

## Balancing Acts:

### *Considering Spherical Interests and Meta-Spherical Standards in the Thought of Amy Gutmann and David Blacker and in the Workings of International Human Rights Discourse*

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In an article elaborating Michael Walzer's theory of spherical pluralism from the perspective of educational theory, David Blacker takes on a central problem within the difficult and ongoing project of defining education's place in the context of our complex, culturally and institutionally plural society. Blacker considers education's place in relation to other, societally established spheres, raising the question of how we can best strike a balance between, on the one hand, enabling diverse institutional spheres of human activity (spheres such as for-profit business, political governance, and public education) to flourish each in its own way and in terms of its own sense of the good, and, on the other hand, upholding a meta-spherical, «simpler equality of 'status' or 'recognition'» that enables fair settlements of differences arising between and among members of varying spheres.<sup>1</sup> Taking up this question as essential for conceiving, developing, and sustaining good citizenship and good educational practice in today's United States and wider world community. This paper will review answers that have been proposed by two political theorists focusing on U.S. education policies - Amy Gutmann and David Blacker - and then move on to consider spherical pluralism's contribution as applied to education in a broader, international context. The decision to extend the conversation about spherical pluralism in education to an international context is justified because both the educational sphere and spheres that prominently influence it, such as for-profit business and political governance, are importantly international in character. Educators worldwide are affected in common by the movements and enterprises of multinational corporations and by the interactions of political governing bodies; essential educational issues influenced by these things include availability of resources and supportive infrastructure for schooling, curriculum priorities as affected by international standardized test comparisons, and school attendance as affected by child labor laws and practices.

A discussion touching upon all aspects of international, inter-spherical relations involving the education sphere would be beyond the scope of this paper. Therefore, I will focus on a particular problem area - that of instances where the expansionist corporate sphere, often with the collusion of political governance and policy-making bodies, violates, or threatens to violate, the sphere

of education in a manner that decreases or removes needed educational opportunities. Relevant meta-spherical constraints in this area are to be found in human rights standards that have been established, and are in the process of being established, by «international regimes,» or global and regional «systems of norms and decision-making procedures accepted by states as binding» in particular issue areas, including education.<sup>2</sup> A weakness of international human rights standards is that they are not applied with the same consistency and force as state- and national-level U.S. legislation: often, governing and corporate bodies fail to respect people's rights even in violation of international treaties that were agreed upon as binding. Nonetheless, in the international community as well as within the U.S. and other nations, human rights standards have a moral force that often translates powerfully into practical action. (For example, South Africa's apartheid system was overthrown largely because it was widely viewed in the international community as violating human rights. Currently, Amnesty International's New York office uses international human rights standards effectively to oppose violations within the United States, including violations within the educational sphere<sup>3</sup>) Therefore, the latter part of this paper will consider the conceptual and persuasive usefulness of international human rights law for the work of protecting the sphere of education from corporate and corporatist violations.

#### A META-SPHERICAL STANDARD ARTICULATED

Before moving to Gutmann, Blacker, and international human rights discourse, however, I will present a brief, provisional conception of the meta-spherical standard of societal obligation that should, in my view, regulate interaction among the varying spheres. My standard combines concepts from two classic texts in the Western liberal tradition - the notion derived from Thomas Jefferson's U.S. Declaration of Independence that all people are «created equal» and entitled to «life, liberty, and the pursuit of happiness,» and John Locke's statement in the *Second Treatise on Government* that all citizens in a well-run state should have «enough and as good» as other citizens where the meeting of universal human needs is concerned.<sup>4</sup> Taken together, these statements concisely combine the importantly distinction-affirming, «hands-off» dimension of liberalism (the revolutionary idea that individuals' lives, freedoms, and efforts towards personal fulfillment must not be interfered with - an idea also affirmed in the Bill of Rights and later Constitutional amendments) with liberalism's equally important enabling dimension (the idea that a morally upright society ensures that all of its people's fundamental needs are met by access to necessities such as good-quality housing, healthcare, nourishment, and education). Another way of putting this is to say that both «negative» and «positive» rights should equally be upheld by national and international regimes. Although this view contradicts much of liberal theory's practice of privileging negative rights (rights protecting unconstrained self-assertion) over positive rights (rights to enablement and care), nonetheless I believe it can be soundly defended. One persuasive defense is provided by the following passage from Jack Donnelly's *Universal Human Rights in Theory & Practice*, in which Donnelly draws on the work of Henry Shue to argue against the views of Maurice Cranston and Hugo Adam Bedau:

*The thrust of the arguments of Cranston<sup>5</sup> and Bedaub<sup>6</sup> is that «negative» civil and political rights deserve priority because their violation involves the direct infliction of injury, whereas the violation of «positive» economic and social rights usually involves only the failure to confer a benefit .... Shue (refutes these arguments by showing) that there is no significant moral difference between negative and positive rights]. Imagine a man stranded on an out-of-the-way desert island with neither food nor*

