

Distributing Educational Opportunities: Positionality, Equality, and Responsibility

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Education is one of the most unequally distributed goods, and this has led to people's opportunities in life to differ greatly. Depending on how we conceive the value of education, the duties of the state regarding its distribution vary. This paper looks at the tension between two philosophical approaches to the value of education (individual and positional values), looking for a common ground where to support a more just and efficient distribution of educational opportunities for the world's most vulnerable children. The paper presents two approaches to the value of education (individual and positional), and analyzes how they affect its possible distribution. Second, it looks at our traditional framework of educational justice, based on meritocracy and equality of opportunity, and assesses its justifications, analyzing how it complies with the different values of education. The paper closes by presenting a possible redistributive mechanism for making the distribution of educational opportunities more just.

Keywords: Educational justice, Equality of opportunity, Meritocracy, Elite education, Child rights

1. Introduction

Education is a fundamental good that defines a person's life prospects. The more education one attains, the better chances one has of achieving a higher socioeconomic status (not to mention the intrinsic benefits it generates). In theory, education is a fundamental right, but the real world does not distribute educational opportunities in an equal manner: while the wealthiest urban boys of the First World spend an average of 10 years in school, the poorest girls in the rural areas of the Sub-Saharan Africa have not gotten more than 3 years of education (UNESCO 2014a, pp. 7, 195-6); there are about 130 million children out of primary and secondary school, of which the poorest

children from the poorest areas of the least developed countries form the majority (UNESCO 2014a, p. 2; 2010, p. 136). The level of development, gender and wealth are three of the most fundamental characteristics that define a child's life's prospects, and, as long as these arbitrary factors define a person's chances in life, we cannot say that we actually live in a meritocratic society where everyone has the same opportunity to achieve one's ambitions. Equality of opportunity is a myth as long as there is no equal opportunity *to have opportunities*.

Choosing a principle for distributing these opportunities depends on how we perceive the value of education and on our scope of distribution. As for the first point, if one focuses on the individual qualities of education that improve each person's development and capabilities, one would defend maximizing educational attainment as the most appropriate distributive measure (we do not need an equally bad education for all, but rather the maximum possible quality and quantity of education). However, if we look at it as a positional good, where its distribution has the potential of offering better life prospects to some while proportionately reducing those of another, the maximizing principle loses its power, forcing us to incline towards a more egalitarian distribution of educational opportunities.

In relation to the scope of distribution, conclusions change depending on whether we look at it from a fairly ideal or a non-ideal perspective. Most of the philosophical research on the distribution of educational opportunities has focused on the former, proposing measures from a domestic (First World) perspective, assuming the existence of some degree of background justice and only minor inequalities. But if we look at the radically unjust and unequal situation of education globally, the solutions proposed by the former perspective are either unfeasible and unrealistic, or simply insufficient for fulfilling the rights of the most vulnerable populations of the world.

I intend to look at the tension between the two approaches to the value of education (individual and positional values), aiming to find a common ground where to support a more just and efficient solution to the distribution of educational opportunities for the world's most vulnerable children in the radically unequal situation we live in today.

Section II presents the two approaches to the value of education, and analyzes how they may affect its possible distribution. Section III looks at our traditional framework of educational justice, based on meritocracy and equality of opportunity, and assesses whether it is justified or not, analyzing how it complies with the different values of education. Section IV closes by presenting

a possible mechanism for making the global distribution of educational opportunities more just, while looking at possible objections to my proposal.

2. The value of education

To judge the distribution of education, one must first assess its value. In this section, I present two perspectives on the value of education. The first defends education from an individual perspective, arguing for its intrinsic benefits to each person. The second expands the first by looking at education from its social impact, that is, as a positional good. It shows that education does not necessarily entail overall benefits, a fact that should be taken into account when analyzing its distribution.

2.1. The individual value

Education plays various roles in the life of an individual, but which of these has the stringency to justify it as a fundamental right? Apart from its intrinsic value (giving us joy, offering knowledge and understanding), education can be seen from the external benefits it creates for the individual. There are three major approaches for justifying education from this perspective: the human capital approach, defining education as fundamental for social and individual economic development; the human rights perspective, defending the intrinsic value of education and its impact on individual flourishing; and the capability approach, which merges the qualities of the former perspectives, emphasizing its creation of opportunities and freedoms (Robeyns 2006, p. 80). Capabilities do not focus on the value of the resources that education may create, nor does it center exclusively on the welfare that an individual achieves through it; it sees in both perspectives a relevant argument for justifying an individual's right to education (Saito 2003, p. 18; Cohen 1989, p. 943).

International Organizations tend to use a utilitarian measurement for educational attainment, emphasizing the collective impact it has as human capital. They defend education as a way to achieve aggregated social benefits (i.e. increase the national GDP, reduce crime and violence, etc.).¹ This view is not affected by the impact that education may have on each individual; it does not matter if we have an illiterate population or a country full of doctors as long as the aggregated

¹ For a critique of this approach see Unterhalter and Brighouse 2007, pp. 68-74; Walker 2005, pp. 104-5; Robeyns 2006, pp. 72-75.

benefit is positive. From this utilitarian perspective, education does not have value in itself but it is rather an instrument for achieving higher collective efficiency.

