resistance are no doubt one, though likely unintended, product of schooling.

That citizenship curricula and democratic pedagogy has in many cases positive effects I also do not contest. If and when state-sponsored education can succeed at fostering, say, mutual respect and understanding, it should be applauded. Indeed, I have no substantive critique of the plenitude of educational programs and curricula whose intent is to teach students about the Environment, or about community service, or to learn about the purposes of government, or to understand one’s basic constitutional rights, or how to engage in respectful, constructive dialogue. Many schools succeed well enough in covering these basics. This kind of education, when it is permitted, has the potential to help produce the next generation of voters with a better understanding of government, even democracy, than the current generation in many countries has evinced recently.

And finally, nothing in my argument entails opposing political education; indeed, without some kind of political education, we could hardly expect institutional reform or progress. Even dissent-oriented political education, though uncommon, can occur in school. To take an American example, not a few high school history and social studies teachers incorporate reading material and discussion that challenges the dominant—and quite explicitly patriotic—narrative.⁵⁶ This is a narrative, James Loewen reminds us in his book *Lies My Teacher Told Me*, where ‘the authors of history textbooks have taken us on a trip of their own, away from the facts of history, into the realm of myth. They and we have been duped by an outrageous concoction of lies, half-truths, truths, and omissions.’⁵⁷ Loewen’s book offers a corrective to the fictions and distortions of American history that has paid too little attention to the patriotic significance of dissent, or to the folly of believing that any criticism directed against the United States is ‘un-American.’

Moving out of the classroom, political protest, too, can occur beyond the school grounds. In late 2017, for instance, parents joined students in York, UK to protest against school inaction in combating violence against LGBTQ students.⁵⁸ Across the Atlantic, in early 2018 hundreds of thousands of American high school students walked out of their school buildings to protest gun violence⁵⁹; not long afterward, high school students in many American cities walked out to protest the arrests of ‘dreamers,’ i.e., undocumented children whose parents at one point had illegally crossed the border from Mexico, and consequently whose citizenship status remains unclear. Given how these events impacted entire communities, many teachers and administrators, too, lent their moral support. More recently still, Swedish climate activist Greta Thunberg has galvanized massive support among school-age citizens in many countries around the world to stand up and demand that their respective governments do more than offer us empty promises concerning how they plan to tackle the present ‘existential crisis.’

Notwithstanding these inspiring examples, three things should be borne in mind. First, note that most of these political activities entailed students *leaving* the school; protests fomented on high school campuses are exceedingly rare given the absence of freedom to undertake political action without fear of punishment. Second, owing to time and curricular constraints, but also a general unease about broaching politically sensitive issues, few teachers are inclined to engage students in ‘deliberative’ discussions in classrooms where opinions vary on controversial issues.⁶⁰

Third, political reform and progress generally occurs not because of a coercive, state-directed, curriculum-based citizenship education, but rather *in spite of it*.

And thus while schools have an important function to play in supplying children with some of the civic basics, we should not expect that citizenship education, as currently practiced or as articulated by its defenders, will likely ever permit challenges to the institutional status quo. Schools and school systems are not designed for this purpose, but rather to inculcate dispositions in pupils to ‘abide by the law’ and to ‘support fundamental political arrangements.’ And notice that this is precisely what liberal citizenship theories exhort us to do. Indeed the imagined schools that foster civic respect, deliberation and ‘shared fate,’ or that encourage dissent, or that allow for a critique of power structures and modes of governance are quite remote to the experiences of most youth everywhere. Teachers and schools that do persist in this idealist approach invariably find themselves at loggerheads with the ways in which citizenship education of whatever kind is devised by ministries and superintendents of education, and handed down for implementation in classrooms.

In light of the above, and in addition to continuing with the modest citizenship curricula that schools already use, it strikes me as a more promising strategy to simply focus on *making our schools more just institutions*. School systems designed to foster justice, at a minimum, would require that children not have their educational experiences determined by their postcode, their ethnic status, first language or family wealth; school systems designed to foster justice would also ensure that some mechanisms are in place to guarantee that some are not unduly advantaged or disadvantaged, where their own educational interests are concerned, by personal or circumstantial features beyond their control. Though some progress has been made, well into the twenty-first century we are still a long way off from realizing these more basic equitable aims. Striving to make our schools more just institutions does not mean that we need to sideline citizenship; but we should not derive any false comfort from believing that we reach the former by devoting ourselves to the latter.

CONCLUSIONS

Throughout this chapter, I have questioned whether it is possible that state-public schools might be capable of doing what liberal theorists claim they ought to do with respect to citizenship.

Further, I have questioned whether the core principles invoked to justify citizenship education are tenable in the first place. To that end, I have aimed to demonstrate that the liberal faith in citizenship education is too disconnected from the structural inequalities endemic to school systems to offer us much in the way of useful guidance. Expressed in the vernacular of Gutmann and other liberal theorists, the ideals of non-repression and non-discrimination are consistently not realized in state-public schools around the world. Indeed in many if not most places, hardly even lip service is paid to these ideals, or the lip service paid is so openly contradicted by practice that hardly any of the students are fooled.⁶¹

By interrogating the tenets of liberal citizenship theory, it is not my aim to recommend cynicism about the importance of citizenship, even as I question—with many others—what citizenship has been historically, for both the advantaged and disadvantaged; what it is now in our world of constant emergency, fluid identities, and fluid borders; how it is operationalized by political elites to upbraid racialized minority groups for their ‘failure to integrate’; and what potential there might be for citizenship education in the future. More might be done, for instance, to promote the acumen necessary to more critically analyze media and advertising, or cultivate awareness about political affairs, or debate the importance of lowering the voting age.⁶²

But what I question is whether liberal conceptions of citizenship, no matter how well-conceived and delivered, will somehow save children from an alienating education, or save the rest of us from political tribalism or depravity. Claims like this, more often insinuated than stated outright, are commonplace in media, political debate, and certainly in academic scholarship.⁶³ Yet as I hope to have demonstrated, there are reasons to doubt the ardent defense of a set of ideals that seem, historically, to have little potential for realization beyond the very basics, which again include coming to acquire a minimal understanding of political systems, basic constitutional rights, and the purposes of government.

And thus, if it is improbable that we can succeed in making state-public schools places capable of approximating the exalted civic ideals liberal philosophers defend, we might at least try for alternatives where the ideals driving notions of ‘good citizenship’ do not lean so heavily on contentious principles,⁶⁴ and in any case where expressions of civility are not thwarted at every turn by a set of hierarchical institutional norms that brook no meaningful dissent. And hence in addition to my plea that we strive to make our schools more just institutions, my very modest

suggestion is that we simply begin with some basic honesty regarding the historical and current state of affairs of schooling. Because right now, citizenship education as it is currently being defended in the realm of ideal liberal theory, is drifting so far from reality that it risks becoming irrelevant, of use mostly as a legitimating discourse by the powers-that-be to conceal the increasingly undemocratic nature of state-public schooling in most countries.

In the following chapter I turn my attention to yet another belief—one complimentary to a liberal conception of public education for citizenship—that has come to dominate not only primary and secondary, but also tertiary education. That is the idea that an educational environment should be ‘diverse.’ A corollary to the conviction that justice requires ‘school integration,’ I challenge the idea that school or classroom diversity is a proxy for educational justice, in particular for those who need it most. I further conjecture whether diversity enjoys the popularity that it does among certain liberal advocates precisely because it is they who stand to benefit most.

NOTES

1. Macedo 2000, p. 122.
2. Marshall 1950.
3. These might include running food banks, litter cleanup, and offering free tutoring to young pupils in the community (Levinson 2012; Wheeler-Bell 2018). However, most evidence suggests that student government enjoys only tokenistic importance in the school. See e.g., Leung et al. 2016. Many interesting frameworks concerning citizenship education have been researched, where the aim has been to test the ‘effectiveness’ of citizenship programs in schools and education systems across the world. See e.g., Driessen 2008; National Conference on Citizenship 2006; Putnam 2000; Whiteley 2005.
4. Definitions of ‘citizenship education’ are diffuse but most closely approximate a definition whose aims are to explicitly teach the knowledge, skills and values believed necessary for democratic citizenship. See for example Kahne & Middaugh 2008.
5. Eksner & Nur Chemma 2017; Gillborn 2006; Ladson-Billings 2004. For instance, Gillborn (2006, p. 85) argues that ‘in practice citizenship education operates as a form of *placebo*: an activity that gives the appearance of addressing the issues (racism and race equality) but which, in reality, manifestly fails to tackle the real problem.’

6. Osler & Starkey 2000; Pykett 2007.
7. Clayton 2006; Galston 1991; Gutmann 1999; Macedo 2000; Macmullen 2015; Williams 2003.
8. Gutmann 1999, pp. 33–43.
9. Clayton 2006, p. 147.
10. Gutmann, *op cit.*, pp. 44–45.
11. Cf. Satz 2007.
12. For example, Macmullen (2015) maintains that civic education ought to inculcate ‘dispositions to abide by the law’ and ‘dispositions to engage in political participation through legal channels,’ each of which points to a general support for the ‘fundamental political arrangements’ of a given polity, and hence the institutional status quo.
13. Levinson 2012.
14. Banks & McGee Banks 2009; Dei 1999; Osler 2000; Ladson-Billings 2005.
15. Amnå 2012; Geboers et al. 2015.
16. Hess 2009; Parker 2003.
17. Cf. Mouffe 2005.
18. Concerning this economic and political order, Pulitzer prize recipient Chris Hedges (2001, p. 8) writes: ‘What endures is not the fact of democratic liberalism but the myth of it. The myth is used by corporate power elites and their apologists to justify the subjugation and manipulation of other nations in the name of national self-interest and democratic values.’
19. Fricker 2007; Hickey & Pauli-Myler 2017; Sanders 1997; Young 2000.
20. E.g., Stitzlein 2012; Zembylas 2011.
21. Wheeler-Bell 2018, p. 21.
22. Wheeler-Bell 2014, p. 480. As a concrete example of ‘critical citizenship’, Wheeler-Bell (*ibid.*, pp. 481–482) specifically appeals to what he calls ‘social entrepreneurships,’ where the idea is to ‘restructure the relationship between capital and the community by promoting democratic deliberation as the center of “normal business practice,” thereby promoting civic solidarity over profit-maximization or private allocation of profit...’.
23. Stitzlein 2012, p. 262.
24. Bischoff 2016, pp. 95, 98.
25. Bernstein 1975; Bourdieu & Passeron 1977; Bowles & Gintis 1976; Coons et al. 1970; Goodman 1962; Holt & Fromme 1964; Illich 1971; Jackson 1968; Katz 1968; Macleod 1995; Willis 1977.
26. To illustrate a phenomenon observed in many countries and school districts, a recent report commissioned by the city of Amsterdam in the Netherlands indicated that teachers feel both incompetent and disinclined to broach sensitive topics in the classroom where there is a diversity of opinion. The report also indicates that the school

- system is so segregated that it is unlikely that most students will be attending a school with others whose backgrounds are very different from themselves in the first place, making many of the objectives of citizenship education unattainable. See <https://www.parool.nl/amsterdam/-leerlingen-groeien-op-in-hun-eigen-bubbel~a4569791/>.
27. Harber 2004, p. 24.
 28. Stowe 1836.
 29. Cremin 1961; Kaestle 1983; Tyack 2003.
 30. The Study of Civics (APSA Committee on Instruction) 1922, p. 117.
 31. Kaestle 1983, p. 77. Kaestle (1983) explicitly notes that most writers on education in the nineteenth century were concerned with schools cultivating ‘acquiescent citizens’ (ibid., 67) and that schooling generally was meant to stress the Protestant virtues of ‘unity, obedience, restraint, self-sacrifice, and the careful exercise of intelligence’ (ibid., 81). Under this theological-republican frame, poverty and crime were accordingly seen as evidence of moral vice, and women were expected largely to restrict their activities to the domestic sphere (Nasaw 1979). Paulo Freire’s (1970, p. 65) similarly bleak assessment of education in the late twentieth-century still resonates: ‘dominate elites consider the remedy [to what ails the poor and marginalized] to be more domination and repression, carried out in the name of freedom, order and social peace (that is, the peace of the elites).’
 32. See, for example, the U.S. Department of Education’s 1983 *A Nation at Risk* report, the opening lines of which are: ‘Our Nation is at risk. Our once unchallenged preeminence in commerce, industry, science, and technological innovation is being overtaken by competitors throughout the world.’ Full text available at: <https://babel.hathitrust.org/cgi/pt?id=uc1.31210005643745;view=1up;seq=3>.
 33. Although even the most enthusiastic supporter of citizenship education would find quaint Aristotle’s (*Politics* 7.15) belief that one of the core purposes of a public education is to ensure that the ends of the individual and the state are coterminous.
 34. Cf. Nasaw 1979; Reyhner & Eder 2004; Sheehan 1978. David Tyack (2003, p. 34) writes, ‘Pacification by pedagogy sought to destroy one identity and impose another, a campaign notable for its illusory optimism and draconian arrogance.’
 35. For the findings of the Truth and Reconciliation Commission of Canada, for example, that explicitly describes the horrors of cultural genocide carried out by the Canadian government, see: http://nctr.ca/assets/reports/Final%20Reports/Executive_Summary_English_Web.pdf.
 36. The Johnson Reed Act, signed into law by President Coolidge in April 1924, and whose chief purpose was to restrict immigration to the

- United States from eastern and southern Europe (targeting in particular Catholics, Jews and Arabs), virtually eliminated immigration from Asia until the law was revised in 1965. At the same time in Europe, using Hungary as my example, minority populations were subjected to similar campaigns of coercive ethnic and linguistic assimilation ‘Magyarization’ policies curtailed mother-tongue education for the millions of Romanians, Slovaks, Ruthenes, Croats and Serbs living in the Empire, in favor of a civic education in Hungarian for prospective Hungarians. Consequently, a large portion of this minority population departed, only to have their children become the subjects of an ardent campaign of ‘Americanization.’ See, for example, Kirschbaum 2005. Meanwhile, the racist foundations of Australia’s Immigration Restriction Act (1901), whose explicit purpose was to restrict Asian (i.e., non-white) immigration, was not completely dismantled until 1973.
37. Consider Denmark, for instance: <https://www.independent.co.uk/news/world/europe/denmark-migrant-children-ghettos-new-policy-language-skills-a8373261.html>; or the UK: <https://www.independent.co.uk/news/education/british-values-education-what-schools-teach-extremism-culture-how-to-teachers-lessons-a8200351.html>.
 38. ‘Schools,’ Jules Henry (1963, p. 292) observed, ‘cannot handle variety, for as an institution dealing with masses of children it can manage only on the assumption of a homogeneous mass. Homogeneity is therefore accomplished by defining the children in a certain way and by handling all situations uniformly. In this way no child is directly coerced. It is simply that the child must react in terms of the institutional definitions or he fails.’
 39. C. Wright Mills (1956, p. 14) describes the political elite as those with both tremendous social advantage and corresponding political influence: ‘People with advantages are loath to believe that they just happen to be people with advantages. They come readily to define themselves as inherently worthy of what they possess; they come to believe themselves “naturally” elite [...] In this sense, the idea of the elite as composed of men and women having a finer moral character is an ideology of the elite as a privileged ruling stratum.’
 40. Murphy 2007, p. 660.
 41. Arguably there is a sense in which any form of education inevitably involves conditioning, and perhaps also coercion. Yet it strikes me as obvious that coercive conditioning aimed at, say, learning to tell the truth or practice hospitality are of a different sort from that whose aim is submission to authority. See also *infra* note 43.
 42. Brighouse 1998, pp. 719, 723.

43. The paradox of conditioned consent closely mirrors what R.S. Peters (1981/2015) referred to as the ‘paradox of moral education,’ the idea being that it is sometimes necessary—certainly with very young children—to teach morality without appealing to reasons and evidence, until such a time that individuals possess the capacity to reflect on said reasons and evidence. The difficulty, of course, arises when the critical reflection necessary for meaningful assent is possible only after the inculcation has taken place.
44. Johnston et al. 2007.
45. Gamoran & Mare 1989.
46. Hattie 2002.
47. Brantlinger 2003; Calarco 2018; Goldring & Phillips 2008; Norman 2017; Roda & Wells 2013.
48. John Stuart Mill (1978, p. 6) understood this well: ‘Wherever there is an ascendant class, a large portion of the morality of the country emanates from its class interests and its feelings of class superiority.’
49. Henry 1963, pp. 288–290.
50. Francis & Mills 2012; Harber 2009; Hodgson 2018.
51. Banks 2015.
52. Jaymes 2018; Kim et al. 2010; Legewie & Fagan 2019; Mallett 2017; Noguera 2009; Payne 2008; Perry & Morris 2014.
53. Blau & Duncan 1967; Bourdieu & Passerson 1977; Bowles & Gintis 1976; Coleman 1966, 1988; Hout 1988; Jencks 1972; Mare 1993; Sewell et al. 1969; Teachman 1987. Pierre Bourdieu (1989, p. 272) observes: ‘To speak of strategies of reproduction is not to say that the strategies through which dominants manifest their tendency to maintain the status quo are the result of rational calculation or even strategic intent. It is merely to register that many practices that are phenomenally very different are objectively organized in such a way that they contribute to the reproduction of the capital at hand, without having been explicitly designed and instituted with this end in mind.’
54. This accords with Derek Bok’s well-researched findings in his influential *Our Underachieving Colleges*, where he laments, ‘...the public schools are unlikely in the foreseeable future to prepare students adequately for citizenship...’ (2006, p. 177).
55. For example, one might think of programs such as Facing History and Ourselves, Youth-led-action-participatory research (YPAR), apprenticeships such as those supported by Big Picture Schools, and a variety of service-learning projects.
56. Merry 2019.
57. Loewen 1995, pp. 32–33.

58. <https://www.pressherald.com/2017/10/23/york-high-school-students-stage-protest-over-alleged-bullying-of-gay-student/>.
59. <https://www.aljazeera.com/news/2018/03/students-leading-mass-protests-gun-control-180316082945149.html>.
60. For example, each year the Dutch Inspectorate of Education reports that despite citizenship being a required subject in all Dutch schools, relatively few schools incorporate it into their aims, few teachers understand its importance, and most students continue to exhibit pitifully low civic 'knowledge and skills'. See file: <https://www.onderwijsinspectie.nl/documenten/rapporten/2018/04/11>.
61. See, for example: https://www.washingtonpost.com/news/education/wp/2017/06/20/a-valedictorian-went-rogue-in-his-final-speech-his-school-tried-to-shut-himdown/?tid=pm_pop&utm_term=.4144be98a07e.
62. Merry & Schinkel 2016.
63. The post-2016 political tumult in Washington and elsewhere has further led to renewed calls for more civic education. For example, see <https://www.nytimes.com/2018/06/05/education/learning/schools-civics-trump.html>.
64. Of course, as I noted in Chapter 2, the idea of justice is itself contentious, whether in educational contexts or otherwise. Also contentious are various closely connected concerns about justice, such as: its meaning and its requirements; which institutions may impose justice, and why they may permissibly do so; whether justice should be prioritized over the good; and the reasons for employing coercion, in order to advance or to uphold justice.

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Educational Justice and Diversity

Most societies worldwide are segregated along the lines of ethnicity, language, social class, religion and even political creed. Given the discomfiting historical associations that attach to segregation in many instances—apartheid South Africa, the Jim Crow South and the Warsaw ghetto, just to name a few—its continued persistence can only be alarming, an affliction crying out for a remedy. On that basis alone, many will see segregation in itself as evidence of injustice. From this conviction it often follows that social inequities occasioned by segregation can only be mitigated through policies more carefully fine-tuned to achieve racial or social class integration.¹ Behind the ‘integration’ rationale is a belief in the benefits to derive from exposure to more *diversity*, connoting both process and goal.

Diversity in the educational context generally refers to a mixed school environment, mixed most often with respect to ethnicity, ability and social class. But the precise racial, ethnic, socioeconomic or psychological composition a school must have to count as diverse largely remains indeterminate, and in many places to even consider numerical quotas delegitimizes the entire endeavor. In other places, societies have established exacting criteria that govern how many of which kind counts as diversity. Generally speaking, though, diversity is supposed to work something like this: by virtue of the opportunities a diverse environment affords, persons from various backgrounds have the opportunity to interact with each other, learn from each other and grow together. Where the imperative is articulated more explicitly, diversity is understood to play a key

role in breaking down stereotypes and stigmas, in learning to treat those who are different and those with whom we disagree with respect, and in removing even unconscious prejudice between groups of people with different, typically conflicting, backgrounds and experience. Those who learn with and from each other when they are young, the argument goes, are bound to carry that sense of mutual respect and cooperation with them throughout their lives.

It is hard to dispute these basic claims and to argue instead that we get a more valuable understanding of interpersonal, intercultural phenomena when we stay in our own rooms, and keep to our own kind. My view, though, is that one can dispute these ‘facts’ about the benefits of diversity and still not line up with champions of apartheid, or those who secret themselves and their children away in guarded and gated communities. I offer this view without turning away from the severe, persistent poverty that aligns everywhere with the worst forms of discrimination and disadvantage. Neither do I deny the potential benefits of diversity for development of human capability and democracy. I am happy to see my own children grow up and socialize with young people radically different from themselves, and different from me, their privileged, able-bodied, professional parent. I hope they will become engaged citizens of the widest world.

But being against poverty, social exclusion and discrimination does not necessarily translate into support for education policies whose preeminent goal is to increase student or staff diversity, and opposition to policies that permit or even support pragmatic, potentially ‘segregated,’ alternatives. My contention will be that much of what is said and believed about diversity is misguided, and driven further off course by the presumption that ‘everyone’ knows that diversity—however it is defined or operationalized—is the sine qua non of an education worth having. I suggest instead that in the absence of improbable changes to how voluntary and involuntary association works, diversity by itself seldom disrupts business as usual, and that it frequently is not well suited to address the real harms of those who are disadvantaged. Educational injustice, as it concerns race, class, ethnicity, language, sexual preference, etc., is simply more complicated and discomfiting than most diversity proponents imagine. I challenge the notion that diversity makes for a good proxy for educational justice, and maintain that justice ought to be the preeminent goal in imagining and constructing educational spaces.

This chapter will be organized around three arguments. First, the story about how diversity might be accomplished and what it might do for students and society is internally inconsistent and relies at several crucial points on hope or fear, rather than on reasonable expectation. I marshal evidence that, in schools, diversity often tends to reproduce and reinforce the conditions that manufacture the intergroup tensions in the first place, rather than producing a ‘beloved community’ in which differences don’t matter. Second, a disproportionate share of the benefits that might result from greater diversity often accrues to those already advantaged. In particular I focus on how both privilege and denial operate in ways that allow members of dominant groups to co-opt or commodify diversity for their own ends. Third, many of the most promising and pragmatic remedies for educational injustice are often rejected by liberal proponents of ‘diversity first’ in favor of remedies that in most cases are practically impossible, and often problematic on their own terms. Why are alternate and more pragmatic approaches to improving the educational chances for disadvantaged students downplayed in favor of strategies that seemed doomed from the start, like undoing patterns of spatial concentration along economic lines, or reversing legal and political history?

PROBLEMS WITH THE STORY OF INTEGRATION² AND DIVERSITY

The harms of segregation (and resegregation) are often operationalized in the literature in terms of ‘exposure.’³ At its most basic, the ‘exposure’ narrative underlying the diversity thesis suggests that when children are put together from the start, on equal grounds, they have no reason to interpret perceivable differences between them in a negative way, or to create meaningful differences out of nothing. Prejudice will have no opportunity to gain a foothold, and the net result will be more social harmony. This conceptualization is a close cousin of Gordon Allport’s mid-twentieth century ‘contact hypothesis,’ the idea being that familiarity and more informal interactions with others unlike oneself will engender respect and intimacy, rather than persistent prejudice or contempt.⁴

But Allport consistently stressed that at least five formidable criteria must be fulfilled before stereotypes could be challenged, before positive emotions could be experienced, and before shared concerns could be embraced and pursued. Just as difficult to achieve as when they first were published some 60 years ago, these criteria are (1) equal status between

persons of different backgrounds in a particular situation; (2) common goals around which members of different backgrounds are united; (3) intergroup cooperation, in which competition is avoided or minimized; (4) the mutual recognition of some authority that can facilitate interactions and adjudicate in matters of disagreement and finally (5) there needs to be informal, personal interactions between persons of different backgrounds, particularly between members of conflicting groups if intimacy, respect and meaningful interaction are to be achieved and sustained. Establishing and fostering these conditions, reliably and across various contexts, is no small feat.⁵ And in the absence of these enabling conditions, de-signifying these differences—even when there is the will to do so—is an improbable task.

At least three particular challenges may undo the salutary effects of exposure to diverse others. First, even very young children exhibit prejudice, as ‘in-group preference,’ and tend to seek out and play with others like themselves more frequently than they seek out those they perceive as different.⁶ Putting children of different genders, ethnicities, religions, abilities and cultures together in institutional settings does not necessarily or even typically cause them to display ‘appropriate’ dispositions toward differences in social identity. Second, peer group preferences, often reinforced by free-floating social prejudices, can influence how children’s views and behavior toward cultural others in unexpected and undesirable ways. Even extremely vigilant parents who consciously teach and socialize their children to view others as equal sometimes are unpleasantly surprised when their children come home from a diverse school with ideas about tolerance and equality diametrically opposite to those they have been taught at home. Third, exactly how institutions like schools ought to engage in prejudice reduction, organically and equitably, remains a puzzle, because those called upon to do this work often are themselves not well-prepared for this difficult work, and because the institutional agenda—as most teachers quickly come to realize—is so often self-contradicting. Teachers are often asked, for instance, to serve competing policy agendas, implemented with little consideration by school administrators. In one instance, for example, teachers in a Greek school with a large Roma student population were asked in one ‘language enrichment’ class to treat these students as ‘deficient’ by virtue of their ethnicity and home language, but were admonished in the following class to think of the Roma students no differently than other Greek students, and treat them ‘equally.’⁷ In this kind of environment,

even explicit efforts at promoting understanding and tolerance between children and youth from disparate backgrounds cannot reliably produce the kinds of dispositions that advocates of diversity intend, and explicit efforts are much less common in schools than passive approaches grounded in the mere fact of mutual exposure.⁸

None of this means that reducing prejudice is unimportant or that schools ought to abandon efforts to do so. If anything, we should all be more consciously active in these efforts, in our personal and institutional lives. And it *is* possible to reduce prejudice, just as it is possible to reduce the academic and/or cognitive gap between children from different groups, and both effects can be long-lasting.⁹ But most successful methods of prejudice reduction and intergroup dialogue require often radically different approaches to learning, teaching and being together that are at loggerheads with the efficiency-based approaches to education that define the reality of most state-funded schools on every continent. Contemporary state schools across the world are constrained by explicit learning targets; curricula ignore the histories of entire populations; teachers are discouraged from speaking openly about sensitive social issues like race, class, religion and language difference and testing regimes dictate what, when and how pupils learn and with whom, for the most part, they spend their time in school. What little unregulated time is left generally facilitates social interactions among peers who typically share either similar backgrounds or preferences. Many left-leaning academics—if not the elected officials for whom they vote—decry the new regime of efficiency and accountability, just as they decry discrimination. But they also tend to oppose creating schools outside the traditional systems, where breaking from the efficiency agenda, while also confronting more explicitly those issues of race, class, and language issues, is more likely.