*water. A sailor from a passing ship comes ashore but leaves the man to die. This act of omission is as serious a violation of human rights as strangling him, an act of commission. It is killing him, plain and simple-indirectly through «inaction» but just as surely and perhaps even more cruelly.<sup>7</sup> The moral difference lies not in the essential character of the acts per se but in contingent, empirical circumstances. Killing is killing whether it is achieved by directly inflicting injury or by failing to provide a benefit<sup>8</sup>*

Clearly, failing to provide people with the support they need is just as unconscionable as curtailing people's freedoms. When we seek to defend the right to education, and the related right of educators to maintain inviolate their sphere of professional expertise and activity, it is essential that we do as Donnelly does, affirming positive and negative rights as equally important, rather than allowing positive rights, such as the right to education, to be degraded as second-class. Therefore, it is in relation equally to both aspects of the liberal ideal - egalitarian non-interference and egalitarian enabling - that Gutmann's and Blacker's accounts will be assessed, and my account of international human rights discourse will be developed and applied, in what follows.

#### AMY GUTMANN, SPHERES WITH EDUCATIONAL AUTHORITY, AND A STANDARD OF NON-INTERFERENCE

For the purpose of justly balancing meta-spherical standards with respect for spherical concerns in a conception of education, it is indispensably important that there be serious and sustained efforts respectfully to interpret the particular interests and entitlements of varying social spheres with relation to contemporary educational issues. One such effort is Amy Gutmann's *Democratic Educatio*<sup>9</sup> In that book, Gutmann describes and examines the interests of three key spheres as they affect education in the United States - the sphere of the central government, the sphere of parental interest, and the sphere of professional educators. In what is essentially an argument for certain ways of delegating authority over education, Gutmann argues that each of these three spheres should have its own distinct and acknowledged control over education. In a descriptive move that emphasizes each sphere's right to authority, Gutmann names each as theoretically being its own form of government. The interests of central government are represented through the concept of a «family state» in which national leaders take the responsible, parental role of dictating education policy to citizens who, in a sense, are regarded as children; the interests of parents are represented through the concept of a «state of families» where the parents in each household have authority to decide how their children will be educated; and the interests of the education profession are represented through the concept of a «state of individuals» where teachers are granted authority over education on the grounds that their professional expertise makes them the best qualified to enable the development of students' individual natures and visions of the good life.<sup>10</sup> Having delineated these three hypothetical «states,» Gutmann goes on to describe how the interests of the «states» should play out in the context of current educational issues including private schooling, adult education, and sex education.

On the level of meta-spherical standards, Gutmann adopts two principles: nonrepression and nondiscrimination. For her, these principles are the foundation of democracies; the «shared

beliefs and practices» «essential to any democratic society» follow from nonrepression and nondiscrimination.<sup>11</sup> In using these principles to judge right relationships between the three «states» in the context of various educational issues, Gutmann abundantly proves their usefulness for helping to uphold justice through the Jeffersonian, liberal standard of non-interference with people's freedom to pursue their own conceptions of the good. However, her meta-spherical standard does not sufficiently affirm the «enabling» liberal imperative expressed in Locke. By merely promising that we will all keep our hands off of each other (that we will neither repress nor discriminate), she fails sufficiently to articulate people's and states' positive obligations to enable all children equitably and to help those in need. Such obligations cannot merely be left to individuals to handle on their own. Frequently, due to market vicissitudes and dehumanizing hatreds linked to racism, sexism, homophobia, and other prejudices, unassisted individuals- are unable and/or unwilling to help each other. Therefore, there must be a distinctly articulated, meta-spherical commitment to enabling each person to pursue her vision of the good life (provided that that pursuit does not violate others' rights as those rights are implied in the articulation of liberal, meta-spherical standards posited above).

We need a positively articulated imperative to enable everyone not only because it's the right thing to do, but also because failing to agree on such an imperative leaves a vacuum that can easily be filled by anti-egalitarian interests. For example, actors within the powerful corporate sphere are often driven by a simple and detached capitalist imperative continually to expand and increase profits for businesses. If, on a meta-spherical level, we fail to agree on and assert positively what we should do with people (we should enable each other to strive for our visions of the good life), then corporate interests may move in and use people to serve profit. As will be discussed later, recent examples impinging on education include movements by for-profit schooling enterprises into the U.S. public school system, threatening to reduce schoolchildren to instruments of corporate financial growth.

This discussion of the implications of my critique of Gutmann's meta-spherical standards suggests a particularist-level critique of the way Gutmann presents society's various spheres. Considering the prominence of corporate America and the significant dangers that its abuses pose for education and the broader society (e.g., downsizings and layoffs leading to child poverty, inadequate healthcare, malnutrition, and poor education when property values in an abandoned neighborhood go down, decreasing money for schools), a theory of education and governance must specifically include cogent analysis and critique of the corporate sphere in its relations to other spheres and with regard to liberal meta-spherical standards of nonrepression and enabling. Gutmann's theory fails to do this, and would benefit from being augmented by such a critique. It would also benefit from the addition of critiques of other spheres that tend to violate liberal meta-spherical standards - spheres such as fundamentalist religion and militant racist organizations.

