ARTICLE

RETHINKING INCLUSION: IS THERE A RIGHT TO INCLUSIVE EDUCATION?

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Abstract By combining theories of education, human rights law, and political philosophy, the author provides lenses to understanding inclusive education, thereby establishing consensus on the new, cognitive grounds over the description of a better inclusive education system for all children. The investigation is guided by two research questions. The first question concerns what description we should hold for a better education system inclusive of disabled children. The second addresses how to arrive at a consensus over that better system among stakeholders and within the whole society. To answer these questions, the investigation is conducted through both transcendental and comparative routes. Firstly, to contextualize this research, a brief review of theoretical disagreements on inclusive education is provided, and a case study of China’s struggles towards inclusion is presented. The theoretical review and the case study provide concrete information for later assessment and comparison between reality and the ideal plan. Meanwhile, the author discusses ways to go beyond binary thoughts and disorganized practice. To achieve the goal, transcendental thought experiments are employed to generate new grounds for a more comprehensive, inclusive project; the idea of a right to inclusive education is elaborated.

Keywords inclusive education, consensus, justice, disability, CRPD, China

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INTRODUCTION

The idea of inclusive education is a manifestation of the power of emancipatory disability politics. Inclusive education questions disability segregation in educational provisions. However, the inclusive project throughout the world has been confronted with enormous difficulties. In a philosophical sense, it seems that the ideal of inclusive education derives from intuitive beliefs about inclusion; and there are no other grounds upon which the inclusive idea can be better elaborated. As a result of its opacity, it is difficult to reach a consensus over what inclusive education means and how to proceed. By contrast, disability segregation in education on a global scale is still well preserved, if not aggravated, by the edifice of special education theories and institutions. In many cases, the rhetoric of inclusive education serves as a gloss over deep-seated segregation.

The growing power of international human rights law tries to provide momentum to promoting inclusive education. The most recent effort was made by the United Nations (UN) through the making of the Convention on the Rights of Persons with Disabilities (CRPD) and had inclusive education as the core idea and principle of educational

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4 See Thomas & Loxley, fn. 1.
provision for persons with disabilities. Due to the theoretical limitations in this area, however, the provision about inclusive education in CRPD falls into a dichotomy of disabled and non-disabled persons. At least, the provision fails to articulate the relevance of inclusive education to persons without disabilities. This dichotomy has several consequences. First of all, the binary thought has done much harm to the formation of a concrete consensus over the significance of inclusive education for all children. Secondly, it has imposed rigid confinements on our imagination of a better education system.

Presumably, the above dilemmas demonstrate limitations of education or human rights law in solving a complicated issue. Thus, by combining theories and methods of education, human rights law, and political philosophy, the author hopes to provide lenses to understanding inclusive education, thereby establishing consensus on the new, cognitive grounds over the description of a better inclusive education system for all children. The investigation of the author is guided by two research questions. The first question regards what description we should hold for a better education system inclusive of disabled children. The second addresses how to arrive at a consensus over that better system among stakeholders and within the whole society. To answer these questions, the author’s investigation will be conducted through both transcendental and comparative routes. Firstly, to contextualize this research, the author will brief theoretical disagreements on inclusive education in Part I and, in Part II, present a case study of China’s struggles of inclusion. The theoretical review and the case study provide concrete information for later institutional assessment and the comparison between reality and the ideal plan. Meanwhile, Part III will be devoted to figuring out way(s) to go beyond the binary thoughts and disorganized practice. In this part, transcendental thought experiments will be employed to generate new grounds for a more comprehensive inclusive project; the idea of a right to inclusive education will be elaborated.

I. REVIEW OF THEORETICAL DISAGREEMENTS

Globally, the theoretical landscape of educational provision for disabled persons is in chaos. A broadly chronological account of its evolution in the twentieth century may include the stages of special school education, integration, education for special educational needs, mainstreaming, and inclusive education. Special school education

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and inclusive education, at the two extreme ends of this chronological line, stand respectively for conventional segregation and forming inclusion in education, with three largely overlapping transitional stages roving between segregation and inclusion. However, this description is oversimplified to reflect the substantial disagreements on reasons for, and the meaning of, inclusive education. The author will try to elaborate as well as examine the prominent theoretical disagreements in this part.

A. From Special Schools to Educational Integration

The segregating, boarding special school education was the result of large-scale institutionalization in the eighteenth and nineteenth centuries. Various ideas sustained the trend of institutionalization. Charity pursued the claims that better protection for disabled persons was to separate them from the rest of their societies. The sweeping power of industrialization sent disabled children into special schools with assumptions that the disabled would no longer satisfy the needs of assembly lines, while special schools might mold some of them to be suitable for certain, simple jobs. The emergence of modern medical science treated disabled people as patients who needed no more than remedial treatment. The trend of medicalization in some ways stigmatized disabled individuals in complicity with the idea of eugenics. Eugenics considered disabled people as human species with defective genes.

Educational integration became an alternative educational arrangement to special schools in the 1960’s as a result of the deinstitutionalization movement throughout the Western world. During the first half of last century, socio-political upheavals shook the entrenched social structure in industrialized countries and enabled disabled groups to challenge the deep-seated, social oppression. For instance, disabled soldiers who retired from the two World Wars played a pivotal role in resisting inequalities embedded in the social welfare systems. The ensuing disability rights movements initiated in the US and

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10 Id.
12 Id.
13 Id.
14 Id.
15 Id.
17 See Shapiro, fn. 11.
the UK, and independent living movements in Northern Europe set into motion the pursuit of disabled persons’ return to integrated studying, working, and living environments. In terms of education, this pursuit of integration succeeded in reserving places for disabled children in mainstream schools, but had a limited contribution to eliminating exclusion. Extensive literature suggested that the scarcity of necessary support for disabled children in mainstream educational settings and conventional pedagogy inhibited deeper integration.

But some scholars tended to discredit the underlying logic of the whole educational integration movement. They were concerned by the possibility that integration was purely a project of assimilating disabled people into the dominant, mainstream school culture.

B. The Discourse and Disagreements of Inclusive Education

Warnock coined the phrase of special educational needs in her report on the dissatisfactory situation of educational integration for disabled children. Special educational needs highlight the fact that every child has different needs, and the needs should be accommodated in schools. As discussed earlier, the special educational needs of some children, particularly those with disabilities, were understated or ignored in integrating settings. In the consequential reforming process, some scholars took special educational needs as an effective conceptual tool to emphasize the special needs of disabled children without a risk of imposing an unwarranted distinction between disabled and non-disabled children. They further argued that special educational needs related not only to disabled children but also to those with extraordinary talent.

However, a different opinion discredited this as a dangerous idea. It insisted that the rhetoric of special educational needs connoted disabled children’s needs as extrinsic rather than intrinsic; such separation of one’s needs from one’s personhood implied the inclination to see special needs as a disgrace, something unwanted, and something requiring medical or other forms of correction. The disagreement on how to see special educational needs connects to the division between the individual model of disability and the social model of disability, which will be discussed shortly.