If we look to the history and current practice of most school systems—such as I have been doing in the previous two chapters—the evidence overwhelmingly shows that state-public schools historically have disadvantaged certain groups of pupils, and that despite many reforms and much improvement, this continues to be the case. A massive literature exists on tracking mechanisms and ability grouping and the differentiated expectations that correspond to those distinctions,¹⁰ discriminatory disciplinary procedures¹¹ and a disproportionately high number of referrals to special education for minority pupils.¹² Indeed, the ironies of advocating for *more* diversity are not difficult to miss when

we appreciate the totalizing ways in which traditional state-public schools leverage distinctions between pupils in the service of reproducing those distinctions, distinctions that correspond neatly to systems of advantage and disadvantage.¹³

An additional ‘unintended consequence’ of tracking and differentiation is that the distinctions these systems produce are made visible to everyone, with the potential of reinforcing stigma, feelings of entitlement, and biased expectations. A young white middle-class man attending a diverse high school, himself headed for university, is unfortunately seldom surprised to learn that one of his poor and ethnic minority classmates has been arrested, or has left school for some other reason. He believes this because he has not seen his poor and ethnic minority classmates in his advanced courses, and he has seen some of them getting into trouble. It does not seem to me that these kinds of judgments are the intended dispositional outcomes of diversity. As we have seen, intra-school differentiation of opportunity, which has been an enduring characteristic of diverse schools, tends to undermine the promise of social mobility, and to enforce its opposite, viz., reproduction of social inequality.¹⁴

Exposure is also meant to promote educational justice by increasing the access of disadvantaged children to the cultural and social capital of their more advantaged peers. The supporting premise is that schools attended by pupils whose parents have more resources will also nearly always have more resources, through a variety of mechanisms. These resources may include things like advanced skill in the languages of power, habits and manners of the dominant society, better course offerings, more experienced teachers, more and newer supplies and better facilities. Exposure to this resource-rich environment will, according to this argument, improve the social mobility of disadvantaged pupils. The promise of increased social mobility for those whose prospects are otherwise limited rests on the assumption that by virtue of diversity they will be able to acquire more social, cultural and economic capital than if they remain with others like themselves. This social and economic capital can then be exchanged for better diplomas and career opportunities. The mechanism by which this exchange of value is supposed to happen, though, is not specified in most accounts. One is left to wonder how privilege might be persuaded to ‘rub off.’¹⁵ And if wealth were meant to rub off, why then would not poverty rub off at well?

The social mobility thesis has been put to the test quite explicitly in the higher education systems of the countries that have adopted strong affirmative action policies. India, for instance, with a long, troubled history of excluding broad swaths of the youth population from formal education and economic opportunity, has since its Independence maintained a system in which as many as 50% of public university seats are reserved for members of historically marginalized classes, including girls and women. The first motivation of these policies is to ‘remove social ... disabilities ... suffered on account of ...social segregation and spatial and cultural isolation,’ which is complemented by the desire ‘to facilitate and promote equal participation with others ... in organised sectors of the country’s economic and political life.’¹⁶ In other words, the aim is to promote social mobility, operationalized here as full participation. In Israel, similar efforts to promote diversity have been advanced for Sephardic Jews, immigrants descending from Eastern and North African countries, but relative to their richer and more educated Ashkenazi counterparts very disadvantaged in the modern Israeli state. Like India, the purpose of the affirmative action programs in Israel is not to compensate for past discrimination but rather to try and reduce more egregious inequalities by bringing the more socially disadvantaged into more contact with the socially advantaged, thereby supposedly improving education and career prospects.¹⁷

But research on the outcomes of reserved seating policies suggests that the benefits with respect to social mobility, or more fulfilling economic participation, have flowed to the more advantaged sectors of the disadvantaged classes, what in India are referred to as the ‘creamy layer,’ leaving the masses of underprivileged youth more or less where they were, at the bottom.¹⁸ Similar trends are noted with loan programs meant to provide increased college access to minority students, and thereby increase the racial, ethnic or social class diversity of the universities and the social mobility of the students. But it seems that providing access to higher education through these loan programs benefits mostly those students who were already relatively advantaged with respect to race and prior educational history.¹⁹

Similarly, in North America and Europe, when we confine our gaze to the admission of disadvantaged pupils to the best universities, there seems to be good reason to accept the proposition that exposure increases social mobility. Even if the campus climate with regards to race and social class often remains chilly, socioeconomically disadvantaged

graduates of Oxford or Princeton appear to have a distinct leg up in comparison to their former classmates in urban high schools who either never made it to university at all, or else who only managed to attend ‘lesser’ institutions or to persist long enough to earn degrees. We can point to the many highly successful men and women of humble origins who have risen in significant part because their education gave them the opportunity to join the ‘ruling classes.’²⁰ But even as the middle and affluent classes in virtually all historically disadvantaged groups have expanded in recent decades, it remains undeniably the case that most of those of humble origin—owing largely to economic forces beyond their control—have slipped further down the ladder. For large portions of these populations, there are no ladders in sight, none even in the common imagination, challenging both simplistic notions of identity-based solidarity on the one hand, as well as naive proposals about spatial concentration disruptions on the other.²¹

DIVERSITY AND MAJORITY BENEFIT

The notion that parents, administrators and professors of racial/ethnic or class privilege are likely to accept ‘diversity’ only if there is no perceived cost in terms of the academic opportunities for their own children and others like them receives little attention from liberal diversity advocates.²² It has been my experience that many privileged parents—including college professors with Leftist allegiances—publicly champion the integration of all schools, while privately acting as if this same inclusion represented a threat to academic ‘excellence,’ that is, as a threat to the quality of their own children’s educational opportunity. Diversity, in this case, becomes the benevolent gesture that hesitatingly welcomes pupils who many believe are underprepared and whose presence—in sufficient numbers—might well compromise school quality. Choosing diversity can be constructed as a sacrifice because privileged parents have the freedom to choose alternate settings that they feel would better satisfy their children’s interests.²³ Parents of means who enroll their children in diverse schools, when they have other choices, often seem to feel that they have thus contributed something important to educational justice, and this belief may be socially reinforced by other parents who share the same conviction.²⁴

I can illustrate this phenomenon through an examination of a recent study championing diversity efforts that seek to undo counter

demographic realities related to spatial segregation along racial and class lines in New York City. Roda and Wells begin their study with the claim that ‘we’ know

that race-conscious school choice policies, while not perfect, are much more successful at creating diverse and high-quality public schools and a more balanced and equal educational system [...] We also know that attending racially and socioeconomically diverse schools benefits all students, including white students, and tends to result in higher academic achievement and attainment and foster other short- and long-term social benefits.²⁵

The context is a ‘majority-minority’ urban district experiencing gentrification, which has brought a group of mostly white, relatively affluent, highly educated parents and their children into the district. The district enables a degree of school choice, with the purpose of mitigating racial and economic ‘segregation,’ by enticing white, professional-class parents to choose to place their children in diverse state-public school classrooms—albeit classes for the ‘gifted and talented’—rather than opting for more selective private schools.

The authors report two main incentives for the affluent parents to participate in the school choice plan: first, public school is free and private alternatives are extremely expensive, and second, the social values of the parents support sending their children to diverse, neighborhood schools, for the good it might do for their own children, for the children of their less privileged neighbors, and for the neighborhood and city as a whole. The success of the policy was mixed at best, as the choices of advantaged parents seemed often, unintentionally, to reproduce the segregated enrollment trends the policy was meant to defeat. That is, privileged parents tended to avoid or reject school assignments that would place their children in the minority, with the result that the classrooms that they found acceptable were disproportionately comprised of children like their own. Majority-minority schools and classrooms were generally judged to be of lower quality, for many reasons, than schools in which disadvantaged students were in the minority. The authors report that privileged parents are frustrated by this outcome, and they propose revisions to current policies that (somewhat magically, it seems) would resolve this conflict.

But we might also ask whether the source of the frustration for these parents is the realization that their children's experience of diversity—as a complement to traditional educational opportunities—was half the draw of 'going public' in the first place. As we have seen, diversity, on the one hand, is represented as the means by which the less fortunate can be acculturated into the dominant class, i.e., as the potential for social mobility. But on the other hand it is believed to have the potential to bestow some anti-racist dispositions on children whose social mobility is not in question. This anti-racist disposition, often reinforced at home by well-educated parents, is understood (correctly) as a form of cultural capital that operates to distinguish its bearers from those lacking the taste and discernment to recognize the kinds of differences that one ought to tolerate, and those that it is permissible to notice. That is, the liberal perspective on diversity becomes a class marker, the kind of thing one can include on a resume or a university application.

While discourse about resegregation of primary and secondary education tends to focus on what exposure to advantaged children can do for the disadvantaged, typically the core consideration in discussions about diversifying universities is on what diversity can do for *everyone*, including majority students advantaged by race/ethnicity and class. Diverse settings in higher education are supposed to provide an opportunity for robust dialogue in which multiple, highly contrasting perspectives might be brought to bear, increasing the depth and breadth of student understanding, and range of solutions to problems that can be envisioned. Students with these kinds of experiences, as the argument in the previous chapter also maintained, have greater potential for democratic citizenship. Common wisdom among university students tends toward the proposition that diversity helps privileged students understand the perspectives of less privileged minorities, and in exchange, the minority students receive the benefit of a superior university education and degree. In other words, the learning situation for majority and minority students can never be reciprocal and is even less reciprocal when only a 'critical mass' of minority students—at most 20% at the best universities—trouble the environment of the majority. As eloquently chronicled by authors like Frantz Fanon and Ralph Ellison, persons from minority groups almost always know more about majority culture and lifeways than people from majority groups know about minority life, which is often invisible or grossly misrepresented in mainstream media, textbooks, tradition and everyday conversation.

I have observed in my own university teaching how many underrepresented minority students are deeply ambivalent about the roles they are pressed into playing in ‘diverse classrooms,’ diverse only by virtue of their very presence. Many grow fatigued with having their experiences either challenged or invalidated (often through silence) by others in the room. Alison Jones describes a pedagogical experiment in New Zealand, where she placed her Pakeha (white) students in separate sections of the same class as her Maori students. The Pakeha students were unhappy with the arrangement, expressing the desire to hear the viewpoints of their Maori peers, but the Maori students expressed relief and excitement about the experience of being in class without their Pakeha peers. In the segregated setting they felt much more comfortable expressing themselves, without the pressure of being someone else’s ‘other.’²⁶

This same ambivalence and fatigue is also sometimes expressed by women who feel compelled by teachers and institutions to enlighten their male classmates about the lives and thoughts of women, without receiving themselves equal benefit from gender diversity, since there is little about male character or behavior that has been hidden from them. Even seasoned multicultural educators in higher education often report finding it ‘saddening and emotionally draining to witness the power denial and bias [of their privileged students], knowing all too well the impact these have on the daily experiences of those marked as different.’²⁷

In this context, it is not unreasonable to ask whether the unyielding push for diversity does more for the already advantaged than it does for the disadvantaged. This question is more acute when applied in the context of university enrollment goals. It is hard to imagine what good the admission of the talented tenth of minority students—a target taken almost literally at the University of Texas at Austin, for example—is going to do for the other 90% of disadvantaged students, particularly when minority groups are themselves often segregated by social class. On the other hand, the presence of a critical mass of disadvantaged students, a majority of them Black and Brown, brings a tangible benefit to the university, keen to improve its image as an equal opportunity institution in a multicultural world. Moreover, the presence of a critical mass of disadvantaged students ostensibly benefits the other students of the university, who can learn from their classmates how the other half lives, without

the threat of surrendering their race/ethnic- or class-based privileges.²⁸ Perhaps it is the case that inequality-sensitive, justice-conscious parents of privilege cannot help but notice the lack of diversity and the inequalities it connotes.

The desire for diversity, then, might be understood as a way to feel better about oneself and one's choices. This might be why, among a world of possible remedies for inadequate education for the less privileged, diversity is hit upon as the prime lever of educational justice. This is not to say that middle-class and affluent parents do not sincerely agonize over inequality or wish to do something about it. Nor does it mean that there are not very real priority conflicts one must confront, including, as we have just seen, whether or not to send one's child to a local school on the belief that doing so will make some contribution to educational justice. But to me it seems that the argument for diversity-as-cure for prejudice or inequality is sometimes grounded either in a kind of morally dubious pity or an ill-informed nostalgia.²⁹ With respect to pity, I find the belief that the disadvantaged are in essence victims, and should be treated as such, continues to prevail. The logic of this belief dictates that the disadvantaged can only achieve success through the beneficent intervention of the advantaged. And with respect to nostalgia, as I argued in Chapter 3, I find a yearning for a state of affairs that historically never actually was, a luminous moment of ethnic or economic harmony in the past to which we can or should hearken back.³⁰ But there never was such a moment; in fact, things were mostly much worse.

REMEDIES FOR EDUCATIONAL INJUSTICE

My third argument begins with the observation that proponents of diversity advocate for integration policies that are doomed either by demographics or law, and to eschew other more pragmatic and effective remedies that cannot wait for improbable diversity-related strategies to materialize. In higher education, the preferred mechanism to diversify student bodies and faculty is some form of affirmative action with respect to admission, which notwithstanding its many problems, has brought many disadvantaged individuals and their families out of poverty. We have already seen that in some places, like Israel and India, quotas and other kinds of reserved seat policies ensure that a higher percentage of disadvantaged applicants gain admission than if criteria for admission were solely merit-based. That these economic advances have not always

been accompanied by a reduction in the racial, ethnic or cultural stigma to which they are subjected can be taken as one of the limitations of this strategy for social mobility. Moreover, in the United States and many other countries (e.g., South Africa, Brazil³¹), preferred admission policies may or may not serve the purposes that originally motivated them, or they have been curtailed on legal grounds as discriminatory. Whatever the case, it must be obvious to everyone that even the strongest affirmative action policies in higher education cannot undo the galactic differences in academic attainment between social and economic groups that continue to be the outcome of primary and secondary education worldwide.

If increasing student diversity at the elementary and secondary levels is taken to be the best way out of this box, there are three policy options. First, parents from all stations could be required, or strongly encouraged through incentives, to relocate, and thus self-integrate. Second, we could redraw the lines between school districts and catchment areas so that they cut across ethnic/economic divides, rather than reproducing with political boundaries that enforce divides between populations. Third, we could transport pupils away from their homes to attend more integrated schools. None of these remedies, history suggests, are very practical, and even if they were, the presumptions that undergird them are open to critique. Further, none of these strategies is likely to preclude residential segregation resulting from the exercise of voluntary (or involuntary) association.

Internationally, residential segregation in most large cities has surpassed the point at which expecting parents to change their place of residence makes sense, certainly if we count socioeconomic diversity as equally important as inter-ethnic/gender/religious diversity. Poor parents cannot afford to live on Les Champs Elysees or Fifth Avenue and wealthier parents are not likely to move their families to the favelas of Buenos Aires or the slums of Johannesburg. But the cost of real estate is not the only consideration. In liberal societies, the prized value of being able to associate with others of one's own choosing typically works against diversity-promoting initiatives. Voluntary association more often than not will tend toward homogeneity, as people generally prefer to live close to others like them, in all the ways that matter. Additionally, liberal democratic societies provide legal guarantees of freedom with respect to residence and school choice that are not likely to be reversed in favor of values seen as more abstract and impersonal. This exercise of freedom

is ‘naturally’ more restricted for the poor and culturally other than for the well-positioned and the culturally favoured, who can always navigate the system more efficiently no matter where they live. The poor and culturally marginalized are routinely unable to exercise this guaranteed freedom, either due to an inability to resist the economic tides of social exclusion, or because they are forcibly moved from where they wish to be, to where someone else wishes them to be.³² Involuntary movement and association tend to produce homogeneity, just as voluntary association does.³³

Disparity in the ability or opportunity to exercise the freedom of movement is one root of the problem of segregation, prompting some to push for restrictive choice policies or quotas. In some European countries, proposals annually circulate calling for school registration times that would give less privileged parents a chance to enroll in the school of their choice. To date, most of these efforts have yielded precious little in terms of greater diversity.³⁴ In the Netherlands, for instance, where segregation indices rival the United States, efforts to desegregate various municipalities (e.g., Nijmegen, Deventer, Gouda) either through bussing schemes or by restricting the options that parents have, generally have had very little effect. Not only do parents enjoy the constitutional right to choose an education they think is best (more often than not a state-funded denominational school), when push comes to shove nothing prevents determined parents from changing their address or navigating the system in other ways advantageous to their interests.³⁵

Meanwhile, in the United States, the courts have increasingly blocked this kind of affirmative action.³⁶ But even if politically or legally feasible, this kind of social engineering does little to impede other structural factors from maintaining or increasing current levels of residential segregation. These include: transportation issues; limited seats available at the most desirable schools; selection criteria at the point of entry that set quotas on the types of pupils to be admitted (an issue I return to in Chapter 8); grouping and tracking mechanisms inside of schools that sort and select pupils in ways often consistent with social class background; parental advocacy behaviors that ensure some types of preferential treatment and peer group effects that may or may not be conducive to academic achievement. Nor can we ignore either the macro-level economic forces related to our neoliberal economic regime that exacerbate inequalities and drives competition between schools, gentrification, ghettoization and rural impoverishment, among other segregating social phenomena.

Given existing levels of residential segregation—urban, suburban and rural—it is also not practically possible (and almost always politically impossible) to redraw the lines that determine attendance in ways that would produce more diversity.³⁷ And efforts to mix schools are not even feasible in many cities (whether in Brussels, Bradford or Boston), where the state-public school population in many catchment areas either is overwhelmingly middle class and white, or poor and non-white. That is to say, diversity is not an option. Even when a neighborhood does happen to be mixed, local schools often are not. This occurs because parents invoke their legal rights to select a school that conforms to their preferences for their own child.

Whether parents avail themselves of open enrollment options, educate at home or go private does not really matter, for exercising their choice is in keeping with guarantees to be found in various international treaties and nearly all national constitutions. Perhaps even more important than these legal guarantees are the liberal underpinnings of democracy itself, built on the explicit foundation of delivering citizens as much liberty as is feasibly possible. Furthermore, in opting for a school that is less diverse, parents need not overtly base their choices on an eagerness to avoid children unlike their own. If asked, they need only offer the socially acceptable (and often empirically verifiable) reason that their child will have better educational chances at the school they have chosen. And if school alternatives are not available or local options are restricted, nothing in principle can prevent determined parents from changing residence in order to access a school that satisfies theirs, or their child's, interests. The willingness to relocate on the promise of 'better schools' is not limited to parents of means: families in poverty will often take heroic measures to gain what they perceive to be opportunities for their children's advancement. This is, after all, a primary push factor for immigration.

Transporting students from segregated to more integrated settings might offer more attractive prospects than reorganizing school districts and municipalities, or expecting parents to move in the interest of diversity. Whether through transfer programs, magnet schools, vouchers or other desegregation schemes, transportation does get some disadvantaged children redistributed to better schools. Champions of diversity often point to the successes of these alternatives, even when modest, but intractable structural problems persist. First, the traffic is almost exclusively in one direction, disadvantaged children going to higher quality majority schools: majority-minority schools remain mostly segregated,

but without some of their best students, who have taken advantage of the opportunity to attend higher status schools. This ‘natural’ outcome is legitimized by the dubious premise, related to the exposure perspective, that what minority students need most is access to majority institutions and majority peers. Second, there is powerful evidence to impugn the salvific effects of diversity without other enabling conditions being present. Indeed, a number of studies have shown that ‘attempts to engineer the types of “ideal” communities that policy analysts or academics envision by moving large numbers of residents across a city will never end well.’³⁸

ALTERNATIVES TO DIVERSITY-CENTERED REFORM

Perhaps the most alarming aspect of much pro-diversity advocacy in education is the rejection of any reform strategy that does not foreground diversity, no matter what other benefits the strategy might promise. This is most visible in the stridency of liberal opposition to high-achievement charter schools in the United States, academies in the UK, and ethnically and religiously homogenous schools serving the disadvantaged in many other parts of the world. Many suspect, no doubt, that every alternative to the traditional integration agenda signals an ‘erosion of the public,’ particularly when state services have seen massive cutbacks in recent years and austerity measures threaten further what public institutions are able to do. Fear for a public domain under siege by global market capitalism and the champions of standardization is certainly legitimate, and of concern to anyone who wants more than training for the consumer culture for everyone’s children.

But, as we saw in Chapter 3, this rhetorical—or imaginary—‘public’ is required to carry even more weight even than ‘diversity’ in many school reform arguments. To interpret every alternative to the pro-diversity agenda, even when effective or justice promoting, as a proxy for ‘privatization’ only turns the argument into polemic. Likewise, as I argued in Chapter 4, to hold alternative conceptions of the ‘public’ hostage to dreams of an ideal, democratic education that never was results in the pre-emptive rejection of valuable modes of resisting structural harms and systemic disadvantage. I argue that we ought to resist the tropes of the popular conversation about ‘what we need to do,’ which tend to rely on a polarizing nomenclature—public v. private, liberal v. conservative, minority v. majority—and obscures or trivializes issues of justice by reducing the range of permissible solutions one might consider.

Can we imagine justice-enhancing educational alternatives for which diversity is not a litmus test? To pose this question is not to dismiss the potential value of diversity, but rather to put the putative goals of diversification—which I define generally in terms of justice—ahead of the means of achieving these goals. As I argued in Chapter 1 with respect to false proxies, it is my suspicion that diversification of student body, faculty and staff is often pursued in place of undertaking the more politically difficult task of rooting out prejudice among the privileged, and of reorganizing institutions so that they don't perpetuate inequality. We should continue to assiduously hold that there are *multiple paths to educational justice*, or, to turn this slightly, in recognizing that there are multiple publics, each with its own particular circumstances, and its own perspectives on what counts as justice.

Nancy Fraser³⁹ urges us to conceive of a cornucopia of spaces in which persons can congregate around shared interests and aims that serve their communities as well as the society at large. Another way to articulate this argument is the recognition that many alternative publics, whose participation in the public is severely limited by subordinate status and a lack of resources, do not experience policies enacted for 'everyone's good' as actually serving their interests. In terms of policies that would further educational justice, the consideration of multiple publics entails subordination of the controlling concept of diversity to other goals, not necessarily stipulated in advance, but instead, responsive to local conditions and to the full participation of those affected in the process.

In this light, we can better see that neither the homogeneity nor heterogeneity of a school's student body—whether along lines of ethnicity, gender, religion or social class—determines the presence or absence of relevant enabling conditions for educational justice. Schools that are by geography and demography not ethnically or socioeconomically diverse still can successfully confront the obstacles that their students face in creating a life they have reason to value. It goes without saying this will be easier where the obstacles are less Himalayan. In particular, dealing with the challenges that concentrations of poverty and residential instability bring requires tremendous ingenuity, commitment and extra resources. But as we saw in Chapters 2 and 3, resources can take different forms. Moreover, various forms of solidarity, self-governance and mobilization often are more feasible when spatial concentrations exist. Indeed, researchers have found that high levels of 'collective efficacy' can be exhibited even in neighborhoods that score high on concentrated poverty.⁴⁰

In thinking of alternatives to the diversity agenda for school improvement, I continue to focus on issues of inequality, and on whether schools ensure pupils gain, in Amartya Sen's⁴¹ usage, the basic capabilities requisite for an education worthy of the name. To meet the basic thresholds of equality and capability, schools must succeed not only in fostering the self-respect of their pupils but also in exhibiting equitable treatment: equally high expectations, equally rigorous learning opportunities, and equally concerned that each child succeed. Further, in these less diverse schools promoting educational justice often means creating a definable culture, focusing on group differences in achievement, disproportionality in disciplinary referrals, dropout rates, school violence, solidarity among marginalized pupils, problems of apathy and disaffection, and all the other familiar features common to run-of-the-mill integrated and segregated state-public schools.

School reformers in this mold strive to give parents more options for their child's education and to deliver more efficient educational services to places where options either are few, substandard or non-existent. The advocates of these reforms, among whom I count myself, are not naive about the severity of the needs facing disadvantaged children. They know, for instance, that one cannot rely upon neat formulas, charismatic leaders or isolated success stories. They also know that enabling conditions must be school-specific yet also broader than the school: better health care and housing; better nutrition and exercise; more robust weighted pupil funding that targets poverty and disability; incentives to more equitably distribute and retain high-quality principals and teachers; curricular and pedagogical innovation, etc.

I am under no delusions about the formidable challenges these pragmatic alternatives to the diverse, but still traditional state-public, school entail. There are also limits to what can be achieved with respect to diminishing intergroup conflict and prejudice without bringing people of different groups together in one place. If we reconsider Allport's five criteria for reducing stereotype and promoting intimacy, respect and meaningful interaction, the demand for informal, personal interactions between persons of different backgrounds is left uncompleted in schools without intergroup diversity. But the other enabling conditions can be met, often to a much higher degree, in alternate spaces where enacting relations of equal status and mutual recognition, Allport's first two criteria, is a shared goal. Many alternate schools do not realize this goal, or realize other academic goals either, but that does not disqualify them

as a class. It only makes them as imperfect as most regular state-public schools, where enacting relations of equal status and mutual respect, even in the presence of diversity, rarely enters the conversation about institutional priorities. In this context, advocates of alternatives to diversity-centered reform have good reason to believe that educational justice does not hinge on the environment being diverse. They also know that ‘diversity’ per se does not count among the most pressing concerns for disadvantaged children, at least not in the sense in which diversity advocates typically use the term.⁴² In fact, many often see the diversity agenda—at least as it is enacted in mainstream institutions—as working *against* educational justice.