#### DAVID BLACKER ON SPHERICAL PLURALISM AND CROSS-SPHERICAL INCURSIONS

In an account calling for a theory aimed at harmonizing the dialectic between representations of the «thin-but-morally-grounded constitutional realm of individual rights» and «the thick-but-morally-

bounded» realm of the various spheres, David Blacker addresses the concerns just raised with regard to Amy Gutmann's account.<sup>12</sup> Relating to the Lockean meta-spherical standard of egalitarian enabling, Blacker draws on liberal theorist Joseph Raz's notion of «real choice.» Raz argues that in order for liberalism's standard and ideal of autonomy to be met, each individual must have available a range of truly differing, accessible alternatives to choose from; if «all the choices in a life are like the choice between two identical -looking cherries from a fruit bowl, then that life is not autonomous;<sup>13</sup> further, «one is autonomous only if one lives in an environment rich with possibilities.» Blacker, making good use of these insights, takes them a step further by asserting that the choices and possibilities available to all individuals must be not only varied and rich, but also worthwhile from the individual's point of view: «modern pluralist democracies» must ensure «that the reality of social life - in Raz's terms above, its 'environment' - allows for a wide range of attractive life choices.»<sup>14</sup> Life choices that involve going without adequate healthcare, food, housing, and/or education can hardly be considered attractive; therefore, the Lockean meta-spherical standard of egalitarian enabling must be firmly established and enforced.

Blacker also addresses the concern that certain spheres, and prominently the business sphere, require special attention as being particularly likely to encroach on individual autonomy and rights. He affirms that, in order for democratic fairness to be sustained in a complex, pluralism-affirming society (one where numerous and widely varying spheres of interest and aspiration receive healthy encouragement), there must be a «judicious bounding of the range of permissible status-generating arenas by metapluralistic constraints that would block the development of immoral or otherwise socially undesirable spherical activities.»<sup>15</sup> Blacker's primary example of such undesirable activities comes from the business sphere:

*... difficulties arise [within spherically plural societies] when [an institution], rooted within its own normative sphere, reaches for power beyond itself and requests a certain fealty from other spheres. When business, to cite the most pressing example, colonizes and in so many cases obliterates other spheres from the destruction of «the commons» in the land enclosures of seventeenth Century England to today's vocationalist and for profit schools-it is exerting power that is, from the point of view of complex equality's sense of propriety, beyond itself. As Walzer writes:*

*In all the spheres of distribution, groups that defend internal standards - health care for the sick, housing for the homeless, education for all the children who are capable of learning - are increasingly challenged by the theory and practice ... of the market price and the profit margin. But the market is incapable of helping the growing number of excluded men and women; it won't provide them with jobs or underwrite the autonomy of nonmarket spheres of activity.<sup>16</sup>*

*The complex face of exclusionary injustice must be kept firmly in mind, as when the monetary inequalities generated by the market obstruct access to spheres where money should not serve as a gatekeeper, for example, where valid constitutional claims go unpursued for lack of money to pay the lawyers or where the assessed value of private property in one's neighborhood cannot adequately fund one's schools.<sup>17</sup>*

A wide range of concerns arising from the Lockean injunction that everyone should have «enough and as good» are addressed here - people's needs for, and rights to, quality healthcare, housing, and education. Further, an important quality of the relationship between spherical con-

cerns and meta-spherical standards is illuminated namely, that for a just society, strongly establishing and maintaining the «thin» metaspherical standard of egalitarian enabling means nurturing key «thick» institutionalized, distinctly spherical interests, such as the educator's interest in providing quality education for all who seek it, and the healthcare provider's internalized injunction to «heal the sick» regardless of social or economic status.

Blacker's analysis also makes clear the prominent reason why it is not sufficient just to leave spheres such as education and healthcare to themselves to handle their own areas of interest (to value the «points of light» only by a vaguely praising and permissive attitude, but not by providing needed support or defenses). The powerful corporate sphere, frequently operating only on the principles that profit is the bottom line and continual economic growth is necessary for corporate health, can disregard, undermine, and sometimes obliterate other spheres, making increasingly difficult or impossible the cogent pursuit and fulfillment of their interests. The healthcare provider's interest in egalitarian healing is violated when corporate HMO policies make needed services and medications inaccessible to the poor. The teacher's interest in egalitarian education is violated when for-profit schooling ventures exclude «less educable» students in order to show better performance, thereby attracting more money to their schools. Therefore, meta-spherical restrictions are necessary to ensure that the interests of spheres inclined to promote the liberal value of egalitarian enabling are not impinged upon by extra-spherical incursions and usurpations.

