



of the "outcomes entail choices" argument and questions about the just allocation of educational resources, I will examine Burbules and Sherman's distinctions among "formalist," "actualist," and "results-based" conceptions of equal educational opportunity.<sup>6</sup> In this intermediary strand of argument I will seek to disentangle conceptual and normative controversies and to establish that the central question regarding equality of educational opportunity (for children) is not the wholly conceptual one of *whether* it is coherent to hold that the evidence for or against equality is educational outcomes, but the normative one of *which* educational outcomes ought to be equalized. My general conclusion will be that when viewed as a criterion of distribution within a broader philosophical theory of the just allocation of educational resources, equalizing educational outcomes in the name of equal educational opportunity is not only perfectly coherent, it is also more conducive to a just allocation than the alternatives.

#### THE OUTCOMES ENTAIL CHOICES ARGUMENT

Although somewhat elaborate arguments have been proffered,<sup>7</sup> the "outcomes entail choices" argument boils down to the observation that because opportunities can either be exercised or passed up, 'opportunity' incorporates, as *part of its meaning*, the concept of choice. As a consequence, or so the argument goes, equal educational opportunity cannot be identified with equal educational outcomes because choices, which are free to vary, determine outcomes. For example, an individual who chooses one entree on a menu over another, say, spaghetti over steak, can hardly later claim to have been denied the opportunity to have had steak because of the outcome — spaghetti for dinner. Similarly, a student who is accepted to both Harvard and State U can hardly claim to have been denied the opportunity for a Harvard education if he or she freely chooses to attend State U.

Of course, these examples might require that some additional conditions be met in order for them to qualify as genuine opportunities, depending on the conception of opportunity being employed. Because an individual might not have enough money to afford a steak or the tuition at Harvard, these so-called opportunities could be dubbed "formal." In order for them to be "actual," to be opportunities that actually could be exercised, it would be necessary to ensure that the individuals in question could indeed afford the price of steak or four years at Harvard. Were such conditions met, choice would be the only thing free to vary and, accordingly, whether a given outcome was realized would be determined solely by what individuals chose to do.

But there are additional complications. What if an individual is unable to digest steak? What if an individual is unable to meet Harvard's academic entrance requirements? Do these individuals enjoy real opportunities to have steak or to attend Harvard, respectively? In general, actualist conceptions open a Pandora's box regarding what things go into determining whether an individual has an actual, versus a merely formal, opportunity. Regarding equal educational opportunity in particular, should native ability count? family values about education? income?

These sorts of questions indicate the kinds of complexities that plague actualist conceptions of equal educational opportunity. Later I will suggest that actualist accounts do not provide a genuine option between formalist and outcomes-based conceptions:

6. Burbules and Sherman, "Equal Educational Opportunity: Ideal or Ideology."

7. Of course, no one advances just the argument I outline, but I trust the reader will recognize its general form. In various guises, arguments very close to it are proffered by Onora O'Neill, "Opportunities, Equalities, and Education," *Theory and Decision* 7, no. 4 (1976): 275-95; Ralph Page, "Opportunity and Its Willing Requirement," *Proceedings of the Philosophy of Education Society* (1976), 296-309; Robert Ennis, "Equality of Educational Opportunity," *Educational Theory* 26, no. 1 (1976): 3-18; Burbules and Sherman, "Equal Educational Opportunity: Ideal or Ideology," 105-14; Nicholas Burbules, Brian Lord, and Ann Sherman, "Equity, Equal Opportunity, and Education," *Educational Evaluation and Policy Analysis* 4, no. 2 (1982): 169-87; and, most recently, Christopher Jencks, "Whom Must We Treat Equally for Educational Opportunity to Be Equal?" *Ethics* 98, no. 3 (1988): 518-33.

in virtue of acknowledging the importance of the interaction among outcomes and personal characteristics, they amount to no more than a species of outcomes-based conceptions. First, however, I will call into question the more general assumption, common to formalist and actualist conceptions alike, that the concept of opportunity is (or at least need be) inextricably bound up with the concept of choice.

The notion that opportunities are inextricably bound up with choices results from drawing general conclusions from paradigm cases of adult opportunity, like the earlier ones of whether to have a steak or to go to Harvard. But concepts do not necessarily preserve the same meanings and implications when they occur in contexts and expressions that differ from typical ones. Wittgenstein declares that "meaning is use" and warns: "Language is a labyrinth of paths. You approach from one side and you know your way about; approach the same place from another side and you no longer know your way about."<sup>8</sup> There seems to me to be no good reason to assume that 'opportunity' must preserve the same meaning when the labyrinth is approached from the side of what to have for dinner as when it is approached from the side of 'equal educational opportunity'.

By way of illustration, the concept of the right to an education shares an important feature with the concept of equal educational opportunity: like opportunities, rights are typically discretionary. For instance, the right to free speech does not require that individuals exercise it. But rights are not always discretionary in this way, for the right to an education is not something that can be passed up, at least not prior to the age of sixteen. The peculiar nature of this kind of right has led Joel Fineberg to dub it a "mandatory right"<sup>9</sup> — a right that must be exercised. Such rights need not be seen as either mysterious or incoherent; they simply embody in one concept the coincidence of two norms. The right to an education in particular embodies society's interest in (compulsory) education as well as individuals' interest in obtaining it. Equal educational opportunity embodies these two norms as well, albeit in a more restrictive form. There is thus no obvious reason why constraining individual choice is any more inconsistent with respect to equal educational opportunity than it is with respect to the right to an education.

The lacuna from which outcomes-based conceptions are supposed to suffer stems largely from critic's penchant to ignore the peculiar meaning the concept of equal educational opportunity takes on when it is applied to children. One way to see this particularity is to examine what is involved in denying an individual an opportunity. Daniel Dennett observes that there are two ways to deny opportunities: brute force and withholding information needed for deliberation.<sup>10</sup> These two ways seem straightforward enough when it comes to adults: jailers deny prisoners the opportunity to take in a movie, and the Soviets keep information secret that would provide the United States with the opportunity to gain a strategic advantage. Things are more complicated with respect to children, however. One of the things education is supposed to do is to make children good information users or, in more traditional language, to make them rationally autonomous; children are thus incapable (up to a certain point at least) of being denied opportunities in Dennett's information sense, since they don't know what to do with information even when it is provided. Moreover, in order to make them into good information users, rationally autonomous citizens, it is perfectly reasonable to deny children opportunities in Dennett's brute force sense. Children's opportunities, then, exist only in attenuated form; accordingly, choices are legitimately denied them in the interest of promoting genuine opportunities down the road, after they mature.

In this way, equal educational opportunity bears a special relationship to equal opportunity more generally construed. As Charles Frankel observes, "There are . . . contexts in which the primary desideratum [of equality of opportunity] is

8. Ludwig Wittgenstein, *The Philosophical Investigations* (New York: Macmillan, 1959), 82.

9. Joel Fineberg, "A Postscript to the Nature and Value of Rights," in *Rights, Justice, and the Bounds of Liberty* (Princeton, NJ: Princeton University Press, 1980), 156-58.

10. Daniel Dennett, *Elbow Room: The Varieties of Free Will Worth Wanting* (Cambridge, Mass.: MIT Press, 1984).

developmental, educational, the evoking of potentialities."<sup>11</sup> Certain educational outcomes are thus *enabling* relative to other social goods: children need certain knowledge and intellectual skills in order to both have and exercise opportunities in meaningful ways. This is precisely why parents, schools, and the state exercise opportunities on children's behalf and why it is perfectly sensible to claim that restricting educational choice — for instance, when a parent insists that a child attend school over the child's protest or when the state insists that a child attend school over the parent's protest — promotes a child's educational opportunities.

