

Article

Dialogue with the Disabled “Other”: Expanding Legal Frameworks of Civil-Civic Engagement to Enhance Inclusion of Individuals with Down Syndrome

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Abstract

Scholarship on civic engagement and democratic culture has long emphasized dialogue, inclusion, and the recognition of marginalized voices, yet the legal and civic status of individuals with disabilities—particularly those with Down syndrome—remains insufficiently examined within this literature. This article addresses that gap by exploring how civic education and civic engagement, as supported by law at public universities, can better account for disability as a matter of democratic membership, dignity, and participation. Drawing on historical and contemporary analysis, the article examines the persistence and transformation of eugenic narratives supported by law as one underappreciated mechanism through which exclusion and devaluation continue to shape civic life. Historically, eugenic ideas influenced law, culture, and public policy by normalizing hierarchies based on health, appearance, and perceived ability. Contemporary forms of such reasoning, while often less explicit, continue to surface across legal and cultural divides, raising important questions for civic education and public deliberation. By situating disability within broader debates about civic inclusion, empathy, and democratic formation at institutions supported by law, this article argues for a more robust and balanced paradigm of civic engagement—one that critically confronts exclusionary narratives while affirming the civic agency, legal rights, and perspectives of individuals with disabilities, including those with Down syndrome and with respect to comprehensive considerations in prenatal contexts.

Keywords: disability justice; civic engagement; civic education; Down syndrome; eugenics; prenatal healthcare; disability rights; *Dobbs v. Jackson Women’s Health Organization*; disability-selective abortion



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1. Introduction

In response to decreasing democratic participation and increasing polarization in global democracies, many universities and colleges now prioritize civic engagement. Civic engagement is often found to be an ambiguous concept that is described in varying terms ([Morrow et al. 2023](#); [University of Illinois Chicago 2024](#)). However, civic engagement typically involves people coming together to discuss matters of social concern. Additionally, although they vary, civic engagement rules are generally guided by shared values that encourage just and equal exchanges of knowledge, experience, and perspective ([Hoffman et al. 2018](#); [Morrow 2020](#)). Thus, civic engagement allows individuals to democratically

raise their concerns about social issues in academic and public settings, with the goal of democratically solving significant public matters. Yet civic engagement currently does not always fully consider the decline in social connections, and its related discourses have contributed to the exclusion of certain “Other” groups of people (Morrow et al. 2023; Putnam 2016). Below, we build on this gap in the civic engagement literature to emphasize the crucial contributions of disabled persons, and specifically those with Down syndrome, to engagement discussions and social capital.

This presupposes an important question: what is social capital, and how broadly or narrowly should it be understood? Putnam defines it as the connections between people and the trust and reciprocity that come from those connections. In other words, social capital is intricately associated with mutually interconnected social relationships. Thus, social isolation or exclusion does not generate significant social capital (Putnam 2016, pp. 18–21). Indeed, Lyda Judson “L. J.” Hanifan, the late supervisor of West Virginia’s rural schools and the first person to use the term “social capital,” convincingly argued that people need social connections in order to thrive (Craven 2020; Hanifan 1916). In a recent article, “The Rural School Community Center,” Hanifan asserted that social capital increases as individuals engage and build relationships with their neighbors. The implication, of course, is that isolating or excluding certain people weakens societies’ investments in mutual trust and connectedness. This would seem to extend especially to people with disabilities. And if there is any space in which it would seem straightforward to incorporate disability perspectives, especially in the context of social capital and civic engagement, it is the 21st-century university. However, people with disabilities, in general, continue to face barriers in society, and their voices remain unheard in relation to social and political matters that affect populations with disabilities (Ho et al. 2020).

In analyzing civic engagement possibilities, *specifically at universities*—and in following Ben Berger—Eric Morrow, Kabala, and Hartness maintain that Putnam’s work more suitably appears as civil engagement rather than civic engagement (Morrow et al. 2023). In fact, Berger suggests in his book, *Attention Deficit Democracy: The Paradox of Civic Engagement*, that there is a lack of clarity when it comes to understanding the relationship between civic, political, and social engagement (Berger 2011). In this way, both Berger and Morrow et al. contend that using the term “civil engagement” helps people better grasp social, moral, and political issues, leading to more open discussions. Civil engagement, at the end of the day, creates a clear “social-moral engagement that” is essential for upholding democracy (Morrow et al. 2023; Berger 2009).