On the antipode of education as human capital, the human rights approach studies the impact of education on each *individual*. The social impact is not taken into account; human rights stand on individualist egalitarian grounds, defending each person as the ultimate unit of moral value (Robeyns 2006, p. 75; Pogge 2008, p. 175). Race, gender and socioeconomic factors are irrelevant and arbitrary contingencies that should not affect an individual's prospects for acquiring an education.² Despite that human rights propose a just measurement for the value of education, it fails in that it relies too heavily on the minimal legal obligations required to fulfill it: human rights promote equality *de jure*, but their practical implementation limits the educational opportunities to the minimum required without taking into account the actual impact that these policies may have on each individual's life (Robeyns 2006, p. 70).³

While the human capital approach measures the value of education from its instrumental benefits on *society*, the human rights approach defends every person's unalienable entitlement to have an education for the *individual* benefits it offers. Both of them present relevant justifications for measuring the value of education, but neither of the two sees the whole picture. A vastly efficient and productive society composed of a barely literate population eternally ruled by an over-educated oligarchy would be a justified scenario for both these utilitarian and sufficientarian measurements.

The capability approach offers an alternative that takes into account both the instrumental *and* the intrinsic values of education. It includes the human capital's instrumental value into the individualistic moral realm of human rights; it does so through the idea of functionings and capabilities. A functioning can be defined as an achievement (ranging from being nourished, to having a job, or having friendships); a capability is the substantial opportunity or positive freedom required to achieve each possible functioning.⁴ The capability approach adjusts the former perspectives in two ways: first, the concept of "capability" compels a more positive enforcement of human rights. As Martha Nussbaum notes: 'our goal is not merely *negative liberty*... but,

² The Declaration of Human Rights and the Covenant on Economic, Social and Cultural Rights defend everyone's right to free and compulsory education (Article 26, UDHR; Article 13, CESCR).

³ The UN Millennium Development Goals for 2015 have taken this sufficientarian approach to education, focusing on the quantity of education offered, but not on its quality or impact.

⁴ A detailed analysis of capabilities and functionings in Sen 1980, pp. 217-20; Saito 2003, p. 18; Walker 2005, p. 104-5; Robeyns 2006, p. 78.

instead, the full ability of people to be and to choose these very important things' (Nussbaum 2005, p. 211). A common understanding of human rights relies on the idea that no one should be interfered with one's right to be educated; the capability approach introduces the positive element of freedom into this proviso. We do not only have a negative right to education, but we can demand to have the actual capability to fulfill this right. Through the concept of "functioning", the capability approach transforms the socially instrumental role of education proposed by the human capital view into an individually instrumental role. Because it focuses on individual development, the measurement of benefits must be regarded from an individual perspective, and not from its social outcome.

From this perspective, education is not only a good in itself, but it also 'affects the development and expansion of other capabilities' and freedoms (Walker 2005, p. 108). Knowing how to read and write is an important functioning in itself. But, if one adds the external and future benefits that these capabilities bestow, then education acquires a new meaning and fundamentality. Education acts as a cornerstone for the protection of our most fundamental rights. It has an overwhelming impact on the socioeconomic and political protection of the individual (Sen 2002): it fights unemployment, it reduces inequality, it increases wages; it creates a greater democratic involvement and more decision-making powers; it reduces disadvantages for vulnerable groups and it generates health benefits by reducing child mortality rates and preventing disease transmission.⁵

Education, thus, is a valuable asset not only for supporting a child's present needs, but for protecting her future freedoms and rights.⁶ Following the idea of welfare rights, education works as a necessary condition for a child's development:⁷ it allows a child to fully appreciate and develop her agency as a mature adult, and it promotes a person's capacity to acquire actual freedoms to choose her own path in life. Despite that the right to education focuses on the children's present welfare, its justification looks forward at their future capacity to make choices and improve their life prospects and well-being.

⁵ For a thorough analysis of the socioeconomic and political benefits of education see UNESCO 2014a, pp. 143-85; also Sen 2002, pp. 3-5; Unterhalter 2004, p. 9; Kundu 2005.

⁶ Amartya Sen presents the value of education for a child's future freedoms in an interview with Madoka Saito in Saito 2003, pp. 24-5.

⁷ The theory of welfare rights is beyond the scope of this paper. In short, it defends that individuals should not only have political and civic liberties but that, for these liberties to be achievable, we require basic welfare that ensures our capacity to exercise our agency and achieve well-being (Nickel 2014). For welfare rights and agency in the case of children and education see Brighouse 2002b; Walker 2005; and Unterhalter 2004.

The capability's emphasis on individual welfare clears out the complications that arise from both the human capital and the human rights measurements of education. Productivity and efficiency have to be taken into account, but must be assessed by their impact on individuals, not on the utilitarian measurement of aggregated social outcome. On the other hand, human rights cannot stand by themselves as negative liberties. The concept of capabilities shows that there is no use in having a right to education if there is no actual *opportunity* to have an education (MacLeod 2010, p. 185).

2.2. The positional value

I showed how an individualistic approach to the value of education works as a strong justification for everyone's right to *some* amount of schooling. I now turn to how an interpersonal approach affects the value of education. I briefly introduce the concept of *positional goods*. Then show education as a positional good, and the impact it has on its value. I close by analyzing how the positional aspect of education generates inequalities through "elite schooling", and the consequences this inequality creates.