I am not here advocating for or defending any particular type of school. Rather I only argue that principled and pragmatic alternatives to the status quo should be taken seriously, rather than dismissed as misguided attempts to ‘make do’ or subvert. A variety of studies show that when the right kinds of enabling conditions are present, motivation, learning and self-esteem levels often dramatically improve for pupils from disadvantaged minority backgrounds when they attend more homogeneous schools.⁴³ Likewise, there is no shortage of empirical research showing that traditional state-public schools, diverse and not so diverse, can effectively address issues of discrimination, inequality of instruction and outcomes, climate, etc. At the same time, there also is no shortage of data indicating that most schools do poorly in this regard. While I am as happy as anyone to see social exclusion ameliorated, cultural boundaries broached, and poor children in the public spaces normally reserved for the privileged, my argument is that the difficult business of dealing directly with inequality must be taken up first, whether or not the institution has achieved the desired balance of ‘us and them,’ and regardless of who ‘us and them’ are in particular localities.

Alternatives to ‘the public school’ obviously cannot be the whole story, if for no other reason than that large number of children around the world continue to attend non-alternative state-public schools. And just like one’s neighborhood school, alternative schools cannot be considered worthwhile unless they feature the conditions that enable students to develop the necessary skills and knowledge in a way that respects their humanity. Part of that respect consists in ensuring that the school engages parents, particularly the least advantaged of them, on equal terms, and permits and facilitates full participation of all students and families. I find it ironic, and not a little disrespectful, that proponents of diversity-first often

dismiss as insufficient the potential of simply making schools for marginalized students better, unless questions of diversity are taken up first. As we have seen, the grounds for this refusal to consider any other option besides diversity can generally be found in the tacit belief that important goals—prejudice reduction on the one hand and social mobility on the other—can only be met in self-consciously diverse school environments. Conversely, I have argued that such a view is indefensibly narrow.

CONCLUSIONS

In this chapter I have shown how diversity as proxy for educational justice relies on certain premises about how inequality is created and sustained, and about what a ‘good school’ might produce. With respect to prejudice reduction those premises suppose that diverse environments—and schools in particular—will produce citizens who are freer from prejudice, and more likely to seek and exercise the powers that attach to their social identities for the common good, rather than for their private advantage. With respect to social mobility those premises also maintain that, ideally, the benefits of diversity would flow equally toward all the involved parties, but they are willing to allow that the lion’s share of the benefits should flow to the disadvantaged. Seldom is the possibility entertained that in many cases the benefits of increasing diversity might, in fact, flow mostly toward those already most advantaged. Concerning academics, the preoccupation for many diversity scholars is with segregation and the achievement gap, on the concomitant assumption that the one causes the other. There is, however, no clear evidence of how the causation runs, or even if causation operates at all in this complex system. Much more needs to be determined—often on a case by case basis—about the presence of enabling conditions: adequate nutrition, family structure, the school climate, peer groups, curriculum options, mentoring programs, grouping practices, teacher quality and expectations, neighborhood characteristics, etc. than a simple ethnic or socioeconomic pupil ratio will ever be able to tell us.

By way of critique, and continuing what I began in the previous two chapters, I have documented a number of serious problems with the diversity thesis. These include an unwillingness to take seriously the structural features of mixed school environments that are persistently deleterious to students of poverty and students from stigmatized ethnic and social class backgrounds. They also include an unwillingness to accept the legal

frameworks within which basic freedoms operate, including the choice to live where one chooses and associate with others with whom one may share things in common. Diversity advocates also continue to hold out for an unlikely reversal of legal proscription of race/ethnicity-based preferences that have historically served as the mechanism to produce diversity where ‘naturally’ there is little. With good intentions and the conviction that they are fighting the good fight, many pro-diversity advocates often not only remain unaware of how ‘exposure’ chiefly benefits the advantaged, too often they proceed without heeding what members of minority groups themselves care about or may have reason to value. Accordingly, advocates of educational equality bent on disrupting minority concentrations tend to be both blind to the prejudice implied by their beliefs about the intrinsic harms of minority spatial concentrations, as well as insensitive to the place attachments and community bonds many members of minority groups cherish.⁴⁴

None of what I have argued should be interpreted to mean that diversity-promoting efforts that aim to foster mutual understanding and shared responsibility are unwise or beyond the realm of possibility. But the point I have tried to drive home is that there are good reasons to be mistrustful of what diversity can accomplish in its present conceptualization, because as policy in practice, it has not shown the capacity to foster mutual understanding or shared responsibility, or to close the achievement gap or increase social mobility, etc. The value of the radical, positive changes in public attitudes about gender, race/ethnicity, sexuality and ability achieved over the past half-century is not diminished by recognizing the persistence, even the reinvention, of racial/ethnic animus and class warfare, expressed most tragically in the lives of children whose opportunities for education and a ‘life worth living’ are so limited. Diversity *per se* does precious little to fix this. Legions of scholars and advocates have invested their energy in documenting the harms of segregation and the benefits of diverse environments, but as I have argued, attention must also be directed to justice-promoting reforms that include making non-diverse environments better. That is to say, if we truly care about educational justice in a deeply unjust world, then we need to broaden the purview of pragmatic alternatives we are willing to consider.

This ends the first half of the book. In the second half of the book, I pivot away from my focus on false proxies for educational justice in order to probe justice-enhancing possibilities in what are immensely complex situations. To that end, in each of the next three chapters I perform an ethical analysis on different themes: inclusion and disability, religious

schools, and school selection. I begin in Chapter 6 by considering the case for inclusion. As I will demonstrate, while the inclusion of exceptional students in shared educational settings remains strongly held belief, others have begun to question whether the idea is coherent, let alone whether it is always to be preferred. Accordingly, both as a principled and as a practical matter, inclusion continues to be hotly debated. In order to ascertain what inclusion in education ought to entail for exceptional students, and specifically how—but also whether—inclusion can be justice-enhancing, I closely examine the case of autism.

NOTES

1. Clotfelter 2006; Kahlenberg 2001; Orfield 2007.
2. It is possible to distinguish various orientations to integration: integration-only, integration first (prioritizing integration over other justice-enhancing measures) and integration plus, i.e., joining integration as a necessary component with other measures that advance the interests of the disadvantaged but that also allow for trade-offs where necessary. However, I will not take up these fine distinctions in this book; I have provided a more exhaustive critique of integrationist approaches in Merry 2013.
3. Siegel-Hawley & Frankenberg 2012.
4. Allport 1954.
5. Dovidio et al. 2005.
6. Aboud 1988; Nesdale, D. et al. 2005; Bekerman 2009; Verkuyten 2002; Verkuyten & Thijs 2001.
7. New 2012.
8. Swartz 2009.
9. Bowman 2010.
10. Conger 2005; Davis 2014; Kalogrides & Loeb 2013; Lucas, S. 1999; Kelly & Price 2011; Oakes 2005; Rossell et al. 2002.
11. Christie et al. 2005; Kupchik 2016; Noguera 2003; Simmons 2016. In the autumn of 2019, Charles County, Maryland was proceeding with plans to build a separate school for children as young as five and six in order to instill ‘proper emotional and impulse control.’ Critics say this experiment will only exacerbate racial disparities in a district where 55% of the students are black, yet comprise 80% of the total number of suspensions. See https://www.washingtonpost.com/local/education/an-alternative-school-is-opening-for-troubled-kids-its-for-kindergartners-and-first--and-second-graders/2019/09/26/e35fea64-d313-11e9-86ac-0f250cc91758_story.html.
12. Harry & Klingner 2006.

13. Bourdieu 2013. Of course these realities are well documented and in fact appear year after year in the scholarly literature. As such they also are well known to diversity advocates. Even so, they curiously do little to dampen the confidence some manifest concerning what diversity (or, more problematically, ‘integration’) purportedly will do. For example, in one recent study we find this bold claim: ‘Integration negates segregation by comprehensively restructuring intergroup associations on the basis of equality, inclusion, and full participation in all dimensions of public life, but especially in education, the economy, and politics.’ On the following page, however, the authors concede, as if by afterthought: ‘In practice, many demographically desegregated schools are not truly integrated because of Eurocentric curricula, school climates, and racially correlated curricular tracking.’ Mickelson & Nkomo 2012.
14. Bowles & Gintis 1976; Collins 1979; Merry 2013.
15. Orlando Patterson (Patterson & Fosse 2015) argues that procedural knowledge (i.e., practical know-how) is better transmitted informally by those who have it than through formal instruction.
16. Sheth 1987.
17. Iram & Schmida 1998.
18. Thorat & Senapati 2006.
19. Menifield 2012. Whether one should worry about the more advantaged members of disadvantaged groups taking advantage of scarce opportunities is debatable. It is, in any case, likely inevitable. Those who suffer from multiple disadvantages will likely need other remedies of further support. Thanks to Tommie Shelby for stressing this point.
20. This phenomenon echoes the lessons of Du Bois’ ‘talented tenth,’ an idea suggesting that an educated and hence privileged elite from underprivileged groups would bring their leadership and acquired social capital to bear positively upon the less fortunate members of their respective groups. The result would be massive moral and social uplift. See Du Bois 1903. But in the hundred or so years since the publication of Du Bois’s essay, we have been taught the limits of what the talented tenth might accomplish.
21. Bobo 2011; Shelby 2005.
22. Bell 2003; Gilbourn 2007; Moses & Chang 2006.
23. Brantlinger 2003; Calarco 2018; Reay 2006; Reay et al. 2011.
24. Clayton & Stevens 2004.
25. Roda & Wells 2013.
26. Jones 1999.
27. Laubscher & Powell 2003.
28. Kendall 2013.

29. This was the general thrust of Derrick Bell's original critique (1980) of the *Brown v. Board* decision and its reception by the liberal establishment. In subsequent publications, Bell argued against the patronizing spirit of much civil rights reform, including the common rationale for school integration. Bell insisted the 'permanence of racism' could not be undone through diversity initiatives, but required a much more focused confrontation with white supremacy and the manners in which power could be exercised to protect this it. See, for example, Bell 2004.
30. Diane Ravitch's paean to the public school she attended in 1940s and 1950s segregated Houston, which serves as prelude to the rejection of 'choice,' is a good example of this brand of nostalgia. She writes, 'Everyone I knew went to the neighborhood public school. Every child on my block and in my neighborhood went to the same elementary school, the same junior high school, and the same high school. We carpooled together; we cheered for the same teams; we went to the same after-school events; we traded stories about our teachers.' Ravitch 2011.
31. Both South Africa and Brazil have pursued affirmative action policies in the workplace and the university with the aim of correcting for flagrant historical injustices, ones disproportionately favoring those of European descent. There is some evidence of modest success, yet efforts to promote diversity in primary and secondary schools run up against many of the same challenges faced by schools in other countries where residential patterns, peer effects, and choice mechanisms facilitate limited interaction. See Cicalo 2012; Alexander 2007.
32. Slater 2013.
33. See Merry 2013.
34. See for example the different European country reports in Bakker et al. (eds.) 2010.
35. Elite kiest een school met 'ons soort mensen.' [The elite chooses a school with 'our kind of people'] *Trouw* (December 15, 2010); 'Scholen in Nijmegen nog altijd zwart-wit ondanks advies.' [Schools in Nijmegen still segregated notwithstanding (policy) advice] *Trouw* (November 2, 2011); 'Geen geloof meer in gemengde scholen.' [No more faith in mixed schools] *Trouw* (October 9, 2013).
36. Most notably in *Parents v. Seattle* and *Meredith v. Jefferson County Board of Education* (551 U.S. 701, 2007).
37. Mantil et al. 2012.
38. Sharkey 2013, p. 175.
39. Fraser 1997.
40. Among other things, the theory of collective efficacy holds that both shared expectations for social control and strategic connections among

a community's members can yield effective action, provided there are ample levels of working trust and social interaction. See Sampson 2012.

41. Sen 2009.
42. Of course even ethnically or religiously homogeneous schools will be diverse in all kinds of other ways.
43. Dronkers, J. & van der Velden, R. 2013; Ladson-Billings, G. 2000; Peetsma, T. et al. 2006; Siddle-Walker, V. 1996.
44. In the urban sociology and educational policy literature proposals for disrupting or 'diversifying' minority communities are as common as they are de rigueur. Seldom if ever are proposals advanced that would entail breaking up segregated *majority* communities. But see Slater op. cit.

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PART III

Educational Justice: Exclusion, Ethics,
and the Pragmatic Alternative



CHAPTER 6

Educational Justice and Inclusion

In the previous three chapters I have been critically examining various beliefs that motivate liberal educational discourse, research and policy. With respect to each topic—publicness, citizenship and diversity—I have marshaled a great deal of evidence to demonstrate that mainstream state-public schools have a long history of not serving many different populations well.¹ Yet as I argued in Chapters 1–2, this is not an invitation to cynical resignation. Notwithstanding the many structural inequalities endemic to state schools, there remain ways to promote educational justice, as it were, with a small ‘j,’ even in non-conducive situations. Justice demands that we not abandon our ideals, but rather continue to strive to improve upon our present state of affairs.

With this chapter I begin the second half of this book, in which I examine different ethical dilemmas, by asking how schools ought to treat ‘exceptional’ students whose mental or physical characteristics have relegated them beyond the realm of equal educational provision.² Here I refer to a long and deliberate history of institutional exclusion that placed millions outside the boundaries of what formal education has been willing to address, or even tolerate. Indeed the very design of mainstream schools long denied the educational needs, not to mention the corresponding legal entitlements, of those whose identities and cognitive and behavioral characteristics deviated too far from the ‘average,’ or who failed to comply with acceptable notions of ‘normality.’ And in most countries around the world today, either real or symbolic exclusion is still the norm.³ Even so, for the past few

decades the needs, but also the rights, of children with disabilities slowly has begun to be recognized in the industrialized world.

The standard case for educational justice for exceptional students revolves around claims for equal treatment and due process. These are typically framed by egalitarian concerns, the interpretation and application of which is that exceptional students ought to have the same access to the resources necessary for an education as anyone else.⁴ Given the long history of exclusion, the assumed path to justice in many countries today leans heavily toward an attitude of *inclusion*,⁵ where the principle of equality is sometimes interpreted to mean that children should be treated as if they actually weren't different, and in need of a different kind of education. But as we have seen in previous chapters, for many students injustice 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.

Now because the category of exceptional students is broad—encompassing, for example, teenage mothers, the poor, the gifted,⁶ the disabled, the homeless, the stateless, the gender queer, the criminal, the chronically ill and the politically radical—the ethical analysis I aim to provide requires some rather strict parameters. I therefore limit my attention to a particular type of student, i.e., the autistic.⁷ I posit that the spectral features of autism can serve to *illustrate*—rather than match with any precision—many of the ethical challenges other atypical children generally face in regular school settings. Indeed in many ways autistics are a representative case for 'being exceptional' while in school.

Though autistics are an extremely heterogeneous group of individuals, most share a number of common characteristics that I later delineate; on the basis of these shared characteristics they arguably also share a number of specific needs. I contend that restricting my focus to the autistic student—in all of his/her diversity—will suffice to examine many of the challenges germane to a policy of inclusion given any of the following: the prevalence of autistic children in schools; autism's comorbidity with several other disabilities; and the challenges that schools face in providing the services they often are required by law to receive. The needs of the autistic student also highlight many of the ethical difficulties where placement options, as a matter of educational justice, are concerned.

The structure of the chapter is as follows. I begin with a contemporary theoretical discussion of disability, briefly comparing medical and neutralist accounts, before considering the most influential liberal philosophical framework vis-à-vis disability that we currently have, i.e., the capabilities approach (CA). I then examine autism as an illustrative case of disability where challenges involving inclusion in educational environments are concerned. Next, I turn my attention to the features of inclusion, and where this bears upon the state's obligation to provide equal and adequate education⁸ in the 'least restrictive environment' (LRE). I argue that inclusion for autistics in regular educational settings is more elusive than we may want to admit.

To that end I examine evidence suggesting that inclusion for autistics in regular schools is a difficult, though not impossible, ideal to realize given: the evidence we have about teachers and their general lack of training in dealing with disability, and autism in particular; the probability of sensory overload in the ordinary school environment, something well known to be a negative emotional trigger for autistic children; and finally, the influence of peer groups, social isolation, and particularly the prevalence of bullying in schools directed against children with disabilities generally, and autistics specifically.⁹ Indeed, this literature suggests that autistic children are more likely to be victimized than other children with disabilities.

In light of these many difficulties, I argue, first, that when we attempt to answer the question 'what, as a matter of educational justice, are autistic children owed?' that no single theoretical frame will help us to settle this with respect to placement in the LRE. Second, I argue that we need to pay attention to the specific dimensions of well-being conducive to the inclusion of autistic children. Third, though school professionals and para-educators have an important role to play in the placement and education of a child with disabilities, I will argue that 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,¹⁰ no parent has an 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 LRE, if it is to be justice-enhancing, must permit and even encourage pragmatic alternatives to the regular state-public school.

As I proceed I shall assume that educational justice, at a minimum, 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. Accordingly, 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.

DISABILITY

The contours of disability begin and end with assumptions about ‘normal functioning,’ and its nomenclature takes its cue from medicine, and more controversially, from psychiatry. The medical model of disability, which unquestionably is the dominant contemporary mode, takes disability to be a limitation or impairment of the individual, whether innate or acquired. Accordingly, disability implies a personal deficit or absence of a basic capacity; it is something for which persons need to be compensated. It requires nothing more than this from society because ‘normal’ is determined by society and its majority population.

But of course this understanding of disability ignores the relevant social factors. Depending on the environment in question, what counts as a disability in one geographic location will be less obvious in another. For example, many people are unable to see or walk. In a society where mobility requires that you drive, or climb stairs, this is a serious limitation if there are no changes to the environment. Yet busses, wheelchairs, lifts, accessible pedestrian signals and guide dogs remove many of these challenges, thus reducing the obstacles associated with an inability to see or walk.

A neutralist¹¹ model of disability, on the other hand, takes a more radical approach, for it rejects what it sees as a deficit perspective of individuals, and draws attention to the arbitrary and constructed notions of

disability that discriminate. Robert Slee, for instance, posits that disability discourse is little more than a naked assertion of power:

Based on a medical model of individual pathological defectiveness, the discursive practices of special education proceed from essentialising views of normality and abnormality. As such they represent powerful discourses that establish hierarchies of those who are included in regular social life and those who are dispersed to the margins and beyond.¹²

Slee and other neutralists maintain that labeling a person as ‘disabled’ fails to recognize the multidimensional character of identity. Indeed on this understanding disability is merely another form of personal difference—like body size or hair color—to be celebrated, not to be designated for clinical description or differential treatment. Neutralists therefore repudiate the idea that disability describes a personal deficit of any kind, or that persons with disabilities require special compensation or assistance.¹³ Instead, disability ought to be understood as an environment-dependent, social construction with little basis in reality.

Neutralists helpfully remind us that no knowledge and understanding comes to us without being mediated by the social, cultural and political contexts that inform our interpretations of phenomena. Meanings must be ascribed; they do not arrive from nowhere. The neutralist model is also instructive for its drawing our attention to the problems with the environment, and for seeking to mitigate stigma and exclusion. Insofar as the structure of the built environment, as well as the attitudes¹⁴ of the majority population *do* constitute a sizable portion of the problem, it may indeed be correct to attribute blame where it is due. Yet in its reaction to the imbalance of the medical model, disability neutralism has the unintended effect of rendering disability trivial, and further leaves persons with disabilities bereft of the means to be politically effective in advocating both for changes to the built environment as well as the discriminatory treatment they routinely encounter in these environments.

Indeed in attempting to deny something ‘real’ about disability, while also celebrating disability as merely ‘difference,’ advocates of disability neutralism end up making little sense of a person’s condition—a problem of incoherence—but more importantly, they make it impossible for others to address in any helpful way the special needs persons with disabilities (may) have. Moreover, while environmental design certainly matters

for justice—e.g., a society with elevators, ramps and suitable public transportation systems generally *is* better equipped to address the needs of more individuals—it is questionable, from the standpoint of justice, whether it will suffice to merely make the environment more ‘accessible,’ and it certainly may do little to alter the prejudices or paternalist attitudes of the majority population. And thus while I also agree with Slee that ‘disability’ as commonly used in educational discourse and policy is sometimes arbitrarily constructed, and often entails harmful, discriminatory consequences for those so labeled, to jettison all disability constructions is to throw out the baby with the bathwater. Indeed without the ability to assess an individual’s actual limitations, in many cases it will not be possible to administer an equitable response.

Liberal Conceptions of Disability

The standard liberal account of justice, from Kant to Rawls, places disabled, particularly mentally disabled or impaired, individuals ‘below the line.’ That is, failing to meet the basic criteria of rationality, many of the disabled are disqualified from fully participating in the social contract through which justice is presumably guaranteed. This impairment—that centrally affects rationality—encompasses cognitive, linguistic and social abilities, or dispositions. Autism, from Kanner’s and Asperger’s original definitions, seems paradigmatic of mental impairment as it is represented in liberal accounts. Even so, all liberals purport to champion the interests of the individual (as opposed to the group), and to articulate a defense geared toward establishing and protecting individual liberties for all, as a matter of equality.

As a framework for how we might think about disability in terms of educational justice, no theory currently rivals the CA.¹⁵ CA was devised as a critique of John Rawls’ theory of justice,¹⁶ among other reasons for its failure to address how persons may fail to convert rights into actual freedoms for reasons not within their control. On precisely this point, several capabilities advocates¹⁷ have taken issue with Rawls for excluding the mentally impaired—the autistic, the delayed, the schizophrenic, the irrational generally—from primary considerations of justice, because they are unable to enter into the kinds of rational negotiations that his version of the social contract requires.¹⁸ Indeed Nussbaum’s *Frontiers of Justice*¹⁹ in large part is devoted to offering a corrective to Rawls’ decision to

bracket questions of disability until a later ‘legislative phase,’ rather than foregrounding these concerns at the outset.

Nussbaum rejects the notion from Rawls that there are some people who exist, ontologically, ‘beneath the line’ of either consideration or intelligibility, and for whom the question of justice must wait. This view, she argues, can lead to morally disturbing cost–benefit analyses about how much justice, or care, ‘we’ can afford to give to individuals who are not able to give much back. Nussbaum does not argue against the ultimate dependency of the mentally impaired, but she does maintain that provisions for their care be addressed from the beginning, not as an afterthought. She invokes both the CA—insofar as it presents a more nuanced way of determining advantage than Rawls’ reliance on measures of wealth and income—and an ethic of care,²⁰ which emphasizes the importance of focusing on the needs of particular individuals in concrete circumstances. Care must extend not only to the mentally impaired, but also to those who take responsibility for their care (who, not incidentally, mostly are women), such that there is manifest respect for the care recipient’s voice and preferences, as well as a correspondingly manifest improvement in the care recipient’s well-being, and moreover in a way that the individual herself can meaningfully endorse.

Concerned with taking individual differences seriously as a fundamental question of justice, CA is also concerned with focusing our attention on the meanings that are ascribed to our differences by the surrounding socioeconomic culture, as well as the additional burdens some of these differences may impose on individuals by no fault of their own. In other words, it is the consequences rather than the cause of our individual differences that matter. Irrespective of whether an individual’s blindness is congenital or not, this difference is likely to have repercussions for one’s well-being, including ways that may diminish one’s ability to navigate an environment, acquire gainful employment, or even be viewed as an equal in society in which blindness is an impediment to how one might wish to live.

Where disability specifically is concerned, CA helps us to appreciate its *relational* character, where the relation is both to the non-disabled, as well as to the immediate environment, in particular the relevant conditions necessary for exercising one’s rights and freedoms. And thus to ensure that, say, the wheelchair user is as capable as others of exercising her rights and freedoms, CA concerns itself not primarily with addressing prejudices against the disabled (important though this certainly is),

or even with formal constitutional rights (essential though these are); capabilities precede a theory of rights inasmuch as they address the relevant conditions necessary for the exercise thereof. I will have more to say about CA later in the chapter.

INCLUSION

As a fraught concept, one of the great difficulties with *inclusion* lies in simply ascertaining both its meaning and scope.²¹ 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 color, 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 behaviors 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 include 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 neighborhood association or a Turkish community center arguably only has value if and when its members voluntarily identify with the other members, as well as its organizational goals and activities. And the same can be said of many autistics, who can choose for themselves (or, in some cases, 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 physically disabled persons 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 school with everyone else is not tantamount to inclusion if he or she is shunned, or 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. Because there are a number of competing theories of well-being,²² in this chapter I restrict my analysis to the following four dimensions, where the well-being of autistics in educational settings is paramount: (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.²³ I return to these later.

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 as I note in the introduction to this chapter, in many countries today complete exclusion is still the norm. Increasingly, however, resource-strapped governments are turning to inclusion in regular schools as the most cost-efficient²⁴ and logistically feasible means of delivering legal entitlements, 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 restrict my attention to the American context, not because it is the only,²⁵ or even the first, country to adopt legislation concerning children with disabilities, but chiefly because disability law is nowhere more robust than 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 in 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.²⁶ 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 an ideological interpretation would stipulate 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, speech therapy 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.²⁷

Now if IEPs, and inclusion policies more generally, are well-implemented, 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, many failures with respect to the implementation of inclusion policies persist, even—as in the American case—decades after legal protections have been 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.

Legal Background

Disability rights activism gathered steam, concurrent with other forms of minority activism, in the 1960s, but it was not until the Rehabilitation Act of 1973 (Pub.L. 93–112) that the momentous groundwork was laid for anti-discrimination protection whose purpose was to secure fair opportunity. From section 504 we read:

No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance. (34 C.F.R. § 104.4 [2006])²⁸

This legislation was then rapidly followed by bold new education policy, the logical analogue to the 1954 landmark *Brown v. Board of Education* school integration decision some twenty years prior.²⁹ The Education for All Handicapped Children Act (EHA), otherwise known as Pub.L. 94–142, first introduced in 1970, then ratified in 1975, and implemented in 1978, overturned more than a century of systematic exclusion of children with disabilities from mainstream schools. Its explicit aims were equal protection under the law, equal access to a free and appropriate public education (FAPE), but also to place the legal and ethical obligation on schools and school districts to seek out children in need of ‘reasonable accommodation.’ The even more sweeping Americans with Disabilities Act³⁰ (ADA), ratified in 1990, introduced protections extending to employment, public accommodations, telecommunications and many other areas of public life, and led to the reauthorization of PL 94–142 under a new name, the Individuals with Disabilities Education Act (IDEA).