Admittedly, embracing the notion of a "mandatory opportunity," a bit of a conceptual oddity, is not the only tack that might be taken against the "opportunities entail choices" argument. In particular, insofar as the concept of a mandatory opportunity is indeed conceptually counterintuitive, one might seek to avoid its use (but nonetheless abandon the "outcomes entails choices" argument) by directly endorsing the principle of equalizing educational outcomes for children and thereby setting the question of equalizing opportunities aside. In this way, one could avoid the concept of a mandatory opportunity by simply abandoning the notion that the concept of equal educational opportunity ought to be applied to children.

Although this proposal deserves careful consideration,<sup>12</sup> in this article I can only briefly sketch the kind of criticism to which it is vulnerable. In general, although there is nothing wrong with the proposal in the abstract, it pays a heavy price in order merely to save certain intuitions about conceptual relationships. For example, insofar as children's right to an education is mandatory, the same basic conceptual intuition — that rights and opportunities are typically discretionary — which would show that equal educational opportunity should not be applied to children would show that the right to an education should not be applied to children. In terms of the larger picture, it probably does more violence to common usage and understanding, and to worthy political goals, to deny that children have rights and opportunities that must be exercised on their behalf — by parents or the state — than to deny that children indeed have rights and opportunities. Transferring to the state and parents the power to exercise rights and opportunities on children's behalf makes neither the state nor parents bearers of such rights and opportunities. Instead, it simply creates the conditions for conflict between the state and parents and, insofar as they both have a legitimate interest in the kind and extent of education provided to children, gives rise to claims on behalf of children that the state and parents may make against one another.

The notion of a mandatory opportunity is of course harder to apply when it comes to adults, just like the notion of a mandatory right. (Although such mandatory rights are not unheard of. The right to vote is mandatory in democracies such as Australia's.) But this simply implies that the meaning of the concept shifts with context. In particular, its meanings shift as judgments about the justifiability of paternalistic interference in choice making shift. For example, although equal educational opportunity should be extended to children by means of mandatory opportunities, it should be extended to adults by means of free adult education which may be undertaken at their discretion.<sup>13</sup> If one is sensitive to the possibility of somewhat unusual concepts, like mandatory rights and opportunities, and to the special conditions that affect meaning, like children's failure to possess opportunities in their full-blown sense, then rejecting outcomes-based conceptions of equal educational opportunity wholesale, based on the "outcomes entail choices" argument, seems altogether too facile.

11. Charles Frankel, "Equality of Opportunity," *Ethics* 81, no. 3 (1971): 191-211, 203.

12. Onora O'Neill, for example, "Children's Rights and Children's Lives," *Ethics* 98, no. 3 (1988): 445-63, suggests that the language of rights should be replaced by the language of duties when it comes to children, partly because rights must be asserted on children's behalf (by parents or the state). Given the parallel between mandatory rights and mandatory opportunities, a similar argument could be used to support the abandonment of the concept of equal educational opportunities as a concept that applies to children.

13. Gutmann, *Democratic Education*.

#### FORMALIST, ACTUALIST, AND OUTCOMES-BASED CONCEPTIONS<sup>14</sup>

The argument of the first section called into question the largely unexamined presumption that choice is a conceptually necessary aspect of opportunity. This section will concentrate on the same general question but will approach it from a different angle. I will take Coleman's suggestion that "inputs must be effective," i.e., must be interpreted in terms of outcomes, as my point of departure and then argue that from among the three alternative conceptions of equal educational opportunity identified by Burbules and Sherman<sup>15</sup> — "formalist," "actualist," and "equal results" — the first is untenable and the second collapses into the third. As far as possible, I will eschew questions of distributive justice, about which I will have much to say in the next section. The basic aim of this section is to establish that the central issue pertaining to equal educational opportunity concerns normative commitments regarding *which* outcomes public education is responsible for providing or mitigating, not *whether* equal educational opportunity per se should be interpreted in terms of equalizing educational outcomes.

#### Inputs Must Be "Effective"

The notion that equal educational opportunity might be outcomes-based gets off the ground as soon as one observes that the only way to make much sense of what counts as an equal opportunity to education is to determine what features of schools are germane to educational outcomes: in Coleman's language, "inputs must be effective."<sup>16</sup> Although Coleman's finding that the characteristics of students' classmates are a more powerful predictor of educational outcomes than school facilities or teachers' credentials may have come as a surprise, it should not have come as a surprise that he didn't bother to investigate variables like the color of school walls.<sup>17</sup> Wall color, and a host of other potential inputs that might be imagined, like teachers average height and the color of their hair, are simply not the sorts of inputs that are relevant features of opportunity. In general, the only features of a situation that determine the level of educational opportunity are those that have been demonstrated to be, or can be reasonably be inferred to be, causally linked to educational outcomes.

Given this basic observation, a general outcomes-based schema for equality of educational opportunity may be formulated as follows: *Educational outcomes must be equalized, controlling for equality on  $X_1, \dots, X_n$ .* What this formula means is that there are various inputs (indicated by  $X_1, \dots, X_n$ ) that morally justify departures from equality of outcomes. These inputs are then employed to create reference groups of students such that educational outcomes must be equal only *within* the groups in question, not *among* them. For instance, in one of his formulations Coleman suggests that family background may serve as a relevant input, in which case children are afforded equal educational opportunity if the educational outcomes they enjoy are equal to the outcomes for those with similar family backgrounds. Other candidates for morally relevant input (X's) include student ability, motivation, and interest (the sort of inputs used to justify the unequal educational outcomes associated with "tracking" schemes, magnet schools, and so forth).

Before applying these observations to formalist and actualist conceptions of equal educational opportunity, it should be noted that not even thoroughgoing outcomes-based conceptions advance (or need advance) the position that educational outcomes must be equalized, period. That is, any such conception will have to have some inputs (some X's) for determining what comparisons are relevant. For example, the outcomes that should be equal for first-graders obviously will be different than the outcomes for high school seniors; likewise, there will be special cases, like severe emotional

14. Major portions of this section are taken from my "Equality of Educational Opportunity as Equality of Educational Outcomes," *Proceeding of the Philosophy of Education Society* (forthcoming).

15. Burbules and Sherman, "Equal Educational Opportunity: Ideal or Ideology."

16. Coleman, "The Concept of Equality of Educational Opportunity."

17. This example owes to Strike, *Educational Policy and the Just Society*.

disturbances, such that the ordinary outcome requirements will be unattainable. I will be suggesting later that the difference between outcomes-based and actualist conceptions is simply one of degree — a difference regarding what factors (X's) may justify unequal outcomes or, what comes to the same thing, what reference groups should be created — not one of whether educational outcomes should be equalized within groups. First, however, I will dismiss formalist conceptions.

#### Why Formalist Conceptions Are Untenable

A formalist conception of equal educational opportunity, as the name suggests, holds that so long as no formal barriers exist to an individual's or group's access to school and so long as, once in school, no formal barriers exist to available educational resources, equal educational opportunity exists. The position taken by San Francisco school officials in the celebrated *Lau v. Nichols* case (1974) may serve as an illustration.<sup>18</sup>

When a suit was filed on behalf of Chinese children because they could not understand instruction in English (the only language in which instruction was offered), the San Francisco public schools responded with a formalist argument: providing the same inputs to Chinese children, in the form of the same texts, teachers, and facilities, is all that can be required in the name of equal educational opportunity. The Supreme Court dismissed this argument as follows: "Under these state-imposed standards there is no equal treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education."<sup>19</sup> In short, the Court rejected a formalist conception of equal educational opportunity, tacitly accepting Coleman's observation that inputs must be "effective," i.e., must be causally linked to desirable educational outcomes.

