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EDUCATIONAL JUSTICE FOR STUDENTS WITH COGNITIVE DISABILITIES*

By Jaime Ahlberg

I. Introduction

Consider the following case:

> Dinah experiences pervasive developmental delay and intellectual disability. Her condition prevents her from ever being able to vote, sit on a jury, go to a four-year college, secure or maintain employment, or become a member of the political elite.
>
> Despite her disabilities, Dinah thrives when she is involved in organized projects that emphasize individual effort and attention to detail. With provision of resources, including, say, art materials, a space within which to work, and supervision, Dinah can work contentedly all day. Institutionalization that provides little to stimulate and supervise Dinah while she pursues such projects, in contrast, fails to engage the capacities she has to interact with her world.[1]

Profoundly cognitively disabled children like Dinah pose a particularly difficult challenge for articulating the demands of educational justice. The ways in which these children benefit from educational opportunities, and the extent to which they can be said to make educational achievements, are quite different from the standard cases of children in contemporary schools. Nevertheless, it is plausible to discuss educational provision and achievement with regard to them, since they can often gain from

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[1] I use "profoundly cognitively disabled" to refer to those persons who have historically been identified as seriously "mentally retarded," "exceptional," or more recently, "intellectually disabled." These are all problematic terms: it is not obvious that they indicate purely natural categories; nor is it obvious how, or whether, children ought to be identified as disabled for educational purposes. For my intentions here, I set categorization and identification issues aside. Assuming that students can enter educational environments with capacities like Dinah's, my interest is in how to ground their claims to educational goods in justice.

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educational opportunities that emphasize socialization and the development of various other sorts of skills. How might one begin to understand the purposes of education as they relate to this group of students, and furthermore, what are these students owed as a matter of justice? These two questions guide my essay.[2]

One strategy for addressing these questions is to examine candidate justice-related educational aims for nondisabled children, and to deduce from these aims the educational goods that must be secured for disabled students. Of course, philosophers have defended diverse, and at times conflicting, purposes of education. A partial list of the most promoted educational goals includes: securing future economic returns for society, and economic self-sufficiency for students; developing students' capacities for self-governance; instilling critical thinking skills; creating effective democratic citizens; contributing to the lifelong, general flourishing of students. Cases of profound cognitive disability make these aims problematic, at least as they have been formulated in the literature, because the ways in which the children in question can achieve the educational benchmarks these aims identify as significant are not typical, if such children can achieve them at all.

On the face of it, several of the aims listed above have difficulty even identifying profoundly cognitively disabled students as having relevant educational interests. Economic goals, for example, look particularly misplaced. Because of their internal constitutions and the nature of the labor market, these children will neither be economic contributors nor in a position to achieve economic self-sufficiency.[3] Similar considerations bear on the aims of self-governance and rational autonomy (critical thinking), as these students' intellectual constitutions do not permit them to engage in reasoning about their values, or in practical reasoning, in the ways that are typically central to the achievement of these aims. I am skeptical that

[2] I thus bracket the more practical matter of what we should assume regarding the abilities of these students when designing school policies and practices. Certainly, when young children enter school we have little information about the real nature and extent of their capacities, and it is wise to refrain from making hasty judgments about those capacities when doing so will irrevocably limit their educational opportunities. But there are theoretical and practical reasons for locating Dinah's justice-based claim(s) to educational provision. If certain of our educational aims do not identify or adequately respond to Dinah's interests in educational goods, we should be suspicious about whether those are the correct, or only, aims. Further, under conditions of resource scarcity, and/or when children's educational needs conflict, judgments will need to be made about adjudicating trade-offs. Only a full understanding of our educational goals for all children, and the relative weight of those goals, can assist us in providing justification for making some trade-offs over others.

[3] This is not to deny that for some students who have been labeled profoundly mentally retarded there may be an economics-based argument in favor of educational provision over their lifelong institutionalization, under the assumption that the children in question can become somewhat self-sufficient and can secure some form of employment. Dinah represents the group of children who cannot be expected to produce such economic returns given the current structure of the labor market.

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much can be done to rework economic or autonomy-based aims in ways that will be responsive to the educational interests of the students in question, so for my purposes I am going to set these aims aside. They may set important goals for most students, but they appear ill equipped to capture the ways in which educational provision would respond to the interests of those who are profoundly cognitively disabled.

The story regarding democratic and flourishing aims reads differently. Prima facie, the educational purpose of developing students into effective democratic citizens looks as if it also must fail to capture these children's interests, because they will never be capable of formally participating in and shaping their political environment. Historically, democratic values have been employed to justify educational provision to cognitively disabled children.[4] The significance of the moral and legal equality of the disabled, and the attendant emphasis on nondiscrimination and inclusion policies and practices, have been influential in urging, and characterizing, the educational opportunities for persons with cognitive disabilities.[5] So it is perhaps surprising to observe that democratic aims may be unresponsive to the educational interests of cognitively disabled children.

Before abandoning the possibility of an education for the cognitively disabled motivated by democratic commitments, however, it is worth observing that democratic aims are various, each variation potentially motivated by different considerations. Many democratic theorists have been concerned to emphasize that being a good citizen requires, in part, respect for one's fellow citizens as persons of equal moral worth, and the ability to appreciate the sense in which we share in each others' fate in important ways. Exploring how the nature of a "democratic education" can go beyond the inculcation of skills and knowledge that are relevant to democratic participation, to include emphasis on students' political

[4] See *Pennsylvania Association for Retarded Children (PARC) v. The Commonwealth of Pennsylvania*, 343 F. Supp. 279 (1972), for a statement of "mentally retarded" children's rights to due process and equal protection, and an argument for the presumption in favor of mainstreaming all disabled students. *PARC* emphasizes the unique potential schools have to initiate social stigmatization of children identified as disabled, and refers to arguments made in *Brown v. Board of Education*, 347 U.S. 483 (1954) as supplying reasons against the exclusion of any children from public education. Famously, *Brown* argued that "separate educational facilities are inherently unequal" when sanctioned by law because segregation deprives children of some of the benefits of a (racially) integrated school environment, including self-esteem. See also *Mills v. the Board of Education of District of Columbia*, 348 F. Supp. 866 (1972), for a legal argument that school-age children are owed a public education regardless of their disability status. See John D. Skrentny, *The Minority Rights Revolution* (Cambridge, MA: Belknap Press, 2002), chap. 9 for a historical analysis of the development of disability rights policy in the 1970s.

[5] The 1975 Education for All Handicapped Children Act's (EAHCA) mandate for equal protection, due process, and "free and appropriate education in the least restrictive environment consistent with handicapped children's needs" is a good example here. Mainstreaming disabled children was part of the Act's "least restrictive environment" requirement. EAHCA was reauthorized and later renamed as the Individuals with Disabilities Education Act (IDEA) in 1990.

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relationship to others, promises more nuanced ways of addressing the educational interests of students like Dinah.

What about the goal of providing educational experiences that will contribute to the general flourishing of children, during the period in which they are students and in anticipation of their future selves? Central to the content of this aim must be a conception of flourishing, or well-being, and very plausibly, in the standard cases this aim will highlight the importance of the other aims already mentioned. Being able to flourish in contemporary democracies, for example, usually involves the ability to understand and navigate one's political environment, which implies that students ought to be prepared for effective citizenship and to possess basic critical thinking skills, a capacity for reflection on one's values, and the wherewithal to secure economic participation.[6] Targeting the overall flourishing of children as an educational aim, unlike the economic, democratic, and autonomy aims, presents no principled difficulty for including those children with cognitive disabilities as legitimate claimants of educational goods. It is unclear, however, what fully-fledged conception of "flourishing" would set the appropriate standard for educational provision, such that it applies to *all* students, and captures intuitions about the ways in which education contributes to human flourishing. As I have just suggested, some forms of flourishing that are very important for nondisabled children might not be relevant in cases like Dinah's. But some ways of giving content to the concept of flourishing surely *will* be relevant in Dinah's case, particularly if they emphasize the ways in which work (broadly construed), community and friends, and health, can contribute to well-being. Very plausibly, education is important for securing all three of these, and probably other, elements of well-being.