IDEA’s signature features include the demand that students with disabilities be educated in the Least Restricted Environment (LRE); that there be mandatory parent and teacher participation; that there be routine and appropriate evaluation, focusing on a student’s strengths as well as areas in need of improvement; and that there be procedural safeguards to protect children with disabilities against further discrimination in terms of school discipline, including suspension and expulsion for behaviors related to the disability.³¹ In 1997, IDEA was reauthorized to include children with developmental delays, traumatic brain injury, autism and transitional planning beyond high school, for such things as employment and fiscal responsibility. Amendments were also added to address procedures necessary for resolving disputes between parents and local educational authorities involving mediation.

INCLUSION INTERROGATED

While a policy of inclusion appears to promise more educational justice 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. Indeed in contrast to the liberal ideals that I examined in Chapters 3–5, the belief—and for some, the ideological dogma—that inclusion is ‘good for everyone’ has been openly challenged, and attempts to impose or enforce inclusion have even met with considerable resistance.³² 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.³³

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.³⁴

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 provided by the IEP—are unable to do much more than provide the bare minimum.³⁵ Instead, autistics, like many other children with disabilities, often receive little more than a warehousing experience, where schools—not unlike psychiatric wards—function as places of confinement and seclusion.³⁶

Still others are dubious about inclusion given how so-called inclusive educational environments for many children exact a very high price. Speaking from personal experience, McLaren writes:

It would be considered inhumane treatment if a child with physical disabilities was expected to negotiate their way up a flight of stairs. However, children presenting with major sensory processing difficulties are expected to negotiate their way through the noisy and over-stimulating environment of a regular classroom. It can also be argued that if this environment causes them considerable pain and distress, it is likewise an inhumane form of treatment.³⁷

McLaren’s reflection, one informed by years of watching his own child be mishandled by a policy of inclusion in New Zealand, should give us pause. Notwithstanding stringent legal requirements, for autistic

students 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.³⁸ And 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 autistics, and perhaps no victory at all.

Let me be clear: while educational justice ought to point us *toward*, rather than away from, inclusion, how we answer the question 'what does educational justice for autistics require?' demands that we do more than point to an ideal, or invoke a single principle such as equality. And as the foregoing remarks make clear, we cannot assume—as we also observed in the previous chapter with respect to 'diverse' learning environments—that educational justice obtains when the disabled are permitted to join the ranks of the non-disabled. 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.'³⁹ 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.⁴⁰

The evidence to which Cigman points, as we have seen in each of the foregoing chapters, concerns the active contribution to injustice that many schools make. And 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,⁴¹ children with disabilities generally and children with autism in particular.

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 general discomfort in large group settings. 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. Indeed autistics often report living with the frustration of being continually misunderstood.⁴² With respect to large group settings, autistics commonly experience sensory overload, as well as feelings of stress.⁴³ 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.⁴⁴

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.⁴⁵ Accounts from parents of autistic children in the 1960s and before nearly always included stories about how local state-public schools simply refused to allow their children through the door, usually leaving them only the options of homeschooling and 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. But, as I demonstrate below, where autistic children *are* given full access to state-public education, their attendance can invite new difficulties, both for the autistic child, but also for the school staff.⁴⁶

The Price of Inclusion for Autistics

As we have seen, even under a policy of inclusion, many autistics—similar to other exceptional students—can be harmed by simply *being in school*,

irrespective of whether the individual in question is cognizant of the harm. Teasing, bullying and physical and verbal aggression are routine occurrences for autistics in regular schools, in part owing to the difficulties they experience with impulse control and emotional and behavioral regulation. Often triggered in social situations where there is sensory overload, this is particularly true for those whose autism is comorbid with ADHD or 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.⁴⁷ But even when bullying or teasing are absent, overstimulation, stress and frustration for the autistic are commonplace, none of which is conducive to the child's well-being.⁴⁸

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 an autistic child,⁴⁹ especially when as many as thirty-five *other* children demand a teacher's time and attention. Burnout is worryingly common.⁵⁰ As for the parents, many routinely express deep frustration and anger with the inefficiency, and even absence, of the services for autistic children their schools (should) provide.⁵¹ Additionally, even in the American context, where legal entitlements are robust, most 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.⁵² But as we have seen, compliance is not tantamount to inclusion of the morally relevant kind. These recurring phenomena make it unlikely—though not impossible—that the well-being of children with autism in regular schools can be fostered.

Taken together, the stresses of the autistic child, 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 autistic children, 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).⁵³

Again, none of this means that inclusion policies are pointless or ill-conceived. Implemented in the right way, inclusion policies can foster greater 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., labeling, grouping strategies, pull-out instruction) that generally lean toward the non-inclusive.

WHAT DOES EDUCATIONAL JUSTICE FOR AUTISTICS REQUIRE?

For most philosophers working on issues of disability, this question elicits a theoretical answer. As we have seen, capability theorists have provided a richer account concerning how we might think of persons' ability to exercise their rights and freedoms once legal entitlements and material resources have been ensured. Arguably the principal strength of the CA is its concern with how a society is organized, in particular with the physical, social, cultural and economic conditions that may be preventing disabled individuals from those things they have reason to value, among which must certainly count a quality education. The environment must ideally be conducive to enabling as many as possible to achieve acceptable levels of well-being. As such, *inclusion* is the implied norm. But if the so-called disability is irrelevant to performing or enjoying the necessary demands of an individual's environment, then the individual in question is not 'disabled.'

Similarly, we have seen how the CA underscores the importance of taking human diversity into account when we attempt to answer the question, 'what does educational justice, or justice *tout court*, require?' And if the best way to answer the question is first to consider the specific needs of individuals, which will include taking their expressed preferences into account, then we will want to avoid simply applying a 'one-size-fits-all' prescription. With respect to autism, a one-size-fits-all notion of inclusion ordinarily requires that all children attend the same school, or alternatively, that children with disabilities attend a separate institution. Yet both approaches are too comprehensive; educational justice must allow for pragmatic alternatives.

The Limitations of Liberal Theory

As we saw in Chapter 1, ideal theory can tell us which principles—such as equality—matter, and what justifies those principles; moreover, ideal theory can guide some of our responses in combatting injustice. But ideal theory will not settle how the relevant principles ought to be interpreted and applied; nor does ideal theory help us to resolve cases where there are conflicting values, or where circumstances require that difficult trade-offs be made. Moreover, while the CA may illuminate how we might think about human differences, particularly with respect to how the environment ought to be structured to favor the exercise of freedoms of the non-disabled, it does not constitute a fully worked out theory of justice.⁵⁴ It therefore cannot provide us with a satisfactory answer to our question, ‘what does educational justice for autistics require?’

Nor can the CA assist us, certainly not at the level of policy, in addressing many of the most pressing challenges we face where injustice inflicted on the disabled attending school is concerned. Indeed while the CA aids us in thinking more carefully about the importance of both the institutional and attitudinal norms that ascribe normative significance to how atypical persons are seen or not seen, handled or mishandled, the framework offers little guidance concerning equitable placement, in particular with respect to the legal ideal of a ‘least restrictive environment.’

Nussbaum’s descriptions⁵⁵ of her own nephew capture this perfectly: her (legitimate) concerns about his potential for full participation in the realms of public reason are grounded in the ‘oddness’ of his thinking (which while intelligent is not quite intelligible), his non-pragmatic uses of language, and his brand of sociality which left him, as a younger child, friendless. But with respect to the educational implications of teaching autistic students, her account of disability eventually comes up short, leaving autistic students exposed to the same kinds of harm that historically have been their unjust deserts.

The reader may recall that Nussbaum and others also lean on an ‘ethics of care.’ Yet where the ethics of care is concerned, it is important that we recognize that all of the care in the world is not equipped to address *structural* injustice. Outside of the home, even the best care occurs against the background of institutional norms in which care work is carried out (or, as the case may be, *not* carried out). Under ordinary institutional conditions—such as those one finds in a large school—even the mindset of heroic caregivers is often indelibly impacted by exploitative

working conditions that make it difficult to administer optimal care. Those who *are* in a position to change these unjust structural norms arguably are far too removed from the concrete situation, and therefore often lack the knowledge and experience needed to attend to the needs of the disabled.⁵⁶

Consistent with other themes I have addressed in earlier chapters, the empirical reality with respect to inclusion for exceptional children deviates dramatically from even the best liberal theoretical prescriptions. And that empirical reality is that autistics, qua autistics, experience compromised well-being in most regular school settings, where too often inclusion is only construed in the broad sense of access. That empirical reality, in far too many schools, is also one in which even the most robust legal entitlements do not, and arguably cannot, ensure well-being, not to mention more basic concerns such as safety.

Recall the four dimensions of well-being for autistics in educational settings that I earlier delineated: (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. These dimensions of well-being point toward a much narrower interpretation and application of inclusion, one where a sense-of-belonging is a feasible option, and one where one's well-being can be authentically promoted and guaranteed. But notice that even in the best-case scenarios, i.e., those in which the relevant resources are in place to provide meaningful care, not even the first and arguably most important condition—protection against sensory overload—is likely to be satisfied in a regular school setting without a considerable portion of the school day devoted to mitigating the average autistic child's stress and anxiety.

INCLUSION BY MULTIPLE ROUTES

Earlier I adumbrated what I hold to be four essential features of inclusion: value for the person, meaningful access, a sense of belonging, and that which is conducive to well-being. Consistent with these features, the following considerations should be paramount in the quest for educational justice for exceptional children.

The first concern should be with the well-being of the child in question, not with pursuing a political ideal.⁵⁷ 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.⁵⁸

As we have seen, autistic well-being also 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 autistics also means resisting the urge to equate the needs of any two autistic children, given the manifold differences between them.

Second, though professionals have much to offer in terms of the provision of care, where the administration of professional care may conflict with the values and/or preferences of the parents, the latter should take precedence. 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 absurd⁵⁹—but in a majority of cases the parents are more likely to understand their child's needs, and to unconditionally love and care for their child in ways that third parties seldom can or do. 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 (as I also discuss in Chapters 5 and 7) in order to benefit other people's children.⁶⁰

Third, educational justice expressed as inclusion will turn on more than legal entitlements; 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 their child's general well-being) some parents will prefer a separate specialized school.⁶¹ Given the history of de jure exclusion and inequality, separate schools of *any* kind are anathema to strong proponents of inclusive education policy. But separation, Ruth Colker reminds us, 'need not result in inequality if it is accompanied by adequate services and positive recognition.'⁶² Indeed voluntary separation bears no substantive resemblance to invidious segregation.⁶³

By the same token, specialized schools are not a panacea. Dire shortages of qualified staff in many places may incline specialized schools to hire persons who lack the requisite expertise to adequately support exceptional children. Sadly, too, in some countries teachers also may be paid less than their counterparts in non-specialized schools.⁶⁴ Be that as it may, 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 autistics also preeminently are about providing a learning environment where the minimization of sensory overload is a priority.⁶⁵

Meanwhile, in increasing numbers other parents who have children with disabilities are opting for homeschooling,⁶⁶ if for no other reason than their dissatisfaction with the quality of institutional care; other parents are opting for a combination of different approaches, particularly where respite services are available. Whatever the specifics of individuals cases, if 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 state-public schools cannot be the only settings capable of delivering educational justice; no school, no matter how expansive or 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.

Ultimately, however, educational justice also will require moving beyond a custodial care approach, such as the one I defended in this ethical analysis. Each of the criteria for well-being that I enlisted implies that children with autism principally need to be cared for and protected. However, the overarching goal of education also is 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 entails not only that there is protection and care of children with autism, but also the goal of increasingly active participation and independent functioning of autistics in their environment.

CONCLUSIONS

Using autistic students as an illustrative case, I have been examining what educational justice might require for exceptional students. What I hope to have demonstrated is that even when there is widespread agreement about the importance of inclusion for exceptional children, its meaning is amenable to different understandings and applications. Further, whatever the specifics of individual cases involving disability, I have argued that a policy of inclusion for autistics is no guarantee of justice. Educational justice must signal more than legal entitlement or formal access; ultimately educational justice must entail utmost consideration for the

child's well-being. Where autistic students are concerned, I have argued that well-being should be understood to include protection from sensory overload, a need to communicate, a need to be understood, and a need to be cared for. What my analysis portends for other exceptional children depends upon the nature of the exceptionality, but also on whether or not the school environment is conducive to fostering positive learning outcomes and social adjustment, both for the exceptional student in question as well as for the other students.

Somewhat controversially, I have argued that educational justice ideally requires that the terms and conditions of inclusion, to the extent possible, should be decided by the disabled actors themselves. However, where the actors lack the relevant decision-making capacity—as certainly is the case with younger autistic children (and young children simpliciter)—a triage involving multiple actors is appropriate, one that includes education and disability specialists, but also one where the preferences of the autistic child continue to have consultative weight. Yet while the decision concerning justice for autistic children should be informed by an array of educational and disability professionals, ultimately the decision concerning placement in most cases should rest with the parents, even if the decision concerning how to finance the placement should not.

Owing to the particulars of individual cases, I have tried to show that the notion of inclusion alone cannot settle the question concerning the 'least restrictive environment,' as the juridical notion of inclusion is commonly expressed. Each child and educational context will be different. In other words, there is no definitive answer to the question 'what does justice require for exceptional students?', if for no other reason than that exceptional children are, in point of fact, each exceptional. By extension, neither is there a generalizable answer to the question for autistics given the vast range of differences between autistic individuals. Accordingly, the best way to procure educational justice can only be determined by examining the particularities of specific cases.

At the same time, I have argued that even when we restrict our attention to the concern with the protection against sensory overload—especially when coupled with the prevalence of bullying and the questionable competence of most teachers to adequately care for their autistic students—the empirical evidence provides the parents of autistic children strong justification for opting out of regular schools, even when the official policy is one of inclusion, and moreover, even when strong legal protections are in place. Educational justice for autistics will require that the

learning environment be one that can ensure inclusion in a narrower and more meaningful sense, i.e., one that enables a sense-of-belonging and is conducive to the child's well-being.

All of this means that the direction that the ideal of inclusion points is far from obvious. The case of exceptional needs clearly illustrates the need for pragmatic alternatives when the options available do not suffice to promote educational justice. For some, the inclusion can be satisfied in mainstream schools, for others in specialized schools, and for still others in a homeschooled environment. But as the previous chapters have shown, children with exceptional needs are not the only category of students for whom educational justice is lacking.

In the next chapter I turn my attention to a different, and more controversial, case in the educational domain, i.e., the justice-enhancing role that certain religious schools might be expected to play. It is a topic that sharply divides opinion between advocates on the one hand, and vehement opponents of religious schools on the other. As I aim to demonstrate, I think it is overly simplistic to be either for or against religious schools as such, let alone to rule out in advance the contribution they might be expected to make. Instead, one must consider the broader societal context in which the option to attend a religious school arises. I will make a *pro tanto* case for educational justice that involves a certain kind of religious school where there is considerable evidence of racist harm in non-religious schools.

NOTES

1. Harber 2004; Lewis-McCoy 2014; McGregor & Mills 2012; Mills et al. 2016; Reay 2017; Riele 2006.
2. Though I circumscribe my treatment of exceptionality in this chapter to the domain of disability, and autism in particular, it is not inaccurate to say that exceptionality refers to any number of different characteristics or behaviors that are deemed aberrant within the system such as it is. The more the educational system is streamlined, the more we can expect students of various kinds to exhibit aberrant characteristics/behavior.
3. Arnold et al. 2009; Parmenter 2014; Slee 2011.
4. Feldman et al. 2013; Harrower & Dunlap 2001.
5. Corbett 2002; Thomas & Vaughan 2004.
6. For a separate treatment of exceptionality and what educational justice might entail for gifted pupils, see Merry 2008.

7. Throughout this chapter I will use ‘autistic’ instead of ‘persons with autism’ both to avoid the implication that autism is a ‘condition’ or disease, like diabetes or AIDS, that one would not wish on another, as well as to connote the strong identification many autistics have with being autistic, not unlike an ethnic or religious identification matters for other people. Indeed many persons with autism commonly refer to themselves as autistics. Others may prefer different labels (e.g., challenged)—analogous to similar disputes taking place elsewhere (e.g., queer, black, feminist, etc.).
8. In the language of the American policy Individuals with Disabilities Act (IDEA) of 1997, the oft repeated phrase is ‘free and appropriate education’ (FAPE).
9. Hebron & Humphrey 2014; Sreckovic et al. 2014; Sterzing et al. 2012; Zablotzky et al. 2013, 2014.
10. Pijl et al. 2008.
11. See Oliver and Barnes (2010) for a recent, qualified defense of disability neutralism. Jeffrey Brown (2016, p. 194) writes, ‘...neutralists argue that the principle source of harm connected to disability is society’s treatment of disabled people instead of the disability itself, anti-discrimination and accommodation are the proper normative remedies.’ I deviate from some of the literature by preferring ‘neutralism’ to the ‘social model’ for this discussion. While both the social model and neutralism share a lot of similar conceptual and normative commitments, it is debatable whether they are co-extensive. For example, some social theorists argue that disability has nothing to do with impairment, but others, like Elizabeth Barnes, disagree.
12. Slee 2001, p. 179.
13. There are, however, exceptions to this view. For instance, Elizabeth Barnes (2016) holds that disability may be a local harm, but not a global harm. The ‘local’ harm that disability (impairment) causes is outweighed by the excellent benefits it brings, so it is net neutral. Barnes disagrees with the idea that disability has nothing to do with the body or it can never be a personal deficit. Instead, her focus is on how impairments affect well-being. For a trenchant critique of Barnes, in particular her reluctance to accept the troubling moral implications of her position, see Kahane & Savulescu (2016).
14. These attitudes include the humiliations of being patronized, pitied or treated as a victim. On this point Ian Hacking (2002, p. 426) observes: ‘talk of social construction usually has an overtone of oppression, of something being fostered from above [...] but...the underclass [can decide] for itself, in the face of, and utterly against the expectations of, propriety.’

15. First elucidated by Amartya Sen (1985, 1992), *capabilities* represent a person's freedoms to achieve valuable functionings (i.e., activities, vocations, pursuits) necessary to achieve well-being.
16. Rawls (1993, p. 20) avers: 'We assume that citizens have all the capacities that enable them to be cooperating members of society...normal and fully cooperating members of society.'
17. Nussbaum 2006; Robeyns 2016; Terzi 2008, 2014.
18. Indeed for Rawls the question of justice for the mentally impaired should be postponed to the 'legislative phase'; and this, for all intents and purposes, is exactly how disability rights have evolved, with well-intentioned 'citizens' taking care of the interests of those who cannot, or are not permitted to participate in these 'democratic deliberations.'
19. Nussbaum *op cit*.
20. Gilligan 1982; Kittay 2013; Noddings 2013.
21. Felder 2018; Warnock 2010; Wilson 1999, 2000.
22. Griffin 1986; Haybron 2008.
23. See Robeyns 2016.
24. Gubbels et al. 2018.
25. For instance, the policy adopted by the Dutch government in 2013, 'suitable education' (*passend onderwijs*), sometimes described as 'inclusive education' (*inclusief onderwijs*), does not abandon its long tradition of providing education for children with disabilities in separate schools, but summarizes its more inclusive aims thus: 'All children deserve an education that is best adapted to their needs, an education that challenges students, and that is attentive to their abilities and that takes their limitations / disabilities into account. If possible, children will go to normal schools; in this way they are best prepared to find a place thereafter in society. Special schools for children with disabilities will continue to exist for children who are better served in this way.' Dutch text available at: <http://www.passendonderwijs.nl/>.
26. 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.

27. 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 2017–2018 school year. See <http://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/mckay/>.
28. Cf. the United Nation's own anti-discrimination statement in article 24 of the Convention on the Rights of Persons with Disabilities: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-24-education.html>.
29. *Brown v. Bd. Of Educ.* 347 U.S. 483 (1954) and Title VI of the subsequent Civil Rights Act [P.L. No. 88–352, 78 Stat. 241 (1964)], have profoundly influenced the interpretation of educational equality in cases concerning disability in education.
30. Title II of the ADA says: 'No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.' 42 U.S.C. § 12132 (2006).
31. Each of these items is incorporated in the student's Individualized Education Plan (IEP). However, these protections often are not enforced, especially where minority children are concerned. See Harry & Klingner 2006 and also: https://www.washingtonpost.com/news/education/wp/2017/04/17/feds-investigate-claims-that-black-and-disabled-students-face-harsher-discipline-in-richmond/?utm_term=.434de8aad9e.
32. Gallagher 2001; Norwich 2013; Warnock & Norwich 2010.
33. 'So even the very general idea of "learning,"' Wilson (1999, p. 111) continues, 'contains the seeds of exclusion or marginalization, just as the general idea of running or jumping, which almost anyone can do to some degree or other, leads to selectivity and exclusion as soon as it is put into a practical context, the moment we conceive it as doing *well*.'
34. Warnock 2010 p. 32.
35. 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.”

36. See for instance <https://www.bbc.com/news/education-46044394> and <https://www.theguardian.com/uk-news/2018/dec/14/ungoverned-use-of-restraint-and-seclusion-in-scottish-schools-criticised> and https://www.washingtonpost.com/local/education/a-photo-emerges-and-a-v-school-systems-use-of-seclusion-comes-under-scrutiny/2018/05/26/c8f75658-3693-11e8-9c0a-85d477d9a226_story.html?utm_term=.666557ae1ecb.
37. McLaren 2013, p. 33.
38. Goodall 2018.
39. Cigman 2007, p. 785.
40. Ibid., p. 781.
41. Wang et al. 2009.
42. Robeyns *op cit*.
43. Pijl et al. 2008; Segall & Campbell 2014.
44. Sreckovic et al. 2014; Zablotzky et al. 2014.
45. 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.’
46. Their inclusion in regular schools also 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 ‘least restrictive environment,’ often entailing the hiring of additional support staff, or, in cases where the facilities or personnel are lacking, private school placement.
47. Blake et al. 2016; Cappadocia et al. 2012; Norwich & Kelly 2004; Rose & Espelage 2012; Shea & Wiener 2003; Swearer et al. 2012; Van Cleave & Davis 2006.
48. In my own experience as a former special education assistant (SEA) specifically assigned to shadow a 12 year old autistic boy for an entire academic school year (2000–2001), this required regular time-outs for calming exercises (e.g., massaging hands, rolling on a large ball, going for long walks). My being continuously present, and my knowing the

other students by name, meant that the student in my care was almost never teased or mistreated. At the same time, however, he had no friends at school. Further, though the staff—myself included—rarely observed anything of the sort while the boy was in school, his mother consistently reported emotional meltdowns at home, which she attributed to the sensory overload and stress he absorbed while in school. Needless to say, this created a distrustful, and at times, adversarial, relationship between the mother and the multi-disciplinary team assigned to the boy’s care.

49. Dymond et al. 2007; Fennell & Dillenburger 2018; Segall & Campbell 2014.
50. Boujut et al. 2017; Ruble & McGrew 2013.
51. See <https://www.bbc.com/news/education-45705809>.
52. Dymond et al. 2007; Little 2003; Whitaker 2002.
53. Consider comparative data from the Netherlands, where more than 4000 children with autism currently do not go to school at all because they do not receive an education 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. See <https://eenvandaag.avrotros.nl/item/eerste-hulp-bij-thuiszitten-4000-kinderen-met-autisme-zitten-gedwongen-thuis/>.
54. The capabilities approach, Nussbaum (2006, p. 155) writes, ‘is a political doctrine about basic entitlements, not a comprehensive moral doctrine.’ Capabilities are also unlikely to be realized if one does not enjoy equal status, which almost certainly is true of the disabled in most societies.
55. Unsurprisingly, teenage and adult members of the autistic community object to Nussbaum’s (et al.) brand of liberal paternalism and its tendency to talk over, drown out, and co-opt the lexicon autistics themselves use for their own dubious purposes. A number of quite vocal #ActuallyAutistic participants routinely express their exasperation with the neurotypical population (read: disability experts) and their ‘warm-hearted’ narrative that many autistics deem ableist, exploitative and generally clueless. One author writes: ‘Our community is growing weary of neurotypical parents (AutismMoms[TM] or the occasional AutismDad[TM]), non-autistic researchers and authors, “official” autism spectrum “experts” (who are themselves non-autistic), and many other people who are not on the spectrum, but somehow feel entitled to barge in and take over, ransacking our terminology and diluting our social media news feeds. The #ActuallyAutistic hashtag was designed specifically to filter that shizz out, and find more of our own, so that we can form long-overdue, desperately-needed, and often-lifesaving connections (which the neurotypical population often takes for granted, since there’s a certain amount of privilege inherent in living in a world already in sync with the way you operate).’

Retrieved from: <https://thesilentwaveblog.wordpress.com/2017/01/02/the-actuallyautistic-hashtag-is-only-for-actually-autistic-people/comment-page-1/>.

56. Thanks to Jessica Payton for emphasizing this point.
57. See Colker 2006. Colker's 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).
58. Writing against the paternalist tendency, where non-disabled others assume they know what is best for the disabled, 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.'
59. For example, a district court 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 (see *supra*, note 57) the Sixth Circuit Court later overturned this ruling. See *Roncker v. Walter*, 700 F.2d 1058, 1063 (6th Cir. 1983). In light of the questionable educational benefits, Colker (2006, p. 817) argues that the Circuit Court's decision merely 'serves a cosmetic benefit.'
60. Regarding this sense of obligation to a political ideal, Ruth Cigman (2007, p. 782) writes, '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 wellbeing.'
61. Some of these schools are private and expensive, but 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 (Green & Mead 2004). 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> and <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.

62. Colker 2007, p. 1420.
63. Boxill 1992; Brooks 1996; Merry 2013; Shelby 2016.
64. As is the case, for example, in the Netherlands. See <https://www.trouw.nl/samenleving/onvrede-bij-speciaal-onderwijs-hoezo-krijgen-wij-evenveel-als-collega-op-de-basisschool--a9f39f88/>.
65. That said, many specialized schools are expensive and therefore beyond the financial means of parents without financial support. <https://www.verywellhealth.com/private-school-pros-and-cons-for-autism-260429>.
66. Hurlbutt-Eastman 2017. For evidence from the UK, also see <https://www.theguardian.com/commentisfree/2017/nov/30/uk-education-disabled-children-home-school-inclusion>.

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Educational Justice and Religious Schools

As we saw in Chapter 3, there is a widely held assumption that state-public schools, i.e., schools with a nonsectarian character, are particularly well-suited to justice concerns. By examining the persistence of inequality in state school systems, I demonstrated why that assumption is flawed, and accordingly why there continue to be serious equity concerns, in particular for a variety of marginalized and poor students. But as I also demonstrated in the previous chapter, there are other reasons to doubt whether state-public schools are uniquely capable of promoting educational justice, even when the official policy is one of inclusion.