Yet, despite exploring all of this in the context of contemporary academia, where one might expect it, Berger and Morrow et al. do not extend the possibility of civil-civic engagement to intentional dialogue with disabled persons. This article sets out to do so. In broadening the sphere of civil-civic engagement in this way, we rely primarily on the insights of Calvin University philosopher and disability ethicist Kevin Timpe. Timpe, in peer-reviewed articles, book chapters, and monographs, does not use the exact language of “civic engagement,” “civic education,” or “civil-civic engagement”—although his recent appearance at the Ohio State University Chase Center conference on civic education, and his currently unpublished presentation from that academic gathering, indicate how easily the concepts he has explored can be deployed to those ends. But by focusing on who is included and excluded from communal life, whose voices are heard and whose agency is recognized, and how institutions structure participation, Timpe takes up civic engagement in substance, if not in name.

And in analyzing schools, healthcare systems, churches, and law and policy environments as supported by different linguistic norms, he focuses on civic institutions, even as he addresses them through ethics, theology, or philosophy. In writing extensively about

learning to notice, reshaping the moral imagination, correcting ignorance, and changing habits of perception, Timpe addresses civic education from a formation rather than a more narrowly curriculum-design perspective. Below, through novel research on the long history of eugenic discourses and practices, and especially in its application to discussions of Down syndrome in prenatal contexts, we show how the categories Timpe uses can richly and substantively extend to new classroom encounters, furthering civil-civic engagement that is genuinely inclusive of disabled voices.

After confirming the striking limitation within legally supported civic education and engagement programs of current inattention and even neglect of disability perspectives (Section 2), we provide an additional framework, drawing on the thought of Lévinas, within which to ensure that dialogue about disability is a robust part of civil-civic engagement (Section 3). Next, to gain a better sense of the power of law to promote narratives that exclude people with disabilities, we briefly survey the history of eugenic thought and practice as it impacted law and institutions (Section 4). To more fully appreciate how socially embedded choices that exclude the disabled Other still operate in liberal democratic regimes not usually associated with legal repression, we move to consider how assumptions about “fitness” and perhaps even “superiority” still shape decisions when Down syndrome is a factor, including in prenatal contexts (Section 5). Then, with an eye toward incorporating this awareness into civic engagement at academic institutions supported by the law, we offer three examples of classroom encounters to enhance student civil dialogue (Section 6). These pedagogical exercises are tied to the prenatal Down syndrome case, aligned with the insights of Lévinas, and ethically anchored in Kevin Timpe’s analysis. Finally, while acknowledging that their full consideration is the work of a future article, we nevertheless consider additional implications in their ethical urgency in a post-*Dobbs* world.

Methodologically, this article employs an interdisciplinary qualitative approach combining historical analysis of legal regimes, philosophical inquiry, discussion of changes in the law and doctrine, and civic-pedagogical reflection. First, the article surveys contemporary scholarship on civil and civic engagement and the history of disability, eugenics, and prenatal healthcare to trace how legal regimes, institutional practices, and civic norms have shaped inclusion and exclusion within democratic life (Morrow et al. 2023; Timpe 2019a, 2019b, 2026). Second, drawing on the work of Kevin Timpe and Emmanuel Lévinas, the article develops a normative framework for understanding disability inclusion not merely as a matter of policy accommodation, but as a question of civic recognition, democratic participation, and ethical responsibility to the “Other” (Timpe 2019a, 2019b, 2026; Ben-Pazi 2016; The Ethics Centre 2020; Westphal 1993). Third, the article engages legal and institutional materials—including discussions surrounding the ADA, IDEA, reproductive healthcare policy, and *Buck v. Bell*—to examine how law structures both the possibilities and limits of disability inclusion and civic participation (Antonios and Raup 2012; Noll 2005; Kaelber 2012; Fair 2019; Lombardo 2008; Vedantam 2018; Eugenics Exhibit 3.3 2007; *Buck v. Bell* 2007; Gould 1985; U.S. Department of Education 2023; About IDEA n.d.; Arrojas 2024; Norlian 2020; Pangrazio 2015). Finally, the pedagogical encounters proposed in Section VI are not presented as empirical findings but as theoretically informed applications of the article’s historical, ethical, and legal analysis (Morrow et al. 2023; Timpe 2019a, 2019b, 2026). They are especially relevant at public universities where legal mandates to establish civic institutes have been in effect. Together, these approaches allow the article to investigate how disability, civic engagement, and legal discourse intersect within contemporary democratic institutions.