A well-established, or widely accepted, definition of inclusive education is still absent. Some people view inclusion as an updated version of educational integration,

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19 See Barton & Armstrong, fn. 16.
20 See Rieser, fn. 9; Snyder & Mitchell, fn. 11.
23 See Thomas & Loxley, fn. 1.
24 See Hughes & Paterson, fn. 21.
25 See Allan, fn. 2.
with additional support deployed to accommodate special educational needs. Conversely, some, as discussed above, see it only as a neologism of integration without necessary reflection on assimilation.

In order to clarify the political nature of this disagreement, it is necessary to draw on Foucault’s analysis of power. Foucault stringently contends that children in education systems are measured with respect to their distance from the fixed norm. If his analysis is applied to the interpretation of inclusive education in the framework of special educational needs, the so-called special educational needs constitutes the distance. The needs are assessed in a surveillance system that consists of standardized criteria embodied by evaluation forms, academic examinations, and teachers’ personal judgment, usually dominated by various social norms. In this sense, the prevailing model of inclusive education is no more than a docile space dominated by hierarchical power, where disabled children were scrutinized, then distinguished from others, and finally excluded in more insidious ways.

C. Individual Model and Social Model of Disability

Reflections on the question of what is the better educational arrangement for children with disabilities go beyond discussions in the field of education. Some believe that the power of assimilation and exclusion in education is part of larger social oppression. In terms of systematic oppression, disability advocates have offered two major theoretical tools, i.e. the individual model of disability and the social model of disability. The two models present two conflicting ideas about disability, the consequences of which remain influential and unsolved.

The disability movement in the UK engenders the individual (or medical) model of disability to theorize the social oppression suffered by disabled people, and the social model of disability to open a new chapter of disability politics. Specifically, the former see disability merely as the inherent impairments of individuals; thus, nobody should be responsible for the barriers caused by these intrinsic impairments. Scholars discrediting the individual model further suggest that such thinking inevitably renders disabled people as objects of pity and a burden on society. By contrast, the social model treats disability
as the consequence of an ill-engineered society; the needs and voices of disabled people are ignored, intentionally or unintentionally, by designers of society from the very beginning.\(^3\) Thus, society as a whole should be responsible for the elimination of physical, institutional, or attitudinal barriers to make society equally accessible and accountable to all people.\(^4\)

Applications of these two models are observable in reforming special school education into inclusive educational settings. For example, although some claim that higher functioning is one precondition for disabled persons to enjoy equal access to schooling, securing additional support is viewed by others as the removal of environmental and attitudinal barriers. Generally speaking, people supporting the social model of disability favor inclusive education, while those following the individual model of disability support the segregating arrangement of special schools.

Such division reveals philosophical weaknesses in the social model of disability.\(^5\) While the social model is widely regarded as a progressive theory of disability, it inevitably suggests a separation between body and culture, impairment and disability, and objective liability and subjective experience.\(^6\) Along with the separation, the social model implies a form of moral judgment about who should be accountable for the current tragedy of persons with disabilities in the real world. Although the connotation is not imposing and only targeted at abstract society, it may have inhibited a more obvious shift from the individual model to the social model of disability because people intuitively tend to avoid such moral interference. Facing the challenge, scholars and advocates have not figured out an effective way to achieve consensus over the social model of disability.

II. A Case Study of China

This case study is intended to demonstrate challenges facing the implementation of inclusive education when a clear, consistent description and a consensus over the description about inclusive education are absent. The challenges include, but are not limited to, misinterpretations of inclusive education, failure to improve the conventional special education, and an inability to address conflicting interests. Admittedly, while some challenges are direct consequences of the absence of a good description and consensus, other challenges are indirect consequences.

By the end of 2013, there were 1,933 segregated special schools in China, accommodating approximately 66,000 disabled students.\(^7\) With the largest special

\(^3\) Id.
\(^4\) Id.
\(^6\) Id.; Hughes & Paterson, fn. 21.
education system unprecedented in world history, the Chinese government has launched a more ambitious project to expand its special education coverage. It demands that there must be at least one special school in any administrative region with a population of more than 300,000.38 Obviously, China continues to provide separate educational arrangements in the context of the global trend towards inclusive education.

A. China’s Special Education: A Review

1. The Legacy of Special Education between 1874 and 1949. — The year 1874 was landmarked by the founding of the first special school, Mission to Chinese Blind in Peking, by William Hill Murray, a British minister.39 Equally salient is his contribution to creating a Chinese braille writing and reading system, the Murray Numeral System.40 In his memos, Murray noted the miserable living conditions of blind people during the age of social and political upheavals: lost eyesight in childhood, sitting in corners, begging for food, thin and pale, praying to survive another night.41 These appalling tragedies motivated him and his followers to set up special schools. According to gross statistics, more than forty special schools for blind or deaf students were established before 1949.42 In retrospect, these pioneering charitable initiatives started the charity model of educational arrangement for disabled persons, which persisted and overrode rights-oriented educational provision in the following age.43

These pioneering schools had some common features. Firstly, their primary purpose was to protect disabled children from starvation or even death.44 Secondly, religious faith and basic living skills constituted the main educational content; sophisticated cultural education was presumably downplayed instead.45 Thirdly, all schools had to highlight their charitable nature so as to minimize unwarranted interference by warlords and wars.46

2. Institutionalized Segregation. — In 1951, the State Council of the People’s

Republic of China (PRC) issued a decision on reforming the entire education system. Accordingly, special school education was defined as a type of social education rather than an indispensable part of the general public education system. By nature, social education is informal education in contrast with formal education in public schools, serving the purposes of cleaning the social environment. Even in today's governmental statistics classification regarding social education, special schools are still juxtaposed with education centers for juvenile delinquents.

According to the 1951 policy, previous special schools were taken over and renamed by the people’s governments on different levels. Meanwhile, new special schools were established according to the existing models. Two new traits emerged. Under the prevailing socialist discourse, special schools aimed at transforming useless disabled persons into individuals with basic living skills who no longer burdened society, or even into useful labor contributing to society. The compensatory theory borrowed from the former Soviet Union categorized disabled people as a species who had to receive functional compensation and medical correction in segregated environments. In a teleological sense, the goal and the theory composed a self-contained educational division where the goal and theory interacted with and reinforced each other.

However, what distinguishes special school education from its precedent before 1949 is the living metaphor of prison. In the era of the PRC, the metaphorical comparator for segregating special schools and their students can be prisons and prisoners. Prisoners are considered as those who lack moral integrity, and disabled children lack psychological, political, or intellectual integrity. The resemblance between disabled persons and prisoners also resides in the quasi-military rules and high walls that cut off all connection.

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49 Id.
51 See LIN, fn. 39 & GUO, fn. 39.
53 Id.
54 This metaphor is evidenced by several sources. In May 16, 2014, People’s Daily published a commentary saying that a good specialized school for problem youth is worth more than a dozen of prisons. The author of the commentary believed that problem youth needs segregation and quality education. He also mentioned the national policy about building segregating schools for problem youth, which sounds exactly the same to policies about special schools for disabled people, available at http://edu.people.com.cn/n/2014/0516/c1053-25024965.html (last visited Mar. 28, 2016). Furthermore, the categorization mentioned earlier juxtaposing special schools with labor education centers is additional evidence.
between prisons and the outside world, and between special schools and the rest of society. Segregation makes both groups invisible, strange, and finally, terrifying to society.