But it is not only schools designed to meet the needs of exceptional students that have a role to play. Religious schools, too, can make an important contribution to the mitigation of inequality; indeed, in many cases they are capable of fostering greater educational justice than their secular counterparts. There are at least three reasons to consider the role religious schools might be expected to play in a pursuit of educational justice. First, as we have seen in several chapters already, are the many failures of state-public schools to foster educational justice for the most disadvantaged. Second, as we saw in Chapter 6, is the need for pragmatic alternatives when the standard options are far from ideal. And third, it is the case that religious schools, in many countries, vastly outnumber the nonreligious alternatives. In Flanders, for example, 70% of all students attend Catholic schools; in other words, the religious school is more likely to be the de facto state-public school. But the fact is that in many countries around the world more than half of the student population

attends schools with a religious identity or character. With respect to educational justice, it would therefore be odd to assume that religious schools have no role to play.

Now of course it is true that many denominational schools no longer have a strong religious profile; their religious identity is but a vestige of a bygone era. But a great many religious schools—whether in the public or private sector—maintain a robust religious identity, and promote an explicitly religious worldview. In this chapter I primarily will concern myself with this type of religious school, for it is precisely *this* type of religious school that many critics argue we should not want, or indeed that we should seek to abolish in favor of a ‘secular’ education. Opposition to religious schools of course arrives in many forms; in twenty-first-century Europe one is most likely to hear an argument suggesting, for instance, that religious schools are a poor conduit for citizenship. Yet given all that I have said in Chapter 4 about this topic, I put this concern aside and instead focus my attention on what almost certainly is the most commonly voiced objection, namely that religious schools indoctrinate their students.

I want to state up front that I share the concern about indoctrinatory harm with critics of (some) religious schools. But in this chapter, I will postulate that there are other harms for many individuals that are more severe *outside* the religious school. Accordingly the full scope of harm should be taken into account when evaluating the harm that some religious schools may do. Once we do that, I suggest, justice may require that we choose the lesser harm. To simplify matters, I focus my attention on the stigmatic harm done to Muslims, and the role that Islamic schools might be expected to play in mitigating that harm. If the full weight of stigmatic harm is factored into the ethical analysis concerning Islamic schools, then I suggest that there are sufficiently weighty *pro tanto* reasons for Muslim parents to prefer an Islamic school over the alternatives, notwithstanding the potential indoctrinatory harm.

The argument that I develop is both principled and pragmatic. It is principled, first, because it is motivated by the conviction that to harm is morally wrong. Second, there are additional reasons to protect young people given that they are more susceptible to many kinds of harm. Third, justice arguably demands that we prioritize the mitigation of harm where the most harm is being done, and I think it reasonable to suppose that it is the stigmatized and disadvantaged who ordinarily suffer the most invidious harms. But the argument is also pragmatic¹ inasmuch as I concern myself with the nonideal societies and educational systems

that we have, rather than the ones we wish we had. Whatever may be compelling about educational justice in ‘ideal worlds,’ for millions in the real world harm is a daily feature of life, and this includes their ordinary school experience. Moreover in the real world our options may not be between harm and the absence of harm but rather between different kinds and degrees of harm.

And so when we adopt a broader perspective on the full range of harms that may be caused by different kinds of schools but also by other structural inequalities that prevail in the broader society, we may discover that it is not quite so simple to pit religious schools against nonreligious ones. For example, one often hears that religious schools are simply too insular, an obstacle to, say, the cultivation of ‘civic virtue’ or ‘social cohesion.’ To this concern one often hears renewed appeals for an integrated ‘common school’ ideal, where pupils come together to learn, to reason, to deliberate and to respect one another.² But, as we saw in Chapter 5, this criticism directed against religious schools is odd considering how insular the average *non-religious* school is owing to high indices of de facto segregation between and within neighborhoods and schools³; middle-class parental behavior that entails avoiding schools where one’s own children are not in the majority⁴; peer group homophily⁵ and the various ways in which bureaucratic school organization ensures minimum contact between pupils of different backgrounds through problematic forms of selection, labeling, tracking and grouping.⁶

An honest appraisal of these well-known facts does not mean that we ought to forfeit attempts to make our school systems more fair, or that we ‘give up’ on attractive ideals. But it does suggest three things: first, we ought to apply the same standards to nonreligious schools that we apply to religious ones. Second, choosing alternatives to the ‘common school’ ideal in the short term need not be incongruent with reforming the status quo in the long term. Third, pursuing pragmatic alternatives to the status quo for one’s child under highly nonideal circumstances is not only a reasonable and responsible thing to do; it also is arguably more consistent with what justice demands, which in many cases begins with opting for the lesser harm.

The structure of my argument is as follows: I first articulate what I understand indoctrinatory harm to entail, followed by a sketch describing what many contemporary liberal philosophers understand the opposite of indoctrinatory harm to be: an education for the cultivation of reason and autonomy. I then broaden the scope of harm to include stigma. In

addressing the question, ‘what does educational justice require?’ I argue that we ought to take seriously a whole range of harms to which stigmatized cultural/religious and racialized minorities are subjected both inside and outside of school. In the Western Islamic school, I argue, we recognize the familiar harms of indoctrination on the one hand, and the ability to mitigate a great many other harms on the other. It is therefore plausible to argue that Western Islamic schools in many instances are more justice-enhancing than the alternatives. I later anticipate and respond to several objections. I then conclude by arguing that under nonideal conditions Muslim parents who opt for the Islamic school are justified in doing so, notwithstanding the potential indoctrinatory harm.

INDOCTRINATORY HARM

Indoctrination entails the inculcation of attitudes or beliefs⁷ that are contested, where there is intent to instill those beliefs, and where the methods circumvent important arguments or evidence.⁸ An indoctrinated person, John Kleinig writes, will be someone who ‘falls back on implausible claims of self-evidence, continually engages in distortion, resorts to question-begging devices, professes to find reasonably clear objections unintelligible or becomes chronically unable to feel their weight against his/her position.’⁹ Thus we suspect that someone has been indoctrinated who holds her beliefs in such a way as to imply indifference to rational assessment and contradictory evidence.¹⁰ In its most explicit form, religious schools are presumed guilty of indoctrination if and when they discourage rational thinking and instead opt for coercive forms of faith inculcation with no regard for argument or evidence. This is what James Dwyer appears to have in mind when he claims that students in fundamentalist religious schools

Are not permitted to question what they are taught on any subject or to express any opinion contrary to orthodox views that teachers, school administrators, and pastors aggressively impress upon them. To do so would constitute rebellion, a grave sin warranting harsh punishment.¹¹

And these actions have long-term consequences, he continues, inasmuch as graduates from these schools

Internalize sanctions against free thought and expression to such a degree that those who later develop some inclination to question, privately and/or interpersonally, the religious, political, or social beliefs that their schools taught them find that psychological barriers prevent them from doing so.¹²

Notice, too, both the intellectual and emotional properties of indoctrination. Not only is one not encouraged to consider alternative points of view; one also may be *afraid* to do so. The upshot is this: if and when teachers—with or without the approval of parents—substitute irrational belief for scientific inquiry or rational debate, or even discourage a healthy degree of doubt, they are presumed guilty of indoctrinatory harm. Even when the content, methods or intent used may not succeed, religious schools may also be guilty of *facilitating* indoctrinatory harm to the extent that they reinforce the interests and beliefs of parents or school staff at the expense of the child's interest in being educated.

In short, indoctrination works contrary to education, at least in some domain. It works contrary to education not only because it entails the inculcation of unshakable beliefs or commitments but also because it involves the inculcation of *unwarranted* beliefs and commitments—i.e., those unsupported by reasons¹³ and evidence. The aim to inculcate unshakable beliefs or commitments without reasons or evidence is a kind of harm. And if religious schools have among their aims to indoctrinate their pupils into the tenets of their respective faith without reason or evidence, religious schools are culpable for that harm. Putting it in the starkest terms possible, Michael Hand observes:

To indoctrinate people is to interfere with their minds in the most serious way possible. It is to prevent them from thinking rationally in some area of their lives. This is the very antithesis of what education is about, and a flagrant abuse of the power wielded over young people by those who teach them.¹⁴

Hand takes this to be a powerful reason why religious schools ought to be abolished because they are 'defined by an aim that can only be realized by means of indoctrination.'¹⁵ Now abolition is a radical demand, one that strikes me as being wildly unfeasible, at least within pluralist constitutional democracies. Nevertheless, more than a few liberal philosophers are sympathetic to this view.¹⁶

Now in rejecting indoctrination, a number of liberal philosophers have argued in the following register: *children ought to receive an education that conduces to becoming autonomous agents*. Characteristically, Eamonn Callan asserts that children ‘have a right to an education whose content is given by their prospective interest in sovereignty.’¹⁷ Elsewhere, he stresses its importance in more detail: ‘autonomy enables us to choose intrinsically good lives; autonomy confers that ability without creating bias against any particular ways of life that might have intrinsic value.’¹⁸ Matthew Clayton fixes his attention on parents, yet makes the same point when he says that ‘autonomy is an *end-state* to be achieved. Whatever else parents do to or with their children by way of a religious upbringing, they must not prevent them from eventually leading an autonomous life.’¹⁹ And Ian Macmullen adds that ‘autonomous persons must be the *ongoing* authors of their own lives’²⁰ and weds this faith in autonomy to a related conviction concerning the role that schooling might be expected to play:

Once the nature of autonomy is properly understood, the vital role of schools can perhaps be accepted without empirical evidence: as a rational-cognitive ideal, [autonomy] is not something that children can reliably be expected to pick up outside of formal educational institutions.²¹

The upshot is that being or becoming autonomous means being capable of reflecting upon different points of view and arriving at a reasonable and considered opinion about those things one has reason to value and is able to pursue.

The educational path to autonomy further implies that pupils ought to receive an education that enables young people to appreciate the difference between accepting certain things to be true merely as a matter of faith rather than on the strength of reasoned argument and evidence.²² In order for autonomy to germinate, schools ought to be places that facilitate encounters with different cultures, experiences and perspectives in terms of the teaching staff, the pupil intake, the curriculum and generally the variety of perspectives on offer, where the intended aim is to facilitate considered reflection on these differences. In this way, young people should be exposed to a broad range of options concerning what their life might be like, with the school refraining from endorsing either the mainstream or the home culture.

I believe there are a number of difficulties with some of the views²³ sketched in the foregoing paragraphs, and with the autonomy ideal in particular.²⁴ However, I will not pursue these difficulties here, as they do not diminish concerns about indoctrinatory harm.

BROADENING THE SCOPE OF HARM

I now turn my attention to a different kind of harm, and I want to show why indoctrinatory harm is not the only kind of harm with which we ought to be concerned. The harm that I consider is stigmatic harm. Because stigmatized persons are confronted with additional onerous burdens, ones often coinciding with other kinds of disadvantage, the implications of this specific kind of persistent inequality present daunting challenges for educational justice.

THE HARM OF STIGMA

To be stigmatized is to be harmed. Stigma denotes the negative significance others ascribe to some attribute(s) that persons have that is seen as discrediting in some way. To be stigmatized is to have one or more characteristics that meet with strong disapproval by others not possessing the stigma. Stigmas may attach to any number of different traits that persons have by no fault of their own. By definition, sociologist Erving Goffman writes, ‘we believe the person with a stigma is not quite human. On this assumption we exercise varieties of discrimination, through which we effectively, if often unthinkingly, reduce his life chances.’²⁵ Shame, too, ‘becomes a central possibility, arising from the individual’s perception of one of his own attributes as being a defiling thing to possess, and one he can readily see himself as not possessing.’²⁶ Stigma is not only ‘another kind’ of harm; the harms it induces and the consequences that follow from it are profound. The result, Goffman warns, is a deep-seated ambivalence about who one is:

Whether closely allied with his own kind or not, the stigmatized individual may exhibit identity ambivalence when he obtains a close sight of his own kind behaving in a stereotyped way, flamboyantly or pitifully acting out the negative attributes imputed to them. The sight may repel him, since after all he supports the norms of the wider society, but his social and psychological identification with these offenders holds him to what repels

him, transforming repulsion into shame, and then transforming ashamedness itself into something of which he is ashamed. In brief, he can neither embrace his group nor let it go.²⁷

We also should not forget the educational context in which many children first learn of their stigma. As a general rule the harms begin with differential treatment: with sorting, labeling and lowered expectations, a well-documented process that begins very early indeed. ‘Public school entrance,’ Goffman reminds us, ‘is often reported as the occasion of stigma learning, the experience sometimes coming very precipitously on the first day of school, with taunts, teasing, ostracism, and fights.’²⁸ These stigmatic distinctions harden into ‘probable destinies’ by the time many children reach the age of 10 or 12, the ages at which some European countries administer life-determining exams. Children who are both poor *and* belong to a stigmatized ethnic or racialized group are at risk of even greater harm inasmuch as other stigmas apply.

Though ascribed by others, stigmas devalue the stigmatized, and this devaluation is often internalized by the stigmatized themselves, for many resulting in what Miranda Fricker²⁹ has called epistemic injustice. Epistemic injustice obtains when persons *lose knowledge*, i.e., their ability to know things with confidence is compromised given how their experiences—but also the manner in which they try to convey these experiences—are not taken seriously by others. She describes this as a ‘hermeneutical gap,’ which suggests some kind of interpretive flaw, when in fact it should be taken to mean that the perspectives of stigmatized minorities in many school systems are systematically misunderstood or excluded altogether. This speaks to a broader scope of many harms that exacerbate inequality. Epistemic injustice certainly concerns the harms of sexism, homophobia and much else besides. But to simplify the point, consider racist harm.

Racism nourishes stigmatic harm, and stigmatic harm in turn emboldens racism. Yet whereas stigma attaches to persons, racism does most of its work not through individual malevolent actions but rather institutionally, and often with ‘good intent.’ *Structural racism* corresponds to the sociological notion of stratification in that it broadly describes differential access to goods, services and opportunities among society’s members owing to the ways in which its institutions are designed and structured to benefit the members of dominant groups. Importantly, the mechanisms of structural racism typically privilege members of dominant

groups quite irrespective of how ‘well-intended’ our attitudes or choices may be, for our perceptions and understandings more often than not are shaped through habituation, and thus the injustices to which we unwittingly contribute—including the acceptance of particular stigmas—may not rise to the level of conscious reflection.

Summing up, stigmas operate within a broader power structure, in which the possession of some traits systematically affects one’s quality of life inasmuch as it profoundly impacts upon how one is seen and treated by others, and moreover how it persistently inhibits one’s ability to estimate his/her own potential and pursue those things one has reason to value. And hence for those harmed by their stigma and disadvantaged position within racially hierarchical societies, there is a much broader range of institutional and societal harm—coinciding with other kinds of persistent structural inequality—with which to contend. These harms derive from the broader context of disadvantage in which the stigma functions. Its harms may include lowered self-respect, lowered opportunities to be challenged and learn, educational failure and the additional harm of lifelong failure that may ensue.

Muslim Stigma

In the European context structural racism also incorporates *religion* and *religious identity*, given the ways in which anti-Semitism perpetuates harm toward Jews and ‘Islamophobia’ serves to stigmatize Muslims.³⁰ There are a great many examples one might consider, but I focus on Muslim minorities for the following reasons: (1) Muslims are the largest single religious³¹ minority³² in Europe; (2) Muslims undoubtedly are the most stigmatized *religious* minority in Europe; (3) Islamic schools more than any other kind of religious school have come under persistent attack, only partly in response to post-9/11 incidents of terrorism. Several prominent politicians have called for them to be banned.

I am well aware that Muslims are not all the same, or treated in the same way. Social class, ethnicity, gender, sexuality, country of origin, educational attainment, language proficiency, occupation and many other factors will mediate what it means to be a Muslim. A Muslim Albanian almost certainly will not experience what a Muslim Swede does, any more than a Muslim barrister in London is likely to view the world in exactly the same way as another Muslim Londoner operating a newspaper kiosk. Muslim men and women, too, deal with different kinds of

stigmatic harm. It is also not the case that Muslims are *always* stigmatized and disadvantaged. Yet the fact that some Muslims do not live with stigma, or suffer intimidation or discrimination, does not change the general pattern. And this pattern, one involving racism, stigma and disadvantage for northern European Muslims, can clearly be seen within the institutional norms of European education systems.

The literature on stigmatic and racist harm directed at Muslims is immense. It must therefore suffice to merely rehearse a few basic facts. Racism, xenophobia and hatred directed at Muslims in Europe is a very serious problem.³³ This affects how Muslims are reported by the media,³⁴ spoken about by politicians³⁵ and treated by the police;³⁶ it also influences their opportunities in the housing market,³⁷ the criminal justice system³⁸ as well as the labor market.³⁹

The education system, too, is rife with harms done to stigmatized minority children generally, and Muslim children in particular. These harms, some of which impact Muslim boys in particular, include but are not limited to: bullying,⁴⁰ higher rates of special education labeling; more swift and frequent school suspension; disproportionately high representation in lower tracks and vocational education; disallowing the use of one's mother's tongue while at school; curricular erasure and generally low expectations owing to prejudice among teachers.⁴¹

CAN ISLAMIC SCHOOLS MITIGATE HARM?

Let me first clarify what I mean by Islamic schools. I am not referring to Qur'anic schools, or weekend schools, Sunday schools or madrasahs. When I refer to Islamic schools in Europe I am referring to schools that—outside of the UK—are largely paid for by the respective state governments (where they are permitted), and that are also subject to state inspections. However, the fact that a majority of Islamic schools in the UK presently operate within the Independent sector does not change my basic view. I therefore include them in my analysis.

Now before we consider whether or not Islamic schools can mitigate stigmatic harm, let's revisit the indoctrinatory harm that we might expect of an Islamic school. Remember that indoctrination entails the aim of establishing unshakable beliefs with little regard for reason or contradictory evidence. If we limit our attention to the most fundamental of Islamic beliefs, those corresponding to the earliest canonical traditions, then we find things like belief in the Qur'ān as the *ipsissima*

verba of Allah, Muhammad as the last and greatest prophet, and the Day of Judgment that awaits us all. It is also the case, however, that there is considerable interpretative disagreement on many things, including the meanings and applications of *da'wa*⁴² and *jihād*,⁴³ the importance of historically informed exegesis, the authority of the sayings of the Prophet or the *hadith*, opinions concerning Darwin's theory of evolution, not to mention lively debates concerning which activities and behaviors (e.g., music and dance) deserve to be labeled as forbidden or *haram*. Yet simply as it concerns the very basics of the Islamic faith, there is propositional content, and undoubtedly there is indoctrination. Even though many children eventually alter, even abandon, their beliefs, it is reasonable to expect that most graduates of Islamic schools—like other kinds of religious schools—have been, and remain for their entire lives, indoctrinated to some degree.

What I am suggesting is that an honest assessment of the indoctrinatory harm we might expect of the Islamic school requires that we also consider the broader scope of harm. As we have seen, Muslims across northern Europe are subjected to a range of other harms thanks in no small part to the stigmas ascribed to them. These include racist misrecognition, mistreatment and social exclusion. While many Muslims—similar to other stigmatized persons—manage to thrive in spite of their stigma, many others are at considerable risk of despair, resentment, resignation and even radicalization. And thus what the foregoing suggests is this: Islamic schools may commit one kind of harm, yet harms of a very profound sort abound outside the Islamic school. Should these stigmatic harms inform how we evaluate indoctrinatory harms? I believe they should.

But can we be confident that Islamic schools *actually* do the lesser harm? There are two ways we might answer this. One is to offer a judgment concerning whether it is worse to be indoctrinated or to suffer the effects of stigma. As we have seen, there are intellectual and emotional harms in both cases. Yet because we cannot settle the matter in the abstract, there can be no *decisive* answer to this question. Too many hypotheticals are involved, and specific cases will need to be considered. But my own position is that religious indoctrination, though admittedly harmful and sometimes devastatingly so (e.g., when it combines with one's socialization to produce, say, abject servility), as often as not concerns innocuous belief (e.g., in a soul, an afterlife, a Higher Being⁴⁴), or else it describes a temporary state of mind from which

many people eventually recover. Notwithstanding the intellectual and emotional harms of indoctrination, a great many indoctrinated persons later repudiate things they once held to be true. Stigma, conversely, is not something one can simply ‘cast off.’ Indeed it involves greater risks of having one’s quality of life severely compromised, especially when combined with other debilitating factors such as structural racism and poverty. One may succeed in categorically rejecting the inferiority ascribed by others to oneself⁴⁵ and yet still be unable to escape its dastardly consequences given the efficacy of the stigma in the dominant culture. This observation does not reduce one to the status of a victim; it does, however, add more weight to the scale of comparable harms.

The other way to answer the question concerning whether Islamic schools do the lesser harm is to examine the empirical research related to this claim, and the empirical research we currently have suggests that there are good reasons and evidence to conjecture that Islamic schools can and will continue to mitigate stigmatic harm.⁴⁶ Indeed, given the harms deriving from stigma in mainstream schools and the broader culture, it is reasonable to assume that for Muslim children in a Western European context learning in a non-stigmatizing environment may be conducive to an overall more favorable educational experience, notwithstanding the presence of some religious indoctrination. It is also reasonable to conjecture that while one cannot escape stigmatic harms in the broader culture, attending an Islamic school can better equip one to resist *internalizing* the beliefs associated with stigmatic harm.

In light of the above, and under nonideal conditions, the magnitude and severity of stigmatic harm offer Muslim parents a weighty *pro tanto* reason to prefer the Islamic school for their child over a nonreligious alternative. They have this *pro tanto* reason not only because the indoctrinatory harm in question is arguably the lesser harm but also because of the wide range of educational and social goods available to them in the Islamic school that have the potential to mitigate the unique set of harms occasioned both by stigma and the racism that nourishes it. Provided that the right amount, and especially the right *kind*, of resources are present, Islamic schools—even those dealing with high concentrations of poverty—can lift every student. Resources obviously include financial investments, and in some cases may require private-sector assistance if

opportunity gaps are to be reduced. But as I argued in Chapters 2 and 3, resources also will include things like positive school climate, appropriate discipline and nurturing teachers with consistently high expectations and cultural competence.⁴⁷

Before moving to a few worries that some readers will have, let me clarify a couple of basic points. First, the real world dilemma I pose is not a choice between harm and no harm, but rather between different kinds, but also degrees, of harm. Obviously if and when it is possible to avoid *both* kinds of harm, that approach should be favored over the either-or. But that does not change the basic dilemma here, which is that the ‘no harm’ option is often unavailable. Second, a reprieve from stigmatic harm *inside* the school does not necessarily protect one from stigmatic harm *outside* the school. As I say above, persons can avoid internalizing low self-image associated with stigma, yet because stigma is constructed and imposed by others, it is not a foregone conclusion that a more positive learning environment will necessarily allow one to avoid the harms of stigma elsewhere.

Women who enjoy a reprieve from sexist harm in all-female spaces are not guaranteed safety from sexism or misogyny once they reenter mixed spaces. Neither are LGBT individuals protected from homophobic hatred or violence once they leave spaces in which they enjoy the benefits of living and socializing in larger concentrations. But a ‘safe space,’ which may be just another way of saying *a place to belong*, allows one under fewer constraints to pursue those things she/he has reason to value; it also provides the opportunity to be with others like oneself, and to reflect upon the injustice of stigma with others who experience it, and moreover to collectively mobilize against it.

Finally, what I have hypothesized on the strength of the available evidence about Islamic schools should not be extrapolated to other kinds of religious schools. Other religious schools *may* serve a similar purpose, and there is some evidence that this occurs. But there is little reason to believe that the vast majority of (mostly Protestant and Catholic) religious schools currently operating in Europe do so. That is to say, whatever their contribution may be, it certainly is not obvious that it includes the mitigation of harm. Many, in fact, exacerbate harm, for example through discriminatory selection, where the stigmatized are excluded. Nothing in my argument offers supporters of these schools any solace.

OBJECTIONS

Given the way in which objections to religious schools, or religious instruction, feature prominently in the writings of a number of analytic philosophers, in the following paragraphs I anticipate and respond to several criticisms.

Harm

One criticism might be this: It is no great achievement to simply do less harm. And so if it is merely a question of selecting the lesser harm, the outcome would indeed seem unremarkable. Further, none of us would have reason to believe that a school offered a better education simply because it exhibited less harm than another. Thus in addition to mitigating harm we also want a school to contribute a great deal of *good*. I concur. But I have argued that it is reasonable to expect that Western Islamic schools are more likely to deliver on the promise of a quality education for stigmatized Muslims than the alternatives given the broader context of harm.⁴⁸ Whether that is true is of course an empirical matter, and as with every type of school there will be failures. I am therefore not suggesting that all Islamic schools will succeed in this any more than I would suggest that all nonreligious schools could. But again, evidence⁴⁹ emerging from the Netherlands, which on the European continent hosts the largest number (52 as of 2019) of state-sponsored Islamic primary schools, augurs favorably for my hypothesis.

False Dilemma

A second criticism might be that I am posing a false dilemma. There is no reason to accept the either-or in my account of harm. So rather than asking us to choose *between* harms we ought to try to reduce harm *wherever it is found*. This means that we resist the harms in religious *and* nonreligious schools, in particular, those emanating from stigma. Again I concur. Wherever it is possible to mitigate harm, we should stiffen our resolve in doing so. Yet however much we may lament it, the world in which we live often does not permit such comprehensive ‘solutions.’ Instead we sometimes must make difficult compromises or trade-offs when two or more equally valuable pursuits cannot be simultaneously satisfied, at least not to the same degree. Would that we didn’t have to

choose between these harms; would, too, that our educational systems were more just. Alas neither is the case. And thus when confronted with multiple harms, it is our task to determine what the morally justifiable compromise or trade-off ought to be. What I am offering in this account is but one way to think about it. Others undoubtedly will have intuitions that pull in a different direction.

Stacking the Deck

A third criticism might be that I have stacked the deck by homing in on indoctrination as the *single kind* of harm that religious schools do, while offering a more expansive account of other harms that fall under the rubric of stigma. The idea here is that by focusing on indoctrination I have conveniently sidestepped *other kinds of harm* that the religious school might do. After all, it is a no-brainer that an Islamic school might reduce the stigmatic harm of *being a Muslim*. But if Islamic (or other religious) schools only succeed in reducing *that* kind of harm while simultaneously reproducing *other harms*, then the scale of harm may not tip so easily in favor of an Islamic school. Point taken. But it is not my claim that the Islamic school is harm-free. No school can claim that. And as I say in the foregoing paragraph, where there is harm every effort should be made to mitigate it.