Democratic and flourishing aims thus look to be promising, though very different, ways of articulating Dinah's educational interests. In Section II, I offer an analysis of standard philosophical expressions of "democratic education," and how such a framework fails to provide a compelling account of the educational interests of the cognitively disabled. In Section III, I propose a richer interpretation of what a democratic education might involve, according to which education emphasizes the future political relationship between students. I suggest that democratic aims can identify the educational interests of students like Dinah when those interests are seen as intertwined with the educational interests of her nondisabled peers. Nonetheless, I find that serious difficulties remain for the democratic view; it cannot avoid leaving the claim of the cognitively disabled to provision precariously contingent upon benefits to others, and it ultimately fails to recognize the *educational* interests that cognitively disabled

[6] I set aside (informed) desire-satisfaction, preference-satisfaction, and mental state conceptions of well-being in favor of an objective list view, for the purpose of this discussion.

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individuals intuitively possess. Section IV explores how the flourishing aim is in a better position to recognize cognitively disabled students' educational needs and interests, in virtue of its ability to locate the educational interests of the cognitively disabled *in the students themselves*. And yet, it is not obvious what educational justice demands for securing the flourishing of students like Dinah. Since the ways in which her well-being will be improved by educational experiences is so different from the cases of students who are not similarly disabled, it is unclear that distributing educational goods to her in the same way is warranted. I explore the suggestion that education for flourishing purposes ought to be distributed equally to students, and additionally, that the claims of cognitively disabled children ought to be given some priority because they are among society's least advantaged. Section V concludes.

Before I continue, I would like to be clear about the conceptual space in which I am working. Thus far I have focused on discussing educational aims, but I am also concerned with principles of educational justice. The two are distinct. I take aims to be the goals around which the design and support of the educational system as a social institution should be organized. These goals will themselves be informed by a society-wide conception of justice (e.g., John Rawls's or Ronald Dworkin's principles of justice), as well as complex contextual information about the structure of the society in question.[7] These goals direct attention to the ultimate reasons for providing an education in the first place. While these reasons may be connected with what students are owed as a matter of justice, they may not. One might reject the intuition that Dinah has justice-based claims to educational provision for example, and still think that it would be decent of society, under circumstances of resource abundance say, to provide her with educational goods because she is better off with such goods. Identifying the aims of education for our society, therefore, is only a first step in discussing justice in the educational sector. Fully specifying educational justice also involves saying something about what educational goods (resources, liberties, opportunities, and so on) are owed to individual students in the service of those aims, and in what amount or proportion (other things being equal). To give another example, it is one thing to say that an educational system should foster democratic citizenship, and it is another to state what goods ought to be

[7] Contextual information is essential for articulating the purposes of education. In our society, for example, education is extremely instrumentally important for labor market success. If society-wide principles of justice demand that economic inequality not reflect class privilege, that would plausibly have implications for the distribution of educational opportunity in a society in which education plays this instrumental role. In a different society it might be otherwise; material gains, or opportunities for meaningful employment might not be so dependent upon the attainment of higher education. Even under the same society-wide principles of justice, in that alternative society the aim of education need not attend to the credentialing effects of educational achievement on labor opportunities.

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provided, in what quantities, and to whom, in order to foster democratic citizenship.[8]

With this in mind, we can see how theorists with different aims might nevertheless adopt similar distributional principles. One might be either a democratic or flourishing theorist, and might adopt distributional principles that are directed toward establishing adequacy, equality, and/or priority across various claims to educational goods. In the discussion that follows I attribute a specific sort of adequacy principle to democratic theorists, and a specific sort of equality principle to theorists that have promoted flourishing aims. This attribution is primarily an artifact of how the literature has developed; it is not a conceptual necessity that a democratic theorist would support adequacy of educational opportunity, or that a flourishing theorist would promote equality. But I think neither that it is an accident that those in favor of democratic education have tended to support an adequacy principle, nor that those who have supported general flourishing have recommended an equality principle. Briefly, democratic theorists have been concerned to develop within children the capacities or dispositions to stand in equal relation with their peers as adults; once those capacities or dispositions have been secured, education is considered adequate. Flourishing theorists have instead emphasized the ways in which education can help children to live good lives, in a comprehensive sense. The thought is then that educational opportunity should be equally distributed (on various understandings of "equal") in recognition of the fact that children have equal claims to living good lives. I hope that the discussion that follows will help to illuminate and refine the different focuses of the democratic and flourishing aims in greater detail.

II. Democratic Adequacy

How might Dinah's educational provision be situated in a democratic framework? Answering this question is problematic because "democratic education" is multiply ambiguous. First, the term might apply either to the internal organization of educational environments or to the objectives

[8] In the disability studies and special education literatures, scholars have distinguished between justice as distribution and justice as recognition, and have often preferred the recognition paradigm to respond to the ways in which *difference* characterizes the experiences of the disabled (rather than the universality of moral standing that characterizes the distributive paradigm). See Martha Minow's important book on so-called "dilemmas of difference," *Making All the Difference: Inclusion, Exclusion, and American Law* (Ithaca, NY: Cornell University Press, 1991). For reasons I cannot elaborate here, I think distributive theories *can*, in principle, identify many if not all of the morally significant aspects of concerns about difference, so I am going to bracket discussion of recognition-oriented principles of justice for the purposes of this paper.

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of the educational experience.[9] Educational environments governed by deliberative processes involving students, teachers, administrators, and the local community, are sites of democratized education in the first sense. They give those who have a stake in the outcome of the educational experience direct involvement in the content and design of that experience, and situate educational objectives within a more complex network of local political goals. Some have argued that in order to be legitimate, educational processes and institutions must themselves be democratic in this way.[10]

The legitimacy of education as an institution is undoubtedly important, as is discussion of schools' relationships with their local communities and the ways in which schools ought to be internally organized. But the purpose of this essay is to locate justification(s) for the claims to educational provision on behalf of the cognitively disabled. Schools governed by democratic processes may serve as mechanisms for distributing educational experiences to these students, or be good for other reasons, but what educational experiences these students are owed in the first place, and on what grounds, are distinct issues. Here, I thus focus on the second sense of democratic education: the aim of educating children for future citizenship in a democratic polity.

Defenders of democratic aims usually argue that education's organizing purpose is to ensure that children will develop the capacities necessary for democratic citizenship. They have often identified the distributive implications of this purpose in a general principle of educational justice like the following:

> *Democratic Adequacy for Educational Opportunity Principle*: Justice requires prospects for educational achievement to ensure that each person has the minimum level of opportunity necessary to function in the public sphere as an equal citizen.[11]

This is an adequacy principle; it demands a minimum level to be available to all, from which it follows that inequalities above that level are not unjust. Adequacy standards can be very rigorous,[12] and in its emphasis on the opportunity to function in the public sphere as an equal citizen, the

[9] Meira Levinson labels this as the distinction between education *within* a democracy and education *for* democracy, respectively, in *No Citizen Left Behind* (Cambridge, MA: Harvard University Press, 2012), 259.

[10] Amy Gutmann is interested in this at some points in *Democratic Education* (Princeton, NJ: Princeton University Press, 1987).

[11] See, for instance, Gutmann, *Democratic Education*, 136; Elizabeth Anderson, "Fair Opportunity in Education: A Democratic Equality Perspective," *Ethics* 117, no. 4 (2007): 595–622: Debra Satz, "Equality, Adequacy, and Education for Citizenship," *Ethics* 117, no. 4 (2007): 623–48.