Educational segregation has also been ossified by legislation. Substantive rules and laws on special school education did not materialize for more than four decades after the establishment of the PRC. The Law on the Protection of Disabled Persons was enacted in 1990, and the Regulation on the Education of Persons with Disabilities was issued four years later.55 Both laws reaffirmed the significance of physical-and-psychological compensation, medical interference, and occupational training.56 At the same time, special schools were confirmed as the backbone of the education system for disabled people and entitled to further budgetary aid.57

In the last decade, several critical events set into motion the first round of legislative amendments on disability laws. Firstly, hosting the 2008 Beijing Olympic Games channeled international pressure into discussions and actions around human rights in China. But nevertheless the Chinese government had been forming its own human rights theory partly through highlighting its endeavors in promoting disability rights. Likewise, the government ratified the CRPD and amended the Law on the Protection of Disabled Persons.58 However, this amendment was rather symbolic; neither international pressure nor the content of the CRPD weakened the conventional as well as medical mindset about disability.

3. The Predominant Individual Model. — To better understand the invariable legal commitment to medical measures and educational segregation, we may refer to the individual model of disability and reflect on how it is Sinicized. In general, there are three themes toward conceptualizing disability: how to interpret impairments one bears, what to do with the impairments, and how people value or devalue the consequences of the impairments.59 In the first theme, all the above arrangements i.e. the compensatory means, strict segregation by walls and quasi-military rules, and the conservatism in legislative measures, show a consistent trend to ascribe impairments to structural, sensory, intellectual, or psychological deficits of individuals. For the second theme, medical correctional measures have been the only measures adopted by special schools and institutions, and endorsed by government. As the third theme, disabled persons have to live with labels of inferiority and abnormality. An integration of these three trends

56 Id.
57 See Ministry of Education, fn. 38.
58 See China’s initial state report on the Implementation of the United Nations (UN)’ Convention on the Rights of Persons with Disabilities (CRPD) to the UN CRPD Committee in 2010, para 1. UN Doc CRPD/C/CHN/1.
59 See Shakespeare, fn. 35.
manifests the medical model of disability exemplified by the definition of a disabled person in the Law on the Protection of Disabled Persons. It reads:

A person with disabilities refers to one who has abnormalities or loss of a certain organ or function, psychologically, physiologically, or in anatomical structure, and has lost wholly or in part the ability to perform an activity in the way considered normal. The term “person with disabilities” refers to someone with visual, hearing, speech or physical disabilities, intellectual disability, psychiatric disability, multiple disability and/or other disabilities.\(^6\)

As discussed above, the individual model of disability is still a neologism worldwide. But its special significance in the Chinese context is undergirded by the unity between medical and socialist ideologies. The unity justifies the dichotomy between disability and ability, abnormality and normality, health and illness. Obviously, the aforementioned legal definition is coined in accordance with unity. The unity preserves institutional and personal preference of segregation and the constant national commitment to special education expansion.

**B. The Formation of a Double Track Special Education System and Its Relations with Politics**

China Disabled Persons’ Federation was initially established as a civil society organization in 1988, but soon began to operate as a vice-ministry institution with its branches throughout China.\(^6\)

However, the establishment encountered a radical challenge in its legitimacy. The idea and practice of disability segregation made disabled people an unknown group.\(^6\) To enhance legitimacy of China Disabled Persons’ Federation, three questions had to be answered, i.e. who and where disabled persons were, and how many.\(^6\) Therefore, the Chinese government decided to carry out the first disability population census. According to its official releases, by the end of 1987 China had a disabled population of 51,860,000, amounting to 4.9% of the whole population.\(^6\) By setting up unified criteria, it brought previously invisible disabled persons into the spotlight.\(^6\) Also, such conceptualization began to heighten public awareness of disabled people and their extreme deprivation.

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\(^6\) Id.


\(^6\) Id.


\(^6\) See Kohrman, fn. 64.
Part of the extreme deprivation was educational exclusion. In 1987, less than 40,000 disabled children were enrolled in special schools, with the vast majority of children with disabilities excluded from any forms of education.\textsuperscript{66} This triggered the first serious doubt about the capacity of special schools. Since building more special schools in a short time was technically impossible, the government had to explore some innovative measures to mitigate this intolerable deprivation. Some experimental projects were initiated. One of the projects, “learning in regular class (LRC),” pioneered in placing disabled children into local, regular classrooms, which echoed the practice of integrating education popular in some other countries at that time.\textsuperscript{67} However, thanks to the little support provided, LRC really turned out to be “sitting in class learning nothing.”\textsuperscript{68} These projects traumatized many disabled children, while the lucky few blossomed. To this end, it seemed that the government encountered a dilemma where conventional special education resulted in a low enrollment rate, and newly invented methods led to another failure.

This dilemma has gradually developed into a double track system in that the government simply chose to continue with the policy of special schools and LRC.\textsuperscript{69} On the one hand, the majority of resources have continuously been allocated to support the long-term expansion of the special education system.\textsuperscript{70} On the other hand, the integration approach is intended to achieve an acceptable enrollment rate. It is such unexamined policies that maintain the double track system. In the current double track system, access to education and education quality for children with disabilities remains poor. Neither the Law on the Protection of Disabled Persons of 1990 nor the Regulation on the Education of Persons with Disabilities of 1994 clarified the role and accountability of the LRC.

\textsuperscript{66} This percentage was estimated by the working group of the First Disability Population Census, see QIAN Zhiliang, 中国特殊儿童教育的现状报告 (Report on Current Situation of Special Children’s Education in China), (2002), available at http://www.2000888.com/www/tjzx/zgtjgk/lsyxz.htm (last visited Mar. 27, 2016). However, the World Health Organization advocates that the universal disability proportion out of the whole population should be 10\%, see World Health Organization (2011) World Report on Disability, at 29. Accordingly, China might have a much larger hidden disability population at that time and so was the uneducated disabled child. Furthermore, according to Matthew Kohrman’s anthropological study about that census, the result of a pilot research revealed that China’s disability population in 1987 actually amounted to 13\% of the whole population, see Kohrman, fn. 61. This proportion was too high to be acceptable for the promotion of China’s national image. As a consequence, the leading group of the census revised the disability criteria to a stricter biomedical version and successfully lowered the population proportion to 4.9\%, also see Kohrman, fn. 61.


\textsuperscript{68} Id.


\textsuperscript{70} See PIAO, fn. 47.
project, resulting in wide exclusion of disabled children from mainstream education.\footnote{See concluding observations on the initial report of China, adopted by the Committee on the Rights of Persons with Disabilities at its eighth session (Sep. 17–28, 2012).} Furthermore, official statistics shows that 60\% to 70\% of disabled children are provided with educational integration, but few, including local officials, school heads, and teachers in mainstream schools, know little, if anything, about what support the enrolled disabled children need.\footnote{See PIAO, fn. 47.}

**C. Distorted Inclusive Education in Domestic Theories and Practice**

Facing the foregoing dilemmas, the Chinese government and civil society organizations have intended to accelerate educational reform by conforming to international standards.\footnote{Id.} The idea of inclusive education is the quintessential international advice suggested to China through several key declarations and international treaties.\footnote{Those include: the Salamanca Statement, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of Child, and the CRPD.} However, since these documents provide no clear definition of inclusive education and little practical guidance on how to put it into practice, the idea of inclusive education has been subjected to a variety of resistance in the Chinese context. Such resistance includes, at least, language barriers, vested interests, policies, and legislation. The following evidence shows that the integral idea has been distorted, and the theoretical disagreements are crystalized.