But I focus on indoctrination because it is the kind of harm most often and consistently alleged of the religious school. So, if you like, I am working on the very terms set by the critics of religious schools. I have no doubt that other harms could be specified and catalogued. It is well known, for example, that thousands of children in many countries have been sexually abused in Catholic schools. Yet as horrific as these harms are, they do not speak to the putative value of a Catholic education; rather they concern the problem of sexual abuse, and the fact that the Catholic Church has long provided a safe haven for pedophiles, going so far as to reassign predatory priests in an attempt to cover up its crimes. Let me be clear: *any actual harms* should be identified and extirpated from the school environment. But unlike the charge of indoctrination, other harms posited of Islamic schools specifically (e.g., that they are anti-democratic, anti-science, promote violent extremism, use discriminatory selection, etc.) are generally hypothesized rather than demonstrated.

Motivations

But surely, a critic might insist, it is naive to assume that most Muslim parents who select an Islamic school for their child have as their primary motive to mitigate the harms of stigma. Given that this is so, shouldn't parental motives matter? Well, yes and no. Were it the principal motivation of a parent to intentionally indoctrinate their child, that would indeed be objectionable. But we need to know more than what someone's motives may be. For example, parents may be motivated by less-than-noble reasons for having children; teachers, too, often are motivated to become teachers for reasons no one would especially admire. But in neither case can we know with any confidence whether someone will be a good parent or teacher—and still less whether they will inflict harm—simply on the basis of their motives. Much more turns on effective parenting, teaching or the effectiveness of one's pursuits in general, than one's motives. Similarly with the motives informing the selection of an Islamic school. To be sure the motive to reinforce one's own religious beliefs is less admirable than the motive to protect one's child from stigmatic harm. But schools of all kinds produce outcomes opposite to what parents hope for or expect. And in any case, given the internal diversity of most Islamic schools in terms of ethnicity, age, piety, gender, political perspective and educational philosophy, it would be rather surprising if they succeeded only in reproducing parental expectations.⁵⁰

Exacerbating Stigma

Finally, rather than reducing stigmatic harm, many believe the Islamic school will only serve to accentuate the otherness of the group in question, thereby exacerbating, rather than mitigating, stigma. But the idea that preferring a more culturally coherent learning environment will exacerbate stigma is flawed for at least three reasons. First, it suggests that there is something problematic about stigmatized persons congregating together, rather than with the stigma itself, which after all is deployed and imposed by others.⁵¹ Second, it fails to take seriously the psychic violence of living with stigma, and further demonstrates a failure to discern the reasons stigmatized persons have for needing and preferring a safe space in the first place. Third, it implies that it is the stigmatized who are somehow responsible for making the non-stigmatized more comfortable. But it is both unreasonable and unfair—and, it must

be said, emblematic of a privileged point of view—to impose the responsibility of educating the majority population on the stigmatized themselves. *That* responsibility lies elsewhere; to imply that the stigmatized owe the non-stigmatized an education simply imposes an additional burden and therefore amounts to epistemic exploitation.⁵²

Finally, and to underscore a point I made earlier, it strikes me as disingenuous concern to fret over a school that caters to the needs of a stigmatized group given the tendency well-educated parents exhibit in consistently avoiding schools where it is likely that their own children would share a classroom with the stigmatized, where the fear is that their own child's education will somehow be 'compromised.' And when these same parents do deign to share schools or classrooms with less advantaged children, the evidence time and again documents middle-class resource and opportunity hoarding.⁵³ In other words, as I discussed in Chapter 5, the alleged 'benefits of diversity' too often tend to accrue to those already well-placed to exploit them.

CONCLUSIONS

Indoctrination is a harm inasmuch as it involves the inculcation of attitudes or beliefs that are contested, where there is intent to instill those beliefs, and where the methods used to render one resistant to contradictory arguments and evidence. As I have shown, in certain respects an Islamic school is also guilty of indoctrinatory harm. At the same time, Western Muslims are subject to a great many other harms. And thus by focusing exclusively on the indoctrinatory harm that Islamic schools do, critics may fail to take seriously the broader social and political context in which religious schools operate. That context, I have argued, is generally one in which the harms of disadvantage are further compounded by stigma and a broad variety of institutional harms.

I have framed this ethical dilemma not in terms of harm versus non-harm, but in terms of different kinds and degrees of harm. I have hypothesized that notwithstanding probable indoctrinatory harm, Islamic schools in Europe—and, increasingly in North America and elsewhere given the sharp rise in public anti-Muslim sentiment—are likely to mitigate a number of probable harms visited upon Muslim young people. My moral intuitions concerning harm are informed by the following two ideas: first, harm of whatever sort ought to be mitigated whenever and wherever it is possible to do so; second, when confronted with an

educational choice involving different kinds of harm, at a minimum justice requires that we choose the lesser harm. Others may disagree concerning how best to evaluate or rank harm—or whether this can, or even should, be done at all. However, my own view is that most kinds of religious indoctrinatory harm, when seen within the broader scope of harm, are the lesser of the two. More than that, if and when Islamic schools not only can do less harm but also provide a great deal of good, not only in terms of academic challenge and critical thinking but also providing an educational space in which to feel safe, belong and foster positive relationships, they make a contribution to educational justice. In other words, it is not unreasonable to say that Western Islamic schools in many instances are justice-enhancing. Accordingly, parents have strong *pro tanto* reasons to select them for their child over the alternatives.

I am aware that others may have very different moral intuitions concerning how best to respond to the dilemma as I have posed it. Either way, it has not been my intention to offer general policy advice with respect to religious schools. Rather it has been to offer a way of thinking through some difficult ethical considerations of indoctrinatory harm in the educational domain when the circumstances informing one's response are far from ideal. My own intuitions steer me toward favoring an educational strategy whose potential to mitigate the harms of stigma, racism and social exclusion are morally, even measurably, significant. But as I have tried to show, when confronted with multiple kinds of concurrent harm, some kind of moral compromise is probable irrespective of the option we think it best to choose.

What this ethical analysis perhaps best illustrates is that educational justice does not permit merely one path; in the face of great injustice, state-public nonreligious schools are not, and cannot, be the only justice-enhancing option. Indeed because pragmatic alternatives to pursuing justice will always be necessary under conditions of deep and persistent structural inequality, (some) religious schools may have a role to play. And if that is so, then we can also see how a principle like equality is amenable to different understandings and applications. In the next chapter I turn my attention to a final, and also contentious, issue in educational policy and ethics, viz., whether state-public schools are ever permitted to select their students, and if so, whether it is possible to structure selection procedures such that they aim to achieve equitable ends, i.e., they become justice-enhancing.

NOTES

1. The argument is perhaps also implicitly consequentialist to the extent that under nonideal conditions the full scope and magnitude of harm ought to inform our ethical analysis.
2. Blum 2002; Kymlicka 2001.
3. Johnston et al. 2007.
4. Goldring & Phillips 2008; Reay et al. 2007.
5. Hattie 2002.
6. Downey & Condrón 2016; Schmidt et al. 2015.
7. These attitudes or beliefs may be of an evidentiary or non-evidentiary sort, and the indoctrination process may or may not involve propositional content. I have discussed this in detail elsewhere (Merry 2005a) and will not pursue this further here.
8. Flew 1966; Gatchel 1972; White 1967.
9. Kleinig 1982, p. 29.
10. One might construe indoctrination in a weaker and a stronger sense. The weaker sense would mean that persons have come to hold beliefs that are wholly or partly independent of the relevant arguments and evidence. Most people hold some of their beliefs in this sense. A much stronger sense of indoctrination would entail that persons are indoctrinated if and only if they are subject to a form of instruction that renders them unable to question a belief or makes it very costly for them to abandon it (e.g., because of fear of the consequences of doing so). I espouse neither definition in this paper. The reason is that the former definition is too lax, while the latter definition is too stringent. I think it wiser to acknowledge a variety of middle positions, including the view that indoctrination can be temporary.
11. Dwyer 2001, p. 24.
12. *Ibid.*, p. 25.
13. There has long been a tendency in academia writing, but also popular culture, suggesting that faith is diametrically opposed to reason. But Terry Eagleton (2009, p. 124) discerningly notes that reason always occurs ‘within the ambit of some sort of faith’; a hunger for absolute justification, then, ‘is a neurosis, not a tenacity to be admired. If we are to defend reason,’ he avers, ‘we must be inspired by more than reason to do so’ (*ibid.*, 128). He continues: [N]o polemic against religion pitched simply at the level of rational argument can hope to succeed [...] without reason, we perish; but reason does not go all the way down. It is not wall to wall [...] There is no point in simply brandishing the evidence unless you have a degree of trust in those who have gathered it, have some criteria of what counts as reliable evidence, and have argued the toss over it with those in the know (*ibid.*, pp. 91, 109, 117, 120).

14. Hand 2004, p. 352.
15. *Ibid.*, p. 346.
16. Marples 2005; Short 2003. For example, Geoffrey Short agrees with Hand that if religious schools were guilty of indoctrination they should indeed be abolished, but he argues, puzzlingly, that religious schools are simply not guilty as charged.
17. Callan 1997, p. 189.
18. Callan 2002, p. 118.
19. Clayton 2006, p. 90.
20. Macmullen 2007, p. 71.
21. *Ibid.*, p. 161.
22. Dearden 1972; Siegel 1988.
23. In most contemporary philosophical critiques of indoctrination, certainly within the domain of educational theory, there is a curious obsession with its *religious* varieties. Conspicuous by its absence is the contemporary critique of indoctrination in nonreligious schools. John White (1967, p. 182) concedes that indoctrination also may include the intention to inculcate unyielding religious *and* political doctrines, by which he presumably had Marxism and related ideologies in mind. But this, too, is untenably narrow. Philosophical discussions on indoctrination for much of the nineteenth and twentieth century tended to focus on indoctrination as a serious hazard for *all* institutional education (Dewey 1916; Gatchel 1972). John Stuart Mill (1978, p. 105) understood this better than most:

A general State education is a mere contrivance for moulding people to be exactly like one another; and as the mould in which it casts them is that which pleases the dominant power in the government, whether this be a monarch, an aristocracy, or a majority of the existing generation; in proportion as it is efficient and successful, it establishes a despotism over the mind, leading by a natural tendency to one over the body.

White (*ibid.*, p. 178) resists this indictment of institutional education and admonishes, we are ‘instructing, not indoctrinating, if the non-rational beliefs which the child learns can be justified [or] if they are inculcated in such a way as not to impair, or impair as little as possible the recipient’s capacity for subsequent instruction and training.’ Yet there is a variety of ways that one might interpret ‘impairment.’ Consider both the nature and the scope of indoctrinatory harm in nonreligious schools. There is, for instance, indoctrination in the teaching of moral and civic education (Phillips 1989; Schleifer 1976), something sociologist Emile Durkheim openly celebrated (2012 [1925], pp. 235–36) in his posthumously published classic, *Moral Education*:

...the role of the school can be considerable [...] We have through the school the means of training the child in a collective life different from home life. We can give him habits that, once developed, will survive beyond school years and demand the satisfaction that is their due. We have here a unique and irreplaceable opportunity to take hold of the child at a time when the gaps in our social organization have not yet been able to alter his nature profoundly, or to arouse in him feelings that make him partially rebellious to common life. This is virgin territory in which we can sow seeds that, once taken root, will grow by themselves.

There also is indoctrination in the selection and teaching of the literary canon inasmuch as school boards decide whose work is worthy to be read and considered, which is tantamount to censorship (Corse 1997; Delfatorre 1992; Martinson 2008; Mujica 1997); in many countries children are indoctrinated by their schools into the uncritical acceptance of values that correspond closely to those of the corporate world, where the tenets of capitalist consumerism are taken at face value (Boyles 2004; Molnar 2013; Norris 2011); and arguably in all countries in which institutionalized schooling is the norm, indoctrination is inescapably present in the packaging and teaching of national and regional history (Arnott & Ozga 2010; Loewen 2018; Murphy 2007; Yeğen 2007; Zhao 1998). In each of these domains, beliefs are commonly imparted by nonrational means into children's minds with little attention to evidence and argument; moral and historical propositions are inculcated rather than debated; and beliefs that are taken to comprise the acceptable norms and values are rarely if ever subjected to critical scrutiny. In addition to similar criticisms brought against schools for promoting conformity and obedience to authority rather than critical thought, these have long been criticisms of the nonreligious school from the Left (Althusser 1971; Chomsky 1992; Freire 1970; Henry 1963; Illich 1971; Neill 1960).

24. To enumerate but a few of these difficulties, it has been argued that (1) autonomy is an overly demanding good; that (2) a fixation with autonomy ignores the social and historical narratives that shape us; that autonomy (3) operates at cross-purposes with the cultivation of moral character; that it (4) potentially harms otherwise healthy parent-child relationships; (5) that it conflicts with commitments and other life projects and (6) even that its putative requirements run contrary to the necessity of heteronomy in the educational domain (Dworkin 1988; Hand 2006; MacIntyre 1981; Mills 2006; Schinkel 2010; Swaine 2012; Stolzenberg 1993). Relatedly, intellectualized accounts of autonomy (such as those typical of rational choice theory) have largely been discredited for what they ignore about the impact of genetics on our personalities and temperament; the role of socialization from parents, peers, teachers, social media and the broader culture; and the

almost inexpugible presence of implicit bias (Kahneman et al. 1990; Trout 2005). Each of these imperceptibly shapes our—largely unconscious and therefore unexamined—beliefs, assumptions and preferences. Additionally, many liberals have defended the notion that a religious education and autonomy need not be incongruent (Burt 1994; McLaughlin 1984). Hence rather than ‘exposing’ children to a vast array of ideas or alternative lifestyles from which to choose, the *provisional* construction of a culturally coherent school environment may work in a child’s favor. These and other criticisms have inclined the defenders of autonomy to dial back what they understand it to require. Characteristic is Brighthouse’s (1998, p. 728) more modest (if unhelpfully vague) conviction that: ‘commitments generated by non-autonomous processes become autonomous when the agent reflects upon them with an appropriate degree of critical attention.’ Characteristic, too, is this equally modest observation from Callan (2002, p. 137) that becoming autonomous ‘is as much learning autonomously to adhere to a conception of the good as it is learning autonomously to revise it.’ But in dialing back the demands of autonomy, it remains unclear just what purpose it serves in the anti-indoctrination—or for that matter, in the liberal education—account. Indeed one cannot easily discern a coherent position within liberalism itself: either it demands too much; or it can be fostered (if only provisionally) in religious schools; or it requires only that one satisfy a minimal level of critical reflection, in which case the threshold is easily met.

25. Goffman 1963, p. 7.
26. Ibid.
27. Ibid., pp. 107–108.
28. Ibid., p. 33.
29. Fricker 2007.
30. Cesari 2004; Modood 2003; Romeyn 2014.
31. This does not mean, however, that most persons identified as—or even self-identifying as—Muslim are religious. As an identity label ‘Muslim’ is as often as not used as an ethnic term.
32. Muslims are of course not necessarily ‘minorities’ in the cities or neighborhoods where they live, but they are numerical minorities in all European countries, and their interests—broadly construed—are disproportionately underrepresented.
33. Abbas 2017; Brüß 2008; Fekete 2004; Gündüz 2010; Kundani 2007, 2014; Kunst et al. 2012; Kutay 2015; Smeekes et al. 2011; Strabac & Listhaug 2008; Verkuyten 2002, 2013.
34. Saeed 2007.
35. Buijs 2009.
36. Schneider 2008.

37. Ahmed & Hammarstedt 2008.
38. Spalek 2013.
39. Lindley 2002; Park et al. 2009.
40. A recent report finds that many middle-class British Muslim parents are taking their children out of school because their children are routinely bullied. They cite racism as the cause. See <https://www.telegraph.co.uk/news/2018/04/03/fears-bullying-drives-muslim-children-homeschooled/>. This corresponds to a similar phenomenon in South Africa and the United States, where several authors (Brynard 2007; Fields-Smith & Wells Kisura 2013; Fields-Smith & Williams 2009; Mazama & Lundy 2012, 2013; Olatunji 2017; Puga 2019) report that black parents increasingly are interested in homeschooling for precisely this reason: to protect their children from the deleterious effects of school-based racism. Arguably one of the factors that has aggravated this crisis in American education has been the loss of tens of thousands of black teachers and principals over the last few decades. To appreciate why this matters, see Cherng & Halpin 2016; Rizga 2016.
41. Abbas 2004; Agirdag et al. 2012, 2016; Crul & Schneider 2009; Merry 2005b; Pulinx et al. 2017; Vervaeke et al. 2016; Weiner 2014, 2016.
42. *Da'wah* concerns witnessing to the faith.
43. *Jihād* concerns spiritual struggle.
44. Incidentally each of these beliefs is commonly found among the 'secular' population of Western Europe. See Baldwin 2009; Stark & Finke 2000. In Iceland, possibly the world's most secularized country in terms of official church membership, 54% of the public indicated recently in a poll that they believe in elves, or at least the possibility that they exist. See <https://www.nationalgeographic.com/travel/destinations/europe/iceland/believes-elves-exist-mythology/>.
45. Bernard Boxill (2010, p. 10), describes this not only as a capacity but as a moral duty. Even the oppressed, he argues, are obligated to 'repudiate the insult and falsehood of oppression.'
46. Beemsterboer 2018; Driessen et al. 2016; Merry & Driessen 2016.
47. Merry 2013.
48. For the past five years, Islamic schools in the Netherlands have in fact on average scored better on the high school entrance exam than any other school type. For the figures from 2018, see <https://www.rtlnieuws.nl/nieuws/artikel/4603151/scholenonderzoek-rtl-nieuws-eindtoets-cito-2018-iep-route-8>.
49. Beemsterboer 2018; Driessen et al. 2016; Merry & Driessen 2016. After controlling for differences between students in terms of social and ethnic background, and schools in terms of share of low educated and immigrant parents, Driessen et al. (2017) have demonstrated that Dutch Islamic schools have special potential for reducing educational disadvantage.

50. In my earlier research (Merry 2007) on Islamic schools, I found that school principals and teachers often had their most difficult challenges dealing with parents' expectations. To the more conservative parents' dismay, the Islamic school their child attended often refused to conform to their cultural, but also doctrinal, expectations. This was particularly the case with Islamic high schools, where there are many more possibilities to discuss (controversial) topics that interest teens. In other words, the Islamic school frequently succeeded in distinguishing itself both from the view of the parents as well as that of the wider culture.
51. In the Low Countries, one of the most common ways stigma is collectively imposed is to label Islamic schools as 'segregated,' a fraught term curiously never used to describe other schools that serve an entirely white and middle-class student body.
52. Berenstain (2016, p. 570) writes, 'Epistemic exploitation occurs when privileged persons compel marginalized persons to produce an education or explanation about the nature of the oppression they face.'
53. Brantlinger 2003; Calarco 2018; Posey-Maddox 2014; Roda & Wells 2013.

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Educational Justice and Selection

Selection of one sort or another routinely occurs across a multitude of domains: we see it in hiring decisions, athletics, research funding, political elections and so on. Most of the time selection procedures operate on the assumption that only the ‘best qualified’ candidate is chosen for reasons having to do with his or her relevant qualifications. Yet however qualified a candidate may be, selection continues to breed distrust and it is not difficult to understand why. Indeed many variables potentially contaminate the integrity of the selection procedure. Money, doping, nepotism and prejudice are but a few of the reasons why many of us remain skeptical about the integrity of selection, even when the criteria for the selection appear fair. Moreover, insiders know that a variety of internal mechanisms rely on less publicly acknowledged factors that are taken into consideration in the selection, not all of them discernible to the casual observer. Selection for jobs often is based on the testimony of a known colleague or friend, for instance, rather than credentials that can be objectively assessed.¹

Selection within the educational domain breeds a special kind of suspicion. For instance, selection policies used in elite college admissions are often based on a range of nonacademic factors such as legacy status, parental employment at the institution, athletic ability or institutional

This chapter is coauthored with Richard Arum.

interest in managing gender, race or ethnic composition.² Whether it is the absence of transparency in the selection procedure, the observable outcomes of the selection, or the criteria of selection itself, there is much to corroborate the suspicion many have that selection in practice is unfair. Selection policies used by primary and secondary schools are particularly contentious, given that they are believed to have a unique institutional role to play in providing, shaping and either expanding or restricting opportunity to large numbers of citizens at a very early stage of their lives and development.³ Whatever opportunities and rewards may be merited by talented, motivated and hardworking adults, the reasoning goes, the same standards appear unduly harsh and unwarranted when applied to children and adolescents. We can identify several reasons why: family backgrounds are grossly unequal, a motivation to learn is not fixed and both talent and hard work can be cultivated. In any case, educational equity requires that children not have their educational experiences or opportunities determined by their postcode, their ethnic status, first language or family wealth. Indeed educational opportunities determined by unearned advantage or disadvantage offends against basic notions of fairness.

In reality, of course, unearned advantage and disadvantage have long influenced the unequal educational opportunities that children receive. Consider, for instance, the enormous variation present at birth owing to genetic inheritance, geographic location and socialization; further, parenting style, place of residence, peer group and how one wishes to spend one's free time all profoundly influence the interests, preferences and choices of children in many domains.⁴ One would have to eliminate the family system altogether if one wanted to achieve a truly equitable distribution of educational opportunities, since—as we saw in Chapter 2—nourishing and conferring advantages on one's children is at the very core of the aims and functioning of the family unit.⁵ Further, as has been clear throughout this book, school systems have long been known to reproduce these inequalities, dispensing opportunities and rewards to those best positioned to seize them⁶ or whose family and social class backgrounds favorably dispose them to the institutional norms of the school.

One way that we might address these sobering facts might be to eliminate completely institutional selection from primary and secondary education as a matter of principle and offer all children of roughly the same age the same kinds of challenges or opportunities to learn.

Yet, notwithstanding South Korea's experimentation with an equalization policy, expunging selection from modern educational systems is at best highly improbable. First, beyond perhaps the earliest grades of primary school, selection is *necessary*. Regrettable though it may be, in a world of scarce resources and limited opportunity, there always will be a need to sort, rank and exclude in all but the earliest and most rudimentary of opportunities. If selection does not occur across schools,⁷ selection occurs within schools or classrooms. For example, students are selected into differentiated curricular tracks⁸ or the instruction in classrooms is personalized (i.e., the curriculum is selected for individual students). Accordingly, a variety of assessment criteria and instruments will be necessary to determine eligibility, to facilitate admission or assignment, to determine rank or priority and to reward effort. Even the staunchest defenders of a high quality education for all children (among whom I count myself) acknowledge that a one-size-fits-all approach to education will be inequitable for its failure to take into account the relevant differences in the pupil population, inter alia with respect to aptitude, language proficiency, disability, cultural background, etc.⁹ Further, without selection schools are unable to promote individual mobility. The upshot is that once personalization of any kind becomes necessary, selection mechanisms are already in play.

Second, and perhaps more controversially, attention to selection will be necessary in order to achieve *fairness*. Taking fairness seriously means that we ought to try to at least mitigate unfair forms of selection where it is possible to do so. In subsequent paragraphs, I refer to 'basic equity standards' as shorthand for demonstrating fairness. More controversially, I argue that many forms of selection are able to satisfy equity standards. Of course in order to demonstrate fairness in any selection, relevant and accurate criteria must be devised. Indeed, as I have just shown, because selection is vulnerable to morally dubious influences, we also must use criteria that are both independently robust yet mutually complementary and reinforcing. Further, these criteria should be amenable to interpretation and application in different contexts. The question motivating this investigation is: *how can selection procedures used by schools best be structured to achieve equitable ends?* To put it another way, how can selection procedures be devised so that they are justice-enhancing?

The structure of the chapter is as follows: I first examine the de facto norm of selection; in doing so I will demonstrate why selection is not only inevitable but also necessary for equity. Following this I delineate,

describe and defend what I believe the essential features of selection are, and also why we need to pay equal attention to both the outcomes as well as the processes leading to those outcomes. Provided it is motivated and guided by the right reasons as well as appropriately monitored, I argue that selection can be equity promoting. Next, devising three very different but recognizable school typologies, I apply these equity standards to each, testing my criteria against the kinds of selection most commonly associated with each school type. But I do not restrict my attention to typologies. The final step is to examine an actual case study, which, as my analysis will illustrate, yields less clear cut outcomes relative to abstract cases. Because schools arguably are the most consequential public institution for facilitating or denying opportunity to so many, in this chapter I restrict my focus to selection at the *institutional level*, homing in on the selection mechanisms used for determining public—and hence not private—secondary school attendance.

CAVEATS

Before proceeding further I submit the following four caveats. The first is a basic precept in philosophy: an *is* does not give us an *ought*, which is to say, the empirical facts about any selection procedure will tell us nothing about what we could, or even ought, to do. For example, policies governing housing, health and safety are doubtlessly unjust to one degree or another the world over; but this empirical observation does not mean that these policies cannot be motivated by equity standards.¹⁰ My second caveat is this: there is much more to school selection than the official formal procedures. In addition to inherited inequalities, other exigencies include district policies; residential choice; application requirements and deadlines; waiting lists; sibling preferences; social networks: any or all of these may unduly bear upon selection. Even equally well-educated parents may not be able to activate their social capital in the same way if they are not familiar with how the ‘field’ of school choice operates.¹¹ Relatedly, selection mechanisms are of course not restricted to the institutional norms of any particular school; the extraordinary pluralism within most education *systems* makes selection both necessary and inevitable.

My third caveat is this: school selection procedures are not totalizing. Families, but also the *communities* and *social networks* in which families are situated, constitute a potent countervailing influence. Thus while

proximity and postcode are commonly used to assign school attendance, in most countries parents also have to a degree the ability to enroll their child in a school of their choice, including schools outside of their district or catchment area. Parents are also at liberty to select private schools (many of which are not selective in the discriminatory sense), or opt for homeschooling. While the laws regulating school variety, quality and selection vary from one location to another—such as those governing ‘open enrollment,’ homeschooling registration or graduation requirements—the basic right to make a selection on behalf of one’s own child is widely held to be sacrosanct, enshrined as it is in most state constitutions and well as the United Nations Declaration of Human Rights and the European Court of Human Rights. Thus even critics of selection procedures in education are loath to denounce school selection *tout court*, particularly as these concern decisions affecting one’s own child. As my analysis will show, my point is not that all parents enjoy the same ability to exercise those liberties in ways that advantage their children¹²; rather, I simply observe that selection by schools is not the whole story.¹³

My fourth caveat is as follows: Investigating how selection might be structured to achieve equitable ends does not mean that I believe that any system could facilitate fully equitable outcomes. Far too many inequalities are deeply embedded in the structural conditions and organizational and social practices of late capitalism. Even in societies that manage to satisfy equity standards, wealthier and more educated persons still enjoy certain privileges less available to others, such as the ability to live where there are fewer safety risks (e.g., violent crime), or the ability to purchase better health care above a minimally acceptable threshold. The point is that in each of these cases, even when the explicit aim is to ensure equitable use of resources, minimal equity standards may only take us so far.

