

Classification Systems in Special Education: Social Justice or Just Social?

Sean Cousins

As an elementary teacher who has had direct experience with special education in public schools, I often ask myself questions about how the concept of disability has been imported into the office of public education. Terms such as “exceptional pupil¹,” “inclusion²,” and “special needs³,” for example, litter the discourse of special education and serve as technologies of classification. In this paper I demonstrate an analysis of the classification system in special education and argue that the practice of labelling students with exceptionalities, by definition, should furl eyebrows and raise questions about whether the classificatory schema works to meet a model of social justice.

Special education in Ontario is a recent intervention of public policy. It was not long ago that the provision to provide educational services for children living with disability was a responsibility solely exercised at the discretion of parents and caregivers. In 1980, however, the

¹*Education Act of Ontario* R.S.O. 1990 c E.2, last revised 2002, s 1(1). Retrieved 4 January 2012 from <www.e-laws.gov.on.ca>.

²Ontario Ministry of Education, *Education For All: The Report of the Expert Panel on Literacy and Numeracy Instruction for Students with Special Education Needs, Kindergarten to Grade 6* (2005), p. 2. Retrieved 10 January 2012 from <www.edu.gov.on.ca>.

³Ontario Ministry of Education, *Special Education: A Guide for Educators* (2001), p. vi. Retrieved 8 January 2012 from <www.edu.gov.on.ca>.

provincial government changed this scenario with the adoption of the Education Amendment Act. Commonly known as Bill 82, the Education Amendment Act requires Boards of Education to provide special education services to a specific class of students known as “exceptional pupils,” — that is, those who have been officially identified to stand in need of modifications and/or accommodations to their schooling. For little over 32 years, the provision of services for students with exceptionalities has been a mandatory practice amongst all of Ontario’s Boards of Education.

The significance of special education reflects the consciousness of a broader social movement that advocated for the public dissolution of segregation and, in its place, lobbied for the advancement of inclusion in everyday life, including in the context of public education. The historicity of disability is a subject too grand to explore in detail in this paper, but one aspect I do wish to touch upon is that those who have been classified as disabled, broadly speaking, have often experienced social oppression and exclusion from the public sphere. Even worse, individuals with disabilities have historically occupied positions as outcasts. Disability theorist Rosemarie Garland-Thomson, for example, has recently examined how persons with disability experience what it is like to be a “misfit⁴.” Thomson’s conceptualization of persons with disability as occupying the status of a misfit contributes to a social justice analysis of disability, since it attributes disability to the social and material processes of disablement. Thomson’s argument that disability emerges in contexts where there are social and material barriers is relevant to the system of classification of exceptionality in the context of special education in Ontario schools.

⁴Rosemarie Garland-Thomson, “Misfits: A Feminist Materialist Disability Concept,” in *Hypatia*, vol. 26, No. 3 (2011), p. 591-609.

The relevance of a social justice model of disability is not lost on an analysis of exceptionality in context of special education. In fact, one of the fundamental premises of the social justice model of disability is that equal access is about changing the shape of the world, not changing the shape of the human figure. Changing the shape of the world costs money and it is an expenditure that the Ministry of Education subsumes as part of a commitment to the social justice. The system of funding elementary and secondary education in Ontario — Grants for Student Needs (GSN) — provides annual operating and capital funding to the 72 Boards of Education, allocated on the basis of several grants, one of which being the Special Education Grant. The size of the Special Education Grant depends on the total number of students identified in a particular Board of Education. Access to intensive, individualized support can be interpreted as a competitive process, given that monies to Boards of Education are allocated on the basis of identification of special needs students via formal assessment. Specific Boards of Education committees called “Identification, Placement and Review Committees” (IPRCs) function in each Board to decide whether individual students meet the criteria for various categories of exceptionality and to decide upon placement. Parents and guardians as well as children “sixteen and older” have input into the deliberations of these committees but do not possess final decision-making authority.

In Ontario, then, students’ learning, behavioural/emotional, developmental or other atypical characteristics are classified based on formal assessments done through the deliberations of the IPRC. Questions can be raised about the system of labelling that takes place within the IPRC and whether the practice of labelling constitutes an infringement of social justice. This paper contributes to the conversation about socio-material processes of disablement that Garland-Thomson initiated in her work on examining the experience of “misfitting”. More specifically, I

argue that the experience of misfitting can arise in the education system through the practice of labelling students with exceptionalities.

The coincidence of labelling a student with exceptionality and the situation of misfitting that I offer here is examined in relation to the fact that (a) identifications of exceptionality overlap with the medical model of disability; and (b) Boards of Education practice a system of labelling students with exceptionality that does not lay outside the encounter between flesh and world. One such case in the history of special education makes it clear that labelling students with exceptionalities can be synonymous with socio-material processes of disablement. Emily Eaton, a student with a disability, was initially placed in an integrated classroom. However, after three years, her teachers and assistants concluded that this placement was not in her best interests and she was subsequently moved to a specialized classroom. Her parents disputed the change of placement and appealed the decision up to the Supreme Court of Canada. The Court stated that the failure to place Emily Eaton in an integrated setting did not create burden or disadvantage to her, because such a placement was not in her best interests. According to the Court,

While integration should be recognized as the norm of general application because of the benefits it generally provides, a presumption in favour of integrated schooling would work to the disadvantage of pupils who require special education in order to achieve equality...Integration can be either a benefit or burden depending on whether the individual can profit from the advantages that integration provides⁵.

Previous to the legal case involving *Eaton v. Brant County Board of Education*, the Supreme Court of Canada had ruled that the search

⁵Supreme Court of Canada, *Eaton v. Brant County Board of Education*, [1997] 1 S.C.R. 241, Retrieved 15 December 2011 from www.scc.lexum.org/en/1997/1997scr1-241/1997scr1-241.html.

for accommodation is a multi-party inquiry⁶. In education, this ruling meant that the practice of labelling students must always be done in a spirit of collaborative effort insofar as each decision is determined according to the identification of exceptionality and the corresponding placement of accommodation. However, there is no one to one correlation necessarily between any particular category of exceptionality and placement of accommodation. All decisions that are made are done so on a case by case basis. This particular pattern of world-making involved in socio-material becoming for children with special needs is governed by the principle of individualization rather than by generalizations about specific disabilities. To comply with international human rights law and specific educational policy of Ontario, all children designated as special needs must be given an individualized learning plan within thirty days of identification⁷.

Thus a child identified as having a severe behavioural disorder, for instance, might be placed in a regular classroom with additional support if the IPRC so decides. Placement thus can be (a) in an integrated setting in a regular classroom with support, (b) in a partially integrated setting where the child is withdrawn for a certain period of time to receive special education service in another setting for one or more classes, (c) a segregated setting in a special education classroom with other exceptional students only for most of the time or (d) finally the most exclusionary setting involving a special education catering only to students that have been identified as belonging to some category or categories of exceptionality and who are deemed to require some more specialized service such as provided in provincial demonstration

⁶Supreme Court of Canada, *Central Okanagan School District No. 23 v. Renaud*, [1992] 2 S.C.R. 970, para. 43. Retrieved 16 December 2011 from <www.scc.lexum.org/en/1992/1992scr2-970/1992scr2-970.html>.

⁷*Education Act of Ontario* R.S.O. 1990, c E.2, last revised 2011.

schools for the deaf and hard of hearing, for the blind, or cases involving pupils living with severe conditions of Attention Deficit Disorder/ Attention Deficit Hyperactivity Disorder. Let us turn then to an examination of the practice of labelling students with exceptionality in the Ontario special education system.

Classifications of exceptionality in Ontario's special education system

The *Education Act of Ontario* specifies among the duties of the Minister of Education the following:

to define exceptionalities of students and *to prescribe classes, groups or categories* of exceptional pupils and *to require the use of these definitions* by school boards or such prescriptions as established under this clause.⁸

The categories of exceptionality to which a child can be assigned in Ontario are set out in section 1(1) of the *Education Act of Ontario* as follows:

An exceptional pupil is defined as:

A pupil whose *behavioural, communicational, intellectual, physical or multiple exceptionalities* are such that he or she is considered to need placement in a special education program by a committee...of the board...(a) of which the pupil is a resident pupil, (b) that admits or enrolls the pupil other than pursuant to an agreement with another board for the provision of education or (c) to which the cost of education in respect of the pupil is payable by the Minister.⁹

These broad categories of exceptionality are designed to address the wide range of conditions that may affect a student's ability to learn,

⁸*Education Act of Ontario* R.S.O. 1990 c E.2, last revised 2011, s 8(3), emphasis added.

⁹*Education Act of Ontario* R.S.O. 1990 c E.2, last revised 2011, s 1(1), emphasis added.

and do not exclude any medical condition, whether diagnosed or not, that can lead to particular types of learning difficulties. Ministerial publications, such as the *Special Education: Guide for Educators*, further elaborate upon the inclusion of some medical conditions in the Education Act's definitions of the five categories of exceptionalities, thus basing the definitions on overt essentialist norms consonant to a medical model and referring to the specific exceptionality as a disorder and cause of the inadequate level of school function. Although decisions to place exceptional students in special education programs are made on grounds of "need" such decisions run the risk of appealing to the medical model of disability to interpret why needs arise in the first place at all.

The Ministry's Special Education Policy and Programs Branch recently sent a memorandum to Board of Education administrators on the subject of exceptionalities. In this memo the Ministry urged all Boards of Education to "interpret broadly"¹⁰ the categories of exceptionality. The Ministry of Education claims that the IPRC process is safe from charges of misrepresentation because the force of any interpretation of exceptionality does not reach the effect of a clinical diagnosis. This kind of work is something reserved for health professionals under the *Ontario Regulated Health Professions Act*, since identifying a child with "dyslexia," "dyscalculia," or "attention deficit hyperactivity disorder," for example, is considered to be diagnostic health information.

Interpreting exceptionality as a form of "demonstrable learning based needs"¹¹ is meant to distance thinking about disability away from some

¹⁰Barry Finlay, "Memorandum to Directors of Education, Supervisory Officers and Secretary-Treasurers of School Authorities, Director of Provincial Schools Branch, Superintendent of Centre Jules-Léger," in *Ministry of Education Letter 19 December 2011*, p. 1. Retrieved 7 January 2012 from <www.edu.gov.on.ca>.

¹¹*Idem*.

general abnormality arising from a deficit in the body or mind. The significance of this interpretation is twofold: first, it maintains that exceptionalities exist on a continuum rather than comprising a discrete category of handicap; second, it identifies that special educational needs are, in part at least, the consequence of inappropriate educational facilities. The Ministry of Education attempts to situate its special education policy within a social model of disability; the “exceptional pupil” is viewed as one who cannot perform expected learning behaviour due to social and architectural barriers that factor into behavioural expressions of disablement. Yet the practice of labelling students as an exceptional pupil on any grounds complicates the business of interpreting exceptionality exclusively within a social model. The determining factor for the provision of special education programs or services is the needs of individual students based on the individual assessment of strengths and needs. The decision of accommodation at the discretion of the IPRC is thought to be a sufficient condition in removing the social and architectural barriers that hinder academic performance and which had led to socio-material processes of disablement.

But does the classification of exceptionality do away with a medical model? The significance of formulating the question in this way is that it seeks to discern whether the meaning of exceptionality denotes something intrinsic to the person even if the Ministry of Education claims otherwise. The terms of reference used by members of the IPRC to classify students with exceptionalities are also used by the broader public in ways that point to something residing within the individual. For example, the term “exceptionality” is defined in the current edition of Merriam-Webster’s online dictionary as “deviating from the norm” as in “having an above average intelligence” or “being

physically disabled”.¹² The term emphasizes essence over context, origination over mediation, isolation over relation. Exceptionality says something about the person in terms of some mental or bodily state, and what the person has is judged according to some “norm.” If some person is “physically disabled,” for example, that person has “exceptionality” because he or she demonstrates “deviance” from the “norm.” The label of exceptionality carries with it connotations that fix meanings intrinsic to the person which can lead to deeply embedded experiences of stigmatization.

The meaning of misfit, as I shall demonstrate, is not far removed from what is meant, at least in a colloquial register, by the term exceptionality. The utility of the concept of misfit is that it lodges social injustice and discrimination firmly in the materiality of the world. The term misfit carries with it a richly complex dimension of meaning. According to the same online dictionary, misfit denotes “an improper fit; someone who is badly adjusted to his or her environment.”¹³ As a term that can be used either as a verb or noun, misfit refers to both the subject who does not fit and the act of not fitting. Used as a verb, to misfit denotes an encounter in which two things come together in disjunction. The shape and substance of these two things are instrumental in determining whether (or not) a match or “fit” is realized. Although a “perfect” fit may be construed as a fanciful ideal, the consequence of a lack of correspondence between two things often results in some-thing concretely felt as a socio-material problem. Taking hold of the situation that occurs when a square peg meets with a round hole approximates what it is like to observe a misfit. The situation revolving around a person is

¹²*Merriam-Webster Online Dictionary*, (Merriam-Webster Inc., 2012). Retrieved 8 January 2012 from <www.merriam-webster.com>.

¹³*Idem*

altogether a different matter. A student, for example, may be said to “misfit” with his or her classroom. For instance, a student regularly demonstrates a lag between oral speech and its translation into print. This event may be interpreted as a misfitting experience, because the student’s ability to translate oral speech to print “misfits” with the expectation of being able to quickly translate oral speech to print. To misfit implies that there is something about the situation that makes for the student’s misfitting experience. What is an “improper fit” lies in the action that takes place when the student carries out the expectation to translate oral speech to print which results in a misfitting experience.

A student, however, is not an object (like a peg is). The problem with a misfit is more complicated than something that takes place in the space between two things, in their situated spatial and temporal relationship. When the spatial and temporal context shifts, so does the relationship between one thing and another; and with this shift comes consequences and meanings. A student with dyslexia, for example, is going to find conventional prose difficult, if not impossible, to decipher. But change the spatial and temporal conditions to reduce or minimize the experience of disablement and there can be promise of a more perfect union or fit in the classroom. The student can parse what is written on the whiteboard when the terms appear decipherable for the student.

The status of disability is literal when the shape and function of bodies comes in conflict with the shape and substance of the constructed world. The Ministry of Education claims that what is in store about the meaning of exceptionality has everything to do with “demonstrable learning needs¹⁴” and nothing at all to do with some underlying biological abnormality.

¹⁴Barry Finlay, “Memorandum to Directors of Education, Supervisory Officers and Secretary-Treasurers of School Authorities, Director of Provincial Schools Branch, Superintendent of Centre Jules-Léger,” in *Ministry of Education Letter 19 December 2011*, p. 1. Retrieved 7 January 2012 from <www.edu.gov.on.ca>.

But this claim is hard to accept when the whole IPRC process turns on the question of whether a student *should* be classified as an exceptional pupil. The student is judged according to some presumed characteristics that are assumed to be true of the personage of the student and not about his or her situation. The meaning of exceptionality closely resembles the meaning of being a misfit because the label of exceptionality says something about person in terms of the kind of student that person is within the context of public education. The student is not any student but an “exceptional pupil.” Someone is a misfit because he or she is “badly adjusted to his or her environment.” Someone is an exceptional pupil because he or she has “a learning disorder” that requires special programs and services.

The Ontario Human Rights Commission has received many reports from individuals and organizations that express concerns about the practice of labelling students with exceptionality or exceptionalities. Community advocacy groups within several Special Education Advisory Committees have alleged that the practice of labelling students with disabilities in the education system does harm apart from granting access to special education services and programs. The Cornwall Parent Support Group, for example, has stated that students “are judged against presumed group characteristics rather than being assessed by their own abilities.”¹⁵ The practice of labelling students does not occur in isolation but rather takes place at various stages during the IPRC process. Consider the specific categories of exceptionality authored by the provincial legislature and used by members of the IPRC. According to the *Education Act of Ontario*, there are categories of exceptionality, including:

¹⁵Ontario Human Rights Commission, *Guidelines on Accessible Education*, (OHRC: 2004), p. 30. Retrieved 9 January 2012 from <www.ohrc.on.ca>.

1. *Behaviour*: A learning disorder characterized by specific behaviour problems...that may be accompanied by one or more of the following:
 - an inability to build or to maintain interpersonal relationships;
 - excessive fears or anxieties;
 - a tendency to compulsive reaction;
 - an inability to learn that cannot be traced to intellectual, sensory, or other health factors, or any combination thereof.
2. *Communication*: (a) Autism: A severe learning disorder that is characterized by disturbances in rate of educational development, ability to relate to the environment, mobility, perception, speech, and language, and lack of the representational symbolic behaviour that precedes language; (b) Deaf and Hard of Hearing: An impairment characterized by deficits in language and speech development because of a diminished or non-existent auditory response to sound; (c) Language Impairment: A learning disorder characterized by impairment in comprehension and/or the use of verbal communication or the written or other system of communication...which may involve one or more of the form, content, and function of language in communication and include one or more of language delay, dysfluency, voice and articulation development...; (d) Speech Impairment: A disorder in language formation that may be associated with neurological, psychological, physical, or sensory factors...; (e) Learning Disability: A learning disorder evident in both academic and social situations that involves one or more of the processes necessary for the proper use of spoken language or the symbols of communication....
3. *Intellectual*: (a) Giftedness: An unusually advanced degree of general intellectual ability that requires differentiated learning experiences of a depth and breadth beyond those normally provided in the regular school program to satisfy the level of educational potential indicated. (b) Mild Intellectual Disability: A learning disorder characterized by ability to profit educationally within the regular class with the aid of considerable curriculum modification and supportive service... (c) Developmental Disability: A severe learning disorder characterized by... a limited potential for academic learning, independent social adjustment and economic self-support.
4. *Physical*: (a) Physical Disability: A condition of such severe physical limitation or deficiency as to require special assistance in learning

situations... (b) Blind and Low Vision: A condition of partial or total impairment of sight or vision that even with correction affects educational performance adversely.

5. *Multiple*: Multiple exceptionalities: A combination of learning or other disorders, impairments, or physical disabilities....¹⁶

With the exception of “physical disabilities” (including blind and low vision), “deaf and hard-of-hearing,” and “giftedness” all exceptionalities from the Ontario categorical scheme include definitions in terms of a *learning disorder*. It is important to note that when the *Education Amendment Act* made special education in Ontario mandatory, the Ministry of Education issued a set of definitions of exceptionality that were meant to refer to only deficits in functional level of performance. “Exceptionality” is meant to be interpreted without connotation to a medicalized model of disability and the presumed “learning disorder” is held not to originate and reside within the individual body. In recent years, the Ministry of Education has come under increasing criticism for its perceived noncompliance with principles of equity and social justice, given that the decades old list of exceptionalities has not evolved to reflect the maturation of special education and changes in philosophies, scientific knowledge, and social practices¹⁷.

It may be worth noting at this time that the distinction between disorder as an underlying cause and disability as a consequence of that disorder at the behavioural level is highly relevant to considerations of social justice, and particularly a consideration of the section 15 Charter equality issues involved in classification systems of special needs. At this section the Charter states that:

¹⁶*Education Act of Ontario* R.S.O. 1990 c E.2, last revised 2011.

¹⁷Ontario Human Rights Commission, *The Opportunity to Succeed: Achieving Barrier-Free Education for Students with Disabilities*, Consultation Report (OHRC: 2004). Retrieved 9 January 2012 from <www.ohrc.on.ca>.

Every individual is equal before and under the law and had the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on...mental or physical disability...”¹⁸

The claim here is that Boards of Education in requiring assessments and classifications of the child based on special needs categories of exceptionalities overlap with mental health diagnoses are strikingly parallel, if not actually engaged in, adverse impact discrimination respecting exceptional students and their families. The fact that parents or caregivers in Ontario must provide written consent for any psychological, psychiatric, or other health assessment ordered at the discretion of the Board of Education that the student is a resident of as per the Ontario Health Consent Act (1996) does not eliminate, or detract from, the implicit coercive element in the situation. Another aspect of social justice that appears to be infringed is that section 15 of the Charter also guarantees that every person be accorded equal respect for their human dignity. As previously mentioned, the Ontario Human Rights Commission has detailed how the practice of labelling students through the IPRC process may fail to consider individual learning needs on a case by case basis.

I think the discourse of special education in Ontario’s public education system should provoke a vibrant public debate about how a more just and inclusive form of public education can be practiced. The allocation of taxpayer money to support the diversity of students in classrooms should not require the use of a classificatory system that in effect points fingers and draws attention to bodies in ways that creates a “misfitting” experience.

¹⁸Government of Canada, *Canadian Charter of Rights and Freedoms*, 1982.