Inclusive education is translated into Chinese in four ways. The most misleading but popular translation is “suiban jiudu,” meaning LRC. Inclusive education is also translated as “ronghe jiaoyu,” meaning integrating and inclusive education, which attracts wider use. The third edition, “baorongxing jiaoyu,” which was first adopted by the authentic Chinese text of CRPD, has closer meaning in Chinese to inclusive education. The fourth, “quanna jiaoyu,” is also accurate but abstract, and has more followers in the academic field. Among the four editions, suiban jiudu has been employed since the 1980’s.\footnote{See Ministry of Education, fn. 38} Many policy makers believe that suiban jiudu is localized inclusive education. This misrepresentation, albeit detrimental, is already entrenched. It generates difficulties in persuading parents and educators that inclusive education is something new and promising.\footnote{See NI, fn. 71. In that report, the author interviewed many disabled students and special schoolteachers. Most believed that inclusive education meant a similar practice of LRC project. They thought that integration would never succeed, because of the scarcity of support and resources} The appellative confusion serves as a lasting reminder for disabled persons and their families about the agonies they have undergone in the LRC project.\footnote{Id.} The occasional use of the third and fourth translations is in vain in returning an undistorted
image to inclusive education. Some cunning but conservative professionals and politicians deliberately take the opportunity to suggest that inclusive education does not work. 78

Another powerful factor that sustains the distortion is teachers’ vested interests and their solid identities wherever they work. 79 Teachers in mainstream schools feel that they are not obliged to teach disabled children. In a society penetrated by the individual model, teachers of “normal” children assume no moral responsibility for caring about disabled students. 80 It is equally difficult for them to be convinced that disabled children are entitled to equal opportunities for academic success. 81 At the same time, teachers’ limited capacity for accommodating special educational needs causes a secret anguish that prevents them from assuming this responsibility. 82 Teachers in special schools, on the other hand, are expected to be experts who could facilitate integration in mainstream schools. This expectation is written in the 1998 Temporary Regulations for Special Education Schools. 83 However, the fact is that they are neither capable of nor committed to assisting the inclusion in mainstream schools. For one thing, inclusion is a new subject in China; special schoolteachers have neither the knowledge nor experience in implementing it. 84 Additionally, they have had a long-term monopoly in educating disabled students, which strengthens their identity as experts within the walls of special schools, but reduces their incentives to promote inclusive education in mainstream school settings.

The unwillingness, on a personal level, has led to the powerlessness of the government to pursue an effective inclusive project in terms of theory and practice. An analysis shows that the Chinese government has followed its double track system policy, which, by expanding special school education, does no good for inclusive education reform. Economically, by the end of 2011, official statistics revealed that more than RMB7 billion was allotted to special schools. 85 Another key financial scheme is that the amount of the education budget a special school receives is determined by the number of disabled students it has; thus all special schools try to recruit as many disabled students as

78 See NI, fn. 71.
79 NI Zhen, 东市盲校的学生生活：他们为什么选择相同的职业？ (Students’ Life in Dongshi School for the Blind: Why Did They Have Uniform Career Plans?), in ZHANG Wanhong eds. 残障权利研究. (Disability Rights Studies), Social Science Academic Press (Beijing), (2014); NI, fn. 71.
80 Id.
81 Id.
82 Id.
84 See PENG fn. 48.
possible rather than assisting inclusion into mainstream schools. Pedagogically, there are few, if any, universities that provide courses on how to differentiate instructions in inclusive settings.

The Legal Affairs Office of the Ministry of Education has spent six years amending the Regulation on the Education of Persons with Disabilities, but the ongoing process seems to have no end. The latest draft released in 2013 demonstrates the official attempt to maintain the significant role of special education with an equal emphasis on LRC. It has two chapters on special education and LRC respectively. For LRC, it suggests that disabled children should be entitled to no rejection by special schools, while it contends that mainstream schools and colleges can only recruit disabled students who can take care of their own studies and daily lives. When it comes to the legitimacy of special education, legislators imply a dangerous inclination towards the argument of separate but equal. While the infamous idea “separate but equal” was dismissed by the U.S. Supreme Court six decades ago, this idea is fresh and powerful in China. Unlike the U.S. version based on ethnicity, China’s belief of separate but equal is based on human functioning. Two negative consequences are foreseeable: Exclusion and segregation of persons with severe disabilities will be automatically justified, and the double track system will remain unchallenged with reception to the idea of separate but equal.

III. LOOKING FOR CONSENSUS AND A THEORY OF BETTER INCLUSIVE EDUCATION

The foregoing analyses set out many challenges that inhibit effective implementation of inclusive education in China. The challenges are diversified by nature, from historical to political, institutional to personal, notional to linguistic, and from economic to pedagogical. All the challenges in the Chinese context may have derived from, or resulted in, the issue that stakeholders disagree about what inclusive education means, and why it is worth pursuing in terms of their own interests. For instance, since there is no consensus over a new form of education for all, including persons with disabilities, some of us may have our stereotype reinforced by looking at the history of special schools where special schools monopolized educational provision for persons with disabilities. Likewise, one of

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86 Id.
87 Id.
90 Id. Arts. 13 & 14.
91 Id. Art. 20.
the reasons for misinterpretation is the lack of a widely accepted description of inclusive education. Admittedly, there are many ways to tackle the diversified challenges, but the straightforward, intellectual effort would be to figure out a better description of inclusive education, and find a way to achieve consensus over the description.

Therefore, the most challenging issues in theory and practice give a strong appeal to two research questions: What description should we hold for a better education system inclusive of disabled children; and how to arrive at a consensus over that better system among stakeholders and within the whole of society. In my opinion, a just and profound understanding of the educational provision and paths to consensus are equally significant and inseparable. This is because, on the one hand, no consensus can be achieved over unjust ideas among rational people, and on the other hand, a notionally good idea is untenable without the widest consensus. Therefore, the author creates a syncretic approach to achieve the two purposes. Notably, the theoretical tools below are all suggested by great minds. A brief list includes John Rawls, Adam Smith, Martha Nussbaum, and Amartya Sen.

A. The Composition and Scope of the Syncretic Approach

Specifically, there are three layers to my approach to achieve consensus and its content. The bottom layer is comprised of human society qualities that afford the making of a consensus. These qualities include sound informational basis, rationality, personal reflection, and public reason. Of human society qualities, the informational basis is a new concept which will be clarified later.

The top layer is the mechanism by which all human society qualities can be maximized, and negative influence of vested interests and complications of different beliefs are minimized, in order to reach a consensus. Rawls’ thought experiment, the original position, is the most appropriate mechanism towards this end.

At the middle layer, basic values that are agreed upon in the original position and rooted in fundamental, human society qualities are situated. The basic values serve as a bridge between the empirical approach (the bottom layer) and the transcendental approach (the top layer) in describing inclusive education and to achieve consensus.

The integration of the three layers is also the framework of theory-making process. Namely, the basic values at the middle layer decide the features of the new-making education theory. These features are filtered with discussions in the original position at the top layer. The fundamental qualities at the bottom layer are the basis of everything.

Notably, the approach tries to integrate the transcendental and comparative routes. Its top layer, the original position, stems from the ambit of transcendental institutionalism.

which basically hopes to construct ideal or perfect institutions. Rawls' theoretical contribution in constructing a just society is a paragon of this philosophical attempt. As discussed earlier, the middle layer, the basic liberties proposed by representatives in the original position, bridges the top and bottom layers. At the same time, the middle layer is also in accordance with the empirical attempt, which targets solving injustice and real challenges in reality. The basic values are the hallmark of a theory of better inclusion; they serve as a comparative tool measuring the gap between the ideal situation and the status quo discussed above. Finally, the bottom layer constructs the description of inclusive education in an empirical manner. It provides key qualities that an equal society and education system must possess. The list of qualities is non-exhaustive and should be updated as new ideas and needs rise.

Here are several clarifications to this approach. First and foremost, this syncretic approach aims at achieving fundamental consensus over a better definition of inclusive education and potential reforms. Presumably, detailing steps that the potential reform should follow and all features of the new definition are beyond the scope of this article. Second, for the middle layer, using basic values agreed upon in the original position ensures the compatibility between the metaphysical and empirical layers. Namely, the basic values have a much wider epistemic and practical basis than the two principles do. A holistic application of Rawlsian theory subjects the middle layer to a stricter framework, which widens the divide between the ideal and practical situations. Last but not least, the creditability of the basic values is attested to by other theoretical explorations. Adam Smith, for example, arrives at similar basic values through his hypothesis of the impartial spectator; and Martha Nussbaum provides her list of key capabilities that incorporate the basic values suggested by Rawls.

B. The Top-Layer: The Original Position

1. The Original Position. — A group of rational, equal, and free people gets together to make decisions about fundamental principles for establishing a just education system. These people are situated behind the veil of ignorance, and therefore share some essential features, i.e. ignorance of one’s place in society, health condition or disabilities, class position or social status, fortune in the distribution of natural assets, knowledge about the location and territory of his society, abilities, intelligence, strength, gender, skin color, taste, and the like. To ensure a fair agreement on the principles, it is necessary to further exclude possibilities for the parties to hold conceptions of the good and their special psychological propensities. As suggested by Rawls, behind the veil of ignorance the parties are capable of arriving at a consensus and establishing principles of justice for

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93 Id.
95 Id.
96 Id.
their own interests, and, equally important, for the morality and stability of the future society after the veil is removed.\footnote{John Rawls, \textit{Political Liberalism}, Columbia University Press (New York), (1993).}

This is the hypothesis of the original position; the famous thought experiment. An ad hoc session about education is added to their original agenda behind the veil of ignorance. One essential feature of the parties here should draw our attention. By including ignorance of one’s health condition or disabilities, the scope of Rawls’ definition of the original position has been extended. As noted by himself, Rawls’ reason for putting aside individuals with severe physical or mental disabilities is to ensure that all social members represented by parties in the original position are cooperating social members, and that this thought experiment can fit in reality without being affected by too complicated situations.\footnote{Id.} This distinction between disabled and non-disabled people, while not constituting discrimination, brings about a huge challenge to the legitimacy and applicability of Rawls’ theory.\footnote{Martha C. Nussbaum, \textit{Frontiers of Justice: Disability, Nationality, Species Membership}, The Belknap Press of Harvard University (Cambridge), (2007).} Some scholars such as Sen believe that this theoretical exclusion suggests the inevitable limitation of the transcendental approach.\footnote{See Sen, fn. 94.} But this might not be the case. Hereto, it seems necessary to briefly discuss two possible solutions for this artificial exclusion.

First, if we accord with Rawls in his supposition that disabled people are non-cooperating; this exclusion can be mitigated by notionally separating the representatives behind the veil of ignorance and the social members they represent. Rawls tries to maintain consistency between the representing parties and real social members.\footnote{See Rawls, fn. 99 at 3–88.} That is, he deems disability as a disturbing factor for his model of the hypothetical society, disability is hence ruled out from the list of essential features. However, absolute consistency might be unnecessary. Suppose a scenario in which the representing parties are not disabled behind the veil of ignorance, but know clearly that it is equally possible for any of them and any of those they represent to become severely disabled human beings. In this circumstance, the representing parties will design the basic structure with serious concern of the possibility of becoming disabled, thereby automatically taking equal rights and social entitlements for disabled people into consideration. Though risking consistency, we do partly mitigate exclusion. Nonetheless, this solution may draw vehement objections from disability rights advocates, because it treats disability as something burdensome, passive, or even abominable. Rawls may as well object to this suggestion in that he has to deal with more complex situations caused by this inconsistency when he tries to articulate other principles.

Second, Martha Nussbaum has developed her capabilities theory to deal with this
theoretical gap. Briefly, by including her list of ten key capabilities as the precondition for applying Rawls' theory, she tries to bridge the potential divide between capabilities of severely disabled people and others. But it is worth noticing that she distinguishes severe physical disability and severe mental disability, and her theory mainly addresses the exclusion of persons with mental disabilities. Therefore, Nussbaum has seemingly suggested that Rawls should at least include severe physical disability into his list of the essential features for representing parties in the original position.

2. The Idea of Overlapping Consensus. — The next important theoretical question considers what kind of consensus representatives in the original position can achieve and whether it satisfies the need of this project. Rawls calls it the overlapping consensus. Specifically, it refers to the political assumption that rational human beings, albeit with different values, professional backgrounds, and vested interests, can agree with each other about the basic principles of a just society. By offering the idea of overlapping consensus, Rawls distinguishes his political liberalism from other political and moral philosophies. In Rawls' view, the modern world has been penetrated by a plurality of reasonable, comprehensive doctrines. For example, utilitarianism is such a doctrine; its core idea claims that the ultimate purpose of all action should be the pursuit of the greatest happiness for the greatest number of human beings. Certainly, the individual model thinking and the compensatory theory are also counted as comprehensively reasonable doctrines, while neither of them is as well-established as the philosophy of utilitarianism. As a consequence, in a modern, democratic society, there is no room for us to imagine that an inclusive decision about political matters shall be made on the basis of one moral ground or a specific, reasonable, comprehensive philosophical or religious doctrine. This situation demands a political mind compatible with the variety of doctrines that have been internalized by all people. Through all political minds of all members of a specific society, an overlapping consensus about public conception and a basic structure of justice can be achieved.

Furthermore, Rawls has compared and contrasted the idea of overlapping consensus with modus vivendi. A modus vivendi is a balance of different interests held by individuals and groups within a specific society. However, maintaining a modus vivendi requires a process of renegotiation, because the strengths of individuals or groups change

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102 See Nussbaum, fn. 101.
103 Id.
104 Id.
105 See Rawls, fn. 99 at 133–172.
106 Id.
107 Id.
108 Id.
109 Id.
over time and continuous renegotiation is needed to achieve a new balance.\textsuperscript{111} Thus, the renegotiation brings to the social orders risks of instability.\textsuperscript{112} By contrast, the overlapping consensus is not only a plurality of compromises but also a moral ground on which all kinds of moral values accord without demand for everlasting renegotiation. Having a moral dimension in the consensus matters in two more aspects for our project: Firstly, individuals want their own values and identities to perpetuate; this can be more easily achieved in a stable society.\textsuperscript{113} Secondly, a moral dimension is conducive to sustaining a peaceful and harmonious society because the social institutions are underpinned by widest moral allegiance.\textsuperscript{114}

While the representing parties in the original position have no knowledge about contextual information, it is necessary to discuss the idea of overlapping consensus in the Chinese context, which attests to its applicability. According to Rawls, an overlapping consensus is the outcome of morality as well as calculation of vested interests. In this sense, most human societies possess the potential to arrive at certain overlapping consensus over certain public issues. After all, any democratic society goes through a undemocratic stage where human virtues for creating a democratic society exists. Furthermore, lack of democracy and constitutionalization not only renders a comprehensive overlapping consensus difficult to achieve, but also prevents society from establishing any principles or achieving any general agreement among its members. Taking all the difficulties into consideration, achieving a preliminary overlapping consensus through a philosophical approach such as Rawls’ thought experiment is one of the few things intellectuals can do for society. Finally, one may doubt the applicability of this idea to a constituent section, such as the education system, of the whole society. The author would contend that the pertinence of this idea to education is due to the fact that education is one of the widest attended subjects within all societies.\textsuperscript{115} In a wider sense, it is hard to imagine a person who is not at all a stakeholder of the education system. Therefore, the thought experiment and the idea of overlapping consensus would not lose validity when applying to the examination of inclusive education.

\textit{C. The Basic Values: The Middle Layer}

For the purpose of attaining a wider consensus, basic values will be selected through analyses of different political theories. Of all theories, Rawls’ contention is highlighted with complementary ideas from Smith and Sen.

While, as noted earlier, the two principles of justice are not intended for constructing the new description of inclusion, the emergence of the two principles constitutes the first

\begin{footnotes}
\item[111] Id.
\item[112] Id.
\item[113] Id.
\item[114] Id.
\item[115] See Rieser, fn. 9.
\end{footnotes}
and foremost consensus in Rawls’ unfolding of his just, societal arrangements. Analyzing the two principles and the key values they bear will serve as the critical resource for the parties to further evaluate and design the education system.\textsuperscript{116} Notably, the two principles are arranged in lexical order, which means that the first principle and the values it bears are absolutely prioritized over the second principle and values it conveys.\textsuperscript{117} Another note is that, in his work, Rawls uses basic liberties and basic rights interchangeably.\textsuperscript{118}

1. The First Principle and Basic Liberties. — The latest version of the first principle reads:

“Each person has an equal right to a fully adequate scheme of equal basic liberties which is compatible with a similar scheme of liberties for all.”\textsuperscript{119}

This principle delineates two essential characteristics of a just society. To begin with, society must guarantee equal protection of basic liberties for each person.\textsuperscript{120} This assumption seems to be axiomatic in a society with a developed democracy. But for a non-democratic society or an education system ruled by one specialized theory, the unanimous agreement on the paramount significance of basic liberties behind the veil of ignorance has an “ice-breaking” effect. It provides the cognitive basis without referring to factional beliefs or, in Rawls’ words, comprehensive reasonable doctrines. Although many scholars have criticized the supreme position of basic liberties, the value of it has become the overlapping consensus in the international human rights system. Economic rights advocates doubt whether basic liberties should be prioritized over such rights as the right to food.\textsuperscript{121} Sen replies to this skepticism by pointing out where there is protection of basic liberties such as freedom of speech, there is least chance of famine.\textsuperscript{122}

Next, however, comes the debatable idea about the priorities of basic liberties.\textsuperscript{123} Presumably, the parties in the original position will employ an empirical approach in deciding this priority; they try to choose the basic liberties that are most frequently affirmed by all societies.\textsuperscript{124} In reply to H. L. Hart’s critique, Rawls clarifies the priorities of basic liberties as follows:

\textit{Freedom of thought and liberty of conscience, the political liberties and freedom of association, as well as the freedoms specified by the liberty and integrity of the person,}

\begin{thebibliography}{9}
\bibitem{117} See Rawls, fn. 99.
\bibitem{118} Id.
\bibitem{119} Id.
\bibitem{120} Id.
\bibitem{123} See Rawls, fn. 99.
\bibitem{124} Id.
\end{thebibliography}
and finally, the rights and liberties covered by the rule of law.\textsuperscript{125}

2. The Second Principle and Equality. — The latest version of the second principle reads:

“Social and economic inequalities are to satisfy two conditions. First, they must be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they must be to the greatest benefit of the least advantaged members of society.”\textsuperscript{126}

Generally speaking, this principle emphasizes the significance of equality.\textsuperscript{127} Its first part highlights institutional preconditions of tolerable inequalities. Its second part is called the difference principle, incorporating the teleological arrangement of inequalities; namely, interests of marginalized groups are given priorities in the distributive sense.\textsuperscript{128} Thus, the two parts contribute a set of values regarding equality, which will be helpful in later evaluation.

D. Fundamental Human Society Qualities: The Bottom Layer

The increasing cynicism of certain fundamental qualities upon which modern civilization and democratic institutions are established entails a revisit to the nature and significance of the qualities.\textsuperscript{129} The qualities discussed below provide intellectual essentials for this article, while comprising an incomprehensive list.

1. Informational Basis. — The informational basis is defined as foundational knowledge, sensory and thinking material with which social members are provided to fulfill their sound and complete cognition of the society.\textsuperscript{130} Originally, the informational basis is a key concept of social choice theory.\textsuperscript{131} It is introduced here to represent a new demand of the cognitive basis in this syncretic framework.

To clarify the meaning and scope of this concept, two distinctions should be made. First, it is necessary to distinguish it from the idea of common sense, while the scopes of both concepts are open to continuous social construction.\textsuperscript{132} The latter relates to the knowledge and values internalized by individuals in their daily social lives. However, the informational basis treats provision of foundational knowledge and cognitive basis as one

\begin{footnotesize}
\begin{thebibliography}{99}
\item \textsuperscript{125} Id.
\item \textsuperscript{126} Id.
\item \textsuperscript{127} Id.; Pogge & Kosch, fn. 112.
\item \textsuperscript{128} Id.
\item \textsuperscript{131} Id.
\item \textsuperscript{132} See Sen, fn. 133; Sen, fn. 125.
\end{thebibliography}
\end{footnotesize}
liability of the institutional design. A sound informational basis is one of the pedestals for the building of sound, common sense. Common sense partly reflects the situation of informational basis in that society. This partial causal relationship determines that, only in rare circumstances, the two concepts can be used interchangeably. Second, there is a distinction between the right to information and the informational basis, while both demand transparency and equal access to information provided by, and relevant to, public authorities. The right to information is more related to individuals, whereas the informational basis is more related to groups. This means that the duty to provide the informational basis is an \textit{ex ante} duty. It serves as the tool of empowering social members to become rational and empathetic beings.