Gutmann and Blacker differently exemplify analysis attentive to the demands involved in interrelating spherical and meta-spherical levels of societal interest to form a just and coherent, democratic society in conditions of complex social plurality. Gutmann delineates and diversely exemplifies the expressed interests and interactions of three important institutionalized spheres with relation to education, striving consistently to subject these spheres to the liberal, egalitarian, meta-spherical standards of nonrepression and nondiscrimination. Blacker takes a more broad and progressive view, considering spheres beyond Gutmann's three and paying attention to the dangers of cross-spherical violations, particularly by the corporate sphere. In the following analysis of incursion upon the educational sphere, I intend to draw from and build upon the work of both Gutmann and Blacker. I seek to use an analytical approach combining Blacker's expansiveness and detailed attention to the dangers of cross-spherical usurpation with Gutmann's forthright and distinct articulation, and persistent reiteration, of particular meta-spherical principles, adding the Lockean standard of egalitarian enabling to Gutmann's Jeffersonian standards of non-interference. Following the spirit of spherical pluralism, I will attempt to respect and retain the distinctness of the spheres examined while at the same time remaining mindful of the meta-spherical standards I have articulated.

#### INTERNATIONAL HUMAN RIGHTS DISCOURSE

For developing an approach that seeks to serve both these purposes - (1.) respecting spheres' distinct natures, and (2.) upholding viable meta-spherical standards - international human rights discourse is indispensable. For the first purpose, an international focus is increasingly important, as our society's prominent social spheres define themselves and exert their influence in a more and more international context. Through processes of corporate globalization, the U.S. business sphere

deeply interrelates U.S. citizens with international populations: the food we eat, the clothes we wear, and the machines we use link us with laborers from around the world. That this situation is increasingly sensed as a matter of moral concern among people across national borders is clear from the massive protest rallies regularly mounted in the U.S. and abroad against the exploitation of third-world sweatshop labor and the violent disruption of indigenous ways of life by U.S. multinational corporations. Similarly (and relatedly), the sphere of political governance is crucially international in its focus and concerns, as evidenced by events ranging from international economic alliances such as NAFTA and the European Union's currency standardization to military actions coordinated internationally through the United Nations. That international relatedness is increasingly at the heart of many political leaders' moral self-understanding was dramatically shown recently in the resignation of the most prominent members of Holland's government following findings that poorly supervised Dutch soldiers under their leadership unwittingly participated in the slaughter of innocent Muslims in the Balkans. That U.S. citizens understand their political leaders, and their relation to those leaders, as crucially having an international dimension was shown recently in massive demonstrations in Washington by citizens expressing various views against and for ongoing U.S. military and diplomatic foreign policy. That U.S. educators similarly understand the context of their work to be international was shown at a recent (May 2002), massive United Federation of Teachers conference in Manhattan where UFT representatives presented displays calling for an end to exploitative, third world child labor and advocating the establishment of schools in developing countries. Further, that education is increasingly understood on an international level as a distinct sphere of its own, rather than as instrumental to other spheres, is evidenced by recent changes in the language used in U.N. documents relating to education.<sup>18</sup>

For the second purpose (upholding viable meta-spherical standards), an international focus is similarly indispensable. Human rights standards ratified and upheld by the United Nations and other international regulatory organizations are important to consider not only because they comprise the primary available body of established, international rights-defending legislation, but also because they were conceived in their current form primarily in response to a world-historical moment that importantly resembles our present situation. Today, people of all spheres in the U.S. and in nations around the world are shaken by mass killings and by current U.S. military policy seeking to develop new weapons of mass destruction likely to start a new nuclear arms race. Following the second world war, the nations of the world, appalled by the Holocaust and by U.S. use of nuclear bombs to destroy the Japanese cities of Hiroshima and Nagasaki, formed the United Nations, declaring themselves

#### DETERMINED

*to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and  
to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.)<sup>19</sup>*

In addition to being relevant for our current, shared international crises as developing in response to a similar, earlier world-historical situation, international human rights discourse is also distinctively valuable for its combined emphasis on egalitarian noninterference and egalitarian enabling. That we must uphold both sets of rights in specific cases confronting contemporary American educa-

tors is affirmed by the above discussion of Blacker's critique of corporate cross-spherical violations, and will, I hope, be further shown in my arguments below. In a just social order, clearly a combined commitment to non-interference and egalitarian enabling is needed; anything less would be morally irresponsible. Unfortunately, this insight is often obscured and denied, by both scholars and political leaders, in a manner that serves the interests of a worldwide, corporatist culture that separates people's rights to assert themselves without interference from their rights to the support necessary to pursue their visions of the good life, privileging the former set of rights and denigrating or denying the latter. Scholars who make this move include Cranston and Bedau (cited above by Donnelly) and, arguably, Amy Gutmann, who fails to include positive rights among her meta-spherical constraints. These scholarly attitudes are paralleled in the political sphere by the U.S. government's position on international human rights agreements. Of the three core documents of legal, international human rights discourse - the *Universal Declaration of Human Rights*, the *International Covenant on Economic, Social and Cultural Rights*, and the *International Covenant on Civil and Political Rights*- the U.S. has ratified only the last, although all three have been adopted by the U.N. General Assembly. While the first two documents address positive rights to egalitarian enabling, the last addresses only people's rights to assert themselves politically and to be free from the interference of civil rights violations. Thus, by combining respect for positive and negative rights, the body of human rights principles ratified by the U.N. provides a stronger moral basis for internationally relevant, meta-spherical standards than can be found in U.S. international policy and in the scholarly discourse that parallels that policy by privileging negative rights over positive rights.

So, having proposed a basic positive-and- negative-rights-based framework of meta-spherical constraints, and having grounded that framework historically and theoretically in international human rights discourse, the next question is: How should this rights-based meta-spherical standard be conceived and applied with relation to particular violations occurring in the interactions of social spheres within society? In order to approach this question, and specifically in order to become more precise about what is meant by «rights,» it is useful to consider the differences between the following two statements:

«*I need to live with dignity.*»

«*I have the right to live with dignity.*»

I use these statements for two reasons. First, the problem of defining the rights/needs distinction historically has been, and currently is, at the heart of efforts to articulate, and sometimes prove the existence of, rights. Second, in both international and Western contexts, the prominently agreed-upon justification of rights discourse has been that human rights must be defended and enforced in order to defend, preserve, and uphold human dignity.

The question of how these statements compare with one another is one that I believe could be fruitfully discussed at length and from a variety of perspectives. In fact, if it is our goal to cultivate a widely and deeply shared moral understanding and culture focused on upholding human rights and maintaining the dignity of all people, I believe that discussing this question widely and frequently would be indispensable. Therefore, my answer to it should be considered only as partial and tentative, intended to provoke dialogue even as it seeks to establish a standard.



One approved approach to this question is to emphasize that, whereas one may or may not choose to respond to an expression of need, an assertion of a right (if sound) *obligates* the hearer to respond by giving what is required. (In the Western tradition, with its long history of seeking moral standards in the Christian Gospels, a precedent for the idea that one may choose not to respond to expressions of need is the story of Christ turning away a throng of sick people seeking miracle cures, saying that they are too many for him to help.) This approach to understanding rights emphasizes enforcement - people being made to comply with rights assertions whether they want to or not.

While acknowledging the importance of a legalistic, enforcing approach for many, pressing instances of human rights violation, I do not choose to emphasize it in this paper. Instead, I seek to approach the question in a manner more consistent with the ideal of moral suasion-an ideal that has its own history of cogency and importance for progressive, social justice movements. (For example, although the ending of slavery in the United States in the nineteenth century is by no means attributable to moral arguments alone - indeed, it was importantly furthered by northern factory owners who opposed the institution as incompatible with their kind of corporate economy - nonetheless, the principled, persuasive pressure applied by abolitionists such as William Lloyd Garrison was powerfully influential in the anti-slavery movement.)

The statement, «I need to live with dignity,» can appear to propose a relationship of beneficiary and benefactor between speaker and hearer. The prospective beneficiary says «I need»- I lack something, so will you make some sacrifice, maybe by giving me something of yours, to satisfy my need? The hearer may (or may not) then choose to respond with a gesture of altruism, selflessly giving something up, or at least performing some benevolent action, in order to satisfy the need. This transaction is understood to occur primarily on the level of the individuals involved - an individual who expresses a (merely personal) need, and then comes to feel and owe a personal debt of gratitude to the benefactor; and an individual who responds, personally giving something up or performing some supposedly un-self-interested action, and thereby accruing to her/himself a debt of gratitude from the beneficiary together with quantity of personal virtue, or personal goodness, that s/he can treasure up to him/herself.

While developing relationships like this may be useful for enabling better human living, and while such relationships' engagement with needs may make them important as objects for reflection in conceiving and elaborating human rights discourses (since people's basic needs must be respected and fulfilled in order for them to live with dignity and think of themselves as having rights that deserve to be respected), relationships based on «needs» alone, notwithstanding the sentimental gratification and even existential satisfaction they may bring to both beneficiaries and benefactors, do not provide an adequate, general standard for judging and cultivating morally sound relationships within our shared, culturally plural, bureaucratically regulated, vastly populous, and internationally and interculturally interrelated world society. We must each feel a personal stake in enabling our own dignity and the dignity of all people in a sense that is universal, regardless of whether the gratifications of altruistic relatedness are available or desired at the moment. Following Martin Luther King, we must interpret the sense of discomfort we feel upon encountering a violation of human dignity (say, upon encountering a homeless person on the street) as being first and foremost proof of the fact that injustice anywhere is a threat to

justice everywhere, a threat that we should each take personally and also universally, as relating to our own well-being as well as the well-being of all people everywhere. Relevant here is the following quotation from Immanuel Kant's essay, «To Perpetual Peace: A Philosophical Sketch.» In this passage, the universalizing approach seen in King is brought to bear specifically in the realm of rights:

