Disadvantage and equal opportunity in education: A noncomparative perspective

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Abstract:

In this paper I start with a distinction between comparative and noncomparative justice, which is due to Joel Feinberg. The perspective of noncomparative justice determines one's due independently of the position of other people. This perspective has been neglected in the debate on justice in education, and I defend a case for it. In doing this, I use an example of a deaf student, where there could be some debate as to whether and in what way she suffers a disadvantage that needs compensation. I claim that not all undeserved disadvantages have to be compensated, since not all are relevant in terms of justice, because they do not all prevent one from reaching a particular goal. For noncompetitive scenarios the aspect relevant for considerations of justice is the noncomparative ability to reach a set goal, not its comparative likelihood. I then move on to analyze the notion of equality of opportunity on a noncomparative basis. I interpret it to mean sufficient opportunities to reach significant goals, or real options, for everyone. This is what we ought to demand as a matter of justice. So it is not equality, but general accessibility of opportunities we should be interested in. Finally, I discuss competitive and noncompetitive aspects of education. It will be shown that even in competitive scenarios it is noncomparative aspects that drive normative concerns.

Consider the case of a deaf high school student. To be deaf seems to be a clear disadvantage over other students. What would we need to do in order to "level the playing field" between these adolescents? For instance, would it be required to provide a sign language interpreter for each lesson? In this paper I aim to show that in order to give an answer to these queries, we need an idea of what the aim of attending high school is. In general, in order to know how to level the playing field, we first need to know what "game" we play, and also whether it is a competitive "game" or not. In order to find out whether people have equal opportunities to be successful in any game, we need to know what kind of hurdles they face, or might face, when pursuing it. I will claim that because of this proviso, normative discussions are better analyzed in terms of noncomparative justice. Whether people face significant hurdles is not due to their comparative standing. Comparative justice is only secondary to noncomparative justice. In discussing justice in the area of education we therefore need to be clear about the distinction between noncomparative and comparative justice. These notions had been introduced, but somewhat forgotten, in the recent literature.

In the next section I introduce the distinction between comparative and noncomparative justice that was originally put forward by Joel Feinberg. In the second section I will introduce the case of a deaf student, which may lead to a debate as to what is due to this child, based on different accounts of the goal of education. Here I aim to show that 'disadvantage' can mean either to have less chances to reach a goal than other people (comparative disadvantage) or to lack necessary means to reach a goal (noncomparative disadvantage). In the third part I will expand the debate to the notion of equality of opportunity and will try to show that it also allows for a comparative and a noncomparative reading. Before I conclude I will, in the fourth section, argue that education should not (or not only) be seen as a site of competition. Altogether I want to argue in favor of the following claims:

1. Comparative and noncomparative justice need to be distinguished. Noncomparative justice has been neglected in the debate on justice in education.

2. It is not easy to determine whether a disadvantage exists. In particular, this cannot be determined through any statistical likelihood for members of a group to reach a goal, but rather requires requisite knowledge of hurdles, which is often hard to obtain.

3. Not all undeserved disadvantages have to be compensated; not all are relevant in terms of justice, because they do not all prevent one from reaching a goal. For noncompetitive scenarios the aspect relevant for considerations of justice is the noncomparative ability to reach a goal.

4. Equality of opportunity either means having a real possibility of reaching a goal (noncomparative), or having a relevantly similar chance of reaching a goal in a competitive scenario (comparative). This implies that each goal and its necessary means have to be clearly defined, because otherwise no comparison can be made between the varying degrees of opportunity.

5. Even in competitive scenarios it is noncomparative aspects that raise normative concerns.

6. The educational system is not merely, and not primarily, a system of competition, because it involves an intrinsic good that should at a minimum be accorded to everyone. Enabling adequate levels of education for everyone, and not equal opportunity, is the primary goal of education.