[12] Adequacy standards for educational opportunity have often been politically successful in practice because they are compatible with directing very minimal resources to the poor and otherwise disadvantaged, so long as the threshold of adequacy is set low enough. Philosophical theorists have acknowledged this practical reality while arguing that this need not be the case in principle; the demandingness hinges on the nature of the threshold.

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Democratic Adequacy for Educational Opportunity Principle (hereafter Democratic Adequacy Principle) is intended to set a high benchmark for educational justice.

But disagreement abounds on the nature of the functional requirements for equal citizenship, and what social arrangements would secure equal citizenship for all. Further complicating the issue, "democratic education" is ambiguous here as well. This ambiguity matters because how, and whether, the interests of cognitively disabled children are identified, represented, and addressed will hinge on how one specifies the ways in which education might enable citizenship. One can give content to the threshold of functional citizenship by way of the skills, knowledge, or the dispositional attitudes that democratic equals possess. So, some have argued that a democratic education must be geared toward securing the basic skills necessary for official political activities like casting ballots and sitting on juries.[13] Others have understood education for citizenship to be more expansive, including helping children to acquire the capacity to reflect on, and have tolerance for, different ways of life,[14] to deliberate with one's fellow citizens in a reasonable manner,[15] or even to have a sense of fellow feeling, or solidarity, as they interact with their political communities.[16] Yet others have presented multidimensional accounts that encompass the skills, knowledge, and dispositions necessary for democratic citizenship.[17]

A brief exploration of popular examples of the Democratic Adequacy Principle will help to make vivid how such a principle responds to cases of cognitive disability. Elizabeth Anderson and Debra Satz have recently promoted two slightly different expressions of such a principle. Anderson has oriented her focus on adequacy from the perspective of society's advantaged, considering how social elites can be educated so that they are appropriately responsive to the plight of those whose opportunities for equal citizenship are most under threat. As she puts it: "In democratic society, elites

[13] William Galston argues, for instance, that civic education in representative democracies like our own requires mainly that citizens be able to select and evaluate representatives wisely. See his "Civic Education in the Liberal State," in *Liberalism and the Moral Life*, ed. Nancy L. Rosenblum (Cambridge, MA: Harvard University Press, 1989), 94.

[14] Amy Gutmann describes democratic education as "conscious social reproduction," which involves students' deliberation about different conceptions of the good life, and different conceptions of good society (Gutmann, *Democratic Education*, 136).

[15] See an account of training in reasonableness as central to citizenship education by Anthony Laden, "Learning to Be Equal: Just Schools as Schools of Justice," in *Education, Justice, and Democracy*, ed. Danielle Allen and Rob Reich (Chicago: University of Chicago Press, 2013), 62–79.

[16] For Eamonn Callan, the emotional commitment that citizens feel toward each other is central to the justice of democracies like our own. *Creating Citizens: Political Education and Liberal Democracy* (Oxford: Oxford University Press, 2004). See especially chapter 4.

[17] Meira Levinson's definition of "civic education," for example is taken from The Civic Mission of Schools, which defines a civic education as one that fosters the skills, knowledge, and attitudes that will prepare children to be "competent and responsible citizens throughout their lives." The definition then goes on to offer standards for competency and responsibility. See Levinson, *No Citizen Left Behind*, 43–44.

must be so constituted that they will effectively serve all sectors of society, not just themselves. They must perform in their offices so that the inequalities of power, autonomy, responsibility, and reward they enjoy in virtue of their position redound to the benefit of all, including the least advantaged."[18]

In light of the social goal Anderson sets out to achieve, she argues that the education system ought to cultivate those qualifications that will enable elites, as a group, to be properly sensitive and attentive to the plight of the least advantaged. In practice, this means that children across all social groups must "have effective access to a primary and secondary education sufficient to qualify them for success at a four-year residential college" with a curriculum "demanding enough to prepare students for post-graduate (professional) education."[19] This, in turn, requires every child with the potential to join the elite to have effective access to college-preparatory material in high school, and that elite educational institutions revise their entrance policies so as to give qualified members of the disadvantaged effective opportunities to join the ranks of the elite. When elite positions are populated by individuals who are sensitive to disadvantage, mainly because they have experienced disadvantage themselves, society can possess the preconditions for democratic equality.

Debra Satz, in contrast, offers an argument for adequacy in educational opportunity that focuses on those who are likely to be disadvantaged and thus unlikely to be elites. She argues that schooling is properly constrained by the purpose of fostering democratic citizenship, whereby children can come to see everyone as social equals as well as develop the skills necessary to fully participate as citizens.[20] Satz lists five criteria by which primary and secondary education ought to be distributed in order to realize adequacy. First, schooling must provide individuals with the skills necessary for acting politically: exercising speech and conscience rights, as well as voting, sitting on a jury, and participating in politics and the economy. Second, any inequality of opportunity for securing elite positions is itself bounded by the adequacy criteria, because inequalities among the upper-echelons of society can affect the minimum requirements for equal citizenship. And third, leadership positions ought to be distributed across various social groups, since "mutual understanding, mutual respect, and tolerance" are democratic virtues best fostered by social integration. Fourth, the capabilities for cooperation with others in a diverse society need to be secured, which in practice demands reform outside the education sector (including the desegregation of race and class across neighborhoods, as well as schools). Lastly, "leveling down" the

[18] Anderson, "Fair Opportunity in Education," 596. Anderson's project is thus not fundamentally geared toward fostering democratic character in each student, but in using educational experiences to shape the wider social environment such that it provides each person with the social conditions necessary for equal citizenship.

[19] Ibid., 614.

[20] See Satz, "Equality, Adequacy, and Education," 636–38.

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educational prospects of the advantaged is permissible only if doing so is the only way to achieve the adequacy threshold.[21] Leveling down must be avoided in all other circumstances because, she argues, education is an intrinsic good to those who receive it.[22]

Now, it is unclear how democratic adequacy, expressed in such ways, can respond to children who are cognitively disabled in the ways Dinah is. Anderson claims that attainment of a high school diploma is necessary for standing as an equal citizen in democratic societies like our own. To the extent that Dinah's disability precludes her from earning a diploma, then, Anderson's theory does not recognize Dinah as having the potential to stand in relation to others as an equal citizen. Consequently, it appears that Anderson's theory does not indicate that Dinah would have any claim to educational resources. Similarly, Satz's conception of democratic citizenship does not easily identify Dinah as possessing educational interests. Citizenship grounds Satz's concern for adequacy and is defined "in terms of the political, civic, and economic conditions that are needed to make one a full member of one's society."[23] Political participation, employment, and the potential to attain elite status mark standing as a full member of society for Satz. All of these are achievements Dinah will not make.

Two problems thus arise, one theoretical and the other practical. Theoretically, principles of democratic adequacy lack the resources to give content to Dinah's educational interests. Educational interests are, for Anderson and Satz, only identified in relation to the achievement of equal citizenship status. If one cannot achieve this status because one will not graduate high school or come to see everyone as social equals, one would appear to have no identifiable educational interests.

Some might think that this conclusion is an acceptable consequence of the democratic aim, while nonetheless accepting that Dinah has educational interests; all that must be done is to adopt pluralism concerning the aims of education. On this view, education for citizenship is important, but it is neither the only important educational aim, nor need it be an

[21] Notice that this usage of the concept "leveling down" does not follow the typical usage in the egalitarian literature. In Satz's sense, to level down is to decrease the educational prospects of the advantaged, which is consistent with the prospects of the disadvantaged being improved as a result, or not. The charge that (at least some) egalitarians are committed to leveling down in the egalitarian literature, however, amounts to the charge that egalitarians could in principle be forced to favor policies that worsen the better off while bettering no one, just for the sake of achieving equality. See, for example, Derek Parfit "Equality or Priority?" in *The Ideal of Equality*, ed. Matthew Clayton and Andrew Williams (Basingstoke, UK: Palgrave Macmillan, 2002).