2. Civil-Civic Engagement—Who Is Allowed to Participate?

Currently, there are differing views among scholars regarding the definition of civil-civic engagement. As noted, some scholars believe civil-civic engagement includes taking part in civic or political activism (Morrow et al. 2023; University of Illinois Chicago 2024). Other scholars think civil-civic engagement involves activism within certain communities or schools of thought. Correspondingly, civil-civic participation and activities are regarded as a service to democracy, as civil-civic engagement involves sharing information, knowledge, and values to effect change in matters of public concern (Morrow et al. 2023; Zook 1947). Therefore, civil-civic engagement often includes public organizations like interest groups, nonprofits, nongovernmental organizations (NGOs), unions, and social movement organizations (SMOs) (Burstein 2021). Also, according to an article by Eric Morrow, Boleslaw Kabala, and Christine Hartness, universities in the U.S. have become key contributors to civil-civic engagement movements since the 1980s (Morrow et al. 2023).

However, Morrow et al. point out that campus civil-civic engagement in the U.S. often does not educate students about diverse civic and religious perspectives or teach them how to engage in respectful debates with people who have different beliefs or experiences (Morrow et al. 2023). In fact, universities and community organizations lack important elements, such as public awareness, reasoning, and debate, which are necessary in effective civil-civic engagement. Also, and more importantly for purposes of this project, there is no focus on nurturing empathy and critical thinking abilities, especially when it comes to understanding and supporting vulnerable populations like those with Down syndrome.

Introducing civil-civic engagement in higher education is not a new initiative. In 1947, President Truman requested an assessment of how higher education supported democracy (Zook 1947). The President's Commission on Higher Education published a report identifying two essential tools to safeguard America's democracy. According to the Commission,

“American society is a democracy: that is, its folkways and institutions, its arts and sciences and religions are based on the principle of equal freedom and equal rights for all its members regardless of race, faith, sex, occupation, or economic status. The law of the land, providing equal justice for the poor as well as the rich, for the weak as well as the strong, is one instrument by which a democratic society establishes, maintains, and protects this equality among different persons and groups. The other instrument is education, which, as all the leaders in the making of democracy have pointed out again and again, is necessary to give effect to the equality prescribed by law”. (Zook 1947, p. 485)

In other words, the Commission's findings suggested that higher education institutions need to address societal issues through programs that promote equal opportunities and freedom for all. As Truman's Commission contended, higher education can motivate students and citizens to engage in civil-civic matters to share common values and learn from each other's differences.

But what is of special interest in this article, and the general conversations that flow from it, are the ways Kevin Timpe implicitly calls attention to the deficits of parts of the civic engagement complex in higher education—which are also critiques that could be made of the *Truman Report*. Without explicitly using these terms, his book chapter, “Disability in History, Disability in Eschatology,” article, “Moral Ecology, Disabilities, and Human Agency,” and monograph, *Disability in Inclusive Communities*, all help make the case for civil-civic engagement that is more inclusive of disabled voices (Timpe 2019a, 2019b, 2026). Timpe's account of ecologically structured agency failures of imagination and moral responsibility, in the church and running in parallel to some of the same deficits in American society, contributes to a broader view of civic education, which, when further informed

by the research presented in this article, strengthens civic engagement and classroom pedagogy in legally sanctioned institutions (Timpe 2019a, 2019b, 2026).

