

WORKING PAPER SERIES

PERSPECTIVES
ON SOCIAL
INCLUSION

Thumbs Up!

Inclusion, Rights and
Equality as Experienced by
Youth with Disabilities

Catherine Frazee



JANUARY 2003

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Catherine Frazee¹



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About the Laidlaw Foundation

The Laidlaw Foundation is a private, public-interest foundation that uses its human and financial resources in innovative ways to strengthen civic engagement and social cohesion. The Foundation uses its capital to better the environments and fulfill the capacities of children and youth, to enhance the opportunities for human development and creativity and to sustain healthy communities and ecosystems.

The Foundation supports a diverse portfolio of innovative and often unconventional projects in three program areas: in the arts, in the environment and improving the life prospects for children, youth and families.

Working for social inclusion is a theme that underlies much of the Foundation's activities. The key words in the Foundation's mission — human development, sustainable communities and ecosystems — imply that achievement will rely on the enhancement of capacity and capability. Not only is social inclusion being developed as an emerging funding stream, it is an embedded Laidlaw Foundation value, both structurally and programmatically.

Nathan Gilbert
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Foreword:

The Laidlaw Foundation's Perspective on Social Inclusion

The context for social inclusion

Children have risen to the top of government agendas at various times over the past decade, only to fall again whenever there is an economic downturn, a budget deficit, a federal-provincial relations crisis or, most recently, a concern over terrorism and national security. While there have been important achievements in public policy in the past 5 to 10 years, there has not been a sustained government commitment to children nor a significant improvement in the well-being of children and families. In fact, in many areas, children and families have lost ground and social exclusion is emerging as a major issue in Canada. Examples abound and include these facts.

- the over-representation of racial minority families and children among those living in poverty in large cities, and the denial of access to many services by immigrant and refugee families;
- the 43% increase in the number of children in poverty in Canada since 1989, the 130% increase in the number of children in homeless shelters in Toronto, as well as the persistence of one of the highest youth incarceration rates among Commonwealth countries;
- the exclusion of children with disabilities from public policy frameworks (e.g. the National Children's Agenda), from definitions of 'healthy' child development and, all too often, from community life.

These situations provide the context for the Laidlaw Foundation's interest in social inclusion. The Foundation's Children's Agenda program first began exploring social inclusion in 2000 as a way to re-focus child and family policy by:

- re-framing the debate about poverty, vulnerability and the well-being of children in order to highlight the social dimensions of poverty (i.e. the inability to participate fully in the community)
- linking poverty and economic vulnerability with other sources of exclusion such as racism, disability, rejection of difference and historic oppression
- finding common ground among those concerned about the well-being of families with children to help generate greater public and political will to act.

The Foundation commissioned a series of working papers to examine social inclusion from a number of perspectives. Although the authors approach the topic from different starting points and emphasize different aspects of exclusion and inclusion, there are important common threads and conclusions. The working papers draw attention to the new realities and new understandings that must be brought to bear on the development of social policy and the creation of a just and healthy society.

These are:

- Whether the source of exclusion is poverty, racism, fear of differences or lack of political clout, the consequences are the same: a lack of recognition and acceptance; powerlessness and 'voicelessness'; economic vulnerability; and, diminished life experiences and limited life prospects. For society as a whole, the social exclusion of individuals and groups can become a major threat to social cohesion and economic prosperity.
 - A rights-based approach is inadequate to address the personal and systemic exclusions experienced by children and adults. People with disabilities are leading the way in calling for approaches based on social inclusion and valued recognition to deliver what human rights claims alone cannot.
 - Diversity and difference, whether on the basis of race, disability, religion, culture or gender, must be recognized and valued.
- The 'one size fits all approach' is no longer acceptable and has never been effective in advancing the well-being of children and families.
- Public policy must be more closely linked to the lived experiences of children and families, both in terms of the actual programs and in terms of the process for arriving at those policies and programs. This is one of the reasons for the growing focus on cities and communities, as places where inclusion and exclusion happen.
 - Universal programs and policies that serve all children and families generally provide a stronger foundation for improving well-being than residual, targeted or segregated approaches. The research and anecdotal evidence for this claim is mounting from the education, child development and population health sectors.

Understanding social inclusion

Social exclusion emerged as an important policy concept in Europe in the 1980s in response to the growing social divides that resulted from new labour market conditions and the inadequacy of existing social welfare provisions to meet the changing needs of more diverse populations. Social inclusion is not, however, just a response to exclusion.

Although many of the working papers use social exclusion as the starting point for their discussions, they share with us the view that social inclusion has value on its own as both a process and a goal. Social inclusion is about making sure that all children and adults are able to participate as valued, respected and

contributing members of society. It is, therefore, a normative (value based) concept - a way of raising the bar and understanding where we want to be and how to get there.

Social inclusion reflects a proactive, human development approach to social well-being that calls for more than the removal of barriers or risks. It requires investments and action to bring about the conditions for inclusion, as the population health and international human development movements have taught us.

Recognizing the importance of difference and diversity has become central to new under-

standings of identity at both a national and community level. Social inclusion goes one step further: it calls for a validation and recognition of diversity as well as a recognition of the commonality of lived experiences and the shared aspirations among people, particularly evident among families with children.

This strongly suggests that social inclusion extends beyond bringing the ‘outsiders’ in, or notions of the periphery versus the centre. It is about closing physical, social and economic distances separating people, rather than only about eliminating boundaries or barriers between *us* and *them*.

The cornerstones of social inclusion

The working papers process revealed that social inclusion is a complex and challenging concept that cannot be reduced to only one dimension or meaning. The working papers, together with several other initiatives the Foundation sponsored as part of its exploration of social inclusion, have helped us to identify five critical dimensions, or cornerstones, of social inclusion:

Valued recognition – Conferring recognition and respect on individuals and groups. This includes recognizing the differences in children’s development and, therefore, not equating disability with pathology; supporting community schools that are sensitive to cultural and gender differences; and extending the notion to recognizing common worth through universal programs such as health care.

Human development – Nurturing the talents, skills, capacities and choices of children and adults to live a life they value and to make a contribution both they and others find worthwhile. Examples include: learning and developmental opportunities for all children and adults; community child care and recreation programs for children that are growth-promoting and challenging rather than merely custodial.

Involvement and engagement – Having the right and the necessary support to make/be involved in decisions affecting oneself, family and community, and to be engaged in community life. Examples include: youth engagement and control of services for youth; parental input into school curriculum or placement decisions affecting their child; citizen engagement in municipal policy decisions; and political participation.

Proximity – Sharing physical and social spaces to provide opportunities for interactions, if desired, and to reduce social distances between people. This includes shared public spaces such as parks and libraries; mixed income neighbourhoods and housing; and integrated schools and classrooms.

Material well being – Having the material resources to allow children and their parents to participate fully in community life. This includes being safely and securely housed and having an adequate income.