[22] Interestingly, this constraint builds in considerations concerning the value of education that go beyond the motivating value of democratic equality. Otherwise, there would be no case against limiting educational opportunity to the advantaged so long as doing so brought the disadvantaged to the threshold of equal citizenship. While Satz does not explain what she takes these considerations to be, one is tempted to identify the direct contribution educational experiences can make to well-being as the motivating factor here.

[23] Satz, "Equality, Adequacy, and Education," 636.

organizing aim (i.e., it need not serve as the justificatory basis for other aims). I think this is a plausible initial response to the difficulty, and will briefly return to discuss the plausibility of a pluralistic account in Section V. Here, it is enough to recognize that this response does not rescue the democratic aim *on its own*. Different, independently justified aims would need to be invoked in order to identify Dinah's educational interests.

Further, it is worth noting that pluralism is not open to Anderson or Satz, as they have articulated their views. As Anderson explains it: "I have argued that if we practice integration in our educational institutions to the extent required to produce a qualified elite, the resulting distribution of educational opportunity will redound to the benefit of all *and provide no grounds for complaint on the part of the disadvantaged*, even if some receive more investments in their education than others."[24] In other words, no *other* reasons (i.e., educational aims) might be invoked by the disadvantaged to protest their amount of educational provision.

Practically, an additional difficulty arises. In cases like Dinah's, "bottomless pit" problems potentially develop when implementing the Democratic Adequacy Principle. Imagine now, for the sake of argument, that the problem of identifying the educational interests of the cognitively disabled could be resolved. Perhaps a proponent of the Democratic Adequacy Principle would identify such students as having a claim to resources simply because they are students who have not yet met the threshold of achievement. Imagine also a slightly altered case of a student who possesses an internal constitution that might be developed such that, with a great deal of resources, small increments of progress in developing democratically relevant capacities are achievable. With enough human attention and technological innovation for instance, such a student could make small gains in literacy and numeracy, or in developing her capacities for social interaction. Further, while such progress is possible, the student will yet never realize the extent of the capacities necessary for full democratic engagement. How would the Democratic Adequacy Principle apply in such a case? If it is the only principle in play, it would prescribe investing large quantities of resources as the student's skill-levels asymptotically approach the threshold of adequacy. And it would direct us to this *before* directing resources to those who are at or just barely above the threshold, but who could make great achievements with small investments.[25] This

[24] Anderson, "Fair Opportunity in Education: A Democratic Equality Perspective," 622 (my emphasis). Satz does not defend her adequacy view in this way. She does, however, present it as a "framework," and alternatively a "paradigm," and one which has strong advantages over other educational frameworks (equality frameworks, in particular), suggesting that her view on the aims of education is unified by the democratic purpose. See her "Equality, Adequacy, and Educational Policy," *Education Finance and Policy* (2008): 424–43.

[25] This is a general concern for sufficientarian principles of justice, and not a function of the democratic nature of the principle. If democratic theorists were to endorse a different type of distributional principle, this worry may well dissolve.

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approach thus risks diverting all available resources to a student who we cannot hope to bring to the threshold of equal citizenship, at the expense of other students who could reach that threshold, and/or could make meaningful gains much more cheaply.

The theoretical and practical difficulties that Anderson's and Satz's theories face generalize to other views that embrace the Democratic Adequacy Principle. Most formulations of the demands of democratic education assume that children, and the adults they will become, have the internal constitutions requisite for at least minimal levels of deliberation and participation. Any account that centralizes these aspects of citizenship to the exclusion of other educational goals will thus have difficulty identifying the educational interests of students like Dinah.[26]

In response, one might argue that what is ultimately important from the perspective of democratic goals is not that all have the same sort, or level, of deliberation or participation in political endeavors, but that a sense of political equality infuses the social and political environment. Democratic aims, that is, might alternatively be characterized as aims that highlight the importance of the social *relationships* between political equals. Next I investigate potential associational aspects of the Democratic Adequacy Principle for places to locate the educational interests of those who are cognitively disabled.

III. Diversity for Democratic Adequacy

Many democratic theorists have explored in detail how relational attitudes, emotions, and abilities — like empathy and benevolence, the capacity for trust, toleration of difference, and possession of mutual respect — form a background against which citizens can vote, sit on a jury, and socially participate in ways faithful to central democratic ideals.[27]

[26] See again examples in the previously cited works of Amy Gutmann, William Galston, Anthony Laden, Eamonn Callan, and Meira Levinson. These theorists are not explicit that they take the democratic aims of education to be the exclusive educational aims. Levinson, for instance, argues for a more expansive set of educational goals in *The Demands of Liberal Education* (New York: Oxford University Press, 1999), including the goal of developing in children a capacity for autonomy. Nevertheless, these theorists emphasize the centrality of the democratic framework in such a way that makes it unclear how alternative (and potentially conflicting) aims could exist alongside them. We would want arguments regarding the content of *other* educational goals, and discussion of whether, or when, democratic pursuits might be suspended for the sake of those other goals.

[27] See Rawls, *A Theory of Justice*, rev. ed. (Cambridge, MA: Belknap Press, 1999), part III, and Amy Gutmann *Democratic Liberalism,* 61–63. Eamon Callan describes public virtue as a "constellation of psychological traits," including: a lively interest in what makes life truly good, a willingness to discuss that with others, active commitment to the good of the polity, confidence and competence in how that good should be advanced, respect for fellow citizens and a sense of shared fate, *Creating Citizens*, p. 3. The Civic Mission of Schools, cited by Meira Levinson, recognizes the relevant moral and civic virtues as concern for the rights and welfare of others, social responsibility, tolerance, and respect, and belief in the capacity to make a difference (cited in Levinson, *No Citizen Left Behind*, 44).

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Various civic virtues, according to this view, themselves make possible an appropriately democratic exercise of skills used to select representatives, vote on ballot questions, and deliberate in juries. These virtues, and the sense of community that they enable, might thus be interpreted as part and parcel of deeply democratic social visions like those of Anderson and Satz. With respect to Anderson, the presence of such virtues is especially well suited to circumvent the "cognitive deficits" that society's future elites would otherwise likely develop with regard to the interests of the disadvantaged; and these virtues support the understanding, respect, and tolerance prized by Satz's theory.[28] If so, the Democratic Adequacy Principle might be reinterpreted so as to require the development of such civic virtues.

How might educational opportunities for Dinah help to foster civic virtue? Consider the practice of mainstreaming disabled students like Dinah into standard classrooms (with perhaps some additional resources devoted to such classrooms, like a teachers' aide and the supplies necessary to secure positive educational experiences for disabled students and nondisabled students alike). Sharing a physical space with Dinah provides the promise of cultivating a sense of understanding and appreciation of difference in Dinah's peers. Nondisabled students have the opportunity to see Dinah in action, as it were: her personality and unique abilities, as well as her challenges and unique needs. Direct experience with Dinah could in this way inform nondisabled students' future thinking about Dinah's interests, which could help them to more reasonably weigh her interests against the interests of others in the community when they are making such decisions in the course of their political lives (through voting and other formal civic duties, but also informally by how they orient themselves in their social world). Dinah's presence could also provide opportunity for nondisabled students to develop empathic identification with her situation (in recognition of the moral arbitrariness of one's natural endowments), which may well encourage a sense of solidarity in the classroom, a sentiment that "we're all in it together," and that community can thrive in the presence of a variety of personal heterogeneities.[29] To the extent that diversity in the classroom (or other shared educational spaces) could provide for children the kinds of experiences that foster civic virtue, the

[28] Of course, the "cognitive deficits" of the elite with respect to cognitive disability cannot be ameliorated by way of social integration, as Anderson prefers, because the elite body cannot be partly comprised of people who are themselves profoundly cognitively disabled. Integrating the cognitively disabled into the physical spaces of nondisabled children provides a nice alternative mechanism, however, for going some distance toward closing the gaps in understanding that people have about the cognitively disabled.