Noncomparative justice

The term "noncomparative justice" was introduced by Joel Feinberg, first in his book *Social Philosophy* (1973: 98f.) and then more thoroughly in an article published in 1974[[1]](#footnote-1): "In all cases, of course, justice consists in giving a person his due, but in some cases one’s due is determined independently of that of other people, while in other cases, a person’s due is determinable *only* by reference to his relations to other persons. I shall refer to contexts, criteria, and principles of the former kind as *noncomparative*, and those of the latter sort as *comparative*." (Feinberg 1974: 298)[[2]](#footnote-2)

Feinberg's general idea of justice can be described in the following way: For all X that fulfill criterion Y, Z is due. Different theories can flesh out this principle in different ways, for instance by stating that for all students who have correctly answered five out of six exam questions, an A grade is due. This would be a noncomparative principle of justice. Alternatively, a teacher might hold that the best 10% of the cohort should get an A. Whether one gets an A, in the second case, depends on the performance of the others, hence is a comparative principle of justice.

Many theorists, and Feinberg himself, believe that justice, especially of the comparative kind, implies the idea of treating equal cases equally, and different cases differently (Feinberg 1973: 99; see also Parfit 1997: 207). This, again, seems necessarily to lead to some kind of egalitarianism. But note that the general notion of justice merely calls for consistency in applying the general principle, once specified. It is not stating a case for the value of equality per se, let alone equalization. Once a criterion Y is fixed, equal treatment is simply a side-effect of consistency. A teacher must not, in the mentioned example, give a student who has actually correctly answered five questions a B, on pain of being inconsistent.

Feinberg’s distinction between comparative and noncomparative justice draws attention to a criterion, or standard that determines one's due. A comparative standard requires interpersonal comparisons to find out whether someone meets it. I have already mentioned the standard of belonging to the top 10% of a cohort. This standard cannot be fulfilled by students merely on the basis of their performance; we need interpersonal comparisons to assess who belongs to such a group. Whether someone has answered five questions correctly, though, is independent of the performance of others.

Clearly there can be some debate as to which kind of principle would be adequate in which context. For instance, we might demand as a matter of justice that, say, the most productive persons should get a higher salary than others. Obviously, who the most productive persons are is a matter of comparison. We do not know unless we have weighed, as it were, the merits of each X against another. But some people might disagree and rather opt for a noncomparative principle in the same context. They might, for instance, demand that for each working hour every person should get a fixed rate of money. Then, how much everyone earns, does not depend on the performance of others. Whether comparative or noncomparative principles of justice apply, is therefore not determined by the context, though it seems straightforward to hold that comparative justice usually applies to competitive scenarios (Feinberg 1974: 299). Still, there can be noncomparative kinds of contests. For instance, it might be required that everyone, who, say, runs a mile in less than 10 minutes, ought to receive a particular prize. This kind of contest is, in a way, not really competitive, though, since here participants are only “competing against the clock” rather than competing *against each other*. Noncomparative justice seems especially pertinent where we aim at securing a particular good for all, most notably where we demand the fulfillment of basic needs.

Now, it seems plausible to hold that the good of education sometimes calls for comparative and sometimes for noncomparative justice. There are some goods in education, such as places at Ivy League universities that are scarce, hence cannot be held by everyone. In these cases, it makes sense to introduce comparative principles of justice, such as "all students, who are in the top 3% of a cohort, should be offered a place at an Ivy league university." Obviously, such comparative principles may also be combined with special further considerations, for instance in order to balance certain disadvantages, of which more will be said shortly. This may then lead to a combination of a "desert system" with a fixed amount of studentships for, say, disadvantaged groups. Yet, I believe it is important to note that the allocation of places at Ivy League universities is a very special problem of education. Indeed, a much more pressing problem seems to be the level of education for all, and this raises a scenario of noncomparative justice.

To make things slightly more complicated, there could also be principles of justice, where criterion Y, which determines whether Z is due to X, is comparative, but not in the sense of an interpersonal comparison. A teacher could rely on the following principle: Every student who considerably improves his performance from the first to the second assignment won't be graded by the average of the two marks but will get a slightly better final grade. The idea here is obviously based on comparative thinking, though the persons that are compared are one and the same. However, this more complicated kind of case does not change the structure of the distinction between comparative and noncomparative justice, but introduces a dynamic element in our thinking about justice.[[3]](#footnote-3) It also shows that we often apply several principles at the same time.

In summary, there can be reasonable and justified principles of comparative or noncomparative justice. Competitive situations seem to call for comparative justice, whereas contexts where we focus on individual, absolute merits seem to demand noncomparative principles of justice. In terms of demands of justice we may require support to achieve a certain standard. For instance we might want to say that every child ought to receive a certain amount of education. This is a plea for a noncomparative principle, since it does require the provision of Z for all X on the grounds of a noncomparative criterion Y – in the mentioned example on grounds of being a child.

Disadvantage and goals

Disability seems to be a fitting example of the kind of disadvantage that is of interest to egalitarians. It is a condition that is in almost all cases a matter of brute bad luck, and it makes disabled people worse off than others. Since for egalitarians "it is unjust for one to be worse-off than others through no fault of one's own" (Segall 2013, 42), disability seems to be a clear-cut case of injustice.[[4]](#footnote-4) But it is not clear whether and, if so, in what respect, disability makes people worse off than others; indeed, whether disability needs to be interpreted as disadvantageous at all.

This claim might seem surprising, but I want to insist that there is an important distinction between a comparative and a noncomparative interpretation of disadvantage. We might, for the sake of clarity, use 'relative disadvantage' for the former and 'hurdle' for the latter interpretation. It might well be that disability prevents a person from achieving a goal without support or compensation. Yet if we try to help that person to achieve the goal, we are focusing on such hurdles and how to overcome them. We are not comparing the person with a disability to any other person's likelihood of achieving the goal; hence, we do not need to see disability as relative disadvantage. To identify a relative disadvantage requires interpersonal comparisons, but depending on the goals we aim at, what is needed on grounds of justice by each person is not determined by such comparisons. Relative disadvantage is not always the main problem of justice – yet this is the perspective we find in common versions of egalitarianism. The example of disability can indeed establish why a comparative perspective may sometimes undermine the purposes of justice, and indeed occasionally be derogative to people with disabilities in identifying disability as per se disadvantageous.

Anita Silvers refers to the example of the deaf child Amy Rowley, who was not provided with a sign language interpreter in her school, which otherwise generally catered for children with disabilities. Although she was a prolific lip-reader and received further support by a hearing aid, speech therapists and special tutors, she was only able to understand about half of the conversations in the classroom. While Amy performed better than the average students, it seems intuitive to say that she was relatively disadvantaged. Indeed Silvers explicitly states: "With access to only half the instruction and information her peers received in class, she lacked the same opportunity as hearing children to develop her intellectual talents." (Silvers 2009: 180) It is important to note that Silvers specifies in what respect Amy was disadvantaged. It was not simply a matter of being deaf that made Amy worse-off, but the lack of sufficient provision to enable her to develop her intellectual talents. Silvers does not stress the fact that Amy suffered a relative disadvantage – she actually performed better than average – but that her talents apparently would have allowed for enhancing her skills and knowledge even more, had she not been held back by her insufficiently compensated deafness. So Silvers is pointing out a hurdle in relation to a goal, in this case the purpose of developing one's intellectual talents.[[5]](#footnote-5) An alternative interpretation of the purpose of school education, for instance a more competitive account of determining the best performers for allocating college places, might have led to an even higher demand of means to level the playing field between Amy and her peers.

Yet, the parents' charge, who sued the school for providing a sign language interpreter, was rejected by the Supreme Court on grounds that "the statutory mandate of a 'free appropriate public education' had been satisfied by allowing Amy to be in class and to learn." (ibid.: 180f.) Hence, the Supreme Court did not disagree that Amy suffered a disadvantage in developing her talents, but it disagreed about the purpose of schooling for disabled people. On the basis of this interpretation of the goal, Amy was not seen to be suffering a disadvantage, in the sense of being hindered, after all. "The opinion declared that (…) [f]or handicapped children educated alongside their nondisabled peers, educational benefit was demonstrated by a plan reasonably calculated 'to open the door of public education to handicapped children by means of specialized educational services but not to guarantee any particular substantive level of education once inside.'" (ibid.: 181) I won't challenge the substance of the Supreme Court's verdict itself, yet it shows something important. The general point this ruling establishes is that relative disadvantage and hurdles need to be specified in relation to particular goals. We need to discuss the means people need to achieve a goal when thinking about whether they face a hurdle. Similarly, we would need to know what the required competitive means are that might lead to a relative disadvantage. According to the Supreme Court's ruling, Amy was not facing a hurdle in pursuing the stated goal of education for disabled children, namely to enable access to public education. Neither a particular substantive level of education nor a comparatively similar competitive capacity like her non-disabled peers was seen as the goal. We can of course quarrel with this interpretation of the goal, but my point is that it will be the first question of justice in education, namely what we should aim at when educating children.