The value of a positional good depends on the relative quantity one has of it in relation to others. It is not measured by how much I have of a certain good in absolute terms, but on how much I have of it relative to others (Brighouse and Swift 2006, p. 474; Koski and Reich 2006, p. 597). In a competitive scenario, the absolute value of a good is not as important as how much of the good I have relative to my competitors. For example, when playing football it does not matter how well my team plays; what defines my team's chances of winning is that we play *better* than the others. When applying for a job or for a place in a university, I may have the minimum qualifications required for getting the position (say, having a B2 level of English language), but if someone with a C1 level of English also applies to the same position, my chances of getting the job are reduced relative to the chances of this better qualified person (Brighouse and Swift 2006, p. 474-5). All this signifies that the positional aspect of a good is fundamental for understanding how competitive scenarios work: a good may not only benefit the person who has more of it 'leaving others as well off as they were before' (Brighouse and Swift 2006, p. 477), but it actually worsens the absolute position of the rest by reducing the value of their goods in proportion to the person who has more of it (Anderson 2007, p. 595; Satz 2007, p. 642).

Positionality is a fundamental aspect for determining the value of education.⁸ Although knowledge and skills offer individual benefits, in competitive scenarios they become fundamentally positional. The value of my education depends directly on the level of education attained by the rest of my competitors, thus, my chances are always relative to those of others (Brighouse and Swift 2006, p. 478). Positionality changes the possible impact that education may have on society as a whole. Not only do I win knowledge and skills by getting a master's degree (intrinsic value), and not only do I increase my chances of getting the job I want (instrumental value), but I also proportionally reduce the chances of getting the same job to all those who do not have my same degree (positional value). In an ideal world where everyone has the actual opportunity to access the same education, it would not be unjust that I have a specific degree that grants me a better chance in life. But in a world where many want the same job, and very few have access to the same education, problems arise. Positionality has the capacity to strengthen and magnify the unequal division between different socioeconomic classes (McCowan 2011, p. 286); it allows the wealthy to jump 'the queue for university places and well-paid or interesting jobs' (Swift 2003, p. 23) by paying for better tuition, and leaving the least advantaged groups worse off just because they could not afford to jump the queue.

2.3. Elite education

Elite education⁹ plays a fundamental role in the reproduction of socioeconomic inequalities. As long as wealth determines my chances of giving my child a "more than average" schooling, education can play a negative role in perpetuating social and economic divisions (Swift 2003, p. 25). I cannot directly pay for a "priceless" opportunity or experience, but I can pay for having the *chance* to aspire at having that priceless opportunity. In the case of education, although I cannot buy a place for my child in a top-ranked university, I can pay for her to have a better basic education than everyone else, increasing the positional value of her education so to ensure that she will be able to get a place. There is, of course, no assurance that my child will get into Oxford just for having studied in an elite school (she may not have the talent or the will required); and it may be

⁸ For a detailed account on education as a positional good see Koski and Reich 2006, pp. 597-602; Brighouse and Swift 2006, pp. 474-83; Swift 2003, pp. 21-33; Anderson 2007, pp. 595-8.

⁹ By 'elite education' I mean the institutions that are mostly accessible to the wealthiest socioeconomic classes due to their high tuition fees or due to their exclusive location in costly real-estate neighborhoods. I prefer the term 'elite' than 'private' or 'selective' because it includes both under the same category, while excluding those private or selective institutions that *are* accessible to all, especially to the most disadvantaged groups.

that a child (who did not have an elite education) does get into Oxford. But this does not object to my critique: the difference is that while I *paid* to increase the positional value of my child's education, another child had to *work* through her own efforts to increase the positional value of *her* education.

Imagine a case where two people (Alex and Beatriz) with equal talent apply for the same job. The minimum requirement for getting this job is to have a B2 level of English; both attained this level in state schools. This means that, from the perspective of formal education, they both have the same chance of getting the job. Alex forces himself to read books in English so to improve his skills. Beatriz does no such thing. The hiring committee hires Alex because he speaks English at a higher level than Beatriz. Alex, in this case, got the job because he worked more to gain the advantage required to win the position. Beatriz, despite of having the B2 level required, did not get the job because she did not work as hard as she could to increase the value of her education. In this case, the positional aspect of education exists and generates inequalities, but not unjust ones: both had the same chances of getting the job, Alex won because he worked harder, and Beatriz did not because she chose not to make an effort.¹⁰

Imagine a second scenario where, again, Alex and Beatriz apply for the same job. In this case, Beatriz studies in an expensive bilingual school. Alex's family cannot afford to send him to a bilingual school, so he studies at the state-run. Alex, just as before, reads in English because he wants to improve his language skills. Beatriz, in this case, also reads in English but because her bilingual education makes it natural for her to do so. The hiring committee hires Beatriz because she is more qualified than Alex. Beatriz, in this case, got the job because she had the advantage of having studied in a bilingual school. Alex, despite his stronger effort to learn English, did not get the job because he did not have the opportunity to study in a bilingual school. The only defining factor for Alex's reduced positional value is that Beatriz' parents could afford an expensive bilingual school, while Alex's could not. The inequality created by the positional value of education is not as innocent as in the former case. Beatriz's efforts had nothing (or at least seldom) to do with her getting the job. Had Alex studied in a bilingual school he would have gotten the position.