[29] The extent to which mainstreaming actually does any of this is contested. I merely intend to observe at least one way in which providing educational resources for cognitively disabled students could advance democratic, educational aims regarding non-cognitively disabled children.

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suggestion is that Dinah's differences generate a reason in support of her inclusion.

Now, it would be a mistake to advocate for the view that it is *merely* for the sake of her peers' citizenship interests that Dinah should be mainstreamed, assuming that mainstreaming would have these effects. That would be to say that, whatever the effects on Dinah, she should be mainstreamed because her presence cultivates in her peers various political virtues. Of course, the development of political virtue can be part of the democratic aim of education, and the potential benefits to nondisabled children on these grounds are valuable, and not negligible. However, we should be wary of grounding children's claims to educational provision only in external sources, like the economy, aggregate social benefit, or the interests of other children. To do so would be to place educational claims on very precarious ground; claims would only be justified if it so happened that educating this individual child, or group of children, resulted in net benefits to others, which is subject to change across circumstances. But even more seriously, it would also be to use children simply as means. In this case it would be to use Dinah's presence in the classroom merely as a mechanism for cultivating others' civic virtues. And it should be a constraint on theorizing about educational provision that we not use children as *mere* means.[30]

The problem is that the understanding, respect, and tolerance that could be encouraged by mainstreaming is not, strictly speaking, *mutual*; Dinah, because of her intellectual disability, is not able to take this kind of complex attitude toward her peers. So it cannot be that Dinah has, strictly speaking, *democratic* interests of her own that are addressed by mainstreaming, in the standard sense. Nevertheless, we should not underestimate the extent to which Dinah's peers can be encouraged to appreciate her as a valued member of their educational (and eventually broader) community, as a person, with skills and needs of her own. Dinah has interests in being recognized as such by her peers, as a child and as the adult she will become. Nondisabled students, other things being equal, will be political participants, and some of them will be candidates for society's elite positions. Dinah's interests include having her peers, as future political actors who contribute to decisions about social arrangement and benefit distribution, appreciate her moral standing as well as the nature of her capacities and needs. This is Anderson's insight that educational experiences might achieve broad democratic objectives by focusing attention on those children who are likely to be social elites. These nondemocratic interests of Dinah's, together with her peers' democratic interests, can thus give rise to her claim to educational

[30] I take this constraint to be uncontroversial. Further, a democratic education that attempted to inculcate virtues of respect and understanding while simultaneously using children as mere means for that end would appear to be self-defeating in important ways.

opportunities.[31] This view thus relies on the *democratic interests* of Dinah's peers to ground her claim to educational resources. Her *general flourishing interests* then come into play in recognition of the constraint that we not treat students as mere means.

This is not an entirely satisfactory result for the democratic account. Most significantly, it marks a failure of the democratic view to locate any *educational* interests Dinah might have. The only educational interests involved in this view are those of her peers. The interests of Dinah's that are served with her peers' education in civic virtue are not, strictly speaking, educational. They are general flourishing interests that she will have as an adult: the interest in being generally recognized and treated well, and in being represented fairly. The point can be put starkly with a case. Imagine a scenario in which Dinah is mainstreamed in order to foster an environment conducive to the development of civic virtue in her peers. In placing her in the regular classroom, however, her interests are harmed relative to some alternative scenario for her. Perhaps there is a special classroom she might attend instead, which is designed with her particular capacities in mind and supervised by trained specialists, such that Dinah's educational prospects in the special classroom would be better than in the mainstreamed classroom. Surely the fact that Dinah's educational interests are worse when she is mainstreamed, relative to when she is not, should count as *a* reason against mainstreaming her. On the expression of democratic adequacy I am exploring, it does not.

At this point the theorist who endorses the Democratic Adequacy Principle might offer a different grounding for Dinah's claim, one that more directly locates reasons for her educational provision in her interests, rather than in her peers' interests. Such a theorist might say, for example, that Dinah has an interest that her peers come to see her as a moral equal with social standing, and that this interest of hers *alone* generates a reason to give her educational opportunities. In this scenario, the empathy, benevolence, and trust generated in Dinah's peers by encountering her in the classroom would encourage them, when they are adults, to take her needs seriously in their deliberations about social policy and practice. On this account, their civic virtues are thus the *mechanisms* that lead from Dinah's educational provision to her needs and interests being represented in her community.

This way of grounding Dinah's educational interests is more satisfying to the extent that it centralizes the case for provision on her needs. But two worries linger. First, this approach is committed to recognizing only the instrumental value of Dinah's education: it is valuable only to the extent that it helps her peers to recognize, and later act on behalf of, her interests.

[31] Of course, the extent to which these considerations justify the inclusion of cognitively disabled students into classrooms, curricula, or other kinds of educational participation all things considered, depends upon other values at stake and will vary considerably with context.

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Plausibly, educational experiences are themselves valuable to students like Dinah, and this should generate some reason for providing them to her (recall the case above).

Second, a proponent of this view must justify *starting with* Dinah's needs. One might think that such a justification is easily forthcoming: respect for persons. Respect for persons is fundamental to associative views of social obligation such as the democratic views I have been canvassing, and respect for persons identifies Dinah's interests as significant, just because she is a person. But one might worry that the reason why respect for persons is central to associative views is that each person stands in equal relation to each other, and coercive rules that constrain freedom and distribute the benefits and burdens of cooperation therefore require justification. Moral respect of the relevant kind would thus follow only from standing in equal relation, which usually means being participating members of a cooperative enterprise. But with this understanding of moral status, we are back to the original problem with the democratic aim from Dinah's point of view; she does not have the internal resources necessary for the type of equality (i.e., the capacity for reciprocal cooperation) that generates respect for persons on this kind of view. Simply put, there is no clear theoretical resource for picking out Dinah's interests as being morally significant. So, it is unclear how a democratic theorist would generate a reason for Dinah's educational provision from her interests alone. I am not arguing that it would be impossible for a democratic view that centralized the importance of standing in equal relation to also recognize claims to social resources made by (or on behalf of) citizens like Dinah. I mean only to present what seems to be a hurdle to spelling out such a view.[32]

Given these observations I suggest that the framework of democratic education is not suitably sensitive to the educational interests of profoundly cognitively disabled students. Most significantly, it fails to acknowledge that profoundly cognitively disabled children like Dinah have relevant educational interests of their own.

IV. Flourishing, Equality, and Priority

A promising alternative to the democratic framework is the view that the purpose of education is to create the conditions necessary for

[32] Perhaps such accounts are identified by Henry S. Richardson, "Rawlsian Social Contract Theory and the Severely Disabled," *The Journal of Ethics* 10, no. 4 (2006), or Allen Buchanan, "Justice as Reciprocity versus Subject-Centered Justice," *Philosophy and Public Affairs* 19, no. 3 (1990). One might even argue that Elizabeth Anderson *must* have a way of developing such an account, given her arguments for affording special moral status to all human beings. She writes, for example, that "what matters for moral claims is not equivalent capacities but equally important interests." See Elizabeth Anderson "Animal Rights and the Values of Nonhuman Life," in *Animal Rights: Current Debates and New Directions*, ed. Cass Sunstein and Martha Nussbaum (New York: Oxford University Press, 2005), 281–82.

children's flourishing, both during childhood and in anticipation of the interests they will have as adults. Here the case for Dinah's educational provision is more straightforwardly centered on her interests rather than others' because the central question now is how educational goods can contribute to Dinah's living well. By stipulation, educational goods can help her to engage with projects she finds interesting in a safe (and, ideally, attentive) environment. Indeed, these goods have the potential to contribute to several of Dinah's interests: having a number of adults caring about her needs; having a variety of experiences in her daily life; focusing her attention on something she finds stimulating (broadly put, giving her work satisfaction). If she is placed in a setting with other people (whether those people are similarly constituted, or not), her interests in friendship and community (again, broadly construed) may also be met.