By acknowledging the fact that disadvantages need to be specified in relation to goals, we can now see that the terms *disadvantage* or *disadvantaged* can be used comparatively or noncomparatively. In a comparative way we can speak of disadvantage when we compare two states, qualities, etc., and conclude that someone is less likely than others to reach a given goal. It would be relatively disadvantageous, for example, to run a marathon with a cold. Here we look at the likelihood that a goal will be reached, which is, for instance, less likely when someone is in a condition of impaired health in comparison to normal health.

Disadvantage can also be transformed into a noncomparative or absolute concept, whereby necessary means for pursuing a goal are determined. If these are not met a person suffers from a disadvantage that I have called "hurdle". In Amy's case, the Supreme Court held that Amy was not hindered to pursue public education; it was claimed that this "door was open" to her, so that in fact the necessary means for the stated goal were accessible to her. A disadvantage in the noncomparative sense is understood as something that significantly undercuts a person's capacity of achieving a goal, which is not the same as worsening the likelihood compared to other person's chances, the latter being the perspective of relative disadvantage. In this sense, it would not be a hurdle to have a cold while running a marathon, because one could still finish the marathon, and even win – one has all the necessary means to achieve the specified goal. Noncomparative disadvantage therefore occurs whenever someone falls below a standard of what is seen to be the necessary requirements for reaching that goal. A cold does not prevent someone from finishing a marathon, nor does it even prevent someone from coming in first place, if that is the goal.[[6]](#footnote-6)

In this section I offered two interpretations of disadvantage. In the noncomparative sense, i.e. in the sense of having a significant obstacle to pursuing a goal, not every disability has to be a hurdle. In a comparative sense, disability can be understood more generally as a disadvantage, if we claim that disabilities always worsen our chances of pursuing goals whenever we compare them to bodily or mental constitutions that are considered healthy. This assumption, in which people with disabilities are seen to be worse off, is occasionally understood in the sense of a comparatively limited well-being, hence a relative disadvantage to live a good life. Alternatively, the idea of comparative disadvantage in the case of disability could be maintained in the sense of having generally fewer prospects for pursuing goals (Wolff 2009: 113; Harris 2000). Yet, both accounts of disability as a condition of being worse off can be challenged – something I won't pursue in this paper (but see Schramme 2014a). More importantly, I have tried to show that the specific disadvantage, if any, of disability needs to be specified in relation to a goal. This claim can be generalized: Disadvantages are present when persons have either less chances of reaching a goal than other people (comparative disadvantage), or lack necessary means to reach a goal (noncomparative disadvantage).

Noncomparative equality of opportunity

I had previously mentioned the normative usage of the concept of disadvantage, which we find in many egalitarian theories. According to this point of view, a disadvantage is something that should be removed, or that deserves compensation. Here we are moving into the realm of the debate on social justice and especially the debate on equality of opportunity as a goal of justice (Westen 1985).[[7]](#footnote-7).

The standard argument of the egalitarians can be summarized as follows:

1. A disability is an undeserved disadvantage.

2. Undeserved disadvantages require compensation.

3. This will ensure equality of opportunity.

Specifically in relation to education we can point out a fourth egalitarian premise:

4. Disabilities are disadvantages in the context of education, and therefore there is no equality of opportunity in education unless disabilities are compensated.

Now, perhaps not surprisingly, the distinction between comparative and noncomparative can also be applied to opportunities; in fact we have used such a distinction implicitly before. The notion of opportunity is often used to refer to a chance someone has to do something, like buying a house or getting a job. Obviously, an opportunity in this sense does not imply that the person actually gets what she has the chance to get. There might be reasons for her to forgo, there might be competitors who are better suited or, more interesting for our discussion, there might be disadvantages, which inhibit or impair the person's ability to compete. The ideal of equal opportunity is invoked in this context of competition. According to a common understanding, opportunities are equal when people can compete on fair terms; this implies as a necessary condition that there are no (undeserved) advantages or disadvantages. It is important to note that in competitive scenarios each competitor's opportunity, or chance, to succeed is dependent on the other competitors' situation and performance. How likely it is that someone wins a prize, for example, depends on the presence, motivation, skill, endowment and fitness of other participants. Since individual competitive opportunity is only assessable in contrast to other people, this notion of opportunity is comparative.

But the notion of opportunity can also be assessed in a noncomparative way. Opportunities in this sense are closer to positive, or effective, freedoms or capabilities than to comparative chances. For instance, people might have the opportunity to vote or to buy books. Whether and to what degree a person's opportunities in this sense are diminished by certain conditions, such as disabilities, is not dependent on other people's skills, fitness or endowments. Person A's opportunities are then not dependent on person B's situation, but only on A's own endowments, skills, bodily and psychological fitness, environment etc.

Some egalitarians waver between a comparative and a noncomparative interpretation of opportunity and justice. For instance, when Norman Daniels (2007: 43) discusses (in the context of health care) the idea of a "normal opportunity range" that every person should be able to achieve (as far as possible), he might be read as to opt

1) for an absolute, noncomparative claim of justice of having certain abilities or positive freedom – normal opportunities in the sense of a fixed range of abilities – or

2) for the comparative aspect of preventing disadvantages – to prevent persons from having less opportunities than others.

In Daniels' case, much depends on how we translate the notion of normality in "normal opportunity range": Either as a noncomparative standard that is, for instance, based on an objective notion of health, or as a comparative standard that is determined by the opportunities that other people have. Similarly, Jo Wolff and Avner de-Shalit (2008: 9) refer to a "lack of genuine opportunity for secure functioning" when discussing disadvantage. The expression sounds noncomparative, because what secure functioning requires apparently is not dependent on the comparative standing of persons, but still the notion of disadvantage, which is regarded as synonymous, seems to be a comparative notion after all, since it usually is deemed to mean having less, or being worse-off, than others (cf. Segall 2013: 19f.).

Just as for the concept of disadvantage, then, there are two ways to interpret the discourse on equal opportunities. For better terminological clarification of the ideal's two interpretations, we can divide equality of opportunity into comparative and noncomparative equality of opportunity, similar to a distinction between substantive and formal equality of opportunity, which is found in the philosophical debate. Comparative equality of opportunity occurs if a person has roughly the same chance of reaching a goal as others do. Noncomparative equality of opportunity occurs if a real possibility of reaching a goal exists for (more or less) everyone.[[8]](#footnote-8)

To start with the comparative interpretation, if it can be shown for example that people with disabilities are significantly less likely to go to university than people without disabilities, then we could also conclude that disabled people do not have the same chances to go to university. To assess comparative equality of opportunity, we need an interpersonal comparison. If a significantly greater number of people without disabilities enroll at universities than people with disability, then the latter seem to have comparatively less chances in this respect.[[9]](#footnote-9) Whether equality of opportunity occurs, hence, in this perspective depends on the relations between the different prospects of groups of people. In our example, whether or not equality exists depends on the individual chances of going to university.

Noncomparative equality of opportunity, on the other hand, implements a standard that leads to some requirements being fulfilled or to obstacles being removed – even if this implementation of a standard is not always done explicitly. Once again turning to the university example, noncomparative equality of opportunity would see to it, for instance, that all citizens who are capable of passing some sort of standardized examination, which qualifies them for entering university, have the opportunity to do so. A disadvantage, in the sense of a hurdle, arises in those cases in which someone is prevented from entering university, even though she has passed the entrance examination. It might then be a demand of justice to provide enough places in university programs. Or else a person could not receive the necessary schooling in order to write and pass the entrance examination in the first place. This would call for standards of provision to enable students to have the opportunity to pass the required tests; again a demand of noncomparative justice. If, however, all hurdles in pursuing a goal are removed, then every person has a real opportunity to reach that goal. Here equality exists with respect to providing necessary means to pursue particular goals for all, and not with respect to the relation between individual chances of reaching these goals.

According to a noncomparative interpretation of justice, hurdles exist in one of two ways:

1) Either it is an undeserved obstacle that gets in a person's way when she pursues a goal, and which should have been removed according to the already established standards. This is a case of present injustice.

2) Or it is a constraint on a person's capacity to pursue a goal that is not yet acknowledged as a hurdle, in which case the really relevant requirements for actually reaching that goal are actually not fulfilled. This is a case of anticipated injustice.

These two kinds of cases can lead to two different demands of noncomparative justice:

1) The first form concerns hindrances in reaching a standard, for instance when a test to reach a formal qualification does not allow for enough time or needs to be performed in a noisy environment. It is not really possible to achieve the goal.

2) A second way to demand noncomparative justice attacks the standard itself, opting for another, for instance when it is said that formal academic tests exclude other means to show that a person is fit to enroll at a university. It is claimed that the required means to fulfill the goal should be reformed.

To this extent, a claim that noncomparative equality of opportunity has been violated is a normative claim, and not merely an empirical claim: It says that something should not be the way it is. An example of a possible violation of the first form in relation to disability could be whenever people with Down Syndrome are not taught to read and write, even though they are capable of learning; or when exam forms are not provided in braille. An example of a violation of the second form could be whenever laws or conventions preclude people with disabilities from attending university, even though they have proved to be capable to study, though not by way of a formal examination.

Because equal opportunity should serve as a normative criteria for social justice, it seems that the comparative interpretation as such does not offer much help in addressing issues of justice – for it does not generate a normative content, but rather operates mostly on statistical likelihoods. These likelihoods, however, cannot be more than a potential symptom of a noncomparative hindrance that people face in pursuing a goal. Consider for instance Debra Satz's statement: "The disparities in the educational resources for, and educational attainments of, rich and poor children, disparities that also occur between black and white children, seem to many people to be obviously problematic. Why should children face very different life prospects simply *because of* their social class or skin color?" (Satz 2012: 156; emphasis added). Now, obviously the disparities mentioned are established by statistical correlations. But Satz's second sentence turns these into a causal claim. This cannot be right, because it is not social class or skin color that prevents children from facing different life prospects but the fact that some children are facing hurdles others don't face. I therefore believe we should not be primarily concerned about the comparative life prospects of children, but about the life prospects of some groups of children. We should raise noncomparative concerns about the unjust hurdles in accessing educational resources people from certain social classes or with certain skin colors face.

Hence, normatively speaking, the noncomparative perspective has priority. After all, a person's prospects require a normative evaluation in order to figure out whether a relatively small chance of reaching a goal actually raises a problem of justice in the first place. Egalitarians, in virtue of their focus on comparative standing of persons, instead potentially see every difference in individual likelihoods to achieve certain goals as unjust. In contrast, I believe we should not be concerned with assessing relative disadvantages, but rather with the question of how standards – which determine how and whether the requirements for reaching a goal have been fulfilled – should look like. These requirements affect first and foremost the legal and material means to which everyone, who strives to reach a specific goal, is entitled. At the same time, in order to be just, we also have to make sure that these requirements are provided in a way that allows success for all and does not exclude people without justification. To allow success for all obviously does not guarantee success for all, hence we are still talking about opportunities here. Goals and requirements are connected in that necessary requirements of achieving a goal might be the result of achieving an antecedent goal, for instance when passing an admissions test is set as a requirement of further education. If we focus accordingly on noncomparative standards of enablement requirements, we are no longer concerned with *equal* opportunities, but with making opportunities available for all in a dynamic way, i.e. through different stages of education.

Opportunities need therefore not be equal, but rather students should all have a real option of reaching specific goals. Note that this even applies to scarce resources such as places at Ivy League universities. Even though it will be a comparative criterion to choose, say, the best 3% of a cohort, the tests that will determine who these chosen few are, should be accessible to all who fulfill certain standards, e.g. having successfully passed school leaving exams. Surely it might well be that comparative differences in access to higher stages of education between groups might be evidence for injustice along the way, but these would be of the noncomparative kind. So we should be concerned with noncomparative justice in education, not comparative justice.