Thus, in “Disability in History, Disability in Eschatology,” Timpe shows the failure of Christian theology to recognize disability both in its understanding of history and its account of eschatology (Timpe 2026). Timpe leans especially into the historical narratives of N. T. Wright to make this case, emphasizing that Wright’s work itself has the resources to address these omissions. Importantly, in considering this book, silence about disability for Timpe itself emerges as a form of exclusion (Timpe 2026). In “Moral Ecology, Disabilities, and Human Agency,” Timpe makes the case that *all* action, on some level, is environmentally dependent (Timpe 2019b). This applies to “disabled” as well as “non-disabled” modes of agency. This is why institutional incentives, legal parameters, and cultural norms, as they overlap with interpersonal support, are so crucial to integrating disability perspectives (both into economic and workforce and, as we argue by extension, civic educational and pedagogical settings) (Timpe 2019b). Finally, in his book, *Disability in Inclusive Communities*, Timpe pivots away from malicious intent and towards structures, this time many of them linguistic, that reinforce silence and obscurity inflicted on people with disabilities (Timpe 2019a). Slowing down and intentionally practicing different modes of speech and acts of simple recognition and observance has a significant effect. Our work, in particular, will prove especially valuable—in combination with the greater awareness of eugenic practices that we contribute in the following two sections—to designing encounters in the classroom, at legally supported academic institutions, that allow students to experience a fully inclusive kind of civil-civic engagement that affirms the value of full participation by those with disabilities (Timpe 2019a).

3. Civil-Civic Engagement and the “Other”

Emmanuel Lévinas, whose ethical philosophy centers on responsibility to the Other, provides a parallel, powerful framework for rethinking civic inclusion at public universities and institutions supported by law. Throughout his work, Lévinas emphasized the importance “of the Other and Others” in shaping one’s perception of self, which formed a first philosophy centered on ethics (Ben-Pazi 2016). This seminal thinker believed that understanding “Others” and the concept of the “Other” enabled profound meaning to be gained about both the subject and the development of subjectivity. Indeed, Lévinas held that people constructed a representation of their world to cope with life’s difficulties and uncertainties.

Thus, when faced with a difficulty, people adapt the new circumstances to fit with their understanding of the world. When people are confronted with the difficulties of “Others,” they endeavor to understand with empathy. Ben-Pazi (2016) elaborates, adding that through one’s own knowledge and experience with adversity, one can better understand the difficulties of “Others.” However, the “Other” can never be known in totality. Instead, “Others” are infinitely unknowable in relation to the idea of self and the totality of knowing oneself.

According to The Ethics Centre, Lévinas believed ethics was founded on engagement “with the Other and” on the acknowledgement of “differences between us and them” (The Ethics Centre 2020). Indeed, shaped both by his experiences as a prisoner of war in World War II and as a philosopher, he contended that “we should recognise [*sic*] that another person is a universe of mystery to us; some[one] to fill us with awe, care and concern.” Of course, Lévinas recognized that engaging with the “Other” is trying because the “Other” challenges “us” to reflect on our own perspectives. It is easier to find similarities than it is to understand the differences in the “Other;” so the involvedness that is needed to appreciate differences can result in a negative view of differences. Yet Lévinas held that

people needed to face the challenges of meeting the “Other,” precisely by “look[ing] the Other in the face” (The Ethics Centre 2020). Lévinas believed that such “otherness,” or the differences between people, was to be celebrated. To this, Hanoch Ben-Pazi added that “[t]he encounter with the face of the Other” was equal to “an encounter with that which lies beyond” self and reaches into the infinite (Ben-Pazi 2016).

Ben-Pazi also emphasized that Lévinas worried that a lack of understanding and respect for “Others” would lead to a totalitarian régime without the rule of law, driven by the totality of self-interest. Therefore, simply seeing the “Other” was not enough. Dialogue was also important. Lévinas stipulated that dialogue with the “Other” required “a recognition of the dignity of the Other” and “the I” needed to engage responsibly. Indeed, he contended that dialogue was not structured around “the language of rights,” in which individuals with rights interacted. Instead, engaging with “Others” obliged people to reflect on their obligations and responsibilities to one another.

In effect, one can almost sense in Lévinas’ work the urgent need to resist the dehumanization of the “Other”. This dehumanization was evident during the twentieth century’s totalitarian and ideological movements, which insisted that faces and civic discourse did not matter. All that was needed to identify a prisoner in a war camp was a number, not a face.

For all these reasons, Lévinas essentially emphasizes the value of engaging with the “Other.” As he sees it, when we look at each other, when we “look upon the face of someone completely different, we engage (The Ethics Centre 2020). Likewise, when we talk with each other, not at or over each other, we learn to empathize with the person by hearing their story. The “Other” then becomes our primary ethical concern (Ben-Pazi 2016; The Ethics Centre 2020). Truly, seeing the face of a person leaves no doubt that the person is human and, as a person, a human being, the people who identify as “Other” are fully deserving of recognition and respect. And, listening to the story of a person, hearing about who they are through sincerely engaging dialogue, confirms that people are worthy of dignity and life, as well as empathy and compassion.

In his article, “Levinas and the Immediacy of the Face,” Merold Westphal explained as well that “the Western logos, which calls itself Reason, has consistently sought to reduce alterity to what can be ‘reabsorbed into my own identity as a thinker or a possessor’” (Westphal 1993, pp. 460–62). In effect, Western societies attempted to decrease or eliminate peoples’ differences, either through thought or control, to espouse a particular standard of similarities, or comparable identities. Yet, Westphal asserted that Lévinas’ “Other” is not reframed or eliminated to assimilate into the identity of another’s thinking or control because “the Other is radically above me. [and] as far below me as above me.” Westphal elaborated, stating that when relating with “Others,” a transcending claim of unconditional commitment is present that is not reciprocally fundamental; one’s obligation to the “Other” is independent of agreement or acceptance of what the “Other” does or does not do to warrant the acquiescence to unconditional, ethical concern. Concurrently, the “Other,” vulnerable with only a face challenging the “instincts of self-preservation and self-assertion,” offers nothing when, as “the stranger, the widow, and the orphan with whom the Bible is so concerned,” the “Other” is not resplendent. Nevertheless, the “Other” creates the “direct experience of the face and its claim” that whoever it is, this life and this existence commands the utmost value and respect (Westphal 1993).

4. Eugenic Narratives Supported by Law—A Historical Overview

Eugenic narratives, of course, have a long history of reinforcing legal institutions and practices. Over the centuries, eugenics focused on perfecting the human race by promoting marriages based on selectively favorable inherited traits (Ball n.d.; Smith 1999; Carlson

n.d.). Thus, in 1883, Sir Francis Galton defined eugenics as a formal science in his book, *Inquiries into Human Faculty and Its Development* (Liscum and Garcia 2022; Sir Francis Galton n.d.). As a science, the meaning of eugenics iterated the historic worth of nobility and the importance of breeding people who were “well born.” Yet, centuries prior, eugenics was already actively practiced and incorporated into societies’ laws. For example, Plato first argued for laws that supported selective marriage and reproduction among the productive, worthy, brave, and strong to strengthen civilization (Plato n.d.). People who were deemed inferior were, alternatively, not to breed, and if they did, they were not to breed frequently. Thus, Galton was clearly not the first eugenic theorist to believe that fit, healthy, and desirable people were needed to form a perfect human race. And Plato was not the last eugenic philosopher to advocate eliminating the unfit, the unhealthy, and the undesirable to establish the ideal human individual.

Indeed, across multiple fields of study, eugenics influenced the observations of modern philosophers such as Friedrich Nietzsche and political critics such as Bernard Shaw (Müeller 2019). In fact, R. Lanier Anderson and Reinhard Müeller independently assert that Nietzsche wrote extensively about how societies can improve spiritually and intellectually through evolution (Müeller 2019; Anderson 2017). As Müeller presents it, Nietzsche and Shaw truly believed that accepting Darwin’s theory of evolution and rejecting Christianity and God would bolster societies’ political and communal structures (Müeller 2019). Additionally, Müeller remarks that Nietzsche and Shaw saw “philosophical breeding”—actual breeding of people with philosophical acuity—politically necessary. Shaw also shared similar repugnant eugenic sentiments in *Man and Superman* (Müeller 2019)¹.

The practical and legal implications of these intellectual trends and cultural tendencies were undeniable. In his book, *Three Generations, No Imbeciles: Eugenics, the Supreme Court, and Buck v. Bell*, Lombardo explained that the superintendent of Virginia’s Colony for Epileptics and Feeble-minded, Dr. Albert Priddy, pursued board approval for eugenic practices well into the 20th century in that American state because influential society members endorsed scientific selection of this kind as beneficial to curtail social decline and degeneration. In other words, with Plato, Galton, and Nietzsche as precedents, Priddy ensured he followed the proper procedures to establish the case of Carrie Buck, which was later known as the U.S. Supreme Court case of *Buck v. Bell* (Antonios and Raup 2012; Noll 2005; Kaelber 2012; Fair 2019), which upheld the 10th Amendment “right” at the time of Virginia to maintain sterilization laws based on selective or eugenic considerations. Indeed, even though Buck proved she could care for herself and could read and write, she was still lawfully declared feeble-minded and sent to the Colony as a resident (Lombardo 2008). According to her case, Buck, who was pregnant at the time, also claimed she was raped. But the Colony deemed her inherently unfit and ordered her sterilization (Vedantam 2018; Eugenics Exhibit 3.3 2007; Buck v. Bell 2007). In fact, the Colony maintained that because Buck’s mother and daughter were also deemed hereditarily feeble-minded, Buck needed to be sterilized to return to society (Antonios and Raup 2012; Lombardo 2008; Gould 1985).

What is clear, then, and established in this section, is that eugenic ideas have a long pedigree. Far from being only an ancient concept, their hold on the Western cultural and philosophic imagination has continued well into the late 19th and early 20th centuries. To be clear, in indicating that intellectual luminaries of the day interpreted Darwin and Nietzsche

¹ In his 1922 book, *Eugenics and Other Evils*, Gilbert Keith “G. K.” Chesterton also recognized the influence of Nietzsche and Shaw’s eugenic discourse (Ahlquist n.d.; Chesterton 2008). In effect, Chesterton noted that elites embraced intellectualism and science but doubted God. Thus, elites believed that individuals and societies were “degenerated” due to increasing social and moral declines (Chesterton 2008). Indeed, intellectuals widely discussed degeneration and often blamed the poor, migrants, and the unfit for causing degeneration. Accordingly, inspired by Nietzsche and Shaw, elites used eugenics to address degeneracy. Eugenics then led elites to isolate or eliminate people they deemed degenerative, whether degenerative meant the physically abnormal, the spiritually immoral, the intellectually unfit, or the socially undesirable.

along eugenic lines, we are far from maintaining that such readings of these important thinkers are the only possible ones. Nevertheless, atop these influential interpretations, legal structures that permitted and in some cases actively encouraged eugenic policy were instituted and remained in place. This was true as late as the 20th century. In the next section, we turn to consider whether selective logics might still persist in “softer variants,” and whether the current movement of civil-civic education and engagement—especially at legally supported universities—does not provide a unique space in which to push back against them while reaffirming constitutional democracy.

5. Eugenic Narratives Supported by Law in Contemporary Reproductive and Prenatal Healthcare

The history presented in the last section may seem quite ancient when we consider that liberal-democratic regimes, of the kind that some of us perhaps take for granted in their protection of individual rights and validation of the will of the majority, are not generally associated with legal repression. But according to Merryn Ekberg and Alison Bashford, the eugenic discourse used in America’s past sterilization laws still continues to influence or shape, in significant ways, prenatal healthcare and reprogenetics practices (Ekberg 2007; Bashford 2010). Strikingly, narratives about prenatal screening for Down syndrome continue to reveal eugenic motives that reflect societies’ long-standing views on degeneration, economics, and population management (Ekberg 2007; Bashford 2010; Galton 1998; Raz 2009). Similarly, prenatal genetic counseling, which helps parents make decisions about babies with disabilities identified before birth, follows the same selection principles as earlier family planning practices. Therefore, parents’ thoughts and feelings about their baby possibly having Down syndrome are still potentially affected by these exclusive narratives. In fact, a study found that expectant women’s attitudes toward prenatal testing were influenced by how healthcare professionals offered prenatal screening. (Kleinveld et al. 2008).

Building on these considerations, in a controlled, longitudinal study, Johanna Kleinveld et al. examined over one thousand five hundred women receiving prenatal healthcare from 2001 until 2003 (Kleinveld et al. 2008, pp. 368–70). This was before the commercial introduction of NIPT in 2011 and before any prenatal screenings were offered to women with minimal “risk of giving birth to a child with congenital defects” (Kleinveld et al. 2008; Vanstone et al. 2018). Even then, Kleinveld et al. found expectant women’s attitudes about “prenatal testing for congenital anomalies” changed after an offer of prenatal screening for the “risks” of having a child with “defects.” Therefore, Kleinveld et al. concluded that expectant women clearly made decisions based on their internalized values, some but not all of which need advance priorities of inclusion.

What is more, researchