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Author(s) :

John Kenworthy and Joe Whittaker

Title :

Anything to Declare? The Struggle for Inclusive Education and Children's Rights.

Abstract :

This paper argues for a clear and unequivocal message from those who advocate Inclusive Education I suggests that the compulsory segregation of children with 'special needs' will continue until the Law underwrites their rights to an equal choice of education. The message to advocates is to make the affirmation of children's rights their primary goal, before resorting to detailed educational debates. It also highlights the plight of David McKibben and his family who have taken on the East Belfast Education Board to fight for David's right to attend his local mainstream high school. David experienced further discrimination and rejection by the independent special needs tribunals. David and his family have welcomed the opportunity to give their predicament highlighted in this paper, which asserts that the independent special needs tribunals and current United Kingdom education legislation are fundamentally at odds with the human rights of disabled and non-disabled children.

For further information contact:

Karen Barton (k.barton@bolton.ac.uk), Bolton Institute, Chadwick Street, Bolton, BL2 1JW, England

Anything to Declare?

The Struggle for Inclusive Education and Children's Rights

If special schools have one clear function, it is this: They define the limit of adult society's tolerance for children. These 'special' places have become the twentieth century gulags, where the collective fear of children who are seen as different is assuaged and their segregation from other children is reconstructed as 'special' treatment in a 'safe' environment. These children are, in a very real sense, the 'disappeared' young whose separation from ordinary children experience and the potential of ordinary adult life is compelled by law. Challenging this practice and the continued existence of special schools requires sustained and coordinated effort between those organisations and individuals that advocate for an inclusive education system. It demands a shared conviction that whilst education may be the focus for a change of practice, the central issue is much more crucial. It is about the right of the child to have an equal place within this society. It is about how children are actively encouraged to assert such rights and to what degree those rights are overridden or abused for the convenience of professional society.

The conviction that 'inclusion' is, at root, a matter of equality of rights and opportunities is understood by many who advocate for a fair and just education system.

"Inclusion and participation are essential to human dignity and to the exercise and enjoyment of human rights"

(Salamanca Statement, 1994)

"By reminding everyone that there was a plan to end segregation because of the human rights of children and young people, it was somehow always just possible to gain some level of agreement about the way forward".

(Jordan and Goodey, 1996)

This conviction is underpinned by some assumptions about how the general concept of 'rights' impact on the practice of compulsory segregation.

Firstly, that segregation is an offence against the right of all children to be protected from discrimination.

Secondly, those rights are asserted as self-evident and do not require 'proof'.

Thirdly, that the assertion of rights tends to cause offence to those with a vested interest in denying such rights and maintaining status quo.

Fourthly, that purely technical, quasi-legal 'proof' related to one child, without reference to the rights of that child, is a disservice to all children.

Fifthly, that any 'expert proof' presented to maintain a child's segregation from their local school, is a way of supporting an injustice, by accepting the discriminatory codes, structures and language. We argue that it amounts to a professional abuse.

The greater the number and variety of special schools that exist, the less likely we are to learn from children whose contributions may appear significantly different. Children are deemed acceptable when they:

- Can be trained to respond to professional command.
- Behave reasonably.
- Can form an orderly queue.
- Can freeze to the sound of a bell or whistle like well-trained small animals
- Attend to instruction
- Do not demand too much time, money or attention.
- Do not, by their presence, interfere or antagonise others.

All schools have the power to subject all children to a wide range of petty rules and restriction, which direct many aspects of their lives (Franklin, 1995). Moreover, these oppressive practices are fostered in a climate where the voice of children is generally unheard (Whittaker, et. al. 1998).

In relation to children with 'special needs', these petty regulations are compounded by the existing legislation which not only refuses to hear their voice but assumes that it is the child's behaviour or impairment which is 'the problem' or 'the difficulty' preventing their participation in mainstream education.

In relation to disabled children, United Kingdom legislation continues to operate within the medical model of disability (Kennedy, 1995; Hall, 1997). This way of thinking assumes that the child's impairment equates to the "child's deficit" which will be "fixed" by the professionals who will take the child through a process of assessment. This particular formal assessment was introduced in the Education Act 1981. This act requires a 'Statement of Special Educational Needs' to be made on the child and this element of the 1981 Education Act has been retained in the subsequent legislation, including the most recent Education Act 1996.

The 'Statement' will determine if that child has special educational needs if s/he has:

A significantly greater difficulty in learning than the majority of children her/his age.

OR

A disability, which either prevents or hinders the child from making use of the educational facilities of a kind generally, provided in schools.

(Education Act, 1996)

The assumption with the legislation however, is that the child will receive their education within the ordinary mainstream school, if three conditions can be met:

- That the child's "special educational needs" can be met in the ordinary school.
 - That the child's presence in the ordinary school does not interfere with the learning of other children.
 - That education in the ordinary school is compatible with 'efficient use of resources'.
- (Education Act, 1996)

In practice these three caveats have come to be seen and used as loopholes in the existing education legislation. They have encouraged local authorities to preserve their special sector and the considerable budgets they command to maintain segregation.

Local education authorities have argued that placing a child with 'severe learning difficulties' in a mainstream school would so obviously interfere with the learning of other children that there would be no purpose in admitting the child even for a brief period of assessment. For

one youngster, well known to the authors, it was argued by the local education authority that placing the child in a mainstream primary school would be an inefficient use of resources. This they argued was because the school was insisting on the erection of a perimeter fence, costing seven thousand pounds, to offset an assumed risk of the child 'running off'. At the point this decision was made the child had never set foot on the school grounds. An extract from the independent special needs tribunal, digest of decisions illustrates the logic, which allows special schools to thrive:

"16/98 The mother of X, a boy with moderate learning difficulties, wanting him to be educated in a mainstream secondary school instead of the maintained special school named in his statement. The LEA accepted that section 316 (of the 1996 Education Act) bound them to honour the parental preference for a mainstream school, unless (inter-alia) a mainstream school would not be suitable. The tribunal accepted that the amount of support that X would require in a mainstream school would be likely to damage his self-confidence and jeopardise the progress already made. On the other hand it was confident that the special school could make suitable provision. The appeal was dismissed."

(Education Law Reports 1998)

By contrast, in the next decision cited in the same journal (17/98) the independent special needs tribunal compelled a local education authority to provide fifty five thousand pounds to finance a child's third year placement at an independent special school in the United States of America. What many of the independent special needs tribunals decisions have in common is the notion that separating a child from their natural peer group and community is not in itself damaging to their self-confidence or sense of identity. At least it may be argued by some that any social disadvantage would be outweighed by the supposed advantages of 'special' treatment and the further underlying assumption that we all know what this 'special' treatment is.

As long as children do not fall foul of the three caveats of special needs law, mentioned above, and in so far as they can learn rules of behaviour and respond to particular a discipline they are conditionally allowed into the mainstream school community. Children are seen as less acceptable when they struggle to learn basic rules of behaviour, laugh, shout or fail to control their bodies. When they lack concentration, and need significant levels of support or

understanding. In other words, when they become the subjects of a 'Statement' of special educational needs and professionals using the same three caveats judge their acceptability.

An inability to conform to rules, learn from instruction or appear to be different, tests the patience of adults and it is the intolerance of adults for others, including children, which is, historically, the root of social and political practices which lead to categorisation, segregation, isolation and ultimately rejection. Such a response to disabled children or those with 'emotional and behaviour difficulties' appears to be at odds with the United Kingdoms government's current thinking:

"Where all children are included as equal partners in the school community, the benefits are felt by all. That is why we are committed to comprehensive and enforceable civil rights for disabled people"

(DfE. Excellence for All, 1997)

Ending the segregation of children is, above all, a human rights objective. The objective is the affirmation in law of the right of disabled and non-disabled child to be accepted as equal. This encompasses the common right of all children to attend their local school, in their local community, with appropriate support. This is an aspiration already stated in Article (2) on the United Nations Convention of Human Rights.

"The next most important right is to be regarded as equal value to non-disabled children. Disabled children must not be segregated, labeled or characterised as 'special' children; this de-humanises and isolates them".

(Kennedy, 1995)

Ending the segregation of children also requires the planned closure of special schools to remove the temptation to segregate children. It requires the shift of resources towards support in mainstream setting. It requires schools to change their way of thinking about disabled children and a redefinition of the Law to give equal basic rights to all children. It depends on achieving a consensus, a shared conviction between young people, parents and survivors of segregation, educationalists and policy makers. That conviction must be that segregated education is a damaging and archaic practice, incompatible with a civilised society.

When some children are supported in mainstream schools for some or all the time we move a small step away from segregation on a long and difficult path toward a more tolerant alternative. This is the current state of affairs: a compromise, which sits comfortably with segregation and depends on some 'experts' proving why some deserving children ought to be included. It allows the continued use of special schools, it does not require any major shift of resources or thinking or a change in the law and does not require any acknowledgement of the rights or aspirations of the individual child.

In contrast we promote 'Inclusive Education' which will value and meet the support requirements of all children. It cannot be fully realised whilst the option to segregate exists and it cannot happen for some children some of the time. Those who promote 'inclusive education' must be convinced of the human rights foundation and be prepared to assert it plainly and publicly if there is to be genuine progress toward equality for all children and their families. By failing to assert the rights of the individual child we undermine the credibility of the campaign for human rights of all children. We can not hide behind the 'illusion of choice', whilst secretly hoping that the necessary changes in the law will come about by stealth. The demand for a change in the law has to be clear and unequivocal. This is not to argue that current mainstream provision is any way near perfect but that necessary changes will simply not occur without the contribution and presence in the mainstream schools of those who are currently excluded.

The current education legislation is the formal code, which underpins the practice of compulsory segregation. It is the threat of compulsion, which characterises the present system and preserves the monopoly of special schools. Families who challenge this monopoly can find themselves locked into months if not years of exhausting and expensive disputes with their local education authorities, independent special needs tribunals and the courts. High Court judgements related to 'special education' also appear to be heavily influenced by a medical model of disability, in which 'the problem' is seen as resulting from the child's impairment rather than the inappropriateness of support, or the unwillingness to accept difference and diversity in children. (High Court of Justice, 1997).

Efforts to change the law are slow but change is more likely to occur when the damage caused to a child's sense of self and place in the world by segregation is more widely understood, particularly among educationalists and policy makers (Rae, 1997). Finding a

way forward for an individual child in such a divisive system depends on reaching an understanding with a school, local education authority or independent special needs tribunal. Regrettably, the understanding often achieved is that a particular child is 'good enough' or 'able enough' to fit in. This does nothing to promote inclusion or assert the rights of all children because it is a particular argument and such an argument, regardless of its value, is not allowed, by existing education legislation to be generalised. The child's right to attend a local school cannot and should not be conditional upon the vagaries of the support available or denied as dictated by the three caveats. These three conditions have been subject to wide interpretation by different local education authorities and have been used effectively to deny many disabled and non-disabled children a place in their local mainstream schools.

Before 1993, parents who sought to question and subsequently appeal against local education authorities interpretations of the three caveats had recourse to a local panel, consisting of elected local representatives. It was generally recognised that such appeal procedures were lengthy and bureaucratic, often creating logjams, which left families feeling distressed and frustrated. Dissatisfaction with the decisions of these panels could lead to an appeal to the Secretary of State for Education. (Now Secretary of State for Education and Employment).

It was partly as a response to these concerns that changes were included in The Code of Practice on Special Educational Needs, introduced in September 1994 (DfE 1994). A new independent special needs tribunal was formed to replace the earlier two-tier appeals system. There was a general expectation that the new independent special needs tribunals would be fairer, quicker. Less formal and encourage a less adversarial stance between the local education authority and parents.

During the passage of the Codes of Practice, the Director of the Council for Disabled children suggested caution in relation to the independent special needs tribunals.

"The advent of an independent appeals system has been widely welcomed, but the process of going to appeal will always be traumatic; may contribute to adversarial relationships between those who challenge and those who defend"

(Russell, 1994)

Reference was also made to an American survey of parents of disabled children who used a similar system of United States of America public hearings. Russell referred to these findings which stated that significant numbers of parents felt that the procedures were 'very negative'. She highlighted the importance of having an effective and fair appeals procedure:

"The moral for the future is that we need much greater honesty and respect between parents and professionals and the LEA"

(Russell, 1994)

Four years since their introduction there is little evidence or literature to suggest that the independent special needs tribunals have helped to challenge the injustices against disabled children. Where segregation is the issue, there is little evidence that they inspire confidence or the respect of parents. The independent special needs tribunal operates within a law that discriminates against disabled children and operates within the traditional 'medical model' of disability. Even when some children have 'won' their argument to be supported in mainstream schools the independent special needs tribunals are not bound by these precedents or 'case law' in a way which could promote a change in the existing culture or practice. Every new case presented to the independent special needs tribunal is a case which has to start from the same discriminatory practice and where every child and parent has to repeat the same laborious procedure, to justify their inclusion and acceptance, over months if not years of the child's life.

"Although the tribunal aims at a general consistent approach, a tribunal hearing an appeal is not bound to follow an earlier decision"

(Aldridge, 1999)

Where segregation is the issue the independent special needs tribunal is a wasteful, prejudiced and unworkable system. It is about as plausible as police investigations of mishandled police investigations.

Parents who want their child to attend a mainstream school and appeal to the independent special needs tribunal in the hope of an 'impartial hearing' are often disappointed. This is not wholly surprising as the tribunal members are constrained by a Law that not only defines their role but also promotes institutionalised segregation for large numbers of disabled

children. Tribunal members who argued any other line, for example, that every child has the same rights in Law, could be accused of misrepresenting the Law as it presently exists.

The common understanding we should be striving to achieve is that the child, by virtue of being a child, has a moral, if not yet legal, right to be included and accepted. Adults, by virtue of maturity and experience, have a moral duty, to listen to them and promote their right to be included and their acceptance.

Debates about resources or in-class support are likely to be reduced to test scores, medical labels and relative costs when the common understanding is that some children have to 'prove' that they can belong to the mainstream school. In this instance 'experts' are given license to present their technical evidence and argue about the construction of a system of in-school support which ultimately has no firm foundation. The child is exposed to the vagaries of support systems and left vulnerable to their collapse. 'Proof' can be disputed or simply dismissed at any time during the child's school career. When segregation is the issue at stake we should check our professional obsession with 'proof' and question the morality of a system, which demands such proof. Even children who have spent many years successfully supported in mainstream primary schools can find themselves routinely rejected at secondary level as the following story shows.

On a blustery Monday morning in mid-January 1999, two meetings were being held at Stormont, Belfast, different in scale but equally important for those involved. In the Northern Ireland Assembly a deadlock on the issue of 'decommissioning' was threatening to wreck the 'Peace Deal' again.

In the four-star Stormont Hotel at the other end of the famous driveway an independent special needs tribunal was in progress. Here the deadlock was between a Belfast mother and her family and the East Belfast Schools Board. Gail McKibben had finally been given the chance to state why she believed that her son, David should have the right to attend his local high school. The East Belfast Board, who had insisted for three years that David should attend a special school, opposed her. The circumstances of David's case have a familiar ring, to an increasing number of parents with disabled children, but two features have attracted extra publicity. Firstly, in March 1998 Gail was threatened with a prison sentence by a magistrate if she refused to comply with the East Belfast Board's view. Secondly, tribunal

hearings in Northern Ireland have been rare to date (David's case is only the third in the North of Ireland compared with the hundreds or so heard in the rest of the United Kingdom).

David McKibben is a friendly, outgoing teenager who loves company and enjoys having a joke. David met many of his friends at the local primary school he attended until the age of 11. Though he requires some support he enjoyed his time in school and teachers reports were consistently positive. Unlike his friends and his older sister Laura and brother Robert, David was refused a place at the local high school because he is a disabled child. David remained at home was denied access to his local school for two and a half years. Whilst most of his friends are non-disabled David does have an understanding of disability and what it means for him. He has been involved in campaigning for the rights of disabled children and took part with other young disabled people from the 'Young and Powerful' group in meeting David Blunkett, the Secretary of State for Education and Employment. He has on more than one occasion flown unaccompanied to conferences outside Ulster, being met by friends at the airport. This sense of confidence and identity has been helped, by his years in the local school where he was accepted and was seen to be accepted as an equal member of his community.

For the last three years, Gail has been locked in a dispute with the East Belfast Schools Board about David's education. Her warm personality and beaming smile combined with unusual energy and personal conviction have brought her to the attention of the local education authority, the courts and, inevitable, the media. Gail has lived in Belfast all her life and is no stranger to struggle. She has been active in promoting disability issues for many years, across the political and religious divides, since David was born, and is therefore, easily type cast as an 'activist' who is putting her own views above the needs of her son. She has been accused, by one Belfast magistrate of "using her son as a battering ram to change the system" the official solicitor at the East Belfast Education Boards said she was someone "prepared to expose her son to the stress of publicity".

In many discussions with the authors, Gail spoke plainly on how she related the needs of her son to the wider inclusion/civil rights debate.

"Of course if I win David's case, this may in the long run benefit other children but my prime objective is always my own son. If it has any knock-on effect for

other children, then that's a bonus but my personal human rights issues come from my own family and whilst it starts with myself as their mother, it goes out first to my own children. In this particular situation it's David first, second and last"

As with so many other parents, Gail's stand on her son's behalf has attracted attention. Mostly it has been supportive but inevitably there have been viscous critics, mainly those with an interest in maintaining the segregation of disabled children and those who fear the exposure of publicity. Conflicts inevitably generate interest and it is the minority party, which is more likely to be glad of outside interest or support.. They are often pitted against huge organisations, such as education authorities, which have lawyers to protect their employees from criticism whether fair or unfair. Families do not usually have that luxury and to 'refuse comment' to those who show an interest (including the media) serves little purpose in such a vastly unequal struggle. It is after all the refusal of the East Belfast Education Board to allow David into his local school, which has brought the McKibben family attention they would like to avoid. It is ironic that it is mostly the parent in these situations who is accused of 'not putting the child's needs first'. Even worse is when this view is used to infer that the parent is inadequate in some way.

As ever, the laborious proceedings, 'bundles' of documents, and professional jargon spoke more of bureaucratic ritual than justice and again raised concerns about the independent special needs tribunal's 'impartiality' and quasi-legal status. At the outset, the panel refused Gail's request for an open hearing. At the close, some six hours later, Gail's team could not be sure whether any hearts or minds had been won over. Whilst the outcome of these hearings is always uncertain what is clear is that having a 'strong case' is no guarantee in a system where 'rights' is an offensive word and where even professed 'inclusionists' avoid the use of such language. Parents and independent advocates of the disabled child's right to belong to the mainstream school, will often acquiesce to the ritual of the independent special needs tribunals, in the faint hope, that they will be heard and justice will be done.

Some weeks after the hearing Gail received the decision. With the exception of an acknowledgement that David had good interpersonal skills, the independent special needs tribunal rejected every single argument put forward by Gail and her team. The rationale offered was that David's placement in the mainstream school would not be consistent with the 'efficient use of resources'. It is arguable that the outcome was predictable given the

current legal position and the domination of the Tribunal's lay membership by education professionals. (Whittaker and Crabtree, 1997).

In the early 1990's there was optimism that the 1993 Education Act would tackle some of the inequalities endemic in the 1981 Education Act. The publication of the Act and the Code of Practice brought disappointment to many but, as is so often the case for those campaigning to change legislation, left some people with a hope that justice and fairness would eventually emerge from the new legislation. Parents were still only able to state a preference for a mainstream school and the three notorious caveats remained unchanged. However, the introduction of independent special needs tribunals' appeared to be an improvement on the earlier local appeals committees. Six years on however, there is scant evidence that the, so-called independent special needs tribunals have had any significant impact on the numbers of children being segregated or excluded from school. Whilst they may have some useful role in determining funding or resources to individual children in school, they have been a serious impediment to the development of an inclusive system of education in this country. The independent special needs tribunals continue to take place behind closed doors, they have come to be seen as incestuous in that the lay members they recruit are totally unrepresentative of the people they are there to serve.

One of the most insidious features of the independent special needs tribunals is how it presents itself as "Independent". Such a respectable perception has ensnared many people who would support the general argument for 'inclusion'. Many professional advocates carefully avoid the use of words such as 'equality', 'rights' or even 'inclusion' on the assumption that their educational arguments will be given equal status in the hearings. There is evidently a worry that setting out the human rights agenda could offend the sensitivities of the 'impartial' panel members and, possibly bias the result. It should by now be clear that the reason for concern here is that the 'impartiality' or 'independence' of the panel members has always been a matter of some doubt. It is, after all, well established that the membership of independent special needs tribunal is weighted in favour of people with experience of traditional special segregated provision firmly based within the medical model of disability. (Whittaker and Crabtree, 1997).

In general it is professionally risky to be associated with controversial views. It is generally more acceptable to one's colleagues and professional body to take the middle ground, to

present the reasonable, impartial view. Indeed it could be argued that much professional training guards the individual against being or appearing to be 'emotionally involved'. In the 'caring' professions colleagues see such an approach as evidence that one 'has lost the plot'. However, in an area where fundamental inequalities define the system, not being clear about the human rights issue is likely to reinforce those attitudes, which focus on the individual child rather than the school system as 'the problem'. To present individual cases to independent special needs tribunal hearings without any reference to the basic inequalities in the system is to weaken the argument not only for that individual disabled child but also for all children. Such an approach amounts to the professional abuse of children, where professionals collude with the power of government, local education authorities and the independent special needs tribunals in deciding whether a child should be accepted or rejected. In this way detailed arguments about test scores, relative costs and diagnostic labels carry far more weight than the right of a child to belong or be accepted.

The evident unwillingness of independent special needs tribunals to directly seek the views of the child, let alone meet with them or allow them into hearings, is yet another indication of the bias the procedure has toward polite exchanges of views between professionals. This is at least consistent with the difficulty the United Kingdom government has in implementing Article 12 of the United Nations Convention on the Rights of the Child, which included the following expectation:

"State parties shall assure to the child who is capable of forming his or her views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child".

"For this purpose the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law".

(UNICEF, 1995)

In 1995 the United Nations Committee on the rights of the Child, had the following comments to make on the United Kingdom's progress in this area:

“The Committee is concerned about the apparent insufficiency of measures taken to ensure the implementation of the general principles of the Convention, namely the provisions of its articles 2, 3, 6 and 12. In this connection the Committee observes in particular that the principle of the best interests of the child appears not to be reflected in the legislation in areas such as health, education and social security which have a bearing on the respect for the rights of the child”.

(UNICEF, 1995)

Articles 2, 3, and 6 deal respectively with ‘non-discrimination’, ‘best interests of the child’ and ‘survival and development’ but article 12: ‘The child’s opinion’, is seen by many, particularly young people, as the cornerstone of the convention. The concern about this has been reflected in the creation of ‘Article 12’, a nationwide organisation run by and for children. The United Kingdom’s government’s next report to the committee is due in the year 2000. What has been done since 1995, particularly in the area of special education to improve the representation of children’s views? If tribunal decisions to date are any indication, there is still a long way to go.

Without an acknowledgment or statement on the wider political context we represent the issues to independent special needs tribunals in a vacuum. We have to acknowledge shifts of thinking and practice, which may have been slow but nevertheless distinct. A similar tribunal five years earlier would have heard debates about whether a child was even ‘educable’, that is, entitled to attend a school rather than a health authority ‘Training Centre’. To highlight such a shift in thinking and practice offers the opportunity for a more visionary approach and gives context to particular arguments around one child’s needs. It is also a clear indication that the schooling system is slow to learn from its past experiences.

A stronger and clearer position is needed where cases are taken to independent special needs tribunal or to court; one that positively affirms the rights of the child to be protected from discrimination and to have their voices heard. There would be more clarity and, we would argue, a greater chance of understanding and justice if the Courts and independent special

needs tribunals were presented with certain assumptions at the outset, before any detailed supporting arguments were introduced. These include:-

That the United Nations Convention on the Rights of the Child is accepted as the framework for any judicial or administrative proceedings affecting the child.

That the current United Kingdom legislation on special education is discriminatory and is in need of radical reform. The practice of compulsory segregation is not compatible with a modern education system.

That the child has right to express his or her own views in the proceedings, either directly or, where this is not possible, indirectly through a representative or recording.

That however inadequate the current education law, there is at least a presumption that children should be educated in mainstream schools.

That the burden of proof therefore lies with the local education authority to demonstrate that they have exhausted their imagination and resources in trying to achieve this.

That it is assumed to be in the common interest that hearings are held in public, not only for justice to be done but to be seen to be done.

Finally, and perhaps most importantly, that the special school is no longer a viable option for the increasing number of parents who demand a genuine academic and social education for their children.

These assumptions about the status of the child and the nature of education need to be re-affirmed at every opportunity if the momentum for change is to be sustained. Cases of compulsory segregation presented to independent special needs tribunals and the Court have greater integrity when they assert the child's right to belong. Asserting these views will inevitably offend those who would maintain a divisive and unjust system but, whether cases are won or lost, those who arbitrate will at least be required to examine their own assumptions, beliefs and prejudices. When a more just and inclusive system is achieved they may also reflect on their personal role in promoting or denying the rights of these children.

“Once segregation has ended it will not be long before we look back at what we used to do to children and ourselves. Children have the right to be together. They have the right To be part of a community...”

(Jordan and Goodey, 1996)

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