Next steps: Building inclusive cities and communities

Over the next three years, the Children's Agenda program of the Laidlaw Foundation will focus on *Building inclusive cities and communities*. The importance of cities and communities is becoming increasingly recognized because the well-being of children and families is closely tied to where they live, the quality of their neighbourhoods and cities, and the 'social commons' where people interact and share experiences.

Christa Freiler
Children's Agenda Program Coordinator
Laidlaw Foundation

The Laidlaw Foundation's vision of a socially inclusive society is grounded in an international movement that aims to advance the well-being of people by improving the health of cities and communities. Realizing this vision is a long-term project to ensure that all members of society participate as equally valued and respected citizens. It is an agenda based on the premise that for our society to be just, healthy and secure, it requires the inclusion of all.

Paul Zarnke
President and Former Chair,
Children's Agenda Advisory Committee
Laidlaw Foundation

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*This series is dedicated to the memory of
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after a long battle with cancer.*

*Jennifer was a key member of the editorial committee,
an insightful and passionate reviewer of the working papers,
and an unwavering advocate for
social justice and the social inclusion of all people.*

Thumbs Up!

Inclusion, Rights and Equality as
Experienced by Youth with Disabilities

Thumbs Up! Inclusion, Rights and Equality as Experienced by Youth with Disabilities

Introduction: "In our own way... On our own terms"

Young people are always supposed to listen to adults, we are seldom taken seriously. We are the ones who have to go through school; we are the ones who will have to deal with conflict when we are adults. We have to try out our ideas and practise ways of resolving conflicts. We want to make friends in our own way. We have to do that if we are going to learn about how to relate to each other. We want help from adults but on our terms. I think that all young people need things to change, not just disabled kids.²

Maresa Mackeith, Facilitated Communication User

“All young people need things to change.” Generations of adults have made different interpretations of the need for change to support children’s growth and promote their well-being. This paper – although subject to the inevitable limitations of adult interpretation – seeks to examine the relationship between inclusion and equality, attempting to ground this inquiry in an active consideration of the experiences, perspectives and voices of children and youth.

In particular, this paper centres upon the experiences of young people with disabilities, seeking to better understand what social inclusion means to them and how its experiential reality links to fundamental concepts and principles of equality. This focus upon disability provides a unique and important opportunity to highlight and reflect upon our responses to the ‘hard questions’ of difference at both individual and policy levels. It is well recognized that the equality status of people with disabilities is jeopardized by deeply entrenched patterns of social exclusion, and that unequal treatment in the context of disability most

often takes the form of denial of opportunities for inclusive participation. As noted by the Supreme Court of Canada:

It is an unfortunate truth that the history of disabled persons in Canada is largely one of exclusion and marginalization. Persons with disabilities have too often been excluded from the labour force, denied access to opportunities for social interaction and advancement, subjected to invidious stereotyping and relegated to institutions.... This historical disadvantage has to a great extent been shaped and perpetuated by the notion that disability is an abnormality or flaw. As a result, disabled persons have not generally been afforded the “equal concern, respect and consideration” that s. 15(1) of the Charter demands. Instead, they have been subjected to paternalistic attitudes of pity and charity, and their entrance into the social mainstream has been conditional upon their emulation of able-bodied norms.... One consequence of these attitudes is the persistent social and economic disadvantage faced by the disabled. Statistics

*indicate that persons with disabilities, in comparison to non-disabled persons, have less education, are more likely to be outside the labour force, face much higher unemployment rates, and are concentrated at the lower end of the pay scale when employed.*³

In this context, it is not surprising that children with disabilities experience social exclusion to an extent greater than that of non-disabled children. According to a Disability Information Sheet recently published by the Canadian Council on Social Development:

*They [i.e., children with “special needs”] experience more bullying by other children. They are more likely than those with no special needs to feel unliked by their peers and to feel “left out.” They are also less likely to feel safe at school. Although in most cases, the differences between children with special needs and those without special needs are fairly small, the differences do exist and they extend into many facets of the social experience.*⁴

The presumption which underlies this paper is that the experience of social exclusion

heightens awareness and appreciation for social inclusion, and that this heightened awareness and appreciation affords lively and abundant insights well worth the attention of legal and policy theorists. Drawing from accounts provided directly by young people with disabilities and their peers, this paper therefore contends that through the lens of disability we can most clearly perceive the limitations of an exclusive focus upon rights and legal entitlement, and recognize the essential contribution of social inclusion to the challenge of promoting, respecting and protecting lives of dignity and equality for all citizens.

This paper takes as its starting point, a series of e-mail dialogues with six young people from Alberta, ranging in age from 15 to 18.⁵ Upon their instruction, these informants will be identified by the following names: Aaron, Brandalyn Lofgren, Kyle, Linda, Lynnsey Harder and Trevor. Two of these young people have disabilities; the other four are involved in some close relational capacity with a disabled peer. Their observations and reflections about inclusion ground the analysis that follows upon a foundation of immediacy and authenticity.

Inclusion: “To be who I am... To do what they do”

At the outset of our conversations, Aaron, Brandalyn, Kyle, Linda, Lynnsey and Trevor were each asked the foundational question: “What is inclusion?”

For the most part, these young people defined inclusion in terms of opportunity: the opportunity to participate; the opportunity to achieve; the opportunity to be seen and understood; the opportunity to belong:

Lynnsey: Inclusion to me is giving each child, teen and adult the opportunity to

join in and be included in whatever activity is going on despite anything (disabilities, I.Q., etc.).⁶

Some defined inclusion in terms of basic ethical principles:

Trevor: Inclusion means friendships and treating each other with caring and respect.⁷

Other definitions were fundamentally experiential:

Aaron: Inclusion is being able to be with

kids my own age and do the things they do and go where they go. Inclusion is being with them. Inclusion helps people see that there is a lot more to me than autism. It helps them see that I'm just a regular teenager. Inclusion is important because it allows me to be who I am and to be with my friends and do what they do.⁸

Some recognized and articulated the crucial element of support to the exercise of individual agency:

Kyle: Inclusion is - being provided with all the supports that I need to be in a regular classroom at school, do all the activities in Scouts or anything else that I'd like to try to do.⁹

For some, there is a transcendent quality to inclusion - a recognition of self in the other, and an affirmation of universal human needs and aspirations:

Linda: Inclusion is seeing the abilities, not disabilities of everyone and supporting every individual as to help them achieve their optimal potential. Inclusion is to look at someone's soul and to see them as a fellow human with emotions, feelings and desires like all of us. Inclusion is all this and so much more, but most importantly, inclusion is to make those who may feel uninvited or isolated, included.¹⁰

Most striking was the emphasis that most contributors placed upon the twin values of participation and acceptance:

Brandy: To me inclusion is belonging... being with everyone else, and feeling a part of what they're doing. It is acceptance, and knowing that you "fit in" (I guess). You're no different than any of the others. You feel safe, secure, strong there.