Elite education generates morally arbitrary inequalities that perpetuate socioeconomic marginalization by allowing wealth to enhance one child's options, while worsening another's. Thus, ensuring a sufficient level of education to all is not enough for fully recognizing a child's

¹⁰ For a thorough analysis of how choice and responsibility make inequalities just, see Roemer 1995 and Cohen 1989.

equal right to education. Sufficiency is clearly a necessary first step for the radically unequal distribution of educational opportunities in our current world, but the final goal has to go further than sufficiency (Brighthouse and Swift 2008a, pp. 3, 10). The former case of Alex and Beatriz shows that a sufficientarian approach to education cannot ensure sufficiency as long as some can pay for a “more than sufficient” education. If adequately educated students and “more than adequately” educated students have to compete for the same jobs, then adequate education will never be adequate enough..

The value of educational attainment has two sides. On the one hand, it offers intrinsic and instrumental benefits to the individual who acquires it and to society as a whole. It can improve a person’s life prospects, while also increasing overall social efficiency. On the other hand, education has a positional aspect that generates inequalities by reducing the value of another’s education. The former is a strong argument for defending everyone’s right to have some education; the latter, however, shows that having an adequate education is not necessarily sufficient to fulfill a person’s right to it. The inequalities created by its positional value compel us to look for more stringent conceptions of this right; it forces us to analyze which inequalities of educational opportunities are justified, and which are not.

3. Equal opportunity and meritocracy

I showed that education has the potential of improving a person’s life prospects through the intrinsic, instrumental and non-competitive benefits it creates, and has the power to reduce another’s benefits with its positional value. In a world with finite jobs and university spaces, the inequalities created by educational attainment seem inevitable. This section discusses whether these inequalities can be justified, given the value of meritocracy and equality of opportunity. First, I look at the approach to equality of opportunity that justifies inequality in educational access. Then I show the impact that this view has on the most vulnerable populations, arguing that the inequalities permitted under this perspective are unjust. I then present the substantial conception of equality of opportunity, arguing that inequalities generated by elite education are unjust and should be redressed.

3.1. Formal equality of opportunity

The principle of meritocracy structures the idea of equal opportunity. Social class has been declared as an irrelevant feature for an individual's life prospects. There are no rigid social structures, and a person's chances of getting to the top of the social ladder depend exclusively on how much she works for it. This is what the meritocratic principle stands for: a person's prospects cannot depend on gender, race, or socioeconomic status, but on talent and effort. Looking at it from this perspective, equality of opportunity is the background justice that ensures everyone's right to be judged only for one's efforts and merits. As Debra Satz notes, equality of opportunity 'is a principle of nondiscrimination' (Satz 2007, p. 627); it does not matter if I am a rich white male, or a poor black female; what allows me to get what I want in life is my merit.

This definition of equal opportunity leaves the door open to various interpretations. The *formal* equality of opportunity, on the one hand, defends that everyone has the negative right not to be discriminated against when applying for a position open to all. People have to be selected for a job only on the basis of their qualifications, and two people with the same qualifications should have the same chances of obtaining the same job. This is not only fair and just, but also the most economically efficient way of dealing with employment.

But this approach loses its stringency when applied to the reality we live. Let us retake the cases of Alex and Beatriz. According to formal equality of opportunity, both scenarios would comply with the meritocratic principle. In neither of the two was anybody discriminated against, and in both scenarios the person with the best qualifications got the job. But, can this be considered as just? Under this framework of equality of opportunity, Alex's harder work, and stronger efforts (which are usually considered as a valuable part of merit) do not matter at all for justice. The concept of "opportunity" is here restricted to the specific negative freedom to apply for a job, but it does not say anything about the socioeconomic conditions where it happens. How can one justify to Alex that Beatriz's arbitrary economic position added more to her merit than his harder work and efforts? (Swift and Marshall 1997, pp. 35-6).

There is something unmeritocratic about this. As long as socioeconomic background influences more than talent and effort in getting a job, meritocracy cannot be considered as fulfilled. Adam Swift and Gordon Marshall (1997, p. 42) give the example of a society where a well-educated part of the population prevents the rest from obtaining the education required to do certain jobs. As long as the hiring committees for these jobs do not prohibit the less educated to apply, formal equality

of opportunity would consider that meritocracy was fulfilled because the most competent (the well-educated) were hired.

This approach's flaw is that it enforces the meritocratic idea of equal opportunity only to final opportunities, but not to the process. The meritocratic principle is implemented when applying for a job, or a place in the university, but is not enforced in the prior steps of the process. In other words, meritocracy exists in the labor market, but not on the primary and secondary education market. How can I say that I was accepted into Harvard due to my own merits, if I attained these merits in a very expensive elite school where I had the best equipment, the best teachers, and the best possible preparation? A great part of my "merit" is directly related to the economic position of my parents and not to my own effort.¹¹

3.2. Fair equality of opportunity

A true meritocratic society is one where 'an individual's prospects for educational achievement may be a function of that individual's talent and effort, but they should not be influenced by his or her social class background' (Brighouse and Swift 2008b, p. 447). This approach to equality of opportunity defended by Brighouse and Swift¹² differs from the former in one fundamental aspect: opportunities are not restricted to *outcome* (getting a job, or a place at a university), but also applies to *process*. It does not only defend that any two people with equal merits have equal chances of getting the same job, but also that any two children with equal merits have equal chances of accessing the same education.

The inclusion of equality of *educational* opportunity into the framework of background justice is what gives this approach the upper hand. It emphasizes the need to ensure to all children that their future agency rights will be fully recognized and protected (Hemelseoet 2012, p. 527). This shifts the focus to a more egalitarian distribution of educational opportunities. It may seem redundant at first sight that Rawls (1985, p. 227; 1999, p. 57-65) labeled this approach *fair* equality

¹¹ For an analysis on how wealth creates unjust inequalities in educational attainment see Piketty 2014, pp. 416-8, 484-7; UNESCO 2014a, pp. 19-20, 101-6; UNESCO 2008, pp. 24-37.

