



**EQUITY REMEDIES & THE PRODUCTION OF  
EDUCATIONAL INJUSTICES**

**Looking into the Black Box of Student Differences**

**Alfredo J. Artiles**

**Ryan C. Harris Professor of Special Education  
Arizona State University**

**CCM, AERA**

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# Equity Remedies & the Production of Injustice

## Peering into the Black Box of Student Differences

- Education = Quintessential social mobility tool.
  - Longstanding educational inequities.
- Equity remedies (Fraser, 2007; Young, 1990).
  - Distribution of resources v. recognition
  - Differential (special ed & bilingual ed) v. equal treatment (racial segregation).
  - Quest for educational equity has been elusive (Anyon, 2005, Bobo, 2011).



# Educational Equity

## Challenges of Intersections in the XXI Century

- What happens to students that inhabit forms of difference that have historically elicited equal (e.g., racial minority) and differential treatments (e.g., disability)?
- Disability intersections with other markers of difference.
- Paradoxes: Inclusive Exclusions? (Carbado et al., 2008): *How can policy and programs (i.e., special ed, inclusive education) created to address the civil rights of a marginalized group (i.e., disabled learners) constitute an index of inequality for other marginalized groups (i.e., linguistic and racial minority students)?*



# Race, Language & Ability Entanglements

## Poor child saving ideology vis-a-vis Puzzling findings

- Racial minority/ELLs receive fewer related services; are placed in more segregated programs **than their White/English proficient peers with the same disability diagnosis** (Artiles et al., 2005; Parrish, 2002; Sullivan & Artiles, 2011).
- Student race predicts racial disproportionality after controlling for poverty (Skiba et al., 2008).
- Latinos are not disproportionately represented in disability categories despite their high poverty rates (Losen & Orfield, 2002).
- **Negative association:** School poverty level and ELL disability diagnosis risk (Artiles et al., 2010).
- **Gaming:** Disproportionality thresholds for triggering technical and legal actions are increased (Artiles, 2011; Cavendish, Artiles, & Harry, in press).



# Historical Sedimentations

## Race & Ability Differences

“...not only has it been considered justifiable to treat disabled people unequally, but the *concept* of disability has been used to justify discrimination against other groups by attributing disability to them” (Baynton, 2001, p. 33, emphasis in original).

- “... disability has functioned for all such groups as a sign of and justification for inferiority” (Baynton, 2001, p. 34).
- ✦ Public health (Krieger, 2011), law (Schweik, 2009), social sciences and policy (Scott, 2007, Stiker, 2009).



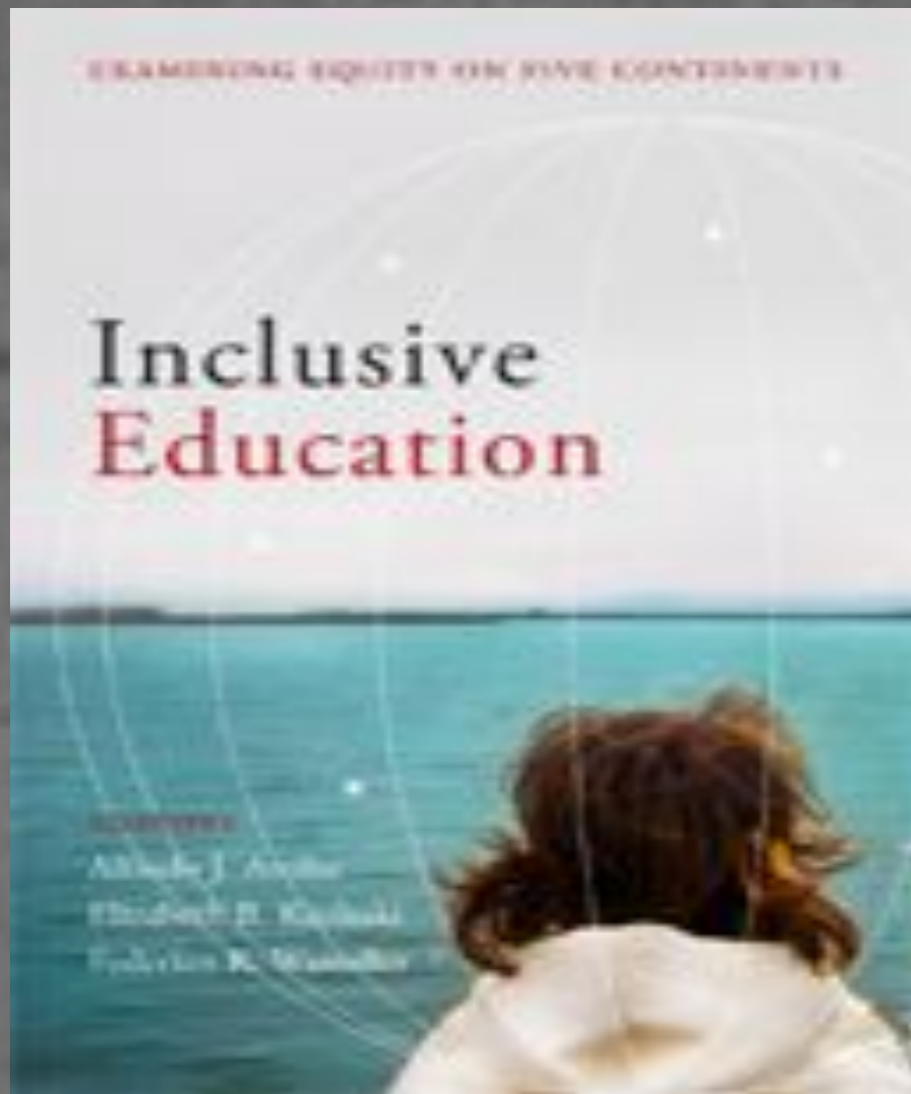
# Matrix of Oppressions: Unsettling Questions...