You can be yourself. True inclusion does not come in degrees. It's either there or it's not.¹¹

In her recent feminist text subtitled "Experiencing and Understanding Disability", Thomas has highlighted a duality of restrictive forces operating in the lives of persons with disabilities. On one hand are multiple barriers and restrictions that impede disabled persons' opportunities to act in the social world. Activists, policy-makers and commentators alike have paid much attention to the removal of such barriers and to the promulgation of legal and regulatory standards that guarantee access by disabled persons to public places, services and opportunities. Although much remains to be done in terms of the implementation of such standards and the dismantling of physical, structural and systemic barriers, this notion of access is well recognized - a straightforward matter of bricks and mortar or lumber, nails and elbow grease, a matter of design and accommodation, an issue of how resources and priorities are allocated.

Kyle's entreaty for supports to "do all the activities... that I'd like to try to do", Aaron's desire to be with his peers "and do the things they do and go where they go" and Lynnsey's urgings for everyone to be "included in whatever activity is going on" speak to a highly prevalent phenomenon of exclusion from mainstream activity and opportunity - and suggest that inclusion demands vigilant attention to barrier removal. An inclusive community, our informants tell us, is one in which opportunities to act in the social world are not, as the Supreme Court noted in *Eldridge*, "conditional upon [the] emulation of able-bodied norms."

On the other hand, according to Thomas, "there are additional, often intangible, dimensions to the social exclusion of people with impairments." The language and mechanisms

of these restrictions are much less well understood, as are the forms of ‘access’ that counter them. For disabled persons, a fulsome notion of access must go well beyond the mechanical challenge of entry into buildings or the bureaucratic challenge of eligibility for civic opportunities. Access must also be about making one’s way into citizenship and human community and about feeling secure and worthy. Framed in this way, inclusion calls for engagement within a dynamic of access to respect, access to a sense of oneself as a whole person and access to identity as a valued contributor, a bearer of rights, knowledge and power.

The notion of “belonging” that Brandy identifies as synonymous with inclusion, elicits an imperative of feeling “safe, secure, strong... [so that] you can be yourself.” These same intangibles appear as well to underlie Trevor’s emphasis upon “caring and respect” and Linda’s insights about truly “seeing” individuals with disabilities through the lens of our common humanity. Aaron concludes:

Inclusion is important because it allows me **to be who I am** and to be with my friends and **do what they do.** [*Emphasis added*]

His conclusion resonates strongly with Thomas’s argument that:

[T]he focus should include not only a concern for what ‘we do’ and ‘how we act’ (are prevented from doing and acting) as disabled people, but also a concern for ‘who we are’ (are prevented from being), and how we feel and think about ourselves.

Upon this foundational account of inclusion as promoting freedoms both to do and to be, we can now consider a set of “inclusion narratives.” From the accounts that follow, it may be possible to begin some preliminary sketching of how inclusive experiences shape not only ‘what we do’ and ‘how we act’, but also ‘who we are’, and ‘how we feel and think about ourselves.’

Inclusion: "Sharing, Sharing, Sharing"

I care about inclusion because it affects my future. I have dreams and if I am not included I will not be able to develop into the person I want to be and to achieve my goals....

Kyle

Kyle is 15 years old and a grade 9 student. He describes his disability in the following terms:

When I was 3, I had a drowning accident that left me with a brain injury, so now I use sign language or my Dynavox¹² machine to speak to people.¹³

When asked to describe his earliest memory of inclusion, Kyle has considerable difficul-

ty. According to his father, Kyle has “always been included.” With some effort, however, he recalls the following experience:

My earliest memory of being included was when I was five years old and I was included in Beavers. I was still in a wheelchair. There were lots of boys my age; we began each meeting with a chant “Beavers, Beavers, Beavers. Sharing, Sharing, Sharing.” We also made a sign at the same time with two fingers. I loved being with the others boys; we played games and did crafts. One of the boys would help me to do my craft and there was always someone to push my wheelchair so I could join in the games.

No one knew how to find a way for me to communicate at that time. But one day my mom was eating some toast and I wanted some. I remembered the sharing sign from Beavers and I made that sign to my mom. It took her a while but she finally clued in and figured out that I wanted to share her toast. After that Mom decided that maybe we should learn some sign language together. It worked.¹⁴

Kyle's communication breakthrough is recounted as a direct, albeit serendipitous, outcome of an inclusive Beavers program. Without diagnostic or clinical interventions, this "eureka" moment belonged to Kyle and his mother. Anecdotal accounts of this kind of agency-enhancing triumph are a recurrent motif in disability narratives. Children - and adults - discover latent capacities and resolve problems that confound the experts. While it is beyond the scope of this paper to draw conclusions of an empirical nature about this phenomenon, we can appreciate - at least intuitively - a link between inclusion and the broadening of exposures; between broadened exposures and augmented individual repertoires of possibility; between expanded repertoires of tools and ideas and an increased likelihood of their successful application. As Kyle concludes, "It worked!"

For Kyle and for the other young people featured in this article, inclusion worked in more generalized ways as well. Almost without exception, these young people defined inclusion as primarily not a concept but an experience - an experience of growth and discovery universally regarded as both personally emancipatory and socially rewarding. For each of the young contributors, inclusion confers the valued prize of friendship, and with that prize, a coming into being of a self connected to others, known, honoured and cared for.

Aaron, for example, presents the depth of his understanding of friendship in terms that resonate with empathy and compassion:

I feel sorry for other people who don't have friends.... I can have fun and be happy and be myself with my friends.... I like being with them and I am happy when they are happy and sad when they are sad and I smile at them and give them hugs and I like them to be with me all the time.... They say hi to me and include me in their activities and help me if I need it and sit with me and look after me when I need it and they care about me when I am happy or sad or mad or upset and they hang out with me.

Aaron's friend, Brandy, in her articulation of what makes a "REAL friend", draws mature insights from the wellspring of inclusion. Her friend Aaron is 'different', but the difference that counts for Brandy is ethical, rather than functional or performative. On this scale, Aaron rises above his peer group and enters into valued relationships of unconditional friendship:

Aaron is a REAL friend. The best friend that a person could ask for. He doesn't care what your marks are, how well you can play basketball, if you wear Nike shoes and Tommy jeans, if you have crooked teeth or zits on your face. He is the best kind of friend because he shows unconditional friendship, no strings attached!

As young people recount their experiences, it becomes clear that while mere physical proximity is a precondition, it is in no way determinative of the experience of inclusion. Friendship is the distinctive and defining feature of inclusion - friendship that is expressed freely as a dimension of being, and exchanged without measure or consideration:

Trevor: I don't understand why [Kyle's mother] thinks I give so much to our relationship. She is always telling me that I am giving so much to Kyle, but it never seems that way. I am just being myself – the best way I can. Even after a year and a half I still don't get it. ¹⁵

It is a rough and tumble friendship, rather than the 'kid glove' variety - friendship in which both Kyle and Trevor can explore and express a fullness of selfhood, at work and play, in school and beyond, active and passive, in good or bad temper:

Kyle: Some friends are just nice to you in school; they help you with your work or eat lunch with you. Then there's Trevor, he's my best friend. We hang out together, have sleepovers, go to the mall, listen to music, play video games, watch movies, tease each other and laugh a lot. Trevor and I accept each other just the way we are. Most of the time when Trevor and I are together we joke and have a good time but we do bug each other sometimes - that's OK. It's part of being a good friend. ¹⁶

Notably, the quality of friendship that defines inclusion is quite distinct from the dreary alliance of fellow captives, as Maresa Mackeith recalls in her remembering of childhood experiences in segregated facilities for disabled children:

I have been to all types of schools. In the special school I was treated as if I didn't understand anything. I tried to make friends but we were all so badly treated that it was impossible to ever talk to each other. I don't want to see those people now because I get so sad. ¹⁷

In the experience of the young people interviewed for this paper, the link between

one's own sense of well-being and inclusion is straightforward and irreducible. For Kyle and Trevor and Aaron, the question of 'how we feel and think about ourselves' is inextricably linked to feelings of being included:

Kyle: It feels **Thumbs Up** to be included and it feels really bad when you are not. ¹⁸

Trevor: It feels good to be included because you know that somebody cares about you, you have someone to trust and rely on. ¹⁹

Aaron: [If I were not included] I would be at home all the time and would be lonely and sad and angry. ²⁰

Research by Jenkins and Keating confirms that robust networks of social relationships such as peer friendships correlate strongly with the development of childhood resilience and ability to cope with external stress. Operating as a kind of "natural intervention", feelings of connection to others have been demonstrated to contribute to a sense of security, integration and purposefulness. For Kyle, the stress of peer harassment is kept in perspective through a healthy sense of self forged in the mint of inclusion:

The worst thing about being in school is when kids ignore you or call you a loser but I think that happens to everyone not just to kids with special needs...

Some people worry about everybody being in the same classes together. I know that I belong with my friends and they belong with me. ²¹

The youths who contributed to this paper highlighted themes of cooperation, trust and mutual support in their enumeration of the benefits of inclusion. Aaron's commentary below illustrates how inclusive friendships not only support confidence in his present identity,

but enable him to push past fear at developmental thresholds. Inclusive friendships, we see, support not only *being*, but also *becoming*:

Aaron: I can have fun with [my friends] and encourage them and concentrate better with my friends around....I would not have the friends I have if I was not included. They are always there for me and are encouraging, supportive and helpful. They give me confidence in myself. I didn't think I could take the big step of high school because I was so afraid, then I found out all my friends were afraid too and it wasn't so hard after that. We were all the same.²²

In their reflections upon inclusive friendship, the young people who participated in this study did not appear to divide and differentiate along lines of physiology or demonstrable intellectual capacity. Norms of behaviour, physicality and communication appear more fluid, with the process of defining self and other founded instead upon values and standards of conduct. A true friend, as Brandy declared above, is one who does not judge you by the logo on your sneakers or the "zits" on your face. In another comment she illustrates the value of acceptance in inclusive friendship in relation to the delicate unfolding of adolescent identity:

When someone ignores you or yells at you we usually tend to stay away from that person, but not Aaron, we always come back and try again. Many people don't intend for anything to become of their first contact with Aaron but it always does. People are drawn to him and always want to be around him. Especially when they're having a bad day. Just being with him brings you all the comfort in the world. He gives us reassurance without saying a word. He seems to have an aura of acceptance about him.²³

The stranger, the alien in their midst is not the one whose speech patterns or behaviour mark him or her as different, but the one who does not share in the value system of inclusion - the "smart ass" new kid who makes a "big deal" out of the autistic boy's behaviour is quickly and definitively put in his place by his peers, and the bullying is stopped short.

Brandy: I would feel really sorry for the kid that decided to pick on Aaron, because everyone stands up for him under all circumstances. When a new kid came to school and figured that he'd mention something negative about Aaron, every single one of the guys in the class stood up for Aaron and the subject didn't go any farther. If Aaron had been in a different class from ours or hadn't grown up with these kids and had such a close relationship, this situation could very likely have been quite different...²⁴

The meaning of inclusion to these young people is therefore bound together with the quest for identity. 'Who we are' evolves and is nurtured through self-affirming relationships. Indeed, reciprocity is perhaps the single most important element in the inclusion testimonials provided. The relationships described are untainted by the charitable impulse of broader societal responses to disability, being instead characterized by mutuality and respect:

Trevor: Kyle is fun to hang out with, he never stresses out on only one thing to do, and he takes things into consideration....

Tamara: Aaron made the classroom more fun and more exciting to learn. He is one of the best friends I have had because of his autism. He listens to my problems and he will not tell anyone. He is very fun to be with and he is very smart. I am sure the other kids in my class that knew

Aaron will agree that he is very bright and a very good friend.

I think there should be more people like Aaron. The one thing I missed when I left Centennial School was Aaron.²⁵

From these narratives we see that inclusion arises from an ethic not of tolerance, but of active valuation of difference. In the inclusive subculture from which Aaron and his classmates offer their reflections, Aaron's growing confidence takes root in a rich ground of peer respect, support and affection. In his easy

camaraderie with Trevor and others, Kyle masters and manifests an identity of spirited self-assurance and irrepressible vitality. In high school environments that critics of the system have decried as "the most dysfunctional institutions yet devised by the developed world"²⁶, clusters of Edmonton youth co-create oases of mutuality and engagement. The meaning of inclusion is quick and vibrant, suggested - even if never fully captured - in these images of mutual 'being' and 'becoming.'

Equality and Exile: Lunch in Room 20

Belonging. Such an achingly simple word. It conjures up some of our deepest yearnings, and for some of us, perhaps our most painful memories. Equality claims begin and end with a desire for belonging, for community. Ideas of equality lie at the heart of the Canadian promise of community. Yet we know that communities are built in two ways: by welcoming in, and by keeping out.

The desire to belong is intense and profound. Each of us has a deeply personal experience of that, which has been built since childhood. ...

Equality law seeks to protect and promote belonging; to allow others into the fold, and to encourage and cement our bonds of community. It is meant to do this by a subtle and complex mix of burden and benefit: the iron hand in the velvet glove.²⁷

(Pentney 1996)

The one thing I don't like about my school is that all the kids with special needs eat lunch in room twenty.²⁸

Kyle

Aaron is 16 years old and a grade 10 student. Aaron has autism. From kindergarten through grade six, Aaron was included in all of the regular programming in his neighbourhood elementary school. Toward the end of Aaron's sixth grade year, he and his family were advised that Aaron would be grouped with other disabled youth and placed in a separate class in junior high school, with specific "inclusive experiences" to be provided in designated areas, such as physical education. On Aaron's behalf, his family took legal action to challenge this decision, and to have Aaron continue to attend classes with his non-disabled friends. Throughout the course of this legal process, Aaron pursued his grade seven education at home. Aaron's friends from elementary school came to his house after school and did their homework with him. They visited for lunch occasionally on school days, and kept in touch through weekend activities at church, the local arena and swimming pool. They wrote letters to the school board, supporting Aaron's right to a fully inclusive education:

Dear School Board,

I think that Aaron should be in a regular class. He has been in one up until now so why switch?

Aaron is my best friend and it is important that he is in a regular class because otherwise he will not learn as much as he is able to. Aaron needs to be in a regular class so he will have lots of friends.

Aaron has taught me lots of things and I think it is important that he is in the right class. My class.

Yours truly
Tanner

After an academic assessment at the conclusion of his seventh grade year, Aaron was permitted to join his friends in junior high school. According to his mother, “Aaron not only adjusted to the changes from home to junior high, he sailed in and never looked back.”²⁹

For Aaron, his family and friends, as for many other Canadian families whose disabled children are denied the opportunity to fully inclusive educational services,³⁰ the issue is one of entitlement and rights rather than one of ‘professional’ judgment and institutional policy. Aaron’s friend Brandy sees it this way:

We all have our differences. Some kids have difficulty writing, others (like me) understanding things like weird poetry or stories. Whatever the case, we all struggle with different things - some more than others, but that is no reason to single them out from everyone else. Society would not consider dividing people up by their hair colour, or whether they wore glasses or not, so why should kids like my friend Aaron be any different? Some people may call it specialized learning, but I call it prejudice.³¹

Enter the iron hand in the velvet glove. Canadian equality law, expressed in section 15 of our *Charter* and in federal and provincial human rights legislation, has taken us a good distance toward exposing the prejudice that Brandy refers to and uprooting deeply embedded patterns of discrimination and disadvantage. Equality rights jurisprudence has provided important legal and analytical tools for remediation and redress, whenever discrimination - either direct or indirect - is found in public or private actions, policies and systems. Upon closer examination, however, we encounter inherent limitations to the rights/equality paradigm in uprooting the “persistent social and economic disadvantage”³² faced by disabled persons. Rights, it seems, are oriented toward what ‘we do’ and ‘how we act’, offering legal recourse to persons excluded from mainstream activity and opportunity. On the other hand, questions of ‘who we are’ and ‘how we feel and think about ourselves’ may be less readily justiciable, particularly in a social, legal and policy context characterized by an unconscious but pervasive majoritarian bias - a climate that makes “entrance into the social mainstream... conditional upon [the] emulation of able-bodied norms.”³³

What does our justice system offer to children and/or families of children who have been excluded from community participation? Although it is beyond the scope of this paper to fully map developments and precedents in Canadian human rights and equality jurisprudence likely to bear upon such claims, it will be instructive for the present purpose to review two significant cases where young people with disabilities have been directly involved as plaintiffs. The first of these is *Youth Bowling Council of Ontario v McLeod*³⁴, a 1990 decision of the Ontario Divisional Court.

The complainant in this case was Tammy McLeod, an 11-year-old girl with cerebral palsy

who, beginning at the age of 6, had participated in recreational bowling at an alley near her home in Strathroy, Ontario. Tammy bowled with the assistance of a wooden ramp, the top end of which rested in her lap while she sat on a chair behind the foul line. Her mother would place the ball at the top of the ramp and Tammy would line up the ramp to direct the ball, then push it down the ramp.

Tammy was registered with the Ontario Youth Bowling Council and in 1985 qualified with other children from her area to compete in the Council's zone tournament. However, Tammy was not allowed to compete in the tournament because the Council ruled that Tammy was ineligible as long as she used a ramp to deliver the ball.

A Human Rights Board of Inquiry in 1988 ordered the Council to allow Tammy to compete using the ramp and to enact a new rule which would provide for the accommodation of young disabled bowlers. The Council appealed this decision, arguing that "for a tournament to represent a fair contest, a fair comparison of the skills of the participants, it was essential that the participants make use of the same physical attributes."³⁵

In dismissing this appeal and upholding the Board of Inquiry decision, the Court noted:

The integration of handicapped and non-handicapped bowlers achieves a major aim of the public policy of Ontario as enunciated in the preamble to the [Human Rights] Code. To exclude the handicapped from the tournament setting when they are welcome ... in the non-tournament setting is not acceptable in the absence of an over-riding reason. The suggested reason is the effect upon the fairness of the tournament but on the evidence such an effect from Tammy's participation - or a dozen Tammys for that matter - would be minuscule.

The unspoken premise underlying the Council's argument is, I think, as follows: that the degree of organization of the tournament, its prestige, its nation-wide scope and its declaration of a champion preclude participants employing assisting devices. I cannot accept the premise that a sporting tournament however organized, however widespread, however prestigious, is thereby exempt from the reach of the remedial effects of the Code. The use of otherwise sanctioned aids in the tournament setting is not an undue hardship to the Council.

There is no evidence of hardship to the competitors. They are not required to alter the manner in which they bowl in any way. The evidence is clear that Tammy's device gives her no competitive advantage over others. Her ball speed is low. She cannot significantly vary the velocity of the ball - an important competitive element; nor can she impart spin to it, which according to the Council's expert is one key to success. ... No evidence was given by any competitor complaining of Tammy's device. The children appear to be completely accepting of her.³⁶

For Tammy, the outcome of a three-year process of litigation was an affirmation of her right to participate in the inclusive recreational activity of her choice. For Aaron, the outcome of a one-year process of advocacy and home schooling³⁷ was an affirmation of his right to participate in a fully inclusive high school setting. In both cases, cherished principles of equality were invoked successfully "to protect and promote belonging." But in neither case, however, was an absolute right to inclusion affirmed. For Tammy, the court's judgment appears to attach considerable significance to:

- The absence of complaints by Tammy's peers;

- The absence of any necessity for others to adapt their manner of play; and
- Tammy's continued competitive disadvantage.

For Aaron, as we have seen above, a lengthy trial process was circumvented by a formal assessment that demonstrated academic parity with his peers. Although at times his behaviour and methods of communication departed from social norms, his academic aptitude - to his benefit - conformed to those same norms. In ways that directly parallel the success of Tammy's claim, we can see that the support of Aaron's peers, the fact that he would require no "special treatment" that might be interpreted as privileging and the absence of any necessity for major overhaul to the high school program - all of these factors weighed significantly in the success of his claim for an inclusive school placement.

Aaron's experience contrasts sharply with the second case presented here for review: *Eaton v Brant County Board of Education*. This case centered upon the educational placement of Emily Eaton, a 12-year-old child with multiple disabilities. For the first three years of her education, Emily, with the assistance of a full-time educational assistant, had attended regular classes alongside her non-disabled peers in the local public school. Upon the identification of concerns over Emily's increasing isolation within a "theoretically integrated setting", the Identification, Placement, and Review Committee of her county's school board had determined that Emily - like Aaron - should be placed with other disabled children in a segregated special education class. Emily's parents opposed this decision, arguing for Emily's continued access to inclusive education, and pursuing the case through several levels of appeal, up to the Supreme Court of Canada.

The Ontario Court of Appeal ruling of Madame Justice Arbour in *Eaton* examined the meaning of exclusion in a broad social context:

In all areas of communal life, the goal pursued by and on behalf of disabled persons in the last few decades has been integration and inclusion. In the social context, inclusion is so obviously an important factor in the acquisition of skills necessary for each of us to operate effectively as members of the group that we treat it as a given. Isolation by choice is not necessarily a disadvantage. People often choose to live on the margin of the group, for their better personal fulfillment. But forced exclusion is hardly ever considered an advantage. Indeed, as a society, we use it as a form of punishment. Exile and banishment, even without more, would be viewed by most as an extremely severe form of punishment. Imprisonment, quite apart from its component of deprivation of liberty, is a form of punishment by exclusion, by segregation from the mainstream. Within the prison setting, further segregation and isolation are used as disciplinary methods. Even when prisoners are segregated from the main prison population for their own safety, the fact that they will have to serve their sentences apart from the main prison population is considered an additional hardship.³⁸

The Ontario Court of Appeal ruled that the decision to educate Emily in a special classroom for disabled students - against her wishes as expressed by her legal representatives - was discriminatory within the meaning of section 15 of the Charter. The Court directed that "unless the parents of a disabled child consent to the placement of that child in a segregated environment, the school board must provide a placement that is the least exclusionary from the mainstream and still reasonably capable of meeting the child's special needs."³⁹ In her

decision, Madame Justice Arbour noted the reciprocity of benefit that is the characteristic endowment of the inclusive relationships highlighted earlier in this paper:

Inclusion into the main school population is a benefit to Emily because without it, she would have fewer opportunities to learn how other children work and how they live. And they will not learn that she can live with them, and they with her.

... The loss of the benefit of inclusion is no less the loss of a benefit simply because everyone else takes inclusion for granted.⁴⁰

Regrettably, the decision of the Ontario Court of Appeal was ultimately overturned by the Supreme Court of Canada, and the Tribunal's placement of Emily in a special education class was upheld. Mr. Justice Sopinka, writing for the majority, endorsed the principle that "integration should be recognized as the norm of general application because of the benefits it generally provides."⁴¹ He framed his judgment, however, in terms that placed Emily's 'differences' central to the analysis, concluding that her "actual personal characteristics" (i.e., her impairments) were such that she required a special educational placement "in order to achieve equality." Disability discrimination, unlike other forms of discrimination, according to Justice Sopinka:

... will frequently require distinctions to be made taking into account the actual personal characteristics of disabled persons...

... [D]isability, as a prohibited ground, differs from other enumerated grounds such as race or sex because there is no individual variation with respect to these grounds. However, with respect to disability, this ground means vastly different things depending upon the individual and the context.⁴²

Within a framework described by Justice Sopinka as "the difference dilemma", what amounts to discrimination against one person with a particular kind or degree of impairment (such as Tammy or Aaron) may amount to equal treatment of another person with a different kind or degree of impairment (such as Emily). According to the Court, exclusion or segregation might be "both protective of equality and violative of equality depending upon the person and the state of disability."⁴³

Within such a framework, difference matters profoundly. Distinctions must be made along lines of demonstrable physical and intellectual function in order to determine 'suitable' routes to equality. The more fluid norms and the value-based categories modelled by Aaron, Brandy, Kyle, Linda, Lynnsey and Trevor, stand far removed from this analysis. The question identified by the Court as pivotal in *Eaton* was whether "the individual [in this case, Emily] can profit from the advantages that integration provides."⁴⁴ Emily herself, rather than her school environment, became the focus of inter-rogation. At the end of the day, given the particular nature and extent of her impairments, the Court assessed that the Tribunal had balanced Emily's "various educational interests..., taking into account her special needs, and concluded that the best possible placement was in the special class."⁴⁵ The Court determined that no equality rights violation could be found in Emily's involuntary assignment to an exclusion-ary school placement.

While the Court in *Eaton* acknowledged a qualified 'right' to inclusion, the Court's exploration of the roots of *exclusion* may be traced back to the more conventional conceptions of disability disadvantage related to 'acting' and 'doing', but perhaps eclipsing those related to 'being' and 'belonging':

Exclusion from the mainstream of society results from the construction of a society

based solely on “mainstream” attributes to which disabled persons will never be able to gain access. Whether it is the impossibility of success at a written test for a blind person, or the need for ramp access to a library, the discrimination does not lie in the attribution of untrue characteristics to the disabled individual. The blind person cannot see and the person in a wheelchair needs a ramp. Rather, it is the failure to make reasonable accommodation, to fine-tune society so that its structures and assumptions do not result in the relegation and banishment of disabled persons from participation, which results in discrimination against them. The discrimination inquiry which uses “the attribution of stereotypical characteristics” reasoning as commonly understood is simply inappropriate here. It may be seen rather as a case of reverse stereotyping which, by not allowing for the condition of a disabled individual, ignores his or her disability and forces the individual to sink or swim within the mainstream environment. It is recognition of the actual characteristics, and reasonable accommodation of these characteristics which is the central purpose of s. 15(1) in relation to disability.⁴⁶

A critique of the *Eaton* decision must begin with some recognition that Emily’s functional capacities might be directly relevant to the kinds of accommodations needed in order for her to communicate, to participate and to learn in a classroom environment. To this extent, her actual characteristics, like those of the blind person or the wheelchair user in Justice Sopinka’s examples above, do perhaps merit taking into account “in order to achieve equality.” This first phase of analysis would indeed be essential background to the interrogation not of Emily’s eligibility for inclusion, but rather of the appellant school board’s practices - framing the question around whether the Board had in fact forced Emily “to sink or

swim within the mainstream [classroom] environment”, enabling or obstructing her opportunities to act in the social world.

Whether or not this different framing of the question would have led to a more favourable outcome in the *Eaton* case is moot - as, ultimately was the decision itself. Following the Tribunal’s initial move to consign Emily to a segregated class, the *Eaton* family had undertaken the transitions necessary to transfer Emily to an inclusive class within the separate school system. Indeed, although the factual record before the Court included little or no evidence of this, at the time of the court’s decision Emily had already enjoyed several years of the same kind of positive and successful inclusion described in Aaron’s story. Perhaps, like Aaron, Emily “sailed in and never looked back.”

Nevertheless, the legal outcome in Emily *Eaton*’s equality claim highlights certain fundamental inadequacies in a rights analysis that preserves what Martha Minow coincidentally also described as “the dilemma of difference” . Superficial implementation of a kind of ‘exclusionary inclusion’ - placing disabled children unsupported and without creative intervention in classrooms that are already too large and under-resourced - leaves them vulnerable to an equality analysis that sees their differences as “residing in themselves.”⁴⁷ Such an analysis perpetuates their disadvantage by imposing conditions upon inclusion, once again holding out the offer of equal participation as contingent upon their capacity to emulate valued social norms.

Instead of focusing upon the kinds of relationships that need to be cultivated to ensure a young person’s well-being, leading to a critical exploration of resources and methods most likely to yield this result, conventional rights discourse may relegate to *Lunch in Room 20*, children whose differences confound the

imaginations of those empowered to affirm and protect their being and belonging. Distinctions made on the basis of “actual personal characteristics”, are surely neither relevant nor appropriate in the context of determining an individual’s access to relationship, mutuality, respect and selfhood.

The equality rights framework clearly and properly gives those who seek to challenge barriers to full participation a persuasive language in which to frame their assertions and a legal forum in which to advance their arguments. Rights-based mechanisms, however, may be

better suited to remedy restrictions upon activity than they are to remedy restrictions upon ‘being’ and ‘belonging.’ Moreover, the effectiveness of equality doctrine in securing a right to inclusion in hotly contested cases remains far from certain. The unfolding of both Tammy and Aaron’s claims, however, suggests that prior inclusive experiences enhance the likelihood of success in the assertion of rights-based claims. To the extent that inclusion forges relationships of mutual regard and respect, these relationships may accord some level of resilience and surety to rights entitlement.

Conclusion: An Appetite for Involvement

To rescue our children we will have to let them save us from the power we embody: we will have to trust the very difference that they forever personify.⁴⁸

*June Jordan,
U.S. Poet & Civil Rights Activist*

As this paper began with the voices of youth, fleshing out meanings of inclusion drawn from the pulse of experience, it is appropriate to turn again to the same contributors in shaping the study’s conclusion. As we listen for guidance and correction, seeking to mobilize ‘the power we embody’ as educators, analysts, policy-makers, electors and decision-makers, we must do so in a manner that supports young people’s quest for justice and inclusion.

How has the exercise of adult governance influenced the experiences of inclusion described by these young people? What impact and contribution do they attribute to adults in positions of authority?

Lynnsey is 17 years old and a grade 12 student. Lynnsey’s youngest brother has Down Syndrome and some hearing difficulties.

Lynnsey regrets that her brother has been denied the opportunity to receive his education in an inclusive classroom. Her sensitivity to this injustice informs many of her interactions and social encounters:

When I was younger I was attending a Christmas Party and there was a bunch of kids there - one with Tourette’s, a son of my mother’s friend. There was a group of us who were going to go swimming in the pool - me and this other girl suggested we should invite him to swim with us.

That’s when an adult spoke up and said that probably wasn’t a very good idea because we might have a hard time getting along with him. Being surrounded by children with disabilities my whole life I thought this was a weird thing to say. Needless to say, me and that girl never went swimming but made a friend!⁴⁹

For Lynnsey, the adult’s cautionary injunction was simply “a weird thing to say”, irrational, but happily circumventable. For a number of the other youth contributors, adult prohibitions to inclusion were seen as more

seriously problematic:

Linda: I personally think that many teachers fear inclusion, they fear that it is something too expensive, too difficult and somehow they feel they don't know how to react or even approach students with developmental disabilities, and so they react to these feelings by stating they are against it or don't believe in it.⁵⁰

Linda's analysis of adult behaviour in response to unspoken, unacknowledged feelings is acutely perceptive. Her observations invite us to critical self-reflection regarding the extent to which arguments based on economic "realities" or logistical "impracticalities" may mask deeper feelings of inadequacy and inexperience, vestiges perhaps of the very system of exclusionary practice through which many adults grew to maturity.

She reminds us that she and her peers are ready to take up the challenge – and the opportunity – that we deny them: to lead, from the place of our hindrance:

I believe fellow students in a high school would like to figure out how to help out a fellow classmate with a disability if they are given the chance. It appears the attitudes of teachers and principals act as major obstacles to our having this opportunity.⁵¹

Kyle speaks convincingly of adults who chronically underestimate his abilities. He highlights the recurring interference of rigid thinking and other adult inhibitions to creativity – patterned tendencies that are fatal to the project of inclusion:

Sometimes inclusion is difficult at school because sometimes people do not believe that I can do things and don't even give me a chance. When people's expectations are set it gets in the way of inclusion hap-

pening because they don't use their imaginations to find ways to make it happen.⁵²

For Lynnsey, Linda and Kyle, the exercise of adult authority in the lives of disabled children undercuts the compelling logic of inclusion with the blunt violence of stereotype, foreclosure and devaluation. Their observations are supported by other research that explores the experiences and perspectives of disabled children. Shakespeare et al. highlight the extent to which adult behaviour and social settings define, reinforce and legitimize categories of difference and inferiority that disabled children must actively resist in their attempts to construct autonomous, competent and interdependent identities. They suggest that "the institutionalization of difference seemed to be an unconscious justification of the segregated practices found in many schools". Antle et al. noted in their study of transitions to independence that young people with disabilities were compelled to "blast away at low expectations", especially in educational systems, mirroring the experience of American disability activist Ed Roberts 40 years earlier. Middleton, as well, documents the extent to which disabled youth in her study "felt written off and patronized", deprived by low expectations and lack of opportunity.

Social inclusion can be understood as either a process or an outcome. As a process, social inclusion invokes us to cultivate in all children an appetite for involvement, self-expression and self-discovery, along with a well-founded expectation that their participation will be welcomed, their choices supported, their contributions valued and their integrity safeguarded. As an outcome, social inclusion shows itself in communities that afford a range of meaningful and respectful opportunities for children's involvement, expression and discovery, consistently and concurrently promoting children's 'being' and 'becoming', as well as their 'doing' and 'acting.'

The relationship between inclusion and equality can be seen, through the lens of disability, as a relationship of two distinct, integral and complementary principles, both operating in the service of just social outcomes. Just as the principle of equality is expressed in the currency of rights, the principle of inclusion is expressed in the currency of relationships. Standing like pillars of equal weight and proportion, they command us to equal attention and regard. Each is weakened in the absence of the other; each reinforces the imperative of the other for the securement of human dignity and well-being.

This paper has attempted to highlight the role of children and youth as social agents, seeking to exercise autonomy and choice, to assert values and identity and to influence the institutional and political culture within which their dreams for the future must take root. The extent to which rights and rights discourse can be used as tools to support these processes will depend in large measure upon our capacity to abandon hierarchies of difference and to negotiate new relationships of mutuality, empathy and respect.

*The question of equality is the meaning of equal moral worth, given the reality that in almost every conceivable concrete way we are not equal but vastly different and vastly unequal in our needs and abilities. The object is not to make these differences disappear when we talk about equal rights, but to ask how we can structure relations of equality among people with many different concrete inequalities.*⁵³

We conclude this paper with the suggestion that although we may be vastly unequal in our needs and abilities, we are much more like one in our need, desire and capacity for human connection.

Endnotes

- ¹ The author extends her appreciation to a number of young Canadians who presented in a panel entitled "Inclusive Education" at the Canadian Association for Community Living First National Family Conference in Edmonton, Alberta on October 21, 2000. Much of the content of this article reflects upon their presentations and draws directly from e-mail exchanges with the author following the conference. These contributors have chosen to be identified by the following names: Aaron, Brandalyn Lofgren, Kyle, Linda, Lynnsey Harder and Trevor. Thanks also go to Heather and Paul Kohl, Brian Lillo and Vanessa Grimm for their assistance in facilitating these dialogues.
- ² Maresa Mackeith. "The Importance of Friendship." Presented using facilitated communication, 1999.
- ³ *Eldridge v British Columbia (Attorney General)* (1997).
- ⁴ Canadian Council on Social Development, Disability Information Sheet (Ottawa: Canadian Council on Social Development, 2001). See also, L. Hanvey, *Children and Youth with Special Needs* (Ottawa: Canadian Council on Social Development, 2001).
- ⁵ At time of research interviews.
- ⁶ Lynnsey Harder, e-mail to author, 14 December 2000. At time of interviews, Lynnsey was 17 years old and a grade 12 student.
- ⁷ Trevor, e-mail to author, 15 January 2001. At time of interviews, Trevor was 15 years old and a grade 9 student.
- ⁸ Aaron, e-mail to author, 12 April 2001. At time of interviews, Aaron was 16 years old and a grade 10 student.
- ⁹ Kyle, e-mail to author, 15 January 2001. At time of interviews, Kyle was 15 years old and a grade 9 student.
- ¹⁰ Linda, e-mail to author, 20 December 2000. At time of interviews, Linda was 18 years old and a first-year college student.
- ¹¹ Brandy Lofgren, e-mail to author, 9 April 2001. At time of interviews, Brandy was 16 years old and a grade 10 student.
- ¹² A computerized augmentative communication device for non-speaking individuals.
- ¹³ Kyle, "Inclusive Education" (panel at the Canadian Association for Community Living First National Family Conference, Edmonton, 21 October 2000).
- ¹⁴ Kyle, e-mail, 18 January 2001.
- ¹⁵ Trevor, "Inclusive Education" (panel at the Canadian Association for Community Living First National Family Conference, Edmonton, 21 October 2000).

- ¹⁶ Kyle, "Inclusive Education" (panel at the Canadian Association for Community Living First National Family Conference, Edmonton, 21 October 2000).
- ¹⁷ Mackeith, "The Importance of Friendship."
- ¹⁸ Kyle, e-mail, 15 January 2001.
- ¹⁹ Trevor via Kyle, e-mail, 15 January 2001
- ²⁰ Aaron, "Inclusive Education" (panel at the Canadian Association for Community Living First National Family Conference, Edmonton, 21 October 2000).
- ²¹ Kyle, "Inclusive Education" (panel at the Canadian Association for Community Living First National Family Conference, Edmonton, 21 October 2000).
- ²² Aaron, e-mail, 12 April 2001.
- ²³ Brandy Lofgren, "Inclusive Education" (panel at the Canadian Association for Community Living First National Family Conference, Edmonton, 21 October 2000).
- ²⁴ Ibid.
- ²⁵ Tamara, letter to Mr. Herbert Seder, Deputy Superintendent, Wetaskiwin Regional Public Schools, 20 August 1997.
- ²⁶ M. Wente, "Let's Trash All High Schools," *The Globe and Mail*, 7 April 2000, p. 15.
- ²⁷ W. Pentney, "Belonging: The Promise of Community - Continuity and Change in Equality Law 1995-96," *Canadian Human Rights Reporter* (1996).
- ²⁸ Kyle, "Inclusive Education" (panel at the Canadian Association for Community Living First National Family Conference, Edmonton, 21 October 2000).
- ²⁹ Aaron's mother, e-mail, 9 April 2001.
- ³⁰ See, for example, the recent Ottawa case of nine-year-old Zachary Bonnah, whose father was charged with trespassing after making repeated attempts to take Zachary to school on days when special education assistants (allocated by the Board for only two days a week) were not available. J. Rupert, "Love versus the Law: A Father Defends His Actions," *The Ottawa Citizen*, 2000.
- ³¹ Brandy Lofgren, "Inclusive Education" (panel at the Canadian Association for Community Living First National Family Conference, Edmonton, 21 October 2000).
- ³² *Eldridge v British Columbia (Attorney General)* (1997).
- ³³ *Eldridge v British Columbia (Attorney General)* (1997).
- ³⁴ *Youth Bowling Council of Ontario v McLeod*, in C.H.R.R. (Ont. Div. Ct. 1990).
- ³⁵ Ibid., para. 32.
- ³⁶ Ibid., para. 33-35.

³⁷ Aaron's mother, e-mail, 16 April 2001. According to Aaron's mother, neither she nor any of Aaron's teachers knew that he was capable of working at grade-level curriculum until his year of home schooling. The academic assessment that demonstrated this fact proved to be crucial in negotiating his acceptance back into school, without the necessity of a lengthy trial process.

³⁸ *Eaton v Brant (County) Board of Education*, 22 O.R. (3d) 1 (C.A.) (1995): 15.

³⁹ *Eaton v Brant County Board of Education*, 1 S.C.R. 241 (1997): 40.

⁴⁰ *Eaton v Brant (County) Board of Education*, 22 O.R. (3d) 1 (C.A.) (1995): 15-16.

⁴¹ *Eaton v Brant County Board of Education*, 1 S.C.R. 241 (1997): 69. It is worth noting, as was pointed out by O. Endicott in an unpublished paper entitled "Key Trends in Case Law Pertaining to Supports for Persons with Disabilities" that:

The Supreme Court continued to endorse inclusion as the constitutional norm in 2000, when Justice Binnie in the Granovsky judgment re-asserted Justice Sopinka's words and reinforced them with a quotation from Justice Thurgood Marshall's dissent in the U.S. Supreme Court decision in *Cleburne v. Cleburne Living Centre Inc.*, where he wrote that exclusion "deprives the [disabled] of much of what makes for human freedom and fulfilment - the ability to form bonds and to take part in the life of a community."

⁴² *Eaton v Brant County Board of Education*, 1 S.C.R. 241 (1997): 66, 69.

⁴³ *Eaton v Brant County Board of Education*, 1 S.C.R. 241 (1997): 69.

⁴⁴ *Ibid.*

⁴⁵ *Ibid.* at 76.

⁴⁶ *Eaton v Brant County Board of Education*, 1 S.C.R. 241 (1997): 67.

⁴⁷ M. Minow, *Making All the Difference: Inclusion, Exclusion and American Law* (Ithaca, New York: Cornell University Press, 1990).

⁴⁸ June Jordan, "Old Stories: New Lives" (keynote address to Child Welfare League of America, 1978). Published in *Moving Towards Home: Political Essays* (1989).

⁴⁹ Lynnsey Harder, e-mail, 14 December 2000.

⁵⁰ Linda, e-mail, 20 December 2000.

⁵¹ Linda, letter to School Superintendent Emery Dossdall, 12 August 2000.

⁵² Kyle, e-mail, 15 January 2001.

⁵³ Jennifer Nedelsky, "Reconceiving Rights as Relationship," *Review of Constitutional Studies* 1, no. 1 (199): 21.

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