¹² The egalitarian position on equality of opportunity can be found in: Brighouse 2002a, pp. 112-140; Brighouse and Swift 2006; Brighouse and Swift 2008b; Brighouse and Swift 2008a. See also Koski and Reich 2006, pp. 589-613; Roemer 1995; Swift and Marshall 1997, pp. 42-46.

of opportunity (in theory, all principles of justice should be assumed as fair), but the fact that it can be interpreted in less than fair ways requires its emphasis.¹³

Mixing the meritocratic principle with the positional value of education in a framework of equality of opportunity compels us to see equality of access to education in a similar light as political and civic rights. Imagine a formal or a sufficientarian approach to the right to vote, where all citizens are equally entitled to vote once but that, as long as everybody has one vote, anyone who can afford to buy a second one (or more) can do so. Or a sufficientarian normative to football where both teams have the right to enter the field with eleven players but that, as long as everyone is allowed to have eleven players, those who can afford more players can put them to play. These examples may seem absurd (and are absurd), but access to education in our world works just in this absurd and unfair manner. When positional goods are in place, *fair* equality of opportunity has to be the norm. Equality of opportunity does not require adequacy, it requires *equality*. And, if it is unfeasible to defend absolute equality as a realistic solution for viable policy measures, then, at least, arbitrary inequalities should be explicitly justified and should remedy the harm caused.

4. A tax on elite education

4.1. Moral justification

The current distribution of educational opportunities creates great inequalities of access and quality, leading to vast inequalities in life prospects. It is unjust that a poor Muslim girl in Nigeria does not have the same chances in life than a British wealthy boy because of morally arbitrary factors. Following the meritocratic ideal of fair equality of opportunity, children with the same motivation and natural talent should have the same chances in life, regardless of their social or economic status (Brighouse 2002a, p. 128).

Inequality will not be reduced magically by an “invisible hand”; it will keep on growing as long as no positive action is taken (Piketty 2014, p. 20-27). From an international perspective, just as with other urgent problems affecting the world’s most vulnerable populations, education is an issue for charity organizations and meager international aid.¹⁴ A (barely) sufficientarian distribution is

¹³ On the need to correct formal equality of opportunity: ‘The liberal interpretation... tries to correct for this by adding to the requirement of careers open to talents the further condition of the principle of fair equality of opportunity. The thought here is that positions are to be not only open in a formal sense, but that all should have a fair chance to attain them.’ (Rawls 1999, pp. 63, 57-65; 1985, p. 227).

¹⁴ Many governments of countries with large education inequality are investing much less than they should to achieve at least sufficiency in educational access (UNESCO 2014b, pp. 1-6, 2014a, pp. 9-10, 116-7). But the problem would

what international organizations aim for. This is the problem: we, in the accommodated and educated sphere of the First World (including the First World bubble that floats over the developing countries), do not feel a stringent responsibility to improve the life prospects of the least advantaged. We feel that we fulfilled our duty to the most vulnerable individuals by granting them a negative right to education and by sending twenty dollars a month to a charity organization.

Even if assuming that our only duty towards the least advantaged is a negative duty not to harm them, the fact that elite schooling *is* causing harm demands compensation. If parental partiality is to be legitimated, it has the obligation to remedy those affected by this unequal treatment (Clayton and Stevens 2004, p. 120), and the only way for a person to justify her “more than equal” share of opportunities is by compensating those who are most harmed by this inequality.

Being born in a wealthy and educated family, while others plead for food and shelter, is not necessarily unjust in itself (we cannot blame a rich child for being born, and we cannot blame Mother Nature for her distributive principles); but we *can* judge a person for what she chooses to do with her wealth, and we *can* judge the system for how it deals with these natural differences.¹⁵ Wealthy parents who send their children to elite schools are freely choosing to do so; hence they are responsible and should be held liable for any externalities their choices create on others (Roemer 1995; Clayton and Stevens 2004, pp. 115-8). As long as equality is the norm in the face of justice, any inequality created by morally arbitrary factors should be, if not redressed, at least compensated for (Rawls 1999; Piketty 2014, pp. 479-481).

The ideal solution would be to abolish elite education and offer substantial equal educational access to all (just as Brighouse and Swift propose). But, in the far-from-ideal reality that surrounds us, an important step in the right direction would be to tax elite education, using the revenue to improve educational access and quality for the most vulnerable populations. I present in the further sections the basic structure for a feasible tax scheme to remedy for the inequalities in education caused by elite schooling. I give a brief overview of the tax base, rate and distributive principles, and I close by looking at some of the objections that could arise in relation to my proposal, analyzing how they could be solved.

not be solved only through domestic policies; the insufficient support of international organizations worsens the financial gap for achieving (at least) universal basic education (UNESCO 2013).

¹⁵ This is one of the fundamental arguments for Rawls’ Difference principle and his demand for the redistribution of benefits to the worse off (Rawls 1999: 86-90).

4.2. Tax base

This proposal's objective is to compensate for the unjust inequalities in educational attainment, so it should be levied on the sources that cause these inequalities: the parents who use their wealth to offer an unjust and unequal share of education to their children. Because the currency of inequality at stake here is *opportunities*, the tax should be levied on the unjust and harmful hoarding of these same opportunities.