- How is the historical association of race/language with ability sedimented in current research and policy debates about racial/linguistic inequities in sped?
- What technologies and disciplinary strategies are mobilized to examine racial and linguistic inequities in general and special education that end up reifying the association between ability and racial and linguistic differences?



# What's happening in other national contexts?

- Inclusive education: A **global** movement.
  - Promises equal educational opportunities for ALL.
  - Narrowing of target populations—emphasis on disability.
- Varying attention to inclusive education across developed and developing nations.
  - **Less** in the U.S., **more** in UK, Spain, Germany, **more** in the developing world.
- There is emerging evidence on the entanglements of ability differences with other markers of difference (e.g., ethnicity, nationality).



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Artiles, A. J., Caballeros, M. Z., Mo, R., & Batz, R. (2014, April). *Equity after inclusion in frail democracies: The case of a Guatemalan public school*. Paper presented at the annual meeting of the American Educational Research Association. Philadelphia, PA.



# Evidence from Germany

(Löser & Werning, 2011)

Foreign Students in Schools for Students with Learning Difficulties	Relative Risk Index
Students from Serbia	6.1
Students from Greece	1.9
Students from Italy	2.9
Students from Poland	0.9
Students from Russia	0.9
Students from Turkey	2.1
Students from Croatia	1.8

Source: Federal Statistical Office Germany 2008 and calculations done by author



# Sped placement risk for foreign students in German federal states, 2007 (Löser & Werning, 2011)

Federal States	RRI
Baden-Württemberg	3.5
Lower Saxony	3.1
North Rhine-Westphalia	2.7
Bremen	1.6
Berlin	1.2

Source: Federal Statistical Office Germany 2008 and calculations done by author



# *Placement Risk for Ethnic Groups in England*

(adapted from Dyson & Gallannaugh, 2008)

	All SEN	Moderate LD	BES Difficulties	Visual Impairments
White Irish	0.96	0.86	0.91	ns
Traveller - Irish heritage	2.66	3.3	1.73	ns
Traveller - Gypsy/Roma	2.58	3.48	1.59	ns
Indian	0.5	0.65	0.22	ns
Pakistani	0.74	ns	0.29	2.52
Bangladeshi	0.48	0.51	0.18	ns
Black Caribbean	1.1	0.85	1.50	ns
Black African	0.63	0.47	0.60	0.74
Chinese	0.54	0.30	0.17	ns



# Inclusion in Guatemala & Malawi

(Refie Consortium, 2014)

1. Leadership and ownership at all levels matter for the implementation of Inclusive Education.

- \* Mobilize resources and actions across sectors.

- \* Erosion of credibility of institutions.

2. Local versions of Inclusive Education privilege **access** rights over **acceptance** and **participation**.

- \* Rights—fluid & contested: Power of the law  $\Leftrightarrow$  Appeal to individuals' buy in (e.g., school principals).

- \* Inclusion rights: Access and disruptions. Can deepen inequalities.

# Inclusion in Guatemala & Malawi

(Refie Consortium, 2014)

## 2. Privileging access rights ...

- \* Hierarchy of inclusion, but rights discourse is left intact.
  - Intersections matter: Certain (visible) differences (e.g., physical disabilities) signaled “inclusion,” while others denied it (e.g., autism).
  - Rights and expertise used to justify exclusion
    - *“Students with severe disabilities have the right to attend special schools because they need specialized staff.”*
- \* Pervasive (often “invisible”) differences—e.g., student overage, emotional problems, learning difficulties—were not inclusion targets.



# What are we learning?

1. Disability = Boundary objects. Understand the “categorical alignment” of boundary objects.

*... administrative, socio-historical, and scientific categories come to be overlaid as if they had the same meanings. “The marker of successful categorical alignment work is that it becomes invisible in hindsight” (Epstein, 2007, p. 92).*

2. Protean nature of rights and situated nature of inclusion.

3. Hierarchies of (often) contradictory identities.

4. Local v. global visions of inclusion: Is inclusion fostering “inclusive exclusions?” (Artiles, 2014; Carbado et al., 2008).

5. Spontaneous solutions: Potential of teacher leadership and student agency.

## WHAT ARE

## WE LEARNING?

Emerging evidence suggests a “transposition” of equity remedies.

*Transposition*: “the use of the legally accepted segregation of [certain educational programs] to maintain the effects of the unacceptable and illegal segregation by [difference markers such as race]” (Beratan, 2008, p. 337).

Education systems seem to be engaging in ritual conformity & legal deference.

School “**ritual conformity**”: Signaled compliance with policies, but everyday tensions/violence subverted inclusion (Scheid & Suchman, 2001).

**Legal deference**: The assumption “that the mere presence of the structure means that the organization is complying with civil rights law, irrespective of whether the structure actually protects employees from discrimination or provides a more rational, fair, and nonarbitrary system of governance” (Edelman et al., 2011, p. 894).

Laws granting rights aren’t enough. Focus on “rights in action”

“ambiguous, contingent, and contested nature of rights” (Edelman et al., 2011, p. 891).