The discussion regarding which standards actually enable everyone to achieve certain goals has naturally never been concluded, but is rather a part of a general discussion about social justice on the level of society. It follows from all of this that a disability, especially if it is not compensated, can constitute a hurdle, and can therefore prevent the enablement of entry into education in general – but this does not necessarily have to be the case, because we first need to specify the goal of a certain aspect if education. Furthermore, it follows that it is not helpful, for the purposes of justice, to understand disability generally as a comparative disadvantage, because injustice needs to be specified according to standards of necessary means to pursue goals, i.e in the form of noncomparative injustice.

Education as competition?

As I have stressed, the concept of disadvantage is mostly understood in the comparative sense. I have since raised an alternative understanding, a noncomparative interpretation, as the one that builds the normatively significant perspective. Until now however one aspect of the comparative viewpoint has remained in the background: The fact that we often deal in competitive environments. Here it actually seems normatively relevant to draw a comparison between the situations of those people involved. This is in contrast to contexts in which every person – or more particularly every person who meets antecedent noncomparative standards – should be enabled to reach a goal. If for instance we have already ensured that every person is able to enter a building, even those people in wheelchairs, then it does not really matter if some people are faster at it than others. Enabling people to enter a building is not a situation in which competition is involved. If, on the other hand, we are talking about a race, then characteristics or circumstances of competitors, such as a disability, may very well pose a significant relative disadvantage – even if they are in general able to reach the finish line. A competition should be fair, therefore significant disadvantages have to be removed or compensated. Hence there is a case to see relative disadvantages as grounds for rethinking formal competitive rules. We know scenarios like these from the introduction of handicaps in golf, or different performance classes in other sports. This again underlines the fact that relative disadvantages might give us a reason to believe in injustice, but the normative work is done by noncomparative standards. Still, we might be tempted to see disability as a never-ending comparative disadvantage, and this could really be the case in competitive environments. Therefore it is relevant to my line of reasoning whether education constitutes a competitive context.

One could say that education is a good that can and should be made available to everyone. But it is already well known that different levels of education will provide different starting points for people in the labor market. For this reason we could very well see education as being part of a competitive environment. Pupils compete in order to get the best marks, which they in turn use in order to apply for the best jobs or universities. There are however two things to keep in mind: firstly, the difference between education and training; and secondly, the fact that we are really concerned here with how conditions of competition are determined, and therefore once again with the noncomparative standpoint.

The primary and to my mind normatively more important goal of education is to ensure that every person receives an adequate education – or, to put it more ambitiously, an education that positions them to make the most of whatever individual potential they may have. Here everyone should be seen for her unique needs and capabilities, and not be compared with others. Education is a good that has both instrumental value and is valuable in itself (Peters 1973; cf. Schramme 2014). Insofar as we talk about its intrinsic value, there should be no interpersonal comparison and no competition. Yet, the ideas of comparative disadvantage and comparative equality of opportunity become relevant when we look at a further goal of education: Namely, training, which is primarily concerned with applying for and fulfilling the requirements for some occupation. In that respect we need to address comparative disadvantage. If it were the case for example that women had a significantly smaller chance of becoming professors than men, then this would warrant a normative assessment of established practice. Then we would want to assess to which extent there is an actual connection between the sex of a person and her job prospects. To that extent we might want to query the standards of the different phases during education and training that lead to the capacity to compete for professorships. In doing so however the comparative perspective would yet again be transformed into a noncomparative problem of potential hurdles along the way.

In doing all of this not every disadvantage would turn out to be normatively significant; and it would be through discussion on the level of society and politics that disadvantages are shown to be significant. For my purposes it is only relevant that, while the departure point of this discussion – the normative impetus, as it were – is owed to a comparative perspective, the solution to the normative problem – where it is actually seen as such – is solved by addressing the right competitive conditions that should apply to each person. According to the terminology used above, this means that the starting point for concerns of justice could very well be the stated relative disadvantages, but these will only be significant when they indicate hurdles. These exist, for example, when special needs – or other circumstances that are restrictive for an individual – are not adequately addressed or compensated.

Applied to the educational system, which we now understand as a system of competition, this means that equal opportunity becomes topical only when it is understood in the sense of noncomparative equal opportunity. But the notion of equality of opportunity might actually be deemed inappropriate here, because it distracts us from the fact that here we are ultimately concerned with the supply of realistic or good options for accessing education in the sense of achieving a noncomparative standard – meaning here that these options are sufficiently competitive for all. Therefore my conclusion is that the notion of *equal* opportunity is misleading. It is rather good opportunities for all that we are concerned with when thinking about justice in education. Either we want everyone to have the option to achieve a certain level of education, or we want to have a fair competition between people, where the circumstances of such a competition are again determined in a noncomparative fashion.