In terms of its function, the informational basis is intended for the protection of basic liberties and the exercise of one’s rationality and empathy. This is due to the fact that both rationality and empathy are subjected to the information available. For example, teachers in China’s mainstream schools have little knowledge about children with disabilities; thus, it is difficult to describe them as apathetic for their belief that special schools are the most appropriate educational arrangement for disabled children. Although this phenomenon will be analyzed later in more detail, it is a pertinent example that a long-lasting, segregational arrangement maintained by ill-structured institutions provides unsound informational basis for teachers, and their rationality and empathy are discounted accordingly.

Furthermore, the informational basis undergirds the protection of equality. In this sense, information is seen as one of the primary goods in Rawlsian theory, while Rawls did not include it. Compared to physical or attitudinal barriers to equal distribution of material good, the unequal distribution of, or unequal access to, information may lead to inequality in a more foundational manner. When it pertains to education institutions, unbalanced educational quality brings about disadvantaged positions in terms of entitlement to the informational basis and intellectual capacity. Moreover, through diminishing informational access for marginalized groups, educational segregation has done significant harm to the basic protection of social equality.

The informational basis also pertains to Marx through the idea of false consciousness or positional objectivity. In his class analysis, Marx believes that people in the working class may be ignorant of their systematic deprivation due to the positional limitations in their comprehension of the whole market system. Adam Smith also discusses positional limitations in getting a panorama of the whole situation. He suggests that the observations of distant spectators should be taken into account, or we should imagine

\begin{footnotesize}
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\item See Sen, fn. 125.
\item See Sen, fn. 133.
\item See Rawls, fn. 99.
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distant observers for ourselves, when we hope to have an objective perspective over certain things. In my view, Smith’s experiment thought is an emphasis on the sound informational basis through including transpositional perspectives.

2. Rationality, Reflection, and Public Reason. — As noted earlier, Rawls puts particular weight on the quality of being rational. The author would argue that, in Rawlsian theory, rationality means the intellectual capacity to attain objectivity and neutrality and maintain them. We can clearly see this in the idea of overlapping consensus, which appeals to rational beings to uphold intellectual common ground between parties with disparate comprehensive philosophical doctrines. A deeper exploration of the meaning of rationality exceeds capacity of the author; but it is necessary to clarify some misinterpretations of rationality that disserve the role of the bottom layer.

In the aforementioned example, teachers in China’s mainstream schools see themselves as rational people and their rejection of teaching disabled children as a rational choice. As discussed, the lack of a sound informational basis together with their consideration of their vested interest brings about that discriminatory thought. However, there is a theoretical tendency to dismiss the relationship between rationality and the informational basis. The tendency is called rational choice theory, which narrowly confines rationality as capacity purely for clever promotion of self-interest. This dismissive idea is particularly destructive for our confrontation with the theoretical disagreements and challenges in China, because it implies that rational beings have no capacity to go beyond self-interest. If it prevails, the pursuit of consensus and a definition of just inclusive education will be shadowed by narrowly defined rationality.

Rational choice theory is seen as Smith’s legacy. This theory and this misleading ascription have had particular popularity in China in the two most recent decades. However, as mentioned in the previous passage, other dimensions of rationality, such as the transpositional perspectives initiated by Smith’s thought experiment the impartial spectator, are not seriously taken into consideration. Similarly, Rawls is aware of the danger of rational choice theory when creating his thought of the original position. A distinction has been drawn between the idea of overlapping consensus and modus vivendi. Both modus vivendi and the rational choice theory take an implicit assumption, as Sen suggests that maximization of self-interest is the inherent logic for rational actors. Compromises are only made when maximization of self-interest is possible upon reconciliation.

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138 See Rawls, fn. 99.
139 Id.
140 See Sen, fn. 94.
141 Id.
142 Id.
Here the rational choice theory commits a natural fallacy in David Hume's words, which confuses what one has reason to do and what one ought to do.\(^{143}\) To do what one has reason to do is an unscrutinized choice. For example, teachers in special schools discourage disabled students from attending mainstream schools in consideration of maintaining special schools and therefore securing their teaching jobs. Those teachers have sufficient reason for doing so, which, however, escapes self-scrutiny and public reason of the objectives and values underlying this choice. Such choice should not be confused with rational decisions.

Hereeto, significant to the exercise of rationality are the ideas of continuous self-reflection and public reasoning. By nature, the two ideas are similar, while focusing on individual exercise and societal practice of rationality respectively.\(^{144}\) Self-reflection and dialogue with others subject personal or collective choice to critical investigation, with broader reference to the informational basis about the objectives and values behind the choice.\(^{145}\) Only if the choice or behavior survives critical examination is it what one ought to do and satisfies the order of rationality.

**E. Evaluating Current Theories and Practice**

Based upon the three-layer theory, a consensus may become attainable and a definition of better inclusion can be built accordingly. However, the construction of consensus and theory only in congruence with theoretical examinations will subject the project to criticism against its transcendental nature. Thus, it is necessary now to assess the current theories and practice with the three-layer theory. But this assessment can only serve as an example for the application of the three-layer theory, which should have much greater application. The evaluation will thus be an integration of all the preceding content.

1. **Segregation and the Inevitable Injustice.** — Albeit variable in terms of their educational quality, special schools provide their service invariably in segregating settings in China. Segregation on the ground of disability is detrimental to soundness of the informational basis within modern societies, while it was intended for protecting disabled persons in the beginning stage of industrialization. As a historical legacy, segregation undermines the informational basis in at least two ways. Firstly, it sets up geographical confinements for both disabled and non-disabled children; the two groups live, study, and play in separate spaces, and have no chance to know each other.\(^{146}\) In terms of its influence on the informational basis, geographical separation diminishes the epistemic integrity of both disabled and non-disabled children. Secondly, on the basis of geographical division, various binary conceptual frameworks (e.g. ability and disability,
normality and abnormality) are created. By doing so, special schools undermine the informational basis within societies in a sociological sense. Following the binary concepts, barriers to sound cognition are further entrenched by ensuing professional positionality. For example, special schoolteachers more often than not prioritize higher functioning over other considerations for children’s development, e.g. freedom, pleasure, and dignity. More destructive is the fact that parents or even disabled children themselves accept the positional objectivity. From a Rawlsian perspective, certain comprehensive, reasonable doctrines dominate the sound informational basis, thereby increasing barriers to reaching the overlapping consensus.

As a consequence of the partial informational basis, the basic liberties of all social members are at the risk of ignorance. For basic liberties highlighted by the first principle of justice, all have particular relevance in this regard. Arguably, their exercise is indeed dependent on what we know about ourselves as well as society, and how we construct our rationality. When cognition is subjected to artificial restrictions, the basic liberties in the middle layer fall short of epistemic grounds. For instance, freedom of thought and conscience may be bounded by geographical division; what we understand and empathize can only be selected from the artificial, tailored reality.