I propose a tax on the tuition fees of elite schools.¹⁶ These are the institutions that grant “more than a fair share” of educational attainment to their students without offering equal opportunity of access to all due to socioeconomic discrimination through their high fees or their location. There are mainly two types of institutions that would fall into this category. The first is the independent private institutions (of all educational levels) that charge tuition fees that are not accessible to the majority of the population. Private institutions are actively harming the least advantaged by granting “more than equal” opportunities only (or mostly) to those who can afford their high tuition fees. The second case is that of public institutions which, due to their location in areas with very high real-estate prices, can only be afforded by the wealthiest parents. The unjust socioeconomic discrimination, in this case, is caused by the secondary economic status required to be able to access them. The case of the US public school system, which is supported by local real-estate taxes, is an example of this discriminatory structure of elite education (Brighthouse 2002a, pp. 202-3). In this case, the ideal would not be to impose an extra tax on education, but to amplify the scope of redistribution of benefits from high earning regions to low earning regions (UNESCO 2010, pp. 12-3). Real estate taxes paid by rich neighborhoods would not only be used to support these neighborhoods' schools, but also to support schools in locations that cannot acquire so much revenue.

4.3. Tax rate

This proposal intends to achieve progressivity in its redistribution. Without proper redistribution, the positional aspect of education increases the inequality of opportunity with each extra level of education a person attains. For this reason tax rates should be progressive, proportionately

¹⁶ Most of the schools and universities that would be taxed fall into the category of “independent private institutions,” but I prefer the term “elite” because there are regions where the poorest populations are the ones who attend private schools (the case of Nairobi in Kenya, or Uttar Pradesh in India), and because the tax base could also include public elitist institutions. See fn. 9. For a full account of private schools for the poor, see UNESCO 2008, pp. 164-9.

increasing the rate to the relative inequality generated through each level of attainment earned in elite schooling. This means that the tax should compensate for the relative advantage received by each of the “more than equal” shares of opportunities gained.

The specific tax rate requires much empirical analysis so to get the most beneficial results. Its quantity also depends on whether the objective is global or domestic redistribution. Looking at it from a global perspective and prioritizing access to primary and secondary education, an annual tuition tax of only 158 dollars on each student enrolled in all levels of elite education could fill the gap to achieve universal primary and secondary education globally.¹⁷ Bear in mind that such a meager flat tax would achieve universal basic education for all, but, because our objective is a progressive decrease of inequality of opportunity, rates should be higher, and progress depending on the exclusivity of the institution (cost of tuition) and the level of education attained, ranging from 2 percent of annual tuition fees of primary education to 5 percent on tertiary education.

A global scope for such a tax would be the ideal objective because it ensures that the First World populations with the most educational access would compensate to the most vulnerable groups in the developing world. But a realistic first step in the right direction would be to tax domestically: each government could levy a progressive tax on its elite schools according to the specific objectives and educational needs of each vulnerable population.

4.4. Distributive principle

The distribution of the revenue should take a prioritarian approach. Special emphasis must be given to the most fundamental levels of education and to the most vulnerable populations. With around 60 million children out of primary school and 70 million adolescents out of secondary school (UNESCO 2014a, pp. 52-69), the first objective must be to achieve universal access to basic education, or at least to increase it to its highest possible level. The revenue should focus primarily on increasing access to basic education for the most vulnerable populations, and distribute to higher levels of education as the prior objective is achieved.

¹⁷ The current financial gap for achieving universal basic education is approximately 38 billion dollars a year (assuming that the levels of public expenditure stay as they are today) (UNESCO 2014a). For data collected on 2012 (UIS), there were 240 million taxable students in all levels of private education: 70 million students in private universities, and 170 million children in K-12 private institutions. I subtracted 40 million children from institutions that would be exempt from the tax (institutions for children with special needs, or private institutions for the poor).

I follow here the basic assumption presented in the prioritarian approach to Rawls' Difference principle: 'Institutions should be arranged so that as a matter of first lexical priority, the position of the individual who has least primary social goods should be made as favorable as possible' (Arneson 1999, p. 84). Because we are exclusively distributing educational opportunities (and not all primary social goods), the index used here distributes from those with higher educational opportunities, to those with the fewest educational opportunities.

All revenue is prioritized to the most fundamental levels of education because it is the only way to prioritize the most vulnerable populations (those who do not have any education, and who have the lowest prospects of getting any). Because one cannot enroll in secondary education prior to having completed primary education, distributing revenue to secondary access before ensuring universal primary completion would be a futile and inefficient scheme. Children who are out of primary school would also be out of secondary and tertiary schools. On the contrary, increasing enrollment and completion of primary education would ensure an increased level of enrollment in secondary schools. One can assume that a thick part of the adolescents out of secondary school is composed of children who did not go or who dropped-out of primary school. For this reason, it seems clear that focusing resources on the most fundamental levels would improve the situation of the next levels as well. A further argument in favor of focusing revenue to basic education is that the lack of this level of attainment is the first fundamental factor that makes the distribution of opportunities unjustly unequal. The ratio of educational inequality is not reduced if the education of the populations with fewer opportunities is not improved.