*Because a [narrower or wider] community widely prevails among the Earth's peoples, a transgression of rights in one place in the world is felt everywhere; consequently, the idea of cosmopolitan right is not fantastic or exaggerated, but rather an amendment to the unwritten code of national and international rights, necessary to the public rights of men in general. Only such an amendment allows us to flatter ourselves with the thought that we are making continual progress towards perpetual peace. (emphasis in original)<sup>20</sup>*

Although Kant and Kantians may be criticized as advocating a rigidly top-down system where certain (more or less arbitrary) moral concepts are senselessly granted universal authority and harmfully enforced for no other reason than that they are the products of sophisticated intellectual activity, I don't believe that this line of criticism is compelling or useful for the particular universalizing that Kant does in this passage. (I say «particular universalizing» because it is possible to universalize in many different ways: e.g. by the Kantian assertion that all persons must be considered as ends in themselves, or (very differently) by the post-modernist assertion that it is always (universally) wrong to reason towards universal conceptions. The former assertion tends towards establishing in us a sense of moral responsibility to respect all other people, regardless of the nature of our association with them; the latter assertion tends towards extending into new territory the familiar, Western cultural habit of seeking out aspects of ourselves that are fundamental to our nature and then identifying them as evil to the point of inadmissibility -instead of doing this with our desires for artistic expression or sex, as has been done in the past, post-modernism seeks to demonize our desire (and unavoidable tendency) to make sense of things.) Far from posing a single, higher authority as the source from which moral standards should be derived, Kant bases his rights-legislating assertion on the fact of community broadly conceived to include all people in the world. As members of a shared world community, we all have an interest (for the sake of safeguarding our own safety and dignity) in enabling the dignity of all people everywhere. It is this universally shared interest in the universal defense of human rights that is, potentially powerfully, invoked by the statement, «I have the right to be treated with dignity.»

I have just asserted that the statement, «I have the right to be treated with dignity,» is potentially powerful. But how can that be proved? Isn't everything stacked against me, particularly in the realm of public schooling? Who cares about students' and educators' human rights, or about the rights of the education sphere? Corporate leaders, searching for new sources of money in their endless quest for continually increasing profits, are taking over U.S. public schools with the evident purpose of using schoolchildren as tools to get hold of public money. They are doing this with the cooperation of harassed professional educators at a loss to find ways of making their schools appear successful to political leaders and the wider public. How can a powerful human rights discourse be introduced in this situation?

One answer is that corporations and educators should be forced to do the right thing - laws should be made and enforced to ensure that education, rather than profit, remain schools' top

priority. For some situations, this may be the best, or the only answer, however, I believe lasting and meaningful change requires more than raw legal enforcement. In the long run, human dignity cannot be upheld unless people are genuinely *persuaded* that human dignity and a system of rights protecting it are worth working for.

How can such persuasion take place? I will argue that people working in the relevant spheres (business, education) can be best persuaded to defend and uphold human rights by means of values to be found *within their institutionally established spheres themselves*. Insofar as people understand themselves as working within a coherent, principled conception of the good that is proper to their sphere and unifies and convincingly and powerfully justifies its activity in a sustained manner, I believe it should be possible to persuade them of the importance of enabling human dignity and upholding human rights in general. By holding up a mirror in which the highest ideals of a sphere are reflected juxtaposed against harmful deviations from those ideals, I would seek to persuade relevant actors within the corporate and education spheres to value and honor an ideal of enabling universal human dignity by honoring human rights.

To begin with a more in-depth look at how the corporate sphere is moving into education: in a 1998 study of for-profit charter schools run by several companies, it was found that

*for profit schools returned considerably more disabled students to the local public schools than did non-profit charter schools. For example, one for profit school in their study returned 21 students, and another returned 40 students, during a three year period. During the same time, only two students left five nonprofit charter schools* <sup>21</sup>

Given the facts that 1) for-profit schools are basically motivated by an imperative to maximize profits (whereas nonprofit charter schools and public schools may judge their work to be successful even if they do not continually increase the amount of public funding they receive), 2) the amount of public money a for-profit school receives is primarily determined by student test scores, and 3) disabled students are less likely to score well on tests and more likely to cost a school extra money and resources, the study cited above strongly suggests that the 61 disabled students excluded from the for-profit schools were excluded because they threatened to bring down test scores and, thereby, profits for the companies running the schools. Further, the problem of charter schools excluding «low-return» students is not limited to only a few for-profit schooling ventures, or to students with disabilities:

*Where they have operated, [for-profit schooling firms) frequently have tended to focus on serving those students whose education costs less while leaving to the existing public schools the cost of teaching those students whose backgrounds, family situations and living conditions demand the most resources*<sup>22</sup>

From a human rights perspective, this analysis, and what it suggests about what is likely to happen in possible, future, expanded for-profit schooling efforts, means that for-profit schooling is indefensible. The *International Covenant on Economic, Social, and Cultural Rights*, which entered into force in 1967, contains the following statement on education:

*Article 13: The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance, and friendship among all nations and all racial, ethnic, or religious groups, and further the activities of the United Nations for the maintenance of peace.*

«All persons» are not enabled to «participate effectively in a free society» in a manner consistent with the «full development of their «personality and the sense of its dignity» if some school-age children are excluded from education, or are relegated to lower quality schools, because their ability level is judged to pose a threat to a company's profit margin. Thus, the human rights position on this issue is clear. I will next consider the positions of the two institutionally established social spheres involved - the sphere of education and the business sphere - according to their internally established, ideal visions of themselves, seeking to harmonize the spherical views with the human rights view.

American educators have a long-standing tradition of placing egalitarian enabling at the center of their work and self-articulated purpose. Educator-philosopher John Dewey, in a formulation consistent with human rights discourse, wrote that a democratic society «makes provision for participation in its good of all its members on equal terms,» providing «a type of education which gives individuals a personal interest in social relationships and control.» Further, it is the aim of such a society «to take part in correcting unfair privilege and<sup>23</sup> unfair deprivation.» Dewey's view of education in a democratic state, in addition to being important to scholarly thought on education, is also close to the attitude one often finds in the teaching profession as it is practiced. Again and again, teachers can be seen acting in accordance with a sort of democratic ethic that is internal to their profession, struggling in their work to include in the learning process all who need to learn. One evidence of this is the great enthusiasm among educators for the work of Howard Gardner, whose theory offers a much wider range of possibility for identifying, valuing, and encouraging the development of students' intelligence than had appeared to exist previously. Thus, there clearly exists *within the education sphere* an egalitarian ethic that can be appealed to in order to uphold all people's right to quality education.

Such an ethic can also be found at the core of the business sphere. Although the megacorporate world is driven, on the level of its operation, prominently by the imperative continually to make and grow profits, still corporate leaders and others in the business world generally understand themselves to serve a higher principle. There exists the understanding that, by pursuing financial gain for their companies, corporate employees heroically exemplify the middle-class, egalitarian dream that anyone with the necessary skill and tenacity is equally able to pursue financial gain and achieve material prosperity. Success comes with hard work, and those who have it deserve it because of the work they did to get it. Leaving aside the question of how close this story comes to the reality of most people's lives, the fact that corporate life is founded, in principle, on an ideal of equal opportunity for all means that there exists the possibility of persuading corporate leaders to refrain from practices that make for an uneven playing field-practices such as excluding students from schools, or using some children, but not others, as means to profit for large corporations. (It is my guess that no corporate CEO would want her/his child attending one of the for-profit schools currently being established in Philadelphia.)

## CONCLUSION

Sphere-sensitive moral suasion is not the whole answer to the problem of establishing constraints to counter and prevent inter-spherical violations; enforceable laws are also important. However, moral suasion should not be overlooked. Noble ideals are important to people's conceptions of themselves and of the value of their work, and it is demoralizing to be shown that one's professional ideals are not reflected in one's work. When people are demoralized in this way, they often make changes. Another benefit of sphere-sensitive moral suasion accrues to the persuaders - when we work to develop arguments against inter-spherical violations from *within the sphere where the violations originate*, it prevents us from dehumanizing the people whom we criticize and from inflating ourselves, personally, with a righteousness that can be easily deflated when we are caught in inconsistencies ourselves. In adopting a persuasive attitude towards the corporate sphere, we importantly prepare ourselves to acknowledge the many socially salutary effects that corporate activity can have - effects ranging from standardizing and guaranteeing access to high-quality products to improving living conditions in districts where employees live. Sphere-sensitive moral suasion also prevents *us* from effectively, or implicitly, excluding offenders from consideration according to the standards of dignity and human rights that progressive reformers should experience as universally applying to all people. In short, human rights discourse applied in a manner that is closely attentive to the workings and ideals of conflicting spheres provides a meta-spherical standard that is morally sound not only because it is accurate and potentially persuasive to sphere boundary violators, but also because it preserves the critic in a morally sound and stable position. Rather than being sucked into the personally interested and only intermittently interesting habits of altruistic relating (whether as beneficiary or benefactor), the spherically sensitive human rights advocate argues from a position that is consistent and strong, steadily balancing personal and social concerns in an attitude directed towards social progress. To educate ourselves and our fellow citizens to be practiced and fluent in adopting such a critical stance is to move us closer to Dewey's vision of fair and democratic associated living by giving «individuals a personal interest in social relationships and control, and the habits of mind which secure social changes without introducing disorder.»