Hence this is an investigation into the possibilities that schools might exercise equitable selection of students relative to the educational systems that we have, or might devise. Yet given that I am skeptical that the resources, or the political will, exist in a measure sufficient to guarantee excellent schools for everyone, I concern myself with designing selection criteria and procedures that can be as fair, or justice-enhancing, as conceivably possible. To that end, mine is an argument for *mitigating inequality*. But what I reject is the suggestion that an educational philosophy concerned with equity must repudiate all forms of selection.¹⁴

IS SELECTION MORALLY PROBLEMATIC?

On the face of it there might appear to be something morally problematic, if not simply oxymoronic, about selection in a public domain. Indeed in the popular imagination publicness seems to denote open and unrestricted access to all.¹⁵ Conversely, questions about the propriety of selection in the private domain seem less pressing because, for instance, the owners and/or managers ordinarily determine who is eligible to use that space and broad latitude is granted as long as categories of individuals are not explicitly excluded on a discriminatory basis.

But this is too simplistic an understanding of the public and the private. For instance, public space is not devoid of rules, regulation and even restricted access. The National Park Service, for instance, may enact and enforce ordinances regulating the access and use of public lands. Public train stations may restrict platform access to ticket holders; public libraries may restrict access to its facilities outside of operating hours. Nor is the private domain immune to public interest. Child Protection Services may remove children from their families when there is compelling evidence of abuse or neglect. And in the education domain, because liberal democratic states have reasons to foster and enforce both safety and nondiscriminatory norms, states typically regulate—if only to a minimum degree—what private schools are permitted to do.

However, it does seem intuitively the case that a public domain—by virtue of its simply *being* public—arguably imposes a more demanding standard of equity. As we saw in Chapter 3, for space to be meaningfully public, it implies universal accessibility. And in any case, where the school is concerned education is considered by most to be a different kind of good—analogueous to, say, health care—one that is of importance for persons concerning their individual well-being but also having broader public impact. And thus where selection in a public domain concerns granting access to a (restricted) opportunity, we have reasons to pay close attention to the rationale, procedures and accountability mechanisms of that selection. Hence the morally problematic nature of selection turns not on its occurring in the public domain but rather on its intended or unintended consequences. In particular, I argue, selection will be morally problematic when it serves to reinforce or aggravate existing modes of unfairness and inequality. More on this in the following section. First, however, I will illustrate how selection in a number of ordinary (public) domains easily satisfies

basic equity standards. That is to say, in most cases the following uses of selection are not likely to reinforce or aggravate existing modes of unfairness or inequality.

Selection by Means of a Lottery

Lotteries are used for distributing a scarce good, where (1) the qualifications of potential beneficiaries is not relevant, and where (2) the number of possible beneficiaries exceeds the quantity of the resource available. Hence a lottery would not be an appropriate selection mechanism for, say, awarding Olympic medals because doing so would entail ignoring important distinctions in performance relevant to the sport in question. However, a lottery *might* be one way to award children fairly a place in a school that is oversubscribed given that no child is more *deserving* of the right to pursue happiness or to receive a quality education than another. Provided that the lottery is fairly designed and administered, the chances of any one individual being selected by the lottery are roughly equal. That is, because outcomes are completely randomized, the chances of person x receiving the scarce resource are no better than person y . If there is something unfair about a child not being selected for placement in an oversubscribed school, it is because there are simply not enough schools like it to go around and not because the selection mechanism itself is inequitable. As a selection mechanism, then, lotteries do not violate basic equity standards.¹⁶

Selection by Means of a Hiring Decision

Ideally, a hiring decision will involve selecting one individual from a pool of qualified candidates because he or she best matches the stated criteria. However, as is often the case, many hiring decisions involve making a selection from among a pool of candidates, several of whom more or less satisfy the hiring criteria. When this happens, different considerations may come into play. One might consider the *relative weight* of the qualifications, and come to a decision concerning which combination of them would best serve the needs of the institution. For example, one hiring committee may choose to place greater emphasis on teaching experience, while another may give greater weight to a candidate's publication record or success in procuring research funding. Or a hiring committee may look beyond the stated criteria in order to consider

other relevant—though perhaps not explicitly stated—qualifications. For instance, for demographic reasons they may consider it an important asset to select someone able to speak fluent Spanish; meanwhile, another committee, wishing to balance the gender scales, may prefer a female candidate. Whatever the details in each hiring decision may be, so long as the selection is consistent with the advertised criteria, and so long as any non-advertised qualifications taken into consideration do not themselves violate basic equity standards (i.e., they are intended to promote equity), then ordinarily the selection made will be deemed fair.

Selection by Means of a School Serving Special Needs

Children who are hard-of-hearing or deaf have strong legal protections in the United States (certainly more than most countries) not only to attend state-public schools but also to have their special needs accommodated by the local school district. Accommodations come in different forms. They may include a translator, an FM system, special training for the classroom teacher, assignment modification and speech therapy, to name a few. Though the enrollment of hard-of-hearing and deaf students in schools established exclusively for deaf students has significantly declined since the 1970s, many countries (and states) continue to have separate schools for the deaf. By admitting only deaf students, Schools for the Deaf are not discriminating against non-deaf persons. Nor is a School for the Deaf being discriminatory by selecting staff already fluent in sign language. Indeed, when the school's explicit mission is to serve the needs of the Deaf community, a community that traditionally has not had its needs satisfactorily met in regular state-public schools, it goes without saying that the selection of deaf and hard-of-hearing persons for its staff and students does not violate basic equity standards. Indeed its preferential selection criteria are geared toward *mitigating* unfairness, not aggravating it. In other words, the school's mission is one whose aim is to enhance justice.

As each of these examples illustrates, selection can be structured to achieve equitable ends. In the second and third illustration, selection may even permit *preferential treatment* where the aim is to better achieve those ends. By way of contrast, a school that selects or excludes on the basis of criteria irrelevant to the opportunity being offered or on the basis of expanding opportunity to an otherwise privileged group clearly

violates basic equity standards. None of this is to say that the motivation of decision-makers is always guided by fairness concerns; they may, for instance, be motivated by convenience or other considerations. The point is simply that even selection *to exclude* can be motivated by the right concerns and thus facilitate outcomes consistent with basic equity standards.

But an account of equitable selection will need to be concerned not simply with satisfying basic equity standards, where persons selected for an opportunity match the relevant qualifications. Indeed, more than merely the outcomes of a selection, the *aims* and *process* that inform and guide the selection are even more consequential. It is therefore apt that I develop an account of selection, one that uses criteria that are both independently robust but also mutually complementary and reinforcing, and further where the criteria are amenable to interpretation and application in different contexts.

THE NEED FOR EQUITABLE SCHOOL SELECTION

As my examples of a lottery, hiring decision and a School for the Deaf illustrate, many ordinary forms of selection are not morally or politically contentious. Yet unlike schools serving children with special needs, most schools that use selection criteria for determining admission seem to require a stronger justification. Indeed, it is reasonable to assume that selection criteria are of paramount importance given their pivotal role in providing, shaping and expanding opportunity. Articulated differently, education supplies both intrinsic and instrumental benefits that in many ways are constitutive of how well someone's life goes. And the fact is that many of the *de facto* norms of selection used by schools lack a strong moral justification. As such they risk running afoul of basic equity standards; indeed many risk being discriminatory and harmful.

For example, selection criteria or procedures that heavily rely upon testing instruments that fail to capture what students know and understand will violate basic equity standards; so too will educational and career options using selection criteria or procedures that rely upon the personal intuitions and preferences of a single evaluator—such as a classroom teacher—without any recourse to other means of assessment; as will selection procedures introduced at too young an age that result in educational and/or vocational careers difficult to alter or escape. Each of these, in my view, fails to satisfy even basic ethical standards. As such, they are not justice-enhancing.

Defensible criteria for selection must be articulated prior to their being applied, and accountability mechanisms must be informed by the original criteria, as well as ensure that the application of those principles is consistently applied and fair. Accordingly, we will want to use criteria that are both independently robust yet mutually complementary and reinforcing. Further, these criteria should be amenable to interpretation and application in different contexts. Below I aim to do this by parsing selection at three different levels. In so doing I hope to demonstrate why one should assess the fairness of school selection with reference to the character of the following three analytically distinct, but interrelated, criteria: (1) the intended aims of the selection; (2) the appropriateness of the organizational process; and (3) accountability measures regarding outcomes. My objective in this section is to show how these three separate features are both analytically distinct *and* interdependent.

Intended Aims

The first criterion is the *intended aims* of the selection. While intentions are not always observable and in fact often diverge from explicit rationales provided by social actors for an activity, nevertheless I argue that underlying intentions are one element that can be used to evaluate the category of cases in which selection is purposively pursued not as an end in and of itself, but as a means intentionally designed to allocate individual access to a particular educational opportunity. I recognize, of course, that in the case of education there is considerable disagreement concerning the underlying purpose of the activity. For example, some believe that education should focus primarily on academic achievement or labor market preparation, while others emphasize citizenship or socialization and still others aspire to equity and social justice. Although these stated purposes differ in their philosophical rationale, as well as the curriculum design required to achieve the specific pedagogical purpose, each of these aims assumes a commitment to education being organized and delivered to provide a larger social good to a diverse population.

Selection targeted to allocating educational opportunities is arguably defensible with respect to this first criterion, if the intended aim is to provide a scarce social good to a diverse population. Ideally, the population would be diverse not only in terms of social class, ethnicity and gender but also in terms of levels of talent, motivation and effort. This is because talent must be cultivated, and motivation and effort are not

fixed. If selection on the other hand is designed not to allocate educational opportunities among individuals with the intention of providing a social good to a diverse population, but is instead intended to exclude educational opportunity from a specific social group or segment of population, it fails to satisfy this criterion. To take a well-known example: de jure segregation during Jim Crow had this character as its intentions were clearly exclusionary in character—denial of access was not an unintended consequence of the pursuit of more universalistic aims, but was itself the intended outcome. A more subtle yet contemporary example might be Christian faith schools in Europe, Africa and Asia that use criteria (e.g., a baptismal certificate) irrelevant to the educational opportunity to exclude children of ethnic minority background.

Organizational Processes

The second criterion to judge the appropriateness of selection requires an evaluation of the *organizational processes* adopted to enact the educational selection. A fair selection process requires that candidates be evaluated based on factors relevant to the type of educational opportunity being offered. In addition, ideally more than one factor should be considered in the selection, as validity and reliability of educational assessment generally increases with consideration of multiple measures. Selection for advanced educational opportunities could therefore be appropriately based on factors such as academic performance on a standardized test, prior course grades or a candidate portfolio¹⁷—as long as these indicators themselves could be demonstrated as relevant and empirically related to success in the educational opportunity offered. A candidate portfolio might include work experience, volunteer service, as well as letters of reference where these could be used to inform more accurately the selection procedure beyond narrower measures of prior academic performance (such as course grades and test scores).

Hence an elite—and thus by definition selective—college that selected a candidate based on his or her legacy status or parent's employment position at the college would be hard pressed to defend the fairness of the act either as relevant to the educational opportunity offered or on the empirical grounds that the selection was related to the increased likelihood of individual success in the activity. Similarly, a selection made solely on the basis of letters of reference from admired colleagues irrespective of the more objective criteria applied to all other candidates

would fall foul of basic equity standards. The perceived fairness of an organizational process, such as educational selection, is greatly enhanced through institutional transparency; when the rules of the game are known and the play on the field is observable, external actors are more likely to endorse the legitimacy of the activity.

Inspection and Accountability

The third criterion needed to evaluate selection involves subjecting outcomes to periodic inspection and accountability. Given that education is a social good with both individual and public benefits and, further, that educational selection itself can be judged in part by the extent to which social goods are the intended aim of the activity, the outcomes associated with educational selection require openness to public scrutiny. Even when the selection process is clearly defined and transparent, one cannot assume a priori that good intentions and a process designed in good faith in practice will lead to non-exclusionary ends. The outcomes of selection, therefore, require ongoing monitoring and assessment in order to uncover patterns of disparate impact affecting categories of individuals at risk for social exclusion.

Given that individual selection even with worthy aims and well-designed processes will often lead to group-level differences in outcomes, one requires a mechanism to identify the magnitude and character of the differences. What is critical is that a mechanism is in place to identify the disparate impact. This mechanism then allows societal actors to monitor the level of group-level differences in outcomes that is deemed acceptable or not in the context of the intended aims and organizational practices that were adopted. Because a transparent selection process that is open to inspection and accountability can uncover disparate impact and exclusionary outcomes, I believe that *formal* selection can be considerably fairer than an educational system in which selection instead occurs using principally *informal* mechanisms, and as such is likely to reinforce rather than mitigate the implicit biases built into individual judgments, not to mention that are deeply embedded in the inner workings of the educational process. The upshot is that formal selection subject to periodic inspection and accountability creates a bureaucratic process that enables fairness to be institutionally possible.

SCHOOL SELECTION: A TYPOLOGICAL SKETCH

In order to test the three distinct yet interrelated criteria comprising my account of equitable selection, I now test them against three very different school types. I employ typologies rather than offer a case study for the following reasons. First, the specifics of any given school, including the districts in which they are situated, are continually in flux, with different pupils, teachers, principals, curricula and testing regimes. Much else besides depends on the state of the economy, the location, learning targets and modes of governance in play. Second, and relatedly, however instructive specific case studies may be for illustrating the process and outcomes of selection in a particular time and place, extrapolating these unique realities to other contexts will inevitably be problematic. In contrast, the typologies I have invented will be recognizable to an international readership. As with any typology, there is a risk of caricature. Yet the purpose they serve is not to capture a specific empirical reality but rather to enable an ethical analysis of selection.

The imagined context of these typologies is a large, shared, urban school district comprised of great cultural, religious, linguistic and socio-economic diversity. Moreover, the imagined context contains a variety of public (i.e., state-funded) school types. All three of my typologies also describe schools that are doing well in terms of academic achievement; that is, each of the schools is performing well relative to other schools in the vicinity. Owing to these positive results and concomitant reputation, each school has reached full capacity; that is, each school has fewer available seats than the number of eligible children or interested parents. Consequently each of the schools must resort to some form of selection regarding who attends the school. Yet given the unique features each school uses selection in a different way. Thus in each of the cases I examine, it will not immediately be apparent whether the selection being used is structured to achieve equitable ends, i.e., to be justice-enhancing.

School A: 'Local Public'

Local Public (LP) is a state-public school situated within an affluent post-code. Average incomes are well above the national average. The neighborhood is ethnically very homogenous, though a smattering of professional diversity is on the rise. Rainbow flags and signs saying things like 'No matter where you're from, we're glad you're our neighbor' are

prominently displayed in front of windows. A popular co-op grocery store enjoys support from the community, and a farmer's market hosting a number of local organic farmers appears on the main boulevard every Wednesday and Saturday morning. Two internationally known museums are close by. Secondhand book stores as well as fashionable boutiques and restaurants can be found in abundance. Police presence is inconspicuous, although most residents feel perfectly safe. Most inhabitants of the area vote for the center left political party. The school is comprised mainly of children of the dominant group, with the average home comprised of two parents with above average educational attainment. Consistent with the neighborhood, only a small number of minority students are enrolled, though these, too, tend to be children with both parents at home and above average educational attainment. School selection occurs by default as stipulated by zoning regulations. Most parents could easily opt for private education for their child if they wanted to; however, if asked most stress the importance of public education. Indeed many chose to live in the neighborhood in large part because of the stellar reputation of the local state-public school.

School B: 'Magnet Public'

Magnet Public (MP) is a highly selective state-public school. It functions as a 'magnet,' where the stated aim of the school is to facilitate the 'integration' of pupils of different backgrounds, and more specifically where talented children from less privileged—and thus often ethnic/racial minority—backgrounds have the opportunity to receive a more challenging and rigorous education. The school is situated in a poor neighborhood, as if to accentuate its *raison d'être*. There is higher crime in the neighborhood relative to other locations and police vehicles can be seen patrolling the area. There is much evidence of urban decay (e.g., boarded up windows, vacant lots, loitering), but in part because of more affordable housing, as well as the presence of the school, gentrification is occurring rapidly and large numbers of young professionals have moved into the area in recent years. Though ethnic/racial balancing is a core aim, because MP is only one of five such schools in the city, selection is based entirely on the basis of a single test score. The high stakes test is administered to everyone on the same day, and only the highest scoring students qualify for admission. The student population is mixed, with a slight majority hailing from poor immigrant backgrounds.

School C: 'Alternative Public'

Alternative Public (AP) is typical of the set of state-public schools that have made a trade-off with the district offices. In exchange for less funding they receive more autonomy to make decisions with respect to hiring, curriculum and intake procedures. AP is situated in a low income working-class neighborhood. Its residents are primarily from historically disadvantaged backgrounds. It must 'compete' with other local schools for children whose parents otherwise will attend ordinary state-publics. To do this, the school fosters a strong ethnic identity and offers bilingual instruction, drawing its pupils from the local area. As a result its entire student body is comprised of poor and minority children. However, given the school's reputation there is a high demand to attend; its strong language programs also are considered attractive by middle-class parents interested in bilingual education. Drawn to the school's offerings, several more affluent families have moved into the neighborhood, producing a 'gentrifying' effect. As a state-public school, AP may not discriminate against anyone who wishes to enroll; however, owing to the school's popularity there is a limited number of available places, and therefore district rules dictate that selection for enrollment must be determined by an admissions lottery.

DISCUSSION

To the extent that all three state-public schools engage in some kind of selection, whether at the point of entry, or as it concerns internal selection (e.g., ability grouping), each of the schools is at least equally susceptible to forms of exclusion that may harm. Further, as we have seen there is much more to school selection than the official formal procedures. Hence while my concern in this chapter is that selection procedures controlling school admission be structured to serve equitable ends, I am not naïve in imagining that any system of school selection could lead to fully equitable outcomes. In each of the typologies I have described there are legitimate concerns that might be raised concerning why some children rather than others attend those schools, particularly when each of these schools has achieved full capacity, and moreover owing to this full capacity must resort to some form of selection. That said, each school uses selection in very different ways, and therefore we need to look to the three criteria for equitable selection that I adumbrated above.

Intended Aims Examined

With respect to the *intended aims* criterion, all three schools have as their aim to provide a social good, i.e., education, to a diverse population. However, only MP and AP *purposefully* make use of selection with the aim of doing so. Both are situated within less advantaged neighborhoods with the intention of attracting a more mixed student body. Moreover, both schools operate according to guiding principles whose aim is to more equitably provide an important social good, in particular, to those most in need of it owing to other disadvantages particular students face. A crucial difference between them is that the MP draws its students from across a wider geographic area. MP also uses a performance-based selection criterion; hence all who score well enough on the entrance exam are accepted, so long as they belong to the greater unified school district. Conversely, AP restricts its student intake to the local neighborhood; its reasons for doing so have to do with its aim of providing high quality education to the less well-served families in the immediate area.

Meanwhile, LP, what little diversity it has, depends almost entirely on the ability of its families to afford the cost of living in the neighborhood in which it is situated. Selection at the school level, then, occurs by default rather than by deliberate procedure. However, the effects of this selection arguably have greater implications for the equitable distribution of an important social good than in the other two cases. Indeed the exclusion of so many by virtue of its affluent location means that its ability to satisfy this criterion fails. And perhaps it also should be said that the default position of *this* local public operates very differently from the default position of *most* local publics in our large conurbation, a great many of which serve the regular poor kids so often found in large urban districts. Most state-public schools are only ‘selective,’ then, inasmuch as they draw from the local area, as the LP in this typology does. Yet while LP does not employ selection procedures in the same way the other two schools do, it does serve to illustrate how the educational market works apart from the fairness of any particular school-specific selection process.

Organizational Processes Examined

With respect to the *organizational processes* of the selection the LP again fares badly. It ‘solves’ its oversubscription problem simply by giving

priority to families who live the closest. The only additional criterion that it considers for selection concerns family continuity, i.e., automatically selecting a younger sibling of an attending student over a child with no sibling. MP, on the other hand, administers an identical high stakes exam to all applicants. The rules of the game are known and the play on the field is observable. MP may be attended by children across its wide district, yet because its academic standards are particularly demanding, only the highest scoring applicants are selected until all available seats are taken. Because the instrument used to make the selection is not based upon neighborhood advantage, and moreover because the exam is the same for everyone, its selection outcome is fairer than is the case with LP. Yet while in theory anyone with the intelligence, knowledge and skills can do well on the exam, the fact remains that children whose parents provide them additional learning opportunities (e.g., private tutoring, academic camps, foreign travel) are likely to do better than those who do not enjoy such advantages. Not incidentally, too, there are additional difficulties with achieving equitable ends at MP to the extent that some children who qualify for attendance encounter further obstacles with transportation, and therefore must spend a greater amount of time and resources commuting to and from the school.

Meanwhile, owing to the strength of its reputation, AP's admission selection relies entirely on a lottery, conducted publicly before all interested parties. Those whose numbers are randomly chosen are selected with no further discussion. Only if a parent forfeits her right to enroll her child (or is forced to surrender the right owing to other extenuating circumstances) will another child be allowed to take her place. Importantly, given the high level of mobility in the school district, this is not an uncommon occurrence: from time to time other draws by lottery must be made, ordinarily at the end of each academic term. By its very design, the lottery is impartial and hence the possibilities of acceptance are statistically equal for all. However, the lottery outcome is not the only variable in the process; owing to its being purposefully situated to serve a particular demographic, a majority of its children are also ethnic/racial minorities and poor. While parents whose children are not selected experience grave disappointment, the outcomes of the selection at AP enjoy strong legitimacy in the local community, where no apparent evidence of foul play can be observed concerning who is able to attend.

Inspection and Accountability Examined

With respect to *inspection and accountability*, LP satisfies my third criterion only by engaging in no obvious exclusionary selection. On the other hand, as I have made clear, the school's selection mechanisms function by default owing to the property values in the neighborhood in which it is situated. Hence the school's modes of selection better fit what I have called *informal* processes rather than the formal modes of selection that describe the other two schools. Those neighborhood features, in turn, result in rather striking disparate impacts. Indeed the absence of ill will and discrimination does not absolve the school of producing exclusionary outcomes, even when these outcomes are indirect, and even when most parents in the neighborhood are vocal supporters of 'diversity' and school integration.

For their part, both MP and AP fare better owing to the formal mechanisms of the selection itself as well as the transparency of the process. The standardized exam required for entrance at MP is subject to peer review and periodic inspection as is the lottery used for determining admission at AP. Additionally, in both cases a bureaucratic process is in place that facilitates fairness inasmuch as public officials are called upon to inspect both the proceedings as well as the outcomes in order to determine disparate impacts. With respect to the outcome of the lottery in determining admission to AP, parents are also permitted to be present, further strengthening the legitimacy of the selection procedure.

There are, however, discernible differences between these two schools. Though both MP and AP use formal selection procedures, and though both have mechanisms in place that allow each to do well in terms of transparency, there are more disparate impacts in the former than the latter. First, in terms of the entrance requirements, like the other two schools MP has as its principal aim to provide a high quality education to all children eligible to attend. However, while there is both consistency and transparency, i.e., *all* children who wish to qualify for attendance must take the same test, 'eligible' here can only be understood in the narrow sense of the ability to do well on a standardized test. And thus while MP hosts a much more diverse cross section of the metropolitan area's population—indeed more than 50% of its student intake is minority—the selection mechanism used arguably favors those with more social capital, notably those with more strategies at their disposal for taking high stakes tests, those whose parents are able and willing to

pay for expensive test prep courses, and whose parents go to the trouble of applying for admission in the first place.

This is not to say that one is unable to observe inequitable impacts with respect to selection procedures at AP. While unlikely, it is for instance conceivable that a lottery might be corrupt. More likely, however, is that some parents are not adequately informed about the school and its entrance procedures; consequently, even if the majority of parents live below the poverty line, only the best informed and most ‘involved’ parents may apply for admission to the school in the first place. Be that as it may, the disparate impact of the selection is low. Compared to the other schools AP serves the most disadvantaged and diverse student body and, largely owing to its exclusive local student intake, succeeds at selecting the greatest number of students in need of better educational opportunities. In other words, its selection procedures are best structured to achieve equitable ends, i.e., to be justice-enhancing.

CASE STUDY: STUYVESANT HIGH SCHOOL

I now subject the equity framework to a critical test by moving from abstract discourse focused on a typology of schools to an empirically challenging and difficult case: Stuyvesant High School, a specialized math and science state-public school in New York City, where selection criteria by state law is restricted solely to consideration of an entrance exam. The selection process has been subject to extensive criticism. For example, the National Association for the Advancement of Colored People (NAACP) Legal Defense and Education Fund filed a Civil Rights complaint about the selection process in 2012,¹⁸ and the current mayor of New York City, Bill de Blasio, has asserted that ‘we have to get rid of that test’ as ‘a matter of fairness.’¹⁹ I briefly explore the fairness of the selection process at Stuyvesant by applying the three criteria: (1) the intended aims of the selection; (2) the appropriateness of the organizational process; and (3) accountability measures regarding outcomes.

Tests have long been used as proxies for talent, motivation and effort. Stuyvesant High School began to use standardized testing for the admission process simultaneous with the need to divide the student into double and then triple sessions to accommodate the growth of student demand for the rigorous coursework they were offering. Stuyvesant’s reliance on a standardized test for selection was codified into New York state law in 1971 by the Hecht-Calandra Act.

While I will discuss limitations to the use of standardized assessments for selection below, one can grant that the *intended aims* of the process are to allocate scarce positions in a rigorous academic program to individuals with exceptional demonstrated levels of talent, motivation and effort. Critics might assert that standardized assessments were introduced with the unstated intention of excluding immigrants and later native nonwhite students from accessing these opportunities.²⁰ This challenge though requires one to assume that educators who promoted this form of selection have for the past century been acting in bad faith and that these social actors had overlooked more direct ways to exclude such populations.

The *organizational process* Stuyvesant has adopted to enact its selection is considerably more problematic. Stuyvesant relies solely on one instrument, a three hour exam—the Specialized High School Assessment Test (SHSAT)—administered to students only one time per year.²¹ The reliability and validity of the process is undermined by relying solely on one performance-based measure, rather than considering multiple indicators, such as talent, motivation and effort²²; the process may be further compromised to the extent that high stakes testing instruments fail to rely on cognitive models that are better suited to assessing metacognition and sound reasoning.²³ Further, relying solely on a single standardized assessment is problematic given that social science research has demonstrated that this form of testing is subject to multiple forms of bias including cultural sensitivity of content, stereotype threat and inequitable distribution of the opportunities for test preparation.²⁴

Finally, one can also assess Stuyvesant's selection process on the basis of admission outcomes. The outcomes of the selection process at Stuyvesant are public and appropriately *open to inspection, critique and accountability*. The most recent data on demographic characteristics of Stuyvesant students²⁵ indicates that 74% are Asian, 18% white, 2% Hispanic, 1% African-American, 1% Pacific Islander and 4% mixed race or other. In terms of class background, 32% of students are defined as demonstrating economic need (originating from families who have incomes below the federally defined poverty rate, eligible for food assistance or are in temporary housing) and close to half are eligible for government supported free lunches.

These outcomes are striking in a number of ways. First and foremost, in a city that is 53% African-American or Hispanic, students from these backgrounds are vastly underrepresented. This racial disparity is

associated with fewer students from these backgrounds taking the admission test, scoring high enough on the test to gain entry or choosing Stuyvesant in Manhattan (as opposed to another selective state-public high school in the Bronx or Brooklyn).²⁶ Second, whites too are underrepresented in relation to their population in the city where they comprise 32% of the population. Third, Asian students, many of which who are from immigrant families, are overrepresented relative to their presence in the general population of the city (14%). Finally, large numbers of students are from economically disadvantaged backgrounds. While the school as a whole can be justifiably criticized for failing to serve African-American and Hispanic students, there is little evidence that it serves as a bastion of white affluence, such as one finds, for instance, in European gymnasia.²⁷ Instead, the school's predominant character is that it serves aspiring immigrants. As a whole the outcomes are mixed.

CONCLUSIONS

In this chapter I have asked whether, and if so how, selection at the school level might be structured to achieve equitable ends. I have argued that selection in one form or another is required and potentially can either enhance or undermine fairness. Further, many forms of selection are able to satisfy what I have called basic equity standards so long as the aims, procedures and accountability mechanisms are structured to achieve equitable ends. In order to assess the fairness of the selection, one also must take into account the dynamics of the larger education market, the particular challenges schools face and the populations they serve. Opposition to selection for admission to an oversubscribed secondary state-public school may evince a failure to consider these variables seriously. However, as the Stuyvesant case study suggests, even when the selection aims, organizational processes and accountability procedures are motivated by equity concerns, the outcomes can indeed be unpredictable, even disappointing. Each case will be different, both in terms of the parents involved, the demographics of a given neighborhood, competition from nearby schools and perhaps most importantly of all, the specific school district rules that guide (or, as the case may be, *fail to guide*) the selection procedures.

Though I have argued that selection can be structured to achieve more equitable ends, I am skeptical that *any* selection procedure—no matter how just—can promise fully equitable outcomes given the vast

extent of inequality independent of even a more just school selection. I also acknowledge that improvement in the fairness of the selection process could lead to the growth of alternative parallel education markets, where economic capital becomes more important. However, in the absence of a more just school selection procedure, such as what I have delineated, I believe that we end up with a much more pernicious and unchecked form of inequity within the educational domain. My argument for more equitable selection procedures, then, is aimed at *mitigating* inequality.

There are, however, two difficulties that this analysis does not resolve. The first difficulty concerns the reason that different societies allow for institutional distinction—hence selection—in the first place. Here we observe a discrepancy between the justification of, say, a magnet state-public school, where the aim arguably has less to do with what may be good for individual learners than with what the courts and policy-makers believe is good for the broader society. This is not to say that the two necessarily clash; a school that uses technology or science as its ‘magnet,’ for instance, may be established in order to serve the interests of the larger economy and still be good for the individual learners attending the school in terms of the moral, intellectual and social outcomes derived from learning alongside others different from themselves. Since technology and science have emerged in most advanced societies as sacred commitments, broader societal goals are typically judged as self-evident; however, as discussed in the previous chapter, the religious orientation of some schools is increasingly subject to public scrutiny. But the fact that schools are designed with specific social aims in mind does mean that it may at times operate at cross-purposes to the expectations concerning what may or may not be equitable, i.e., justice-enhancing.

Another difficulty that this case analysis does not resolve—certainly in the case of the MP and AP—concerns *when* a particular selection ought to take place given different rates of development, especially if the difference in rates of development is a matter of 1–2 years or even a matter of months. As we have seen, selection between children is in some sense regrettable given the biological and sociological factors that lie beyond a child’s control and given the scarcity of educational opportunity available to a smaller number of children than would profit from it. Hence if a child performs poorly on, say, an entrance exam because of the absence of an adequate opportunity to learn something or a slight delay in brain development, such that six months later the same child would—as one

would expect—perform very differently, then a case can be made that the selection mechanisms are arbitrary in character and thus violate the equality principle.

Correcting for developmental differences will be very difficult indeed to achieve without far-reaching and intrusive social engineering of the sort unlikely to enjoy widespread legitimacy for what it portends for privacy and for family life but also for what it putatively implies about ‘normal functioning.’ Moreover, children perform poorly on exams for a variety of reasons, not all of them developmental: being tired, not having eaten breakfast, possessing a thinking style that does not conform well to the design of the exam, etc. Further, as we saw with the Stuyvesant case study, there also may be evidence of test bias, stereotype threat or inequitable access to test preparation. In any case, it seems to me improbable that we might be able to predict a child’s intellectual potential beyond a particular moment in time without introducing even more controversial mechanisms into the procedure. Notwithstanding these difficulties, my ethical analysis suggests that inequities in selection procedures can be significantly mitigated by looking at aptitude in more complex ways, and by incorporating self-correcting mechanisms into the process. Multiple forms of assessment, too, may be used, and the more frequent the better in order to capture important developmental changes as well as to make the appropriate adjustments to the educational opportunities a child receives.

In the final chapter I return to some basic arguments that run throughout the book, including the necessity of both ideals *and* constructive critique, and the importance of opening ourselves to multiple paths to achieve greater educational justice, when and where the best empirical evidence consistently suggests that doing so is both reasonable and wise.

NOTES

1. Granovetter 1974/1995.
2. Fullinwider & Lichtenberg 2004; Karabel 1972; Stevens 2007.
3. Downey & Condrón 2016; Schmidt et al. 2015. Children’s lives are further affected by legal interventions motivated by equity concerns to ensure that adequacy standards are met. For instance there are policies that determine who attends school (e.g., compulsory attendance laws), which school they attend (e.g., zoning), what children learn (i.e., state approved curriculum), whom they learn it from (e.g., state certified teachers) and with (e.g., peers) and for how long (e.g., school calendar).

Further, schools use test scores and teacher recommendations in selecting students both for different levels but also different types of instruction: in addition to vocational courses, many schools also offer ‘electives’ (e.g., honors or advanced placement classes), or gifted and talented programming. Indeed the school, in the words of Sorokin (1927), ‘is primarily a testing, selecting and distributing agency,’ and in some countries the school selection procedures that have a lifelong impact—more often than not delineated along racial and social class lines—begin as early as 10 years old (Shavit & Mueller 1998). And the selection mechanisms are of course not restricted to the institutional norms of any particular school; the extraordinary pluralism within most education *systems* makes selection both necessary and inevitable. For example, the ‘public’ education system in several European countries includes many different kinds of religious schools, as well as schools with a distinctive pedagogical philosophy (e.g., Steiner).

4. Duncan & Murnane 2014; Simpkins et al. 2015.
5. Blau & Duncan 1967; Lareau 2003.
6. Bourdieu 1977; Raftery & Hout 1993; Schmidt et al. 2015.
7. Alon 2015; Stulberg 2008; Fuller & Elmore 1996.
8. Gamoran & Mare 1989; Lucas 1999.
9. Peacock 2016; Warnock & Norwich 2010.
10. Hausman 2015; Sharkey 2013.
11. Lareau et al. 2016.
12. Fuller & Elmore 1996.
13. While many parental traits and behaviors doubtless will be problematic from an impartial view of justice, in part as these relate to the transfer of morally arbitrary advantage and disadvantage, they largely fall outside of the scope of this analysis for at least two reasons. First, a Platonic notion of justice that entails the abolition of the family is not one likely to resonate in any existing society (Munoz-Dardé 1999). Indeed, as I demonstrated in Chapter 2 and elsewhere, parents enjoy wide moral latitude in making discretionary choices about how they wish to raise their children; moreover, constitutional liberties generally protect these discretions except where they clearly obstruct or interfere with the liberties of others. Second, it seems to me more problematic to talk about selection operating in the private sphere *in the same sense*, where strong moral imperatives to demonstrate partiality toward one’s own child are the norm. Third, the regulation of family life that conforms to societal norms and is explicitly focused on improving child development is in any case more difficult to justify without calling into question the legitimacy of state authority. Indeed the further into family life that the state intrudes, the stronger the

moral and legal justification needed. I therefore restrict my attention to the principles and procedures of selection employed by secondary state-public schools.

14. Cf. Sorokin 1927.
15. Calhoun 1992; De Magalhães 2010; Watson 2006.
16. But to appreciate how lotteries might still ‘fail’ in practice, see for instance <https://www.theguardian.com/education/2017/mar/14/school-admissions-lottery-system-brighton>.
17. Of course it can be argued that items like a portfolio lend themselves to other corrupting factors, such as paid services for grooming one’s CV, or inequitable access to social networks for interviews or letters of recommendation. Other equity-promoting factors may also be used, including policies—e.g., Affirmative Action—aimed at rectifying historical injustice. But whether such policies will aid the disadvantaged versus benefit the already better off members of certain minority groups, too, remains unclear (Slater 2013). A more promising strategy, one I briefly reference in the discussion of the Stuyvesant case, would be to use tests based on cognitive models that theorize the content and capabilities of children’s minds (Norris et al. 2004).
18. NAACP Legal Defense Fund 2012.
19. Shapiro 2018.
20. Lemann 2000.
21. New York City Department of Education 2017a.
22. Cf. McCrickerd 2012.
23. Norris et al. 2004.
24. Jencks and Phillips 2011.
25. New York City Department of Education 2017b.
26. In addition to Stuyvesant, there are eight specialized high schools in NYC that use the admission test to allocate admission. The NAACP Legal Fund (2012) reports that at the time of filing the legal challenge: 319 out of 6382 African-American students who took the exam were offered admission to one of the specialized high schools; 414 of 6143 Hispanic student test takers were offered admission; 2490 of 7119 Asian-American student test takers were offered admission and 1253 of 4101 whites were offered admission. Considered in terms of the distribution of admission offers: 7% went to African-Americans; 9% went to Hispanics; 56% went to Asian-Americans and 28% went to whites.
27. Merry & Boterman 2020 (in press); Weenink 2005; Wiborg 2010.

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Educational Justice and Tentative Hope

Throughout this book I have catalogued and examined numerous features of educational injustice, a great many of which are to be found in the state-public school system itself. But in doing so, I have not been remiss to highlight contributions to educational justice that schools can make. As I noted in Chapter 2, hints of justice can already be discerned in efforts to establish and expand educational opportunities to all children. At a minimum, educational justice also can be observed around the world in terms of higher literacy and numeracy rates. And, provided that other devastating phenomena such as war, famine, natural disaster and economic collapse are absent—sadly still an everyday affair in much of the world—a more educated population correlates strongly with improved health, more meaningful types of employment, higher levels of political participation and more generally, enhanced human flourishing.

Naturally schools are more likely to foster justice-enhancing outcomes when adequate fiscal resources are present. As I also discussed in Chapter 2, adequate fiscal resources can pay for weighted pupil funding and early childhood education. Moreover, as I argued in Chapter 3, those fiscal resources can help to reduce class sizes, pay for extra staff to assist with a well-functioning classroom or to provide bilingual instruction and additional support for children with extra needs. Adequate fiscal resources can also help pay for after school homework assistance and summer enrichment programs but also basic health services and optometric and audiological tests to remove unnecessary obstacles for those unable to pay.

Of course, many of the most vital resources necessary for educational justice are more scarce, and in any case are difficult to purchase or distribute. As we have seen, these include things such as strong leadership, a positive school climate, a consensus on academic goals, career guidance and nurturing teachers who not only inspire, motivate, exhibit high expectations for all students and serve as role models, but also who have greater self-awareness with which to be vigilant against biases that harm. And not only are these resources in limited supply; even when they are present, too often they collide with top-down directives from school district offices, non-facilitative organizational features in schools, a culture of high stakes testing that redirects attention away from authentic learning and even undemocratic teacher unions,¹ which, taken together, diminish teacher autonomy, not to mention the possibilities for student flourishing, academically or otherwise.

As I argued in Chapter 1, while these facts concerning persistent inequality may tell against optimism, they do not require that we despair. Indeed, I have argued in many places throughout the book that it is possible to foster justice, if only with a small ‘j’: modifying instruction in ways appropriate to the circumstances and needs of individuals, striving to create respectful interactions across difference, facilitating the expression of unpopular perspectives and making sure that every child feels that he or she belongs. Further, and using a concrete example, I argued in the previous chapter that so long as organizational processes and accountability mechanisms (of institutional schooling more broadly, and not merely selection *per se*) are devised with the aim of mitigating inequality, many educational outcomes can be justice-enhancing, even under less than ideal conditions.

But those of us who are serious about educational justice cannot afford to be naïve. While neo-institutionalists cheerfully announce rising levels of literacy, or a record number of schools having been opened, or higher graduation rates, etc., we cannot act as if we do not also know that our school systems are complicit in the reproduction of inequality. Nor can we ignore the fact that levels of inequality within and between all societies are growing at an astronomical speed. And we need not look to extremes, comparing, for example, the jaw-dropping disparities that exist between continents, or indeed, entire hemispheres. Even within and between relatively affluent societies, inequalities are sharply on the rise. Those inclined to deny these realities betray either a great deal about their own privileged educational background, or else the extent to which they remain unshakably committed to liberal dogma.

To illustrate the extent of our current problems, consider the present situation in a single, small country. In the Netherlands—undoubtedly one of the most affluent societies in the Western hemisphere—the school system is highly stratified *by design*,² and high school entrance exams at the age of 12 are a major obstacle to reducing inequalities that to a significant degree derive from unearned privileges, i.e., one’s family background. Further, there has long been a chronic teacher shortage that has led to many school districts reducing the number of days that children can be in school; meanwhile, and across the country, all sorts of academic and extracurricular programs have been eliminated by top-down budget cuts, leaving only schools that charge hefty ‘voluntary’ parental fees to provide these ‘extras.’

Moreover, as I noted in Chapter 6, currently in the Netherlands thousands of children with disabilities sit at home because there is no suitable education available to them in the school system; or, as I demonstrated in Chapter 7, more educated and particularly white parents systematically avoid schools they deem ‘unfit’ for their child, schools that have been racialized as ‘black’, even as the white majority continues to deny the relevance of race. Finally, both a burgeoning expensive private school market and a booming private tutoring (*bijles*) industry continue to widen the gap between those able to pay and everyone else, reminding us, as we saw in Chapter 2, of how parental partiality can exacerbate injustice overall. In short, while there may not be reasons to despair, neither are there reasons to celebrate, or talk—as many still do—as if the education system exists to promote equal educational opportunity. Nothing could be further from the truth.

Throughout the book my aim has not been to prescribe policy-based ‘solutions’ to long-standing and intractable problems within the school systems we have, problems, as we have seen, that persistently thwart the realization of educational justice. Nor has it been my aim to spell out in any detail what the pragmatic alternatives can, or ought, to be. Rather, my aim has been, first, to critically examine but a few of the dominant beliefs that both unwittingly contribute to our present state of affairs and blind us to the ways in which many of us may be complicit with injustice. Second, I have endeavored to constructively reimagine educational justice in ways that are not beholden to the institutional strategies with which we perhaps are most familiar.

To that end, the empirically-informed philosophical approach I have adopted has been motivated by the conviction that the constructive uses of critique are indispensable to the pursuit of educational justice. Indeed it is particularly important that we scrutinize our most cherished beliefs,

i.e., those we take for granted. Doing this kind of constructive critique, I hope to have demonstrated, is important if we are to stand a reasonably good chance of casting off problematic assumptions—and, along the way, also some bad habits—that prevent us from making more substantive progress. And it should go without saying that progress is impossible if we abrogate hope or abandon our ideals, first and foremost the equality principle. But as I have argued throughout the book, nonideal circumstances ought to inform how we interpret and apply the principle.

From the beginning my focus has chiefly been directed against a variety of liberal beliefs and policy positions in the field of education, rather than against a specific philosophical notion of justice, liberal or otherwise. As I discussed in Chapter 2, there is in any case no single theory of justice; rather, a multiplicity of views compete for our attention. Nor is there a clear consensus on all educational matters among self-described liberals, as ‘liberal’ is understood in the more popular sense. For instance, plenty of political liberals continue to be at loggerheads over the place of charter schools in American education. Elsewhere, others debate delaying examinations used for high school differentiation, the value of a ‘core curriculum’, and even whether or not to abolish homework. Yet whatever the variety of positions that exist on the liberal continuum, both philosophers and empirical researchers have made it a hallmark of their theories to underscore the importance of justice. Accordingly, throughout this book I have been concerned with asking whether certain liberal beliefs about educational justice—and the policies to which these beliefs are attached—are warranted once the full weight of the argumentation and evidence has been considered.

With respect to the *argumentation*, I have maintained that my focus on liberal positions is justified given that liberal theorists have had far more to say about justice than their conservative counterparts. Moreover, liberal views remain dominant in academic writings on the subject. And thus given the liberal hegemony in the existing literature on educational justice, it seemed to me only appropriate, on the one hand, that I interrogate many of the problematic assumptions espoused by liberal scholars, and on the other hand, to argue that pragmatic alternatives are not only inevitable in the pursuit of justice; in many cases they are also morally imperative.

Of course this moral imperative will not sit well with those whose minds are already made up. But that kind of moral certainty suggests both a failure of imagination and an absence of intellectual honesty. At a minimum, intellectual honesty requires that we be open to challenge, and where necessary, falsification.³ An inability, or refusal, to do

this, deflecting any and all criticisms directed at our favored positions, means that we unwittingly end up preserving the status quo. And decrying injustice while inadvertently assisting in the maintenance of the status quo is not lost on those whose fates hang in the balance, i.e., chiefly the poor and marginalized in every country where educational systems exist, and whose educational futures should not have to wait for improbable corrective measures to materialize.

Concerning the *evidence* to which I also alluded, George Orwell humorously observed, ‘everyone believes in the [errors] of the enemy and disbelieves in those of his own side, without ever bothering to consider the evidence.’⁴ Orwell was of course only half right; most of us are certainly willing to consider evidence; the problem is that we are inclined to ascribe greater weight to the evidence we *prefer*, viz., that which aligns with our core beliefs and corroborates a position we already occupy. As I noted in the first chapter, this is a biased tendency to which we *all* are susceptible, and therefore a hazard concerning which we constantly need to be vigilant.

With respect to liberal scholarship, there are a couple of additional reasons why we continuously need to be reminded of our biases. The first is this: liberal scholarship—and particularly that which has been influenced by the philosophy of science—has long stressed the importance of epistemological warrant on the one hand, and intellectual humility on the other. In other words, there has long been the articulated concern with the possibility that one’s own commitments can be mistaken. On this point John Stuart Mill opined:

Truth gains more even by the errors of one who, with due study and preparation, thinks for himself than by the true opinions of those who only hold them because they do not suffer themselves to think [...] However unwillingly a person who has a strong opinion may admit the possibility that his opinion may be false, he ought to be moved by the consideration that, however true it may be, if it is not fully, frequently, and fearlessly discussed, it will be held as a dead dogma, not a living truth.⁵

As I hope to have demonstrated in different ways in each of these chapters, this modest intellectual disposition, one endorsed by none other than a progenitor of modern liberalism, has not deterred many philosophical descendants of Mill from digging in their heels, or from caricaturing those with whom they disagree.

The second reason we need to be reminded of bias is precisely because of the dominance of liberal educational scholarship itself, which after all has consistently and accurately documented the pervasive injustices of the school system. Indeed much of what any of us knows about the workings of schools and school systems is heavily indebted to the empirical work of liberal scholars, perhaps especially those working in the discipline of sociology. At the same time, however, it is curious to observe how often we seem either unable or unwilling to appreciate the implications of this research, something I explored in several of the chapters. And here again is powerful evidence of bias: the inability or refusal to consider alternatives, *even when our best evidence contradicts the conclusions we would like to reach*.

It is important to stress that the problem is emphatically *not* that liberal educational scholars do not know what many of the most obdurate features of educational injustice are, inter alia, poverty (but also the hoarding of resources); teacher demoralization (but also questionable teacher dispositions and behaviors); diminishing investments by the state (but also the dubious belief that more money will solve the most persistent inequalities) and finally, the structural features of schools and school systems themselves that help to perpetuate educational injustice around the world on a daily basis. Rather, I have argued, the problem concerns the manner in which too many of us circumscribe what it is permissible to imagine vis-à-vis educational justice.

As I have tried to show, this tendency arises from too narrow an interpretation and application of the equality principle. Further, this very dogmatic tendency leaves open the possibility for a great deal of cognitive dissonance, where we often find ourselves unable to reconcile conflicting values and beliefs, or else square some of these beliefs with our empirical knowledge, concerning what it is realistic to expect from a school in the first place, or indeed what, in the interim, we are even willing to consider as an alternative path in the quest for justice.

Pursuing alternate paths in the quest for justice does not require that we abandon all efforts to reform the school systems we have simply because doing so is frustratingly difficult. As Becky Francis and Martin Mills point out, educational justice must entail a both-and strategy; they write: ‘we are currently so far from social justice in terms of both educational experiences and outcomes that we need to engage both pragmatic, “short-term” strategies alongside deeper future thinking.’⁶ In other

words, pragmatic alternatives ought to supplement, rather than supplant, existing efforts in the pursuit of educational justice. But as I have argued throughout the book, and Chapters 6 and 7 in particular, it is perfectly reasonable for parents to pursue alternatives when doing so is more likely to yield justice-enhancing outcomes for their own child.

And notice, too, how a refusal to even consider pragmatic alternatives simply opens the door to libertarian and conservative ‘solutions’ many liberals categorically reject: vouchers, charters, academies, home-schooling, private schools, religious schools, etc. Liberals may or may not be right that some of these options are ipso facto conservative, or that they portend the exacerbation of inequality. On the other hand, to simply be against ‘school choice’ is both naïve for what it supposes will occur in the absence of alternatives, as well as disingenuous with respect to the choices already available to the more educated and affluent. As was evident from the typology of a ‘local public’ in Chapter 8, being ‘anti-choice’ simply elides the ways in which choice has long operated by default, i.e., via residential location. Indeed in many countries a high quality education comes with the price of one’s real estate.

The essential point here, one I also stressed in Chapter 3, is that the libertarian or conservative preference for ‘privatization’ is almost certainly misguided, if not false. But so too is the tendentious liberal defense of the school as a ‘robustly public, diverse and civic’ jurisdiction, where many of the most insidious problems—e.g., early selection, teacher bias, zero tolerance policies, a culture of high stakes assessment, race and class-based grouping practices, chronic bullying—can be solved by simply repudiating alternatives, or by insisting on silver bullet solutions: more money, more accountability, new organizational structures, higher teacher salaries, smaller class sizes, etc.⁷

Whichever individual strategy we prefer or pursue, educational justice requires, first, that we seriously open ourselves to the possibility that many of the core assumptions that we bring to the table may not be anchored in reality. And thus where notions of a ‘robust public’ or citizenship are concerned, perhaps it is time to dial back some of the groundless optimism concerning the nature of this public, or the types of citizens schools are likely to produce given the circumscribed ways in which ‘active citizenship’ is allowably expressed. Or perhaps it is time to reimagine both the content and scope of that public; indeed in many countries a wide variety of ‘alternative’ educational provision already functions within the ambit of the state-public school system.

Second, educational justice requires that we be amenable to a constellation of strategies and alliances that we previously may have been loath to even consider. And thus where selection is concerned, perhaps it is better to cease with calls to abolish selection and rather strive toward its more equitable application. Or where diversity or inclusion is concerned, perhaps it is better to examine the ways in which ‘inclusive’ environments too often work *against* justice, and ask whether refinements or alternatives might do a better job. This also would mean, for instance, that those inclined to inveigh against religious schools might demonstrate their willingness to consider the evidence in favor of the role some religious schools may have to play in fostering justice.

It also means, finally, that we be willing to engage in more comparative international analysis, and thereby appreciate the ways in which we might glean different insights from different school systems. Nearly all countries do many things poorly: falsifying history; promoting nationalist sentiment; institutionalizing inequitable differential treatment and much else besides. But it’s not all doom and gloom. Many individual schools, but also some school systems, do certain things admirably well: perhaps not approximating anything close to where we’d like to be, but surely further down the road than many of our schools currently are. Critique of bad practices ought to make more room for better ones. In other words, neither cynicism nor despair can help us to think constructively about ways forward, i.e., reforms that make real differences in the lives of real people.

There are of course many other ways that educational justice can be imagined and fostered—if only justice with a small ‘j’—that I have not examined in this book. Fortunately, others have, and continue to do so, many of them practitioners in the field. Their work gives one tentative hope, as do the many schools that manage to do well by all of their pupils, even when challenged by formidable difficulties and obstacles. However small or incremental the contribution to educational justice, each success ought to be affirmed, and where possible, replicated and scaled up. But in doing so, we must not succumb to fantasies about our schools that would have us disavow the greater institutional calamities from which these successes have been spared. ‘It is very difficult to talk about education,’ James Baldwin reminds us, ‘...without talking about the whole society in which it mainly fails to occur.’⁸

NOTES

1. Weiner 2012.
2. Merry & Boterman 2020 (in press).
3. Popper 2005.
4. Orwell 1981, p. 191.
5. Mill 1978, p. 34.
6. Francis & Mills 2012, p. 583.
7. Duncan & Murnane 2014, p. 14.
8. Baldwin, speech at UC-Berkeley, 1974.

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