Conclusion

I have argued in favor of the following claims:

1. Comparative and noncomparative justice need to be distinguished. Noncomparative justice has been neglected in the debate on justice in education.

2. It is not easy to determine whether a disadvantage occurs. In particular, this cannot be determined through any statistical likelihood for members of a group to reach a goal, but rather requires requisite knowledge of hurdles, which is often hard to obtain.

3. Not all undeserved disadvantages have to be compensated; not all are relevant in terms of justice, because they do not all prevent one from reaching a goal. For noncompetitive scenarios the aspect relevant for considerations of justice is the noncomparative ability to reach a goal.

4. Equality of opportunity either means having a real possibility of reaching a goal (noncomparative), or having a relevantly similar chance of reaching a goal in a competitive scenario (comparative). This implies that each goal and its necessary means have to be clearly defined, because otherwise no comparison can be made between the varying degrees of opportunity.

5. Even in competitive scenarios it is noncomparative aspects that raise normative concerns.

6. The educational system is not merely, and not primarily, a system of competition, because it involves an intrinsic good that should at a minimum be accorded to everyone. Enabling adequate levels of education for everyone, and not equal opportunity, is the primary goal of education.

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1. The term "comparative justice" was recently employed in a different sense by Amartya Sen (2009). There is also some debate in political philosophy regarding comparative and noncomparative *desert* (see, e.g., Olsaretti 2004: 34ff., or several papers in Olsaretti 2003). [↑](#footnote-ref-1)
2. Feinberg gives other descriptions of the distinction, which are slightly different and in fact raise some concerns. Since I am here not interested in an exegesis of Feinberg's account, but in the distinction between comparative and noncomparative justice – properly conceived – it is enough to refer the interested reader to the essays by Montague (1980) and Hoffman (1993). [↑](#footnote-ref-2)
3. Such a dynamic element is also discussed in Chambers 2009. [↑](#footnote-ref-3)
4. Note that strictly speaking it is not the physical or mental condition of the disabled people that is deemed unjust by egalitarians but the fact that they are worse-off than others. The latter is usually due to the actions or omissions of others, though the condition itself is often not caused by acts of other people, for instance in case of genetic disabilities. It is the way society deals with bad brute luck that is of interest for the egalitarian, not how the worse-off situation of people came about. This, of course, can be challenged and the egalitarian would first need to argue why any case of unchosen disadvantage is indeed an injustice. We might hold that principles of justice simply do not apply in cases of "cosmic" disadvantage, because these are due to random events but not capriciousness (Schmidtz 2006: 216ff.). [↑](#footnote-ref-4)
5. Obviously the supposed level of development regarding the goal of education would have to specified. At this point I merely want to say that such an exercise would lead to a noncomparative perspective on justice. [↑](#footnote-ref-5)
6. Strictly speaking, when trying to establish whether someone was hindered requires a comparison, because whether a hurdle is present is to be assessed relative to a given standard of necessary means. Yet the standards themselves are noncomparative, and do not require any interpersonal comparison. [↑](#footnote-ref-6)
7. Before laying the finishing touches on this article, I came across a paper by Gopal Sreenivasan (2014) that draws very similar and more detailed distinctions regarding the concept of equality of opportunity. [↑](#footnote-ref-7)
8. Note that the term "equality" has two different meanings in these two interpretations of equality of opportunities. In the comparative reading, "equal" specifies the opportunities of persons – they are supposed to be equal; hence it serves the function of an adjective. In the noncomparative reading, opportunities are specified in terms of a standard; "equality" here means that this standard applies to everyone, i.e. it is not meant as a predicate specifying opportunities. In the terminology of Raz's (1986: 220), the latter usage of equal opportunity is a closure principle. [↑](#footnote-ref-8)
9. I say "seem to", because the claim would need some more backing regarding the causalities of the state of affairs. We cannot just assume on the grounds of statistical data regarding these whether people really had worse opportunities. [↑](#footnote-ref-9)