## NOTES

1. David Blacker, «Complex Equality and Democratic Education: The Challenge of Walzer's Spherical Pluralism,» *Educational Theory* 49 (1999), 190.
2. Jack Donnelly, *Universal Human Rights in Theory and Practice* (Ithaca, NY: Cornell University Press, 1989), 205.
3. For example, Amnesty's «Outfront» opposes human rights violations against lesbian, gay, bisexual, transgender, and questioning members of U.S. school communities.
4. John Locke, *Second Treatise of Government*. In Peter Laslett, ed., *Two Treatises of Government*. Cambridge: Cambridge University Press, 1967, sec. 27, 10-13. The phrase serves a qualification of the idea that all people are entitled to benefit from their labor - «Labour being the unquestionable Property of the Labourer, no Man but he can have a right to what that is once joyned to, at least where there is enough and as good left in common for others.»
5. Maurice Cranston, *What are Human Rights?* (New York: Basic Books, 1973), 38.

6. Hugo Adam Bedau, «Human Rights and Foreign Assistance Programs,» in Peter G. Brown and Douglas MacLean, eds., *Human Rights and U.S. Foreign Policy: Principles and Applications* (Lexington, Mass.: Lexington Books, 1979), 38.

7. Henry Shue, «Rights in the Light of Duties,» in Peter G. Brown and Douglas MacLean, eds., *Human Rights and U.S. Foreign Policy: Principles and Applications* (Lexington, Mass.: Lexington Books, 1979), 72-75.

8. Donnelly, 34.

9. Amy Gutmann, *Democratic Education* (Princeton: Princeton University Press, 1987).

10. Gutmann, 19-4.

11. Gutmann, 72.

12. Blacker, 197.

13. Joseph Raz, *Morality of Freedom* (Oxford: Clarendon Press, 1986), 398; as cited in Blacker, 197.

14. Blacker, 198.

15. Blacker, 192-3.

16. Michael Walzer, «Pluralism and Social Democracy,» *Dissent* Winter 1998), 53.

17. Blacker, 205.

18. When we seek to apply spherical pluralism to the problem of defending education against cross-spherical incursions in a manner that is simultaneously national and international, there arises the question of how meaningful it is to speak of an international educational sphere at all. In the United States, professional education is a reasonably coherent and widely influential sphere. Professional educators throughout the nation are held to generally agreed-upon, professionally distinct standards by state and national authorities, and the vast majority of young people are educated for at least 10-12 years under their supervision. However, in other nations today, millions of children receive little or no formal education (many do not learn to read or write), and much of the teaching is done by people who are not trained education professionals. So if an international education sphere can be said to exist at all, it is much looser and more incomplete than what is to be found on the national level in the United States and other more technologically developed nations.

The strongest case to be made for the existence of a distinct, international education sphere comes from changes in U.N. thinking and pronouncements about human development during the last twelve years. In the early 1990's, largely as a result of the work of Indian economist Amartya Sen as communicated to a wider audience through U.N reporting on «Human Development,» the idea of education being an end in itself, rather than merely instrumental to economic development, became part of the mainstream thinking about economic development. As summarized in the 2000 *Oxfam Education Report*, Sen wrote that

...low income was one aspect of poverty, but deprivation was about something more than material wealth: it was also about the absence of.. «fundamental freedoms», which included the attributes associated with good health and education, and the ability to influence institutions affecting one's life. Education is for Sen as important as income, because it is needed to realize human potential in a broader sense. The new approach did not deny the broader benefits of education; but it powerfully reasserted the view, first elaborated by Aristotle, that education did not have to be justified in terms of its instrumental value. In Sen's words, «Something that is of intrinsic importance can, in addition, be instrumentally momentous without compromising its intrinsic value.»

This attitude on the part of the U.N. of viewing education as an end in itself, as intrinsically valuable, constitutes an articulation of a distinct, international education sphereone that operates specifically in the interests of education, rather than as a means to achieve the ends of other spheres.

Sources: Kevin Watkins, *The Oxfam Education Report*

(Oxford: Oxfam, 2000),15-17; Amartya Sen, «Radical needs, and moderate reforms», in J. Dreze and A. Sen, eds., *Indian Development: Selected Regional Perspectives* (Oxford: Clarendon, 1997).

19. *United Nations Charter* Signed on 26 June 1945, Entered into force on 24 October 1945.

20. Immanuel Kant, *Perpetual Peace and Other Essays*, trans. Ted Humphrey (Indianapolis: Hackett, 1983), 119. Quoted in Richard A. Wilson, «Human Rights, Culture, and Context: An Introduction,» in Richard A. Wilson, ed., *Human Rights, Culture, and Context: Anthropological Perspectives* (Chigago: Pluto Press, 1997), 11.

21. John H. Holloway, «Customizing our Schools,» *Educational Leadership* 59, no. 7 (April 2002). Study cited: N. Zollers & A. Ramanathan, «For-profit charter schools and children with disabilities,» *Phi Delta Kappan*, 80 no. 4 (1998), 297-315.

22. Alex Molnar, «Calculating the Benefits and Costs of For-Profit Education,» *Education Policy Analysis* 9, no. 15 (April 24, 2001), 12 (online version).

23. John Dewey, *Democracy and Education* (New York: The Free Press, 1997), 99.

24. Ibid.

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