Because distribution is not only defined by level of education but also by reaching the most vulnerable populations, the revenue could have a stronger impact if it reduces the collateral issues that complicate a child's chances of getting into school. There may be cases where schools and teachers are available, but other factors affect a child's chance of getting an education. It may be that a girl has to work and help her poor family in the house; or that she speaks a different language and cannot understand what is taught in school; or maybe the schools are appropriate, and the household situation is adequate, but there are religious groups that deny her the right to have an education (McCowan 2011). Education affects and is affected by many different factors.¹⁸ All of

¹⁸ For a thorough analysis of the causes of marginalization see UNESCO 2010, pp. 132-213, and UNICEF-UNESCO 2007, pp. 29-31, 63-66.

these should be taken into account for the distributive scheme to generate the greatest possible benefits on each population. Tristan McCowan presents the case of the Quechua children

who, despite having schools and space for studying, end up dropping out due to the fact that education is Spanish-centered, hence their specific cultural and linguistic needs are not met... Has the right to education been fulfilled? ... In a statistical sense, the government has fulfilled its obligations (McCowan 2011, pp. 283-5).

This example shows that a superficial quantitative distribution of resources is not sufficient to benefit the most marginalized populations, nor does it ensure an improvement in their scope of opportunities. Distribution should not blindly increase the quantity of educational access; it should take into account the specificities of each case so to achieve quality.¹⁹ Access may be restricted due to economic needs, armed conflict, or religious dogmas, and it could affect specific groups differently. All this has to be taken into account in order to achieve the proposal's objectives.

5. Three critiques and responses

Before closing, I briefly present and respond to three of the most relevant objections to my proposal. The *double taxation objection* would oppose my view because those taxed by my proposal would be taxed twice for the same good; the *overall benefits objection* would say that my proposal could harm the least advantaged; and *the egalitarian critique* would argue that my proposal perpetuates inequalities by not abolishing elite education. Although the three objections offer sound arguments against my scheme, they are insufficiently strong to disable the proposal's value.²⁰

5.1. Double taxation objection

Putting a levy on elite education so to improve state schools would tax those with elite education twice for the same good. A parent of an elite schooled child could say that she is already paying for public education with her income taxes. There is no doubt that this proposal entails a double

¹⁹ For a comparative analysis of the quantitative and qualitative approaches to education, see UNESCO 2014a.

²⁰ A fourth critique could come from the fact that my proposal enables and perpetuates inequalities caused by natural talents. This paper's objective is to tackle exclusively socioeconomic inequalities. I have not even mentioned the subject of the distribution of natural talents because it would lead to a discussion that is outside the scope of this proposal.

taxation on the parents of the elite schooled children, but this double tax is not only just, but fundamental. Income taxes are basic taxes used for supporting a basic and sufficient level of education. In theory, if the inequalities caused by elite education did not exist, these taxes would suffice to ensure equal opportunity. But because education is a positional good, elite education becomes a commodity that creates negative consequences by harming those who cannot afford it. It is precisely this unbalance that has to be compensated through a targeted tax on elite education.

The double taxation levied on parents of elite schooled children is justified in a similar way as the VAT on tobacco or alcohol in many countries. People who drink alcohol or smoke are being doubly taxed for supporting the health care system. The specific VAT on these two commodities compensates for the extra burdens that these impose on the health care system. This double taxation is completely justified because those who do not smoke nor drink do not have an obligation to pay for the extra burden smokers and drinkers are imposing on the health care system, thus, the consumers of these commodities are required to compensate for the externalities they are consciously and deliberately creating on the system.²¹ My proposal leaves the scope agency completely open. Opposed to the egalitarian abolition of elite education, a tax on elite school maintains the parents' freedom of choosing a school for their children. But this freedom to choose comes with the responsibility to compensate for the consequences of their actions (Roemer 1995). The double tax on parents of elite schooled children is a justified and necessary condition to compensate for the externalities they are deliberately creating on the rest of society by offering this positional good to their children.

5.1. The overall benefits objection

This critique argues that the situation of the least advantaged could be worsened by my redistributive mechanism, due to a decrease in economic efficiency and overall social benefits. Despite that this objection affects the egalitarian approach more than mine²² I will give two responses to it because it may concern my proposal as well. The first part of this objection, (harming the least advantaged through a reduction of economic efficiency), is a critique on the egalitarian leveling-down approach. Depending on the tax rates imposed, my proposal could also reduce the quantity of families that can afford elite education, compelling them to send their children to public

²¹ I thank *** for presenting me with this example.

²² For the egalitarian response to this critique see Brighouse and Swift 2008; Brighouse and Swift 2006; Brighouse 2002a, pp. 134-6.

schools. This would increase the number of students in these institutions, reducing consequently the quality of the education of all the others in this schooling system. My response to this is that this scenario would not generate a leveling-down effect, but rather a leveling-up effect. It is true that if the tax rates were too high (which I do not think is the case) enrollment in the state school system would increase, but this does not necessarily entail that quality would be reduced: wealthy parents who are accustomed to elite education and now have to send their children to the state system would surely pressure to increase the quality of state education, so not to allow their children to lose opportunities. If richer parents with more influence and political power were obliged to send their children to state schools, this would lead to an even higher increase in the quality of the state system (Swift 2003, p. 45).

The second part of this objection concerns the implementation of Rawls' Difference principle to the distribution of educational opportunities. Richard Arneson (1999) and Rawls (1999) may object to my proposal because it would only benefit the least advantaged in terms of their education, but not their overall situation (be it measured in welfare or resources). In their approaches to the Difference principle, socioeconomic inequalities are justified if they are in the best *overall* interest of the worse off. According to this perspective, my proposal may worsen the situation of the least advantaged (by a reduced income, for example), due to a fall of overall economic efficiency and social productivity. My answer to this is that, first of all, my objective is exclusively to compensate for the inequalities in access to *education*. Rawls and Arneson would not mind if the most vulnerable populations did not have enough education, as long as their overall position improves. But I am not preoccupied with general welfare or overall resources; my currency is opportunities, and the injustice is created by the unequal distribution of these same opportunities. Welfare or resource benefits cannot compensate for the inequality I intend to redress (Koski and Reich 2006, p. 603; Vallentyne 2005). If a Pakistani girl wishes to be a doctor, the only benefit that ensures her equal opportunity of being a doctor is by giving her the education required for her to achieve this goal; raising her income on the manufacturing factory where she works does not compensate for her lack of opportunities. Rawls uses resources as an indirect currency to achieve equality of opportunity; this proposal, following Sen's capability approach, intends to redress inequality of opportunity directly by redistributing these same opportunities (Saito 2003, p. 21).

It could further be objected that educational attainment may be restricted due to lack of resources or welfare (poverty or health issues), and not due to lack of schools, so it would be necessary to

offer this child free medicine or a higher income before giving her books and calculators. I completely agree with this, and it does not object my proposal. As I mentioned before, my intention is to use the revenue in ways that improve the specific situation of each vulnerable population; this could be done by building schools, increasing the quantity of teachers, granting income vouchers to the families, offering more open access to hospitals and medicine, or securing areas with armed conflict. A focus on resources as a distributive currency (in the case of education) does not take into account the specific needs and priorities of each vulnerable group (Sen 1980, p. 216). My objective is to give children equal access to education; it does not matter in what way the revenue is distributed as long as it fulfills this objective.

5.3. The egalitarian objection

The last, and most relevant, objection to my proposal would come from the egalitarian approach to the distribution of educational access. The main argument presented by Brighouse and Swift (2006; 2008b) is that, when looking at education as a positional good, both the egalitarian and the prioritarian approaches should agree that equality of opportunity requires the abolition of elite education as the only just solution. Neither of the two views could permit any degree of inequality because it would lead to constant divergence, and opportunities would keep on being unjustly hoarded by the over-educated elites (Brighouse 2002a, pp. 133-4).

To respond to this critique, I emphasize the fact that my intention is to create a *realistic* and *feasible* redistributive proposal that can actually change the life of the most vulnerable children *today*. I am sympathetic to most of the egalitarian arguments, but if the objective is to actually create opportunities for children suffering from our current world order, proposing the abolition of elite education is not the way to go. It is useful as an ideal to aim at, but not as a viable proposition for our global reality.

Although I mainly agree with the egalitarian ideal, there is one point in which it differs from my own view. The abolition of elite education does not necessarily benefit the most vulnerable populations. It has the potential of reducing or eliminating the inequality of opportunity between those who are elite schooled and those who study in state schools, but it does not ensure that the 130 million children who lack primary and secondary education will get into school. Because abolition does not entail any redistributive scheme, it just helps those who are already “over the adequacy threshold”, but not those who do not have any access to education. This means that the

inequality of opportunity created by the positional value of education would still be sustained between children who have an education and children who do not have any education. Defendants of egalitarianism in education have a First World bias. They consider “the worse-off” as those who go to state schools. But this does not represent the really worse-off; that is, those who do not have *any* access to education. If our objective is to improve the situation of the worse-off, the first priority is to give these an education before we start worrying about the divergence between adequate and more-than-adequate children.

A further objection to the idea of abolition is that it does not take into account the relevance of elite institutions in the developing world. In Europe and the United States, state education can offer high quality education to all its citizens, but in most developing countries the chances of improving the socioeconomic situation of its most vulnerable citizens depends on the few elite institutions that offer the skills and knowledge required for governing a country. Abolishing elite education in these cases could have dire consequences for the country as a whole. Despite that, ideally, we should aim at constructing a high quality state schooling system in the developing world, the realistic solution for our unjust and unequal situation is to maintain these institutions and tax them so that at least they contribute to the improvement of the education of the worse off.²³

Following Colin Macleod, ‘I believe justice requires more than meeting the basic needs of children but meeting those needs is a good place for politics to start’ (2010, p. 189, fn. 2). In other words, I do not defend sufficiency because I believe that inequalities above the adequacy threshold are still in many ways unjust. But, if we want to fix the problem, we should begin by the most basic and fundamental issues that affect the most vulnerable and marginalized populations. Once universal adequacy is attained, the inequalities above the threshold can be confronted.

6. Conclusion

My intention with this paper was to assess the value of education, and analyze in what ways our system acts unjustly in relation to its value. There is no doubt about the benefits that education offers not only to the individual but also to society as a whole. But, due to its positional value, education inevitably generates inequalities. Not all of these inequalities are necessarily unjust, but many are actively harming those in the most disadvantaged positions. Using equality of opportunity as a framework of educational justice has ambiguous results depending on how we look at this

²³ I thank *** for showing me this point.

structure. As long as it only focuses on ensuring formal meritocracy, rather than on creating substantive opportunities for all, the most vulnerable populations will keep on being unjustly harmed by the wealthy and educated who hoard most of the higher socioeconomic positions. For this reason, we need to adjust the system so that it justifies these inequalities, compensating those who are being harmed by them. As long as it is not realistic to aim at the abolition of elite education, the first step that we must take is to compel the “more than fairly” educated, to compensate for the harm their actions cause.

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