Furthermore, the values of equality proposed by the second principle of justice are also threatened by the geographical and cognitive segregation. In China’s case, public offices are unequally open to people with or without disabilities. Inequalities in accessing opportunities are results of biased distribution of educational resources and exclusive educational institutions.

The separate but equal discourse seems to follow the ideal of the difference principle, i.e. segregation is made as an inequality that benefits the least well off. While this rhetoric of equality is deceptive in many ways, it self-evidently violates the lexical sequence in Rawlsian theory, which demands the application of the difference principle must be based upon the fulfillment of principles that precede. More seriously, another reason against the idea of separate but equal is the effect of ghettoization. William Julius Wilson provides a brilliant account of mechanisms and negative outcomes of ghettoization in American urban areas. As long as a ghetto exists, negative factors — poverty, misbehavior, stereotypes, self-discrimination — will be concentrated over time.

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148 Id.

149 See Rawls, fn. 99.

150 Id.

151 William Julius Wilson, _The Truly Disadvantaged: The Inner City, the Underclass, and Public Policy_, The University of Chicago Press (Chicago), (1990).

152 Id.
2. Integration and Current Inclusion: Only a Small Step forward. — In both theory and practice, scholars and educators share the concern that inclusion may cause traumatic experience to disabled children. 153 This concern has been evidenced by China’s experiment project of LRC. This phenomenon reveals the limitations of current theories and practice regarding inclusive education; it at the same time demands a deeper understanding of the interpersonal interaction mechanism in the inclusive environment.

For current theories of inclusive education, it tries to eliminate segregation, but the legacies of segregation have gone through little critical examination. 154 Specifically, the idea of special educational needs preserves the professional authorities that distinguish disabled children from their non-disabled peers according to certain criteria, while it successfully eliminates the geographical segregation. In other words, the current inclusive education system is operating in a rigid and striated space with hierarchical power. 155 In Foucaultian perspective, exclusion and oppression are transformed from geographical segregation into the power of knowledge production, which tells children who they are and to which group they belong. 156 In this sense, the quality of informational basis is little improved by the physical presence of disabled children in mainstream settings in that authoritarian categorization of children demarcates boundaries of interpersonal communications. If disabled children’s presence leads to daily bullying and psychological exclusion, the informational basis may, to a larger extent, suffer from distortion or fragmentation. 157

Furthermore, inclusive education is seen as a static or modularized construction. 158 Some scholars use the simple formula inclusion = integration + additional support. 159 Others may add on some more components, but the interpretation remains rather static. It is possible to arrive at certain agreements in this framework. For example, teachers in mainstream schools concede that disabled children can be placed into their class. However, such consensus is unreliable, because it is not an overlapping consensus but a one-sided concession. This is a reflection of the rigid formula that defines inclusive education as inclusion for children excluded, rather than inclusion for all. 160 This narrow perspective renders both theory and practice untenable.

F. A Theory of Better Inclusion and the Right to Inclusive Education

It seems to the author that unless a brand-new idea of inclusive education is made,
there is no way to move the idea of inclusive education forward substantively towards a consensus. Based on the wealth of literature and the new philosophical development in understanding difference, the author hopes to suggest his own interpretation of inclusive education.

The author’s definition of inclusive education consists of three dimensions. The author calls the first dimension the “remedying dimension,” which means guarantees of necessary support for educational needs of all children including children with all kinds of disadvantages. This remedying dimension is defined as a transitional tool, and it will be unnecessary when negative legacies of malpractice are basically solved and the other two dimensions are well maintained.

The second dimension is the “reflecting dimension,” which contends that the nature of inclusion is to rethink how people live, study, and play together in schools. This dimension treats inclusive education as an open-ended process of conceptual and practical exploration into interpersonal relationships in school settings. Importantly, the exploration should keep away from the simple idea of modularized, inclusive education. It should not stop at the celebration of superficial diversity, which sees itself as a collection of people with different traits. In this reflecting dimension, the exploration should be carried out with the reflection of the meaning of difference. According to Deleuze, “difference is not diversity. Diversity is given, but difference is that by which the given is given... Difference is not phenomenon but the noumenon closest to phenomenon... Every phenomenon refers to an inequality by which it is conditioned... Everything which happens and everything which appears is correlated with orders of differences: differences of level, temperature, pressure, tension, potential, difference of intensity.”

This dimension envisions the recognition of the immanent difference, not through identifying identity, but through recognition of different human nature.

Finally, the third dimension is the “human rights dimension.” Unlike the major human rights laws or criteria in which inclusive education is yet an independent right, the human rights dimension proposes that there should be an independent right, the right to inclusive education. As discussed, the right to inclusive education is not only a social ideal with a humanistic concern for disabled children, but also the consensus over educational arrangement for all. This right is a cause and result of the sound informational basis and rationality. Furthermore, the right to inclusive education protects and promotes basic liberties of children in schooling and their equal entitlements and equal recognition.

The relationship between the dimensions demands clarification. The human rights dimension is the core tenet of the model. As a legal right, the right to inclusive education sets up the institutional mechanism for the realization of this model. The reflecting dimension is the philosophical tenet. It maintains the openness as well as continuous examination of the meaning of inclusive education. Namely the philosophical dimension

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facilitates the enforcement of the legal right to inclusive education by continuously looking for better interpretations of what inclusion means. Equally important is the remedying dimension, which aims at sorting out the existing institutional inequalities. The significance of this dimension is due to the fact that inequalities always exist; remedying inequalities gives momentum to propel consensus over the most comprehensive inclusion.

CONCLUSION

This article provides a syncretic theoretical investigation about the current challenges facing the idea and practice of inclusive education and potential solutions. It tries to integrate the transcendental and empirical approaches in looking for the overlapping consensus over a theory of better inclusive education. For the transcendental approach, Rawlsian theory is employed as the framework with many adjustments intended for different theoretical purposes. With respect to the empirical route, a review of current theoretical disagreements and a case study of China’s implementation of inclusive education are presented as background information. On that basis, a comparison has been made between the status quo and the ideal education system. As a consequence of all, a three-dimensional theory of inclusive education is proposed.

Alongside some trivial contributions, however, are several theoretical gaps. First and foremost, the author feels it necessary to better articulate the relationship between the conventional right to education and the new right to inclusive education. In doing so, the content of the new right can be enriched. Secondly, it will stand as a big improvement if a stronger connection can be made between case study and theoretical analysis. Thirdly, the bottom layer, i.e. the human society qualities, should include at least one more quality, which is empathy. That being said, it can serve as a stronger basis for the whole structure.

The strong belief that motivates the author to follow this route is the commitment to the power of ideas. The author believes that ideas improve the well-being of mankind and change the world to a better one. The author would like to end this article with a quote from Professor Philip Allott.

“Each human society is an infinitely complex and dynamic structure of ideas. The health of a society, its degree of well-being, is determined by the ideas which take actual effect in the process of its day-to-day, self-constituting as a society. To reform or redeem a society is to change those determining ideas. Our quality of life is a function of the quality of our ideas.”

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