The Court's appeal to the notion of "meaningful education" captures the intuition that genuine opportunity requires more than the removal of formal barriers — the same sort of intuition that is invoked to justify policies like busing, education for the handicapped, and affirmative action. The general principle underlying each of these policies is that individual and social characteristics are constitutive of one's opportunities. That is, determining whether an individual (or group) is afforded an equal opportunity requires taking into account how individual and social characteristics interact with the features of the educational setting. For example, insofar as there is not law against me (who am five feet, seven inches and who can jump about a foot off the ground) playing basketball in the NBA, I possess an equal opportunity to play in the NBA, formally speaking. It is stretching things more than a little, however, to suggest that I have a genuine opportunity, let alone one equal to Magic Johnson's. In general, if some outcome is simply unattainable for an individual, he or she has no opportunity to enjoy it. Similarly, if conditions exist that diminish an individual's chances of attaining a given outcome, then such conditions also diminish that individual's opportunity. In the case of *Lau*, for instance, teaching Chinese-speaking children in English diminishes their opportunity to benefit from schooling.

What to do about diminished or nonexistent opportunity is, of course, a different kind of question. For instance, getting philosophers into the NBA isn't very pressing, ensuring children get a decent education is. Demonstrating why this should be so would quickly lead to substantive normative questions about the just allocation of educational resources, questions I am largely trying to forestall until the next section. The general point I want to make here is simply that formalist accounts of equal educational opportunity are untenable because they presuppose implausible conceptions of both 'having an opportunity' and 'having an equal opportunity'.

18. An account of this case may be found in Louis Fischer, David Schimmel, and Cynthia Kelly, *Teachers and the Law*, 2nd ed. (New York: Longman, 1987).

19. *Ibid.*, 308.

#### How Actualist Conceptions Are Outcomes Based

Actualist conceptions attempt to avoid the defect in formalist conceptions, but nonetheless do stop short of more thoroughgoing outcomes-based accounts. Actualist conceptions may be distinguished from formalist ones in virtue of acknowledging the importance of individual and social characteristics in identifying opportunities; they may be distinguished from more thoroughgoing outcomes-based conceptions in virtue of denying that taking individual and social characteristics into account entails equalizing educational outcomes. What I intend to show in the remainder of this section is that in virtue of moving beyond merely formal characteristics of opportunity to include individual and social characteristics, actualist conceptions tacitly embrace equality of educational outcomes as the criterion of equal educational opportunity. They stop short of more thoroughgoing outcomes-based conceptions not by avoiding the criterion of equality of educational outcomes, but only by endorsing more kinds of inputs as justifying departures from equality.

Consider the *Lau* decision in terms of the schema introduced earlier — Educational outcomes must be equalized, controlling for equality on  $X_1, \dots, X_n$ . The effect of the decision is to deny that being non-English-speaking is the sort of input (X) that should be controlled for, i.e., its effect is to deny that being non-English-speaking is the sort of input that is morally relevant. Accordingly, and against formalist conceptions, because being non-English-speaking is causally linked to not performing well in an English-based curriculum, active steps have to be taken to adjust the curriculum to the learner so as to eliminate the effects of being non-English-speaking. Thus, *Lau* illustrates two dimensions of (nonformalist) reasoning about equal educational opportunity: (1) a known or presumed causal linkage between some input and some educational outcome, and (2) a normative question about whether the input in question is morally relevant in the sense that it justifies unequal outcomes.

Generalizing these two features of the *Lau* decision, the question of causal linkages between educational inputs and outcomes does not distinguish actualist conceptions from outcomes-based conceptions (or from formalist conceptions for that matter); questions about such linkages are empirical matters that float free of conceptions of equal educational opportunity. If actualist conceptions are to permit departures from equality of outcomes that more thoroughgoing outcomes-based conceptions would not, then they must do so by virtue of permitting more kinds of inputs to justify unequal outcomes. Formally, the difference between actualist conceptions and outcomes-based conceptions boils down to the difference, respectively, between Educational outcomes must be equalized, controlling for equality on  $X_1, \dots, X_n$ , and Educational outcomes must be equalized, controlling for equality on  $X_1, \dots, X_n$ . Whether a given X is causally linked to desirable educational outcomes is something about which actualist and outcomes-based conceptions do not dictate different answers, and, unlike formalist conceptions, both take the evidence provided by educational outcomes to be important.

If this characterization of the relationship between actualist and outcomes-based conceptions is correct, and it seems to be the only way in which actualist conceptions can occupy a middle ground between formalist and outcomes-based conceptions of equal educational opportunity, then the difference between the two does not turn on the appeal to outcomes per se. Rather, the difference between the kind of reasoning associated with actualist conceptions and the kind associated with more thoroughgoing outcomes-based conceptions is wholly a normative one: whereas actualist conceptions would hold that schools have no responsibility to mitigate things like unequal ability, interest, and perhaps motivation, more thoroughgoing outcomes-based conceptions would deny this. That is, more thoroughgoing outcomes-based conceptions tend to lump things like ability, interest, and motivation in with things like race and being non-English-speaking — things that are not legitimate for creating differential reference groups. Thus, to the extent that they tend more readily to include things like ability, interest, and motivation among the class of educational inputs that are not to be tampered with, actualist conceptions are more formalist, noninterventionist, or libertarian than more thoroughgoing outcomes-based conceptions. In the end, then, actualist

conceptions are simply a conservative variant of more thoroughgoing, i.e., liberal, outcomes-based conception; they differ from the latter solely in terms of normative questions about what input (X's) ought to be included or ignored in devising the reference groups within which educational outcomes should be equalized.

To complicate matters, however, it is likely that the normative stance implicit in actualist accounts spills over into its empirical methodological assumptions. What inputs — individual, social, educational — lead to what educational outcomes is, more often than not, rife with uncertainty. There are two ways to handle this uncertainty: one — the actualist way — is to assume that when outcomes are unequal and causal relationships are uncertain, it is best to assign responsibility to X's deemed legitimate (like ability, motivation, and interest) and to maintain the status quo; the other — the outcomes-based way — is to assume that when outcomes are unequal and causal relationships are uncertain, it is best to assign responsibility to inequality of opportunity and to attempt a remedy.<sup>20</sup> That actualist and more thoroughgoing outcomes-based conceptions of equal educational opportunity have different methodological tilts does not undermine the basic point that they are both outcomes-based; it just provides another lesson regarding the way in which educational research and evaluation are shot through and through with value commitments.

The general point of this section is not new: I am by no means the first to have claimed that the degree to which educational outcomes ought to be equalized is a normative issue. On the other hand, I do hope to have added some clarity to the role of educational outcomes in assessing equal educational opportunity. In particular, it confuses the issue to claim that equal outcomes conceptions do not count as conceptions of equal educational opportunity at all. On the contrary, once formalist conceptions are dismissed, equality of educational opportunity *must* be identified with equality of educational outcomes. The only questions that then remain concern what variables may be legitimately used to determine the groups within which educational outcomes should be equalized. Again, no conception would be silly enough to maintain that outcomes must be equalized regardless of auxiliary considerations, like the difference between the first grade and the twelfth or between normal children and those with severe emotional disturbances. On the other hand, denying, *carte blanche*, that equal educational opportunity requires equalizing educational outcomes only serves to muddy the issue in such a way as to enhance the possibility that regressive formalist conceptions will get in through the backdoor.

Before turning to the next section and the issue of distributive justice, it would be worthwhile to test the analysis so far in terms of particularly challenging example,<sup>21</sup> an example that brings into sharp relief fundamental sources of disagreement.

*Example.* A ten-year-old, call him Johnny, has all the benefits — he has a high I.Q., his parents are wealthy and highly educated, they encourage him to do well in school, the home is filled with books, television viewing is restricted, intellectual conversation is frequent, he gets a ride to school every morning in a Mercedes, he has been thoroughly tested for learning disabilities, and on and on. Yet, Johnny does very poorly in school. It seems reasonable to say in this case that despite the bad educational outcomes, Johnny has nonetheless enjoyed an equal, indeed a superior, educational opportunity. What follows from this is that equality of educational opportunity cannot be identified with equality of educational outcomes.

I suspect the reason for the strong intuitive appeal of this example is that children with Johnny's advantages usually are quite successful. Since no causal factor can be identified which would account for (and excuse) Johnny's poor performance — he is not poor, he doesn't suffer from a learning disability, he receives support at home, and so forth — it must be Johnny himself, what he chooses to do and not do, that is

20. This methodological assumption is defended by Kenneth Strike, "The Ethics of Resource Allocation in Education," in *Microlevel School Finance: Issues and Implications for Policy*, ed. D. H. Monk and J. Underwood (Cambridge, Mass.: Ballinger, 1988), chap. 6, 143-80.

21. I owe this example to Nick Burbules.

responsible for his failure. In this way, the example of Johnny is an instance of the way in which the "outcomes entail choices" argument might be applied to children after all and, accordingly, is a challenge to outcomes-based conceptions of equal educational opportunity as well.

There are at least two ways in which one might respond to the example of Johnny. One way is to endorse the intuition associated with the "outcomes entail choices" argument and to view Johnny as having been indeed provided with an equal educational opportunity. Another way is to view Johnny's performance as evidence of a failure to provide equal educational opportunity, a failure that results from ignorance of what interventions might be appropriate on the model of, say, dyslexia, before it was identified as a serious obstacle to learning. This second way appeals to the intuition that children are not to be held responsible for their educational choices (at least not insofar as holding them responsible is not itself educative)<sup>22</sup> — a moral intuition that conflicts with the *conceptual* intuition associated with the "outcomes entail choices" argument.

Although such conflicts in intuitions frequently leave argument at an impasse, in this case a test exists which suggests the second intuition should outweigh the first and suggests, accordingly, that the challenge to outcomes-based conceptions of equal educational opportunity posed by children like Johnny fails. The test is simply this: suppose some technique was discovered that would vastly improve Johnny's performance, for example, psychological counseling, biofeedback, tripling his library time, or whatever, and suppose Johnny would rather spend his time playing video games. Would his parents and school authorities be justified in requiring him to undergo the effective technique against his expressed wishes? If the answer to this question is "yes," and in my estimation this is the only reasonable answer, then it follows that it is morally permissible, indeed obligatory, to override Johnny's choices.

What follows in turn is that the example of Johnny will not do what it is supposed to do. As I intimated earlier, whether the discretionary sense of opportunity associated with the "outcomes entail choices" argument or the nondiscretionary sense associated with "mandatory opportunities" applies depends on whether paternalistic interference is justified. If Johnny were eighteen, slinging hash at the local diner, and refused to further his education, his choice would have to be honored. Since Johnny is ten, however, it is not wrong-headed to override Johnny's choices in order to achieve the educational outcomes that would further his best interests. The problem, instead, is simply that no one knows what should be done in order to produce the right educational outcomes, no one knows what educational inputs would be effective.

#### OUTCOMES-BASED CONCEPTIONS OF EQUAL EDUCATIONAL OPPORTUNITY AND THE JUST ALLOCATION OF EDUCATIONAL RESOURCES

My discussion to this point has been designed to show that wholly conceptual arguments against outcomes-based conceptions of equal educational opportunity, particularly the "outcomes entail choices" argument, are inconclusive at best. In the process, I also showed how normative considerations regarding the justifiability of paternalistic interference are an inescapable consideration and are the only means by which to distinguish "actualist" from "results-based" conceptions. This section will focus on a positive defense of outcomes-based conceptions within the broader normative context, particularly within the context of theories of justice.

Following Strike<sup>23</sup> and Gutmann,<sup>24</sup> I will make two general methodological assump-

22. I do not mean to suggest here that moral education cannot begin until children become adults, not that it must be purely a matter of conditioning prior to this point. Instead, I am suggesting that children are to be shaped, using moral argument and the concept of moral responsibility as appropriate, but are not to be granted full autonomy or held fully accountable until they develop the capacity for "effective deliberation." For a discussion of this point, see Martha Nussbaum, *The Fragility of Goodness* (New York: Cambridge University Press, 1986), chap. 9, and especially sec. 5.

23. Strike, *Educational Policy and the Just Society*.

24. Gutmann, *Democratic Education*.

tions regarding conceptions of equal educational opportunity: (1) 'equal educational opportunity' is best construed as a principle that dictates the distribution of educational resources, and (2) how the principle is interpreted (or how binding it is) depends on the broader political theory in which it is embedded.

Using this framework, I will consider four normative views: libertarianism, meritocratic utilitarianism, liberal communitarianism, and Rawlsian contractarianism. These views represent a progression with respect to the import of educational outcomes: libertarianism eschews outcomes as irrelevant; meritocratic utilitarianism views outcomes as relevant, but does not require that they be equal; liberal communitarianism requires that at least *some* outcomes be equal; and Rawlsian contractarianism requires that *many* (all relevant) outcomes be equal. The argument of this section aims to show that libertarianism and meritocratic utilitarianism are unacceptable, that at the very least *some* educational outcomes must be equalized in order for the distribution of educational resources to be consistent with the demands of justice in a liberal democracy.

### Libertarianism

Libertarians like Robert Nozick<sup>25</sup> object in principle to the redistribution of goods by governments, an objection that applies to utilitarianism and Rawlsian contractarianism alike. For libertarians, individual liberty is *the* overriding value; only a "minimalist" state can be justified — a state whose power is restricted to protecting its citizens' rights to be free from things like crime, foreign belligerents, and interference in executing contracts. In particular, unequal patterns of outcomes cannot be used to justify taking certain individuals' resources in order to promote the welfare of others.

The meaning and function of 'equal educational opportunity' thus takes on a somewhat unconventional meaning and function in libertarian theory. Respect for equality is respect for liberty, and the function of equal educational opportunity (if this is a useful libertarian concept at all) is not to equalize outcomes, but to insure that individuals (or their parents) are free to pursue any form of education they freely choose.

What most clearly divides libertarian thinkers like Nozick from more liberal thinkers like Rawls is their respective attitudes about natural and social contingencies. For Rawls, individuals can neither be credited nor blamed for the things they draw in the "natural lottery" — things like intelligence, talents, and health — and a just society will attempt to level the inevitable inequality in outcomes for which individuals are not responsible. For Nozick, although the natural lottery might be *unfortunate* for certain individuals, it is not thereby *unfair*; individuals are "entitled" to whatever characteristics they draw in the natural lottery and to whatever flows from these characteristics. Distributions of goods that result from free exchanges of consenting adults are just, according to Nozick, no matter how unequal the resulting distribution and despite the fact that certain individuals start life with significant advantages.<sup>26</sup>

Perhaps the most puzzling aspect of libertarian theory is how oblivious it seems to the ineluctable notion of social determination — a notion that underpins social science and that is impossible to ignore given today's understanding of the complex workings of modern societies. It is tenuous at best to suggest that patterns of outcomes should be explicated in terms of a history of choices and bargains and that the patterns are just where coercion (in its more obvious and blatant) forms is absent. Coercion can be subtle, and choices can be limited. The notion that being born into a poverty-stricken environment, for instance, has no effect on one's life chances, that society has no responsibility to try to do something, that this is "unfortunate but not unfair," that all that is required is an exercise of will, seems beyond the pale.

25. I use Robert Nozick's views throughout, as represented in *Anarchy, State, and Utopia* (New York: Basic Books, 1974), to represent libertarian political theory.

26. This does not mean, of course, that all unequal distributions are justified and need not be "rectified." For example, the slave owners did not receive their shares through voluntary agreements with the slaves; thus, the distribution of opportunity in the ante-bellum South was unjust, and so are its direct consequences.

Libertarians would, of course, concede that conditions of poverty may be unjust — provided, that is, they pass a very strict test. In order to be unjust, such conditions must demonstrably result from a history of unjust "transfers"<sup>27</sup> — as in the case of slavery, for instance — not from the effects of social determination, such that inequality of outcomes constitutes good evidence of inequality of opportunity. But how is libertarian theory to be used to guide the formulation of practical policy? For example, there can be little question that blacks still suffer the effects of slavery and that the transfer of vast North American regions from native Americans to European settlers was unjust. Is the solution to trace the histories of the transfers for each individual and to "rectify" all of those that are deemed unjust? This seems a horribly complex, indeed impossible, task.

The problems do not end here. Even if by some miracle everything could be put right, it wouldn't be long until gross inequalities would again begin to arise — children whose parents made bad deals, succumbed to drugs, who deserted them, and so forth, would be put at a severe disadvantage because of the bad choices of their parents. Perhaps the obvious response for a libertarian is to appeal to the principle of merit as the means by which to distribute educational opportunities. But this response faces at least two serious problems. First, the likelihood that children will become academically meritorious is determined by how they have fared in the "lottery." Thus, the questions of determining the history of transfers and of mitigating bad parental choices arise anew. Second, it is by no means obvious that the appeal to merit is theoretically consistent. Because libertarianism is based on free-market/free-contract principles, parents would seem free to distribute educational opportunities on the basis of any criterion to which they freely agree, including (and especially) ability to pay. Embracing ability to pay as the principle of distribution is tantamount to abandoning the principle of equal educational opportunity altogether and treats children as if they were their parents' chattel. On the other hand, if merit is truly to serve in a libertarian scheme as the criterion of distribution of educational opportunities, then it must be incorporated as an additional principle that limits the kinds of agreements that can be struck. There is thus no way to sanction any plausible principle of distribution without moving beyond the confines of libertarian political theory.

### Meritocratic Utilitarianism

Utilitarianism is notorious for the number of interpretations to which it is open, and I shall focus on the version I believe is most pertinent with respect to the issue of equal educational opportunity: "meritocratic utilitarianism." This is the basic framework employed in a *Nation at Risk*<sup>28</sup> and is made up of two principles: (1) educational policies are to be evaluated on the basis of their effects on economic productivity, and (2) educational opportunities are to be distributed (and designed) on the basis of economically valuable skills.

A program like Head Start, for example, could be justified on the grounds that it promotes equal educational opportunity by distributing opportunities on the basis of economically valuable skills, "merit." Because such economically valuable skills would otherwise go undetected and undeveloped, such a program for the disadvantaged also maximizes productivity. Meritocratic utilitarianism has no difficulty with the notion that government ought to distribute resources in order to achieve desirable outcomes — indeed, that is the major aim for the theory — and equal educational opportunity is simply one potential device for promoting this aim. Thus, unlike libertarianism, utilitarianism has no built-in hostility toward outcomes-based conceptions of equal educational opportunity.

27. Nozick, *Anarchy, State, and Utopia*.

28. The National Commission on Excellence in Education, *A Nation at Risk* (Washington, D.C.: U.S. Government Printing Office, 1983). My interpretation of the kind of distributive principle underlying this report draws heavily on Kenneth Strike's "Is There a Conflict between Equity and Excellence?" *Educational Evaluation and Policy Analysis* 7, no. 4 (1984): 409-15.

On the other hand, equal educational opportunity suffers a precarious existence within meritocratic utilitarianism, because it is held hostage to maximizing productivity and because it is easy to imagine a set of conditions under which maximizing productivity would conflict with equalizing educational outcomes. Consider again the example of Head Start. Suppose the children enrolled are faring better than they otherwise would — educational outcomes are being equalized — but that a cost-benefit analysis reveals that economic productivity would be enhanced if the resources devoted to Head Start were spent on scientific and technical education for children talented in these fields. Under these conditions, equalizing educational outcomes would not be sanctioned by meritocratic utilitarianism. On the contrary, the theory would dictate instead that the resources go to scientific and technical education and, as a consequence, that educational outcomes become even less equal.

One way for meritocratic utilitarians to justify this inegalitarian result would be to argue that the principles of maximizing productivity and merit dovetail in such a way that awarding educational opportunities on the basis of economically valuable skills also increases economic productivity. But this response faces a significant obstacle. Norman Daniels<sup>29</sup> has shown that the principle of maximizing economic productivity and the principle of merit may conflict. Put simply, the most economically productive arrangement may require assigning individuals to positions for which they are not best suited (or most meritorious). For example, an individual might make a better physician than school teacher relative to other individuals in each pool, in which case the principle of merit would dictate that he or she be permitted to pursue a career in medicine. But if there were a shortage of minimally competent teachers in comparison to physicians, the principle of maximizing productivity would dictate that the individual pursue a career in teaching. Thus, the principle of merit would dictate one thing and the principle of maximizing productivity another.

An alternative utilitarian gambit would be to find some good other than economic productivity to be maximized. But the price that utilitarians must pay for this move is the need to come up with some intersubjective criterion of the good other than money. This is a notorious problem for utilitarianism, and a discussion of it goes well beyond the scope of this essay. It is sufficient for my purposes here to note that contemporary utilitarians are in general uncomfortable with the marked inegalitarian implications, as well as with counterintuitive implications about moral reasoning,<sup>30</sup> that follow from the unconstrained application of the principle of utility. Sophisticated utilitarians like Thomas Scanlon<sup>31</sup> and R. M. Hare<sup>32</sup> have responded by providing utilitarian arguments for suspending the principle of utility. Such attenuated forms of utilitarianism may hold some theoretical interest for moral epistemology, but from a more practical point of view they seem to amount to no more than post hoc (or ad hoc) justifications for moral beliefs and practices. In particular, they do not describe moral reasoning or suggest a set of principles (except, ironically, nonutilitarian ones) for setting policy.

Unlike libertarianism, utilitarianism is congenial to outcomes-based conceptions of equal educational opportunity; like libertarianism, however, it provides no principled way to ensure that opportunities will indeed be equalized. Equal educational opportunity is rendered secondary to maximizing the good, however the good might be defined. Utilitarianism, then, fails to provide an adequate framework within which to ground the principle of equal educational opportunity.

29. Norman Daniels, "Meritocracy," in *Justice and Economic Distribution*, ed. John Arthur and William Shaw (Englewood Cliffs, N.J.: Prentice-Hall, 1978).

30. In my estimation, Bernard Williams has provided some of the best criticisms of utilitarianism with respect to moral psychology. See his *Ethics and the Limits of Philosophy* (Cambridge, Mass.: Harvard University Press, 1985). Also, see his discussion in J. J. C. Smart and Bernard Williams, *Utilitarianism: For and Against* (London: Cambridge University Press, 1973).

31. Thomas Scanlon, "Rights, Goals, and Fairness," in *Theories of Rights*, ed. Jeremy Waldron (New York: Oxford University Press, 1984), 137-52.

32. Richard M. Hare, *Moral Thinking: Its Levels, Method, and Point* (New York: Oxford University Press, 1981).

### Liberal Communitarianism

The shortcomings of libertarianism and utilitarianism suggest that the principle of equal educational opportunity must be grounded in values other than liberty or utility. Amy Gutmann<sup>33</sup> advances a position that may be called "liberal communitarianism," in which a democratic form of government is the foundational value. Simply stated, Gutmann's view is that, with few exceptions, all children should be educated up to the "democratic threshold" necessary for effective participation in the political process. The threshold is an outcome criterion that is *limited* in the sense that, once it is met, the "democratic authorization principle" permits discretion with respect to demands for equality above the threshold.

To understand Gutmann's democratic threshold and authorization principles, it is necessary to place them within her broader educational and political theory. The fundamental problem she seeks to solve is how to ensure the existence of a democratic society without invoking undemocratic methods of doing so. Her solution is to propose two principles that must constrain democratic deliberation, two principles that cannot be voted down on pains of voting down democracy itself: "nondiscrimination" and "nonrepression." She describes these principles as follows:

The principle of nonrepression prevents the state, and any group within it, from using education to restrict rational deliberation of competing conceptions of the good life and the good society. . . . Nondiscrimination extends the logic of nonrepression, since states and families can be selectively repressive by excluding entire groups of children from schooling or denying them an education conducive to deliberation among conceptions of the good life and the good society.<sup>34</sup>

The threshold principle, also a principle that constrains democratic deliberation, comes into play in fleshing out "an education conducive to deliberation." That is, in order for individuals to engage in the democratic activity of "conscious social reproduction," they must be adequately equipped to do so, again, on pains of undermining democracy itself. Nonrepression, nondiscrimination, and the democratic threshold principle thus function in Gutmann's theory to restrict the sphere of individual, family, and community choice; they embody the legitimate interests of a democratic state in preserving itself as well as children's interest in protection and development. In this way, the interests of both a democratic society and its citizens in an adequate education are served.

Gutmann provides maneuver space for democratic deliberation and individual choice above the threshold by means of her "democratic authorization principle." She dismisses both what she calls "equalization" (equalizing all children on all outcomes) and "maximization" (educating all children up to the maximum that their capacities allow). "Equalization" on all outcomes would be inordinately costly, undesirable because too homogenizing, or both; "maximization" would be so costly as to hold society hostage to a "moral ransom" with respect to the other goods it might wish to pursue. For Gutmann, equalizing outcomes need not go beyond the threshold, but may: if a community achieves the threshold and decides this is sufficient, then they have discharged their responsibility; if a community achieves the threshold but decides to devote further resources and effort to public education, then it is free to do so.

Gutmann restricts her theory in another way that permits maneuver space for deliberation. Attaining the democratic threshold is the responsibility of "primary" (K-12) education. Higher education serves other purposes which permit it to distribute opportunities on the basis of criteria such as merit and, accordingly, to let the chips fall where they may regarding outcomes. (On the other hand, insofar as K-12 education fails to perform its function — the present state of affairs in the United States — higher

33. Gutmann, *Democratic Education*.

34. *Ibid.*, 44-45.

education is rightly required to plug the holes with remediation, affirmative action, and so forth.)

In summary, Gutmann's conception may be explicated in terms of four overlapping points and several concepts introduced previously.

First, education up to the democratic threshold is an *enabling good*. That is, individuals require the knowledge and skills associated with the capacity for democratic deliberation in order to participate effectively in the political process and thus have a say in their lives.

Second, education up to the democratic threshold is (should be) a *mandatory opportunity*. Effective political participation serves both the interests of individual citizens and of the democratic state. Thus, the state has the obligation to provide its children with an adequate political education, and its citizens have the obligation to ensure their children receive it. In this way, Gutmann's analysis is sensitive to the attenuated sense in which children enjoy opportunities because it limits the scope of the "outcomes entail choices" argument to those situations in which state paternalism is not justified, for instance, where children have reached the age of majority. The objection to outcomes as mandatory focuses exclusively on the state's obligation to provide an adequate education and neglects the state's legitimate power to require it.

Third, education up to the threshold must be needs based. That is, different individuals will require different amounts of educational effort and resources to achieve the democratic threshold. Resources and effort must be distributed differentially, according to need, so as to ensure that as many individuals as possible meet the threshold.

Finally, education up to the threshold is limited in two ways with respect to equalizing educational outcomes: (1) educational goals and activities other than those associated with the democratic threshold exist — fine arts, athletics, vocational education — that are not subject to a threshold outcome and in which individual and community choice is free to operate, and (2) communities are free to educate their children above the democratic threshold in the knowledge and skills that make it up (provided this does not result in their gaining an advantage in the political process).

For Gutmann, then, 'equality' means political equality; in terms of educational outcomes it means *equal enough* — up to the democratic threshold — not sameness in all interests, values, capabilities, and aspirations. Instead of being at the mercy of unfettered liberty or the principle of maximizing the aggregate good, 'equality' is grounded in the requirement of an equal political voice for citizens, which in turn is a requirement for a democratic state to exist.

Several general difficulties in Gutmann's analysis should be noted, so that they can be distinguished from the question of whether the outcomes-based feature of her analysis is the problem. First, insofar as, *ex hypothesi*, not all students can be brought up to the threshold, where are the lines to be drawn regarding who should be allowed to fall below it? Second, how is the threshold to be defined? Gutmann suggests democratic procedures should be used, but what if, as is likely, certain groups (e.g., religious fundamentalists) reject the mainstream conception of what constitutes an adequate education? Third, what about other causes and kinds of inequality? Is not political equality bound up with social and economic equality? Is not Gutmann's threshold principle, then, too weak?

Although each of the problems has the potential to undermine Gutmann's theory, none turns importantly on the outcomes-based feature of her conception of equal educational opportunity. The first problem involves the ubiquitous difficulty of setting qualifying criteria — a difficulty that ranges from setting criteria for who qualifies for special education to who qualifies for food stamps to who qualifies for Harvard. This is a difficulty that no conception of equal educational opportunity can avoid.

The second problem raises a more fundamental philosophical issue: the potential conflict between pluralism and equality. Again, however, the problem is not a consequence of the outcomes-based feature of Gutmann's analysis. Any conception of equal educational opportunity — formalist, actualist, or outcomes-based — will involve disputes about the contents of the curriculum and procedures for establishing it as well

as whether children should be compelled to undergo it. The question the pluralism-equality conflict raises is the conditions under which the state may legitimately overrule community or individual discretion in order to ensure that opportunity is equalized, however this is conceived.

The third charge against Gutmann's analysis, that her threshold principle is too weak, likewise does not turn on the feasibility of outcomes-based conceptions. On the contrary, it rests on the view that a more thoroughgoing outcomes-based conception is required.

#### Rawlsian Contractarianism

Strike<sup>35</sup> provides just such an outcomes-based conception: he endorses Gutmann's threshold principle but demands more. Before proceeding with the details of Strike's analysis, however, it should be noted that it is set against a Rawlsian theory of distributive justice, and a proper understanding of his views requires that they be interpreted in that light. In the interest of keeping this essay manageable, I shall simply have to assume some basic understanding of Rawls's theory on the part of the reader.<sup>36</sup>

According to Strike, the state indeed has the obligation to ensure that its citizens are politically empowered in the way Gutmann's threshold demands. Furthermore, however, Strike contends that any systematic differences in outcomes associated with group membership that are not the result of "morally relevant" differences are the mark of injustice, and that it is education's responsibility — as a public institution that importantly affects the lives of citizens — to intervene and eliminate injustice wherever possible. Such inequalities are not acceptable solely in virtue of being sanctioned by democratic procedures, as Gutmann's analysis suggests they would be.

Strike departs from Gutmann because of the way in which she dismisses "equalization" as an acceptable interpretation of equal educational opportunity. Although it is not clear to me that Gutmann does what Strike charges her with — denying that there are any such things as morally relevant differences — she nonetheless identifies "equalization" with strict egalitarianism, i.e., with individual parity. She thereby ignores the possibility of a Rawlsian interpretation that focuses on group parity.

Strike identifies equalization above the threshold with group parity and proposes a formula for ascertaining when such parity obtains. He claims that an educational outcome is a function of three variables: morally irrelevant characteristics (MIC), morally relevant characteristics (MRC), and opportunities. He characterizes the relationship among these three variables as follows: "Outcomes = f(MIC, MRC, Opportunity)."<sup>37</sup> An example of a morally relevant characteristic is academic ability; an example of a morally irrelevant characteristic is race. Opportunities are, so to speak, solved for, given the values of the other variables in the equation. For example, assume that, as a group, blacks score lower on a high school graduation examination than whites. Solving Strike's equation would go as follows: (1) race is a morally irrelevant difference, (2) academic ability is a morally relevant difference but is distributed in the same way among races, (3) the outcomes as measured by the graduation test are unequal, therefore (4) the educational opportunities afforded blacks and whites are unequal. Strike would conclude from this result that policies should be implemented that will eliminate the group differences in educational opportunities, i.e., differences in educational outcomes.

Strike identifies equal educational opportunity with group parity. As a consequence, equal educational opportunity is a weak principle for Strike that cannot by itself guarantee a just allocation of educational resources; it must be augmented with at least two further principles. First, although individual parity, Gutmann's threshold

35. Strike, "The Ethics of Resource Allocation in Education."

36. See John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), and "Kantian Constructivism in Moral Theory," *Journal of Philosophy* 77, no. 9 (1980): 515-72. Also see Strike's *Educational Policy and the Just Society*.

37. Strike, "The Ethics of Resource Allocation in Education," 20.



principle in particular, is not really a principle of equal educational opportunity, it is a prior requirement for the just distribution of educational resources. His justification — that individuals must be empowered to participate in the political process — is identical with Gutmann's. Second, distributions are subject to Rawls's "difference principle." That is, equal distributions among groups does not guarantee that the distributions within groups are just. In general, distributions within groups must always be to the advantage of the disadvantaged. For example, an arrangement that equalized the distribution of outcomes between blacks and whites but that left a significantly disadvantaged number of individuals in both groups would be just only if it were not possible to redistribute resources in such a way as to benefit most the least advantaged individuals, black and white.

Strike's analysis involves two primary difficulties, both of which he himself identifies. He says: "First, it may be argued that I have unreasonably assumed that morally relevant and morally irrelevant characteristics are independent. Second, it may be argued that there are reasons why we should not use the expanded conception of opportunity that appears in the [formula]."<sup>38</sup> I will entertain these criticisms of Strike's analysis, focussing, as with the criticisms of Gutmann's view, on the issue of how (if at all) the appeal to an outcomes-based conception of equal educational opportunity is the source of problems.

Strike concedes to the first objection that morally relevant and morally irrelevant considerations may be confounded. He notes, for instance, the difficulty of disentangling a morally irrelevant difference, religious conviction, and a morally relevant one, educational aspirations. He denies, however, that such complexities undermine his basic view. Although "enormously complex," Strike suggests that the solution is "[to] identify any systematic associations between morally relevant and morally irrelevant characteristics [and] then control for this association in a way that allows us to demonstrate that any departures from parity result from the association between morally relevant and morally irrelevant characteristics."<sup>39</sup>

As Strike clearly recognizes, this solution is complicated by the issue of deciding just what is to count as a morally relevant consideration and the related question of how conflicting moral claims are to be ordered. For instance, although a certain religious affiliation might be a morally irrelevant difference per se, the sort of educational aspirations that attend it may not be, in which case departures from parity would be justified because based on the morally relevant difference of religion-based educational aspirations. Deciding questions of what is to count as a morally relevant difference, however, does not turn on the issue of whether equal educational opportunity should be outcomes based, it turns instead on the question of what sorts of reasons for departures from parity shall be endorsed, i.e., it turns on the broader question of how the pluralism versus equality controversy is to be resolved.

The second objection to Strike's proposal, the one involving his "expanded conception of opportunity," also rests on the pluralism versus equality controversy. For Strike, a person's opportunities are identified with the "entire set of environmental influences that interact with individual characteristics"<sup>40</sup> and that "affect relevant social outcomes."<sup>41</sup> He denies that such an outcomes-based conception of opportunities is "conceptually odd" and contends that the real objection is to the kinds of the policies it invites. Specifically, because communities and families loom so large as environmental influences, the fear is that the state will invade the home and community life in the name of equal educational opportunity.<sup>42</sup> Strike's response is thus the same one I

38. Ibid.

39. Ibid.

40. Ibid., 19.

41. Ibid., 22.

42. Strike cites James Coleman, "Inequality, Sociology, and Moral Philosophy," *American Journal of Sociology* 80 (November 1974): 739-64. But see also James Fishkin, "Liberty versus Equality," *Social Philosophy and Policy* 5, no. 1 (1987): 32-48, and, in the same volume, James Nickel, "Equal Opportunity in a Pluralistic Society," 104-19.

advanced earlier in defense of Gutmann's analysis: the pluralism-equality controversy turns on how much authority a political theory is prepared to grant to the state, not on whether equal educational opportunity may be sensibly interpreted as outcomes based.

#### *An Outcomes-based Conception*

I shall now advance an outcomes-based conception of equal educational opportunity that combines Gutmann and Strike, and, consistent with my focus throughout, I shall restrict the conception to children. The conception requires that educational outcomes be equalized in two ways:

(1) Parity among individuals must be achieved regarding the outcomes that go into the democratic threshold.

(2) Beyond the threshold, parity among groups of individuals is required on all educational outcomes that affect an individual's chances to enjoy other social goods. Moreover, distributions within groups must satisfy the "difference principle."

It should be observed this conception is not altogether faithful to either Strike's or Gutmann's position. Gutmann does not endorse the more demanding conception of equal educational opportunity that results from augmenting the threshold with group parity and the difference principle; Strike contends that although the threshold must be met in order for the distribution of educational resources to be just, the threshold is not a part of the principle of equal educational opportunity.

I endorse Strike's more thoroughgoing requirements for the same reason that he gives: Gutmann's failure to consider a conception of equalization based on group parity. On the other hand, my agreement with Strike is not complete. I see no good reason to restrict 'equal educational opportunity' to group parity.

Strike does not say exactly why 'equal educational opportunity' should be restricted in this way; presumably, it follows from his intuitions about the meaning of 'opportunity'. In particular, he defines 'opportunity' in such a way that opportunities vary as morally relevant individual characteristics and social influences vary — a person's opportunities are identified with the "entire set of environmental influences that interact with individual characteristics." Given this definition, individual parity, as called for by the democratic threshold, cannot be a principle of equal educational opportunity because it does not permit educational outcomes to vary as morally relevant individual characteristics vary. Thus, the democratic threshold must be construed as a principle distinct from the principle of equal educational opportunity.

Although it is beyond the scope of this essay to provide much by way of elaboration, my earlier discussion of "mandatory opportunities" suggests the general tack I would take with respect to intuitions about the meaning of 'opportunity'. One feature of Strike's analysis that seems to be particularly vulnerable is his apparent assumption that "individual characteristics" are relatively stable and can be set over and against "environmental influences." He seems to embrace the adult paradigm of 'opportunity' and to thereby overlook the malleable nature of children and the attenuated sense of opportunity that applies to them. Put in another way, Strike seems to overlook the possibility that, with a few exceptions, there are no morally relevant differences in individual characteristics with respect to the democratic threshold.<sup>43</sup>

Of course, Strike does endorse the state's obligation to shape and empower children through education, but only by divorcing this obligation from the concept of opportunity and incorporating the threshold as a separate principle of the just allocation of educational resources. The choice between Strike's position and mine thus boils

43. Interestingly, on the assumption of no morally relevant differences relative to the threshold, a modified version of Strike's formula yields individual parity as the criterion of equal educational opportunity. The formula becomes: Outcomes = f(Morally Irrelevant Characteristics, Opportunities). Given this modified version of the formula, any departure from individual parity must result from one of two morally objectionable sources: morally irrelevant characteristics of inequality of opportunity.

down to the question of whether, all things considered, it is better to have a conception of equal educational opportunity such that equal educational opportunity may exist alongside a distributional scheme that on the whole unjustly distributes educational resources (Strike's view) or to have a conception such that equal educational opportunity is tantamount to a distributional scheme that justly distributes educational resources (my view). If nothing else does, the common perception that equal educational opportunity is sufficient as the criterion of the just allocation of educational resources suggests that the latter conception is more promising.<sup>44</sup>

Before turning to my concluding remarks, several limitations of my proposal need to be noted. First, confining my conception to children leaves a lot of territory uncovered. The very fact that I divided the question in this way suggests that no all-purpose conception of equal educational opportunity will do. In particular, some kind of "formal" conception is very likely appropriate for adults, since state paternalism, "mandatory opportunity," is not readily justifiable. Second, and related to this, not only must equal educational opportunity be interpreted differently for adults than for children, I suspect that even when the question is restricted to children, any really useful proposals must take into account the unique features of particular issues — education of the handicapped, affirmative action, tracking, desegregation, competency testing, vouchers — that fall under the more general rubric of equal educational opportunity.

#### CONCLUSION

This essay challenged a common (if not the received) view of equal educational opportunity: that outcomes-based conceptions are in general implausible. In a more constructive vein, it also advanced and defended an outcomes-based conception, based on the recent work of Amy Gutmann and Kenneth Strike. Rather than simply retracing my steps, I will conclude by expanding on two general confusions that I think underlie resistance to outcomes-based conceptions.

The first confusion concerns the question of whether equal educational opportunity ought to be outcomes-based versus the question of how weighty of a political ideal it should be. In particular, whether equal educational opportunity ought to be construed as outcomes based is primarily a question of whether outcomes are to be the empirical criterion for determining when, or to what extent, equal educational opportunity is realized; determining when, or to what extent, educational opportunity ought to be equalized is primarily a question of how important the goal of equalization is, especially when weighted against other values like pluralism.

Assuming that formal conceptions are untenable,<sup>45</sup> which is tantamount to assuming that students' individual characteristics are constitutive of their opportunities, outcomes become the logical measure of opportunity.<sup>46</sup> But, if this is right, then denying that outcomes ought to be equal is denying that opportunities ought to be equal. Since nobody wants to deny that educational opportunity ought to be equal, critics of outcomes-based conceptions try to slip the conclusion that unequal outcomes entail unequal opportunities by appeal to the "outcomes entail choices" argument, an argument that attacks outcomes-based conceptions directly. But this strategy fails unless one is prepared to hold children accountable for the individual characteristics they possess

44. Following Rawls, Ennis, in "Equality of Educational Opportunity," distinguishes between the "concept" and "conceptions" of equal educational opportunity. Virtually everyone endorses the concept and (nonphilosophers at least) believe it is a sufficient condition of the just allocation of resources. I am suggesting that a conception should capture these normative features, and perhaps am suggesting some conceptual revision in the process.

45. This assumption is necessary because formal conceptions have no reason to be concerned with outcomes. For example, the position of the San Francisco schools in *Lau* was that Chinese children were being afforded equal educational opportunity solely in virtue of receiving the same inputs.

46. This follows based on my earlier claim that "actualist" conceptions of equal educational opportunity collapse into outcomes-based conceptions.

or to grant parents wide discretion to determine their children's educational outcomes. Although I believe both of these positions are mistaken, the point — the confusion — is that even if one of them was correct, that would not show that outcomes-based conceptions of opportunity are mistaken.

Presumably, both outcomes-based advocates and their detractors would agree that unequal educational outcomes mean *something*: for the former, playing on the ideal of equality, they mean unequal opportunities, for the latter, playing on the ideal of freedom, they mean unequal choices (or individual characteristics more generally).<sup>47</sup> The real question for both kinds of conceptions, and one that underlies the respective rhetorical appeals to equality on the one hand and freedom on the other, is just what to do about the inequality for which outcomes provide the evidence. But, and this is the crux, what to do about inequality — the principles that permit or preclude it, the degree to which it is permissible, and so forth — is distinct from the question of whether it indeed exists.

In effect, the dispute concerns whether to include, *carte blanche*, the individual characteristics and choices that follow therefrom among the list of what Strike calls "morally relevant characteristics," characteristics that justify inequality. Implicitly at least, this is precisely what advocates of the "outcomes entail choices" argument seem to have in mind; but, assuming they also nonetheless both endorse equal educational opportunity and want to determine when it obtains, educational outcomes will constitute indispensable empirical evidence. For unless unequal educational outcomes simply have nothing whatsoever to do with unequal opportunity, whether different choices and different individual characteristics can account for unequal outcomes that obtain will have to be investigated. Because such investigations would require tracing the history of each individual in minute detail, they are almost certainly doomed to be inconclusive. And where they fail to establish conclusively that some morally relevant difference — native ability or individual choice, for instance — can account for unequal educational outcomes, unequal educational outcomes entail unequal educational opportunities.

In summary, we can't get off the hook via a *conceptual analysis* strategy which renders unequal educational outcomes and equal educational opportunity consistent. Even if the "outcomes entail choices" argument can somehow be made to apply to children, the practical demands associated with evaluating policies auger in favor of identifying inequality of educational opportunity with inequality of educational outcomes. We should not confuse this issue with the issue of how much inequality of educational outcomes — inequality of educational opportunity — we are willing to accept for our children.

The second confusion, one that is less pronounced than the first but that nonetheless lurks below the surface, concerns equal *educational* opportunity versus equal opportunity more generally. From one direction, there is the fear that the equalizing educational outcomes entails a complete leveling of individual differences, resulting in a drab, uniform society and a significant restriction of individual freedom. Although equalizing educational outcomes tilts in this direction, the degree to which it entails this nightmarish uniformity is greatly overdrawn. In the first place, there exists a fair amount of slack in the degree to which outcomes like "democratic character" lead to uniformity. Indeed, an important argument for equalizing such an outcome is that it actually empowers individuals to resist uniformity. In the second place, equalizing educational outcomes does not entail equalizing other social outcomes. Because equality in terms of educational outcomes is an *enabling* good, it is perfectly consistent with the more standard "outcomes entail choices" argument and an associated formal conception concerning other social outcomes. The point of equalizing educational outcomes (for children) is simply to ensure that they are adequately prepared to evaluate and pursue the social outcomes to which their mature choices will lead. As Michael Walzer puts it, "The aim

47. The tacit assumption here, of course, is that inputs are equal.

is not to repress differences but rather to postpone them, so that children learn to be citizens first — workers, managers, merchants, and professionals only afterward."<sup>48</sup>

From another direction, equal educational opportunity (in general) is criticized on the grounds that it is an impotent principle or, worse, a principle that serves merely to rationalize vast inequality of opportunity in its broader sense. This objection is correct in the limited sense that it is a mistake to assume that equality of educational opportunity — even equality of educational outcomes — is sufficient to guarantee equality of opportunity *per se*. On the other hand, it is surely a necessary condition, and therefore its attainment would just as surely be a good thing. Indeed, if our children were *really* instilled with democratic character — with values such as nondiscrimination, nonrepression, and toleration<sup>49</sup> — other problems might largely take care of themselves.

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48. Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983), 203.

49. These values are ones that Gutmann, *Democratic Education*, associates with democratic character.

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