Some of these interests are directly connected with the benefits that education can bring, and some of them piggyback on educational experiences. Focusing one's attention on activities that one can practice, and perhaps master, is clearly an educational interest. Being surrounded by a diverse set of invested caregivers is not, strictly speaking, an *educational* interest, though as Dinah's case shows, it might be satisfied in the course of the provision of educational goods.[33] Educational goods thus have both intrinsic and instrumental benefits that are relevant to Dinah's case. She might benefit merely from the experiences involved in her work (experiences connected with her skills, or experiences connected with people), or she may be benefited by the extra-educational resources with which those experiences provide her (more people in the world who are invested in her well-being). Students without cognitive disability similarly benefit from education's intrinsic and instrumental values, though in different ways. Standardly, they benefit from the intellectual stimulation and ability to think creatively and reflectively, but they also benefit from the enhanced job prospects afforded by higher levels of education, for example.

Given the intrinsic and instrumental benefits of education to well-being for all students, how ought educational goods be distributed? A popular suggestion is a Rawlsian meritocratic principle, a version of which has been articulated by Harry Brighouse and Adam Swift:

> *Meritocratic Equality of Educational Opportunity Principle*: "An individual's prospects for educational achievement *may* be a function of that

[33] Presumably this is a benefit that most students accrue over their years in standard schooling environments. Having a diverse set of teachers and school administrators pay attention to one's interests (and even better, care about those interests being met), can help one's life to go better than it otherwise would, in numerous ways.

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> individual's talent and effort, but they should not be influenced by his or her social class background."[34]

Brighouse and Swift identify their equality principle as the educational analogue of Rawls's general Fair Equality of Opportunity principle, which demands that "those with similar skills and talents should have similar life chances."[35] They emphasize, however, the negative formulation of their principle, which differentiates it from Rawls's original principle. Educational opportunity thus *need not* track an individual's level of ability and motivation, such that the more talent and effort one exerts the more educational opportunity one can have reason to expect. Educational opportunity *must not*, however, track social class status.

The reasons for divorcing educational opportunity from social class background, according to Brighouse and others, stem from recognizing the intrinsic and instrumental values of education.[36] In our society, education equalizes competitive economic advantage, taking as a given a labor market structure that results in an unequal distribution of rewards. To the degree that market outcomes depend upon factors outside of agents' control, such as the socioeconomic background and decision-making capabilities of their parents, inequalities in outcomes are not properly reflective of how much agents deserve the rewards they receive. Insofar as educational achievement is a precondition of enjoying opportunities in the labor market, opportunities for educational achievement, similarly, ought not to be due to factors outside of agents' control. But what's more, intrinsically valuable goods, like education, insofar as they are subject to distribution by the state, ought to be distributed equally in order to express the state's equal concern and respect for its citizens. Unequal state distribution of goods that are intrinsically valuable risks the perception that the state values the lives of some of its citizens more than others.[37]

[34] Harry Brighouse and Adam Swift, "Putting Educational Equality in its Place," *Education Finance and Policy* (2008), 447, my emphasis. It is worth noting that this principle is not always stated negatively. See Swift, *How Not to Be a Hypocrite: School Choice for the Morally Perplexed Parent* (London: Routledge, 2003): "The kind of equality of opportunity we're talking about is meritocratic: people with the same level of merit — IQ + effort — should have the same chances of success" (24).

[35] John Rawls *Justice as Fairness: A Restatement* (Cambridge, MA: Harvard University Press, 2001), 51 and 161.

[36] Harry Brighouse, *School Choice and Social Justice* (Oxford: Oxford University Press, 2000), 117–18. See also William S. Koski and Rob Reich "When 'Adequate' Isn't: The Retreat from Equity in Educational Law and Policy," *Emory Law Journal* 56, Issue 3 (2006): 547–617.

[37] Relatedly, Koski and Reich have argued that unequal distribution of education can inflict dignity harms on students (ibid., 606). The profoundly cognitively disabled cannot experience, from their own perspective, the sorts of dignity harms that Koski and Reich are concerned to describe. But it can still be true that the state would express unequal concern for its citizens with unequal educational distribution, and that in doing so the state would be failing to observe a basic requirement of its democratic legitimacy. Whether this is the case depends on whether there are justice-related reasons for doing so, and whether those reasons are publicly understood.

Does the Meritocratic Equality of Educational Opportunity Principle (hereafter Meritocratic Equality Principle) help to realize the flourishing aim for students like Dinah? Interestingly, Debra Satz has been directly critical of the principle for its inability to impugn a policy of granting comparatively little educational provision for students like Dinah. She argues: "It is compatible with the merit-based view that the gap between [cognitively disabled] children's abilities and those of other children will substantially increase, and the so-called natural aristocracy of the talented would become a socially entitled aristocracy."[38]

The Meritocratic Equality Principle *is* compatible with more educational prospects being afforded to the more talented because it only comments on the distribution of prospects among people with the *same* levels of talent and effort; it is silent on distributions across levels of talent and effort.[39] Of course, it also follows that the principle is consistent with a demand that equal prospects be secured for persons at all levels of talent and motivation, or that more prospects are secured for persons with fewer talents and/or less willingness to develop and express those talents.[40] As a result of this indeterminacy, Brighouse and Swift have proposed that the Meritocratic Equality Principle be considered just one among other principles relevant to educational justice; merit matters, but it is not the only thing that matters.

Brighouse and Swift's concept of advantage is not obviously concerned with the facts of impairment and disability, because of their Rawlsian emphasis on making fair the socioeconomic conditions that underlie opportunities for "the social and economic advantages that attach to public offices and social positions." Recognizing disability as a potential cause of disadvantage would thus extend the Brighouse/Swift conception of advantage in a non-Rawlsian way, but I believe that this kind of extension is necessary for enabling serious consideration of students like Dinah.

One strategy would be to supplement the Meritocratic Equality Principle with a principle that prioritizes the educational interests of the least advantaged. A prioritarian concern is a promising avenue for response to the problem of cognitive disability. To the extent that impairment and disability curtails one's educational, and overall life prospects, it is plausibly considered a dimension along which one can be quite seriously

[38] Satz, "Equality, Adequacy, and Education," 630. Of course, Satz is narrowly concerned with student ability here, whereas my discussion is more broadly concerned with general flourishing.

[39] Brighouse and Swift acknowledge the point.

[40] Since the primary subjects of any principle of educational justice will be children, who have as yet undeveloped or undetermined levels of talent and motivation, proponents of the meritocratic view often advocate policies that aim for equal prospects for all children. Children with profound cognitive disabilities throw a wrench into this strategy, however, as it is sometimes clear that they will not have the same kind, or levels, of talent and motivation that are possible for non-cognitively-disabled children.

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disadvantaged.[41] Assigning priority to providing educational goods to disabled students would recognize the extent to which educational experiences can markedly improve these students' lives. Such experiences have the potential to open up the world to Dinah in a way that it is otherwise unlikely to be opened up, affording her the possibility of engaging in her world in more and different ways. Of course, this is what educational experiences afford all children. But the fact that Dinah can flourish in ways that appear limited when compared to her peers suggests that enabling her to flourish in the ways that she can carries with it a kind of urgency. Stimulating her capacities to learn, and by way of that learning encouraging her to engage in a more sophisticated way with her world, are among the primary ways she can be enabled to live well.

Now, both recognizing the significance of natural disadvantage, and assigning a kind of priority to the educational interests of students with cognitive disability, does not directly vindicate the meritocratic view. It does leave open that pluralists who incorporate the meritocratic view into a broader theory of educational justice can respond to cases like Dinah's, *if* they add in other appropriate considerations: a theory of disadvantage that includes innate ability, and an argument for giving priority to increasing the prospects of the most disadvantaged.

Of course, what I have said falls short of a full argument for giving priority to the educational interests of the cognitively disabled. Various issues still must be settled. First, one might object to such prioritarian arguments in Dinah's case, precisely because it is unclear when educational provision for her should cease, given that she is unable to attain the kind, or in some cases amount, of flourishing that her peers can attain. The practical worry of bottomless pit problems arises here as well, though in a different way than it does for the Democratic Adequacy Principle. So, it is also important to recognize here that the Meritocratic Equality Principle does not demand equalization of well-being between cognitively disabled students and their nondisabled peers. A straightforward equalization principle would say something like the following:

> *Equalization of Educational Opportunity Principle*: Educational opportunity should be distributed so that the well-being of the least advantaged is raised to that of the most advantaged.[42]

[41] This idea is developed in Wolff and de-Shalitt, *Disadvantage* (Oxford: Oxford University Press, 2007). Consider also Christopher Jencks's discussion of the view that genetic disadvantage and social disadvantage are equally morally arbitrary, in the context of deciding how to distribute educational resources: Christopher Jencks "Whom Must We Treat Equally for Educational Opportunity to be Equal?" *Ethics* 93, no. 3 (1988): 522–24. And of course, the luck egalitarian literature expresses the idea that natural and social disadvantages are equally morally arbitrary when not the result of one's free choices. See for example Ronald Dworkin, "What Is Equality? Part 2: Equality of Resources," *Philosophy and Public Affairs* 10, no. 4 (1981): 283–345.

[42] Amy Gutmann provides an example of this sort of principle, without endorsing it of course, in *Democratic Education*, 128.

When considered with the interests of students like Dinah in mind, the central difficulty with this principle is obvious: it would take tremendous resources to raise Dinah's level of well-being with respect to benchmarks set forth by most standard accounts of well-being, when those benchmarks are even achievable by her. The advantage of the Meritocratic Equality Principle here is precisely its silence on how to respond to the interests of students with different talent and effort levels.[43] To make those determinations, we need different principles. I have suggested a prioritarian principle that is sensitive to natural endowment as a dimension along which one can be disadvantaged, motivated by the consideration that Dinah is disadvantaged in a particularly serious way, and that she is disadvantaged in a way in which educational goods might go considerable distance toward alleviating. A full account of educational justice would supply even further principles that would help to deal with the bottomless pit problem by illuminating how valuable educational opportunity is with respect to other ends, including the educational interests of Dinah's peers.

Second, once emphasis is placed on the flourishing of children as the fundamental educational aim, one might wonder why we should restrict our consideration of their flourishing to the educational domain. Why not think that the *overall* well-being of cognitively disabled children ought to be a priority, but that this may or may not have implications for how educational opportunity ought to be distributed? Such children, surely, would benefit a great deal from other sorts of goods and opportunities: health resources and services for example, or even just cash to purchase goods tailored to their unique needs. Further, under resource scarcity, tradeoffs will have to be made with regard to what can be provided. If certain health or other resources would contribute *more* to the well-being of these children than educational goods, why not think we owe them the health resources over the educational ones? But if so, then the education of these children should not itself then be a fundamental priority; it is important from the perspective of justice only to the extent that it actually contributes to their overall flourishing. Consequently, it is possible that cognitively disabled children have no claims to educational provision. Further, the case for prioritizing the educational interests of students with

[43] As an aside, I take it as a further advantage that the Meritocratic Equality Principle allows space for discussion about the possibility of providing gifted and talented programs. The programs may well enhance the flourishing of the gifted and talented (as children and as the adults they will become), but also allow for additional benefits to redound to the least advantaged, by the extra productivity of the gifted and talented when they receive special educational goods. A threshold distributional principle that demands that some level of educational goods be provided so that each person could achieve some threshold level of well-being, would not fare better than the Meritocratic Equality Principle because (i) it would still suffer from bottomless pit problems, and (ii) it would not be able to identify flourishing above the threshold as relevant from the perspective of justice, as in the case of the gifted and talented.

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cognitive disabilities against the educational interests of students without such disabilities would be weakened.

Depending on context, it may indeed turn out that when considered against other goods that might be provided to the cognitively disabled, educational goods contribute comparatively less to their flourishing. And under resource constraints, that sort of assessment matters to what ought to be prioritized in terms of provision for the cognitively disabled. An emphasis on overall flourishing demands taking a cross-sectoral viewpoint. In order to augment flourishing we need information about how goods across sectors interact to impact overall well-being (e.g., how health impacts educational attainment), or overlap in their contribution to flourishing (e.g., whether health gains could offset, or stand in for, educational gains). One immediately begins to appreciate the complexity and contextual nature of such a project. Sectoral justice is problematic in general when one's ultimate interest is in a society-wide perspective, because of the interaction effects between and across sectors.

Nevertheless, there are good reasons to pursue a discussion of educational justice, even if one's ultimate concern is with prioritizing the interests of persons with cognitive disabilities in general. Practically speaking, policy reform is most often developed and implemented within specific sectors. An educational infrastructure is already in place, and that infrastructure is (arguably) a fairly straightforward and accessible lever for distributing important goods to children. Insofar as those goods can contribute to overall flourishing aims, it is worthwhile to examine how to distribute those goods given the currently available system.

Further, in response to certain epistemic difficulties there are additional practical reasons to focus on sectoral aims and reforms. In large-scale democracies there is bound to be difficulty assessing the interaction effects between and across sectors as regards the flourishing of different citizens. Focusing on sectoral justice is a strategy for doing something to approximate justice, in the face of insurmountable knowledge hurdles. Of course, we do have *some* knowledge of interaction effects, and I am not suggesting that we should ignore that knowledge when we have it. The point is only that we will not have full, or even substantial, knowledge of all such effects (indeed, the effects are constantly changing). In the absence of such knowledge, developing sectoral aims is defensible.

What about justice in the education sector, in particular? In focusing on sectors, one approximates the contributions of the goods available in the sector to one's overall justice-related goals, and I have already indicated ways in which educational goods are particularly important for overall flourishing. Again, a fully developed theory of well-being is necessary in order to account for the particular benefits of education, but across a wide variety of theories, education has both strategic and intrinsic value. For most people, education is necessary for developing the capacities that

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many think comprise, or lead to, human flourishing. Basic education is a precondition of the ability to assess one's surroundings accurately, to articulate one's concerns and interests to others, to formulate ends of one's own, and to know how to make use of the world in pursuing those ends, and likely other abilities. Beyond this, in our society educational attainment is instrumental to securing other sorts of goods, including health benefits, and labor market success. Further, educational goods can directly contribute to flourishing in an experiential way; the experience of mastering a technical skill one possesses, for example, is a good in itself. Similarly, learning a new skill can be a good in itself.

These considerations indicate that trading educational for non-educational goods can only go so far in achieving full flourishing, because educational goods are incomparable with other sorts of goods. Flourishing demands doing well along a variety of dimensions; the ways in which bettering one's health, or one's position in the competitive labor market contributes to flourishing just are not comparable to the ways in which having more or better educational experiences contributes to flourishing. This observation remains true for students with cognitive disabilities. As previously discussed in the case of Dinah, she can benefit from experiences connected with an introduction to new skills, or the development of existing ones. Augmenting her skill set and providing her with an environment in which to practice her skills affords Dinah opportunities to develop preferences between activities, and to make some choices about how to spend her time. No amount of health care, on its own, can provide that for her. Again, under resource constraints we may have to decide which goods are more urgent to provide. But it ought to be considered a loss when Dinah could, but does not, have access to the educational opportunities necessary for her to develop and exercise her cognitive capacities. Given the nature of her disadvantage, focusing on augmenting and refining Dinah's cognitive capacities is a significant way in which her flourishing might be addressed. By stipulation, Dinah cannot benefit from many of the standard ways in which social policy targets the disadvantaged, but she can greatly benefit from certain kinds of educational experiences. Since one of the only ways Dinah's life can be made a lot better is to give her access to the kinds of provision in question, such provision carries with it a moral urgency.

Again, what I have said here falls short of claiming that full justice (all-things-considered justice, if you will) demands that the educational interests of cognitively disabled children must be given priority. In order to arrive at that conclusion, more would have to be said regarding the unique importance of education to the flourishing of the cognitively disabled, such that prioritarian justice could not be achieved without assigning priority to their educational interests. What I have done is to offer some ways in which one who endorses a Meritocratic Equality Principle could represent the urgency of such students' claims to educational

goods, as well as to point out some difficulties that would face a prioritarian principle.

V. Conclusion

Many commonly discussed educational aims do not illuminate the importance of educational goods for students with serious cognitive disabilities. Democratic aims, I have argued, are ill equipped to articulate the ways in which education can benefit students like Dinah, and indeed, lack straightforward theoretical resources for identifying such students as legitimate claimants of educational goods. Nevertheless, I hope to have teased out a way in which the Democratic Adequacy Principle of educational distribution has the potential to respond to cognitively disabled students' educational needs, when we consider how their interests attach to the democratic interests of their nondisabled peers. This resolution marks an improvement to the extent that it illuminates how society might benefit from the inclusion of cognitively disabled students in classroom environments. Nevertheless, I have argued that it ultimately lacks the ability to identify or respond to any educational interests of Dinah's.

Flourishing aims are more clearly relevant to cognitively disabled students, even if the ways in which they will flourish, and the contribution of education to their flourishing, will be different than in cases of noncognitively disabled students. Further, the Meritocratic Equality Principle that proponents of a flourishing view have advanced leaves space for identifying such students as a legitimate source of claims for educational provision, if the principle is accompanied by a broad conception of disadvantage that is sensitive to natural endowment. Elaboration of the relationship between meritocratic equality and surrounding values would be required, however, for a full account of educational justice, particularly for the purposes of making judgments about how much priority should be afforded to the educational claims of cognitively disabled students.

It bears mentioning that even though I have couched much of the discussion here in Rawlsian terms, I do not mean to suggest that we should adopt a Rawlsian stance toward justice and disability in general. Rawls famously brackets questions regarding disability in his exploration of principles of justice. He writes:

> Beyond prematurely introducing matters that may take us beyond the theory of justice, consideration of these hard cases can distract our moral perception by leading us to think of persons distant from us whose fate arouses pity and anxiety. The first problem of justice concerns the relations among those who in the everyday course of things are full and active participants in society and directly or indirectly associated together over the whole span of their life. Thus the difference

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> principle is to apply to citizens engaged in social cooperation; if the principle fails for this case, it would seem to fail in general.[44]

The worry is that Rawlsian justice as reciprocity problematizes the inclusion of the seriously cognitively disabled into social justice aims, because these citizens are not obviously reciprocating social cooperators. Differences of opinion exist on how best to interpret Rawls on this point, however, and here I do not wish to take a position on whether Rawls's theory offers a sufficient theoretical apparatus for accommodating the interests of the seriously cognitively disabled.[45] What I want to emphasize is that an appropriate way to ground a justice-based case for educational provision must make reference to how the provision will advance the educational interests of the student(s) in question. I thus adopt what Allen Buchanan has called a subject-centered view of justice, rather than a justice-as-reciprocity view. Buchanan explains how the various forms of justice as reciprocity are motivated by "the claim that only those who do (or at least can) make a contribution to the cooperative surplus have rights to social resources."[46] He then contrasts this set of views with views that are subject-centered, and so ground claims to social resources in the basic moral equality of persons. Dinah has educational interests, and those interests can generate a claim to educational provision just as the interests of her peers can, even though she does not fulfill the demand for reciprocal cooperation (at least in an obvious sense) and her peers do. This view throws suspicion on theories of justice that place a reciprocity condition on the legitimacy of one's making justice-based claims, and here I want to distance myself from those theories that endorse such a reciprocity condition.[47]

It is also important to note that I have only been looking at the ways in which the educational interests of the cognitively disabled might be *represented* from the perspective of justice; I have not offered a comprehensive account. Even if I am successful at sketching a conception of educational justice for this group of students, the task is not complete, for

[44] John Rawls, *A Theory of Justice*, rev. ed. (Cambridge, MA: The Belknap Press of Harvard University Press, 1999), 84. Further, congenital, profound disability is elsewhere described by Rawls as a natural limitation that is properly the subject of nonideal theory. See Rawls's discussion, ibid., 215–20. See also helpful analysis of Rawls's nonideal theory in A. John Simmons, "Ideal and Nonideal Theory," *Philosophy and Public Affairs* 38, no.1 (2010): 5–36. Under nonideal conditions, justice might make quite different demands than it does under ideal circumstances. With respect to the seriously cognitively disabled, for example, paternalist responses may be warranted when they would not be in cases of non-cognitively disabled adult citizens.

[45] A good example is the debate between Martha Nussbaum and Henry Richardson. Martha Nussbaum, *Frontiers of Justice: Disability, Nationality, Species Membership* (Cambridge, MA: Belknap Press of Harvard University Press, 2007). Henry S. Richardson, "Rawlsian Social Contract Theory."

[46] Allen Buchanan "Justice as Reciprocity," 230.

[47] Interestingly, Buchanan describes Rawls as developing a subject-centered view.

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their educational interests might come apart from those of other students. Mainstreaming, for example, might incur serious costs for some students, while simultaneously offering significant benefits to others. It might also threaten to make the educational experience untenable for the class as a whole, such that even if various educational goals have been met, students' experience in a mainstreamed classroom is frustrating, boring, or otherwise unpleasant. In such cases a full analysis of justice would consider the weight that prioritizing the educational interests of those who are seriously cognitively disabled should hold against other important values — values such as appropriate recognition of the educational goals for nondisabled students, sufficiently pleasant classroom experiences for students and teachers, and respect for other values, like parental liberty over children's education.[48] A full analysis will therefore be extremely complicated because it will involve competing interests and must be contextually sensitive. What I hope to have contributed here is merely that general flourishing aims are better positioned than other aims to reflect on the nature of the educational interests of cognitively disabled children, and that a plausible distributive theory will involve prioritization of the interests of these children.

A general lesson that might be drawn from my analysis is that we need either pluralistic educational aims, different aims that hold for different students, or an expansive aim (like flourishing) that holds for all students but directs tailored responses to students' particular interests in education. The case of cognitive disability highlights the implausibility that a single, narrowly understood aim, or even a single distributional principle, will hold equally well for all students.

Department of Philosophy, University of Florida

[48] Legal responsibility for the identification of a child's disability, and the burden of defending children's educational rights, has fallen on parents, giving them extensive influence over the distribution of educational opportunity to disabled children. See Education for All Handicapped Children Act 1975. *Hendrick Hudson School District v. Rowley*, 458 U.S. 176 (1982) emphasizes the role of parental involvement in protecting the educational interests of disabled children (in that case, a deaf child): "As this very case demonstrates, parents and guardians will not lack ardor in seeking to ensure that handicapped children receive all the benefits to which they are entitled by [EAHCA]" (section 5, para 31). See also Colin Ong-Dean, *Distinguishing Disability: Parents, Privilege, and Special Education* (Chicago: University of Chicago Press, 2009) for an analysis of how this placement of responsibility has led to inequitable results in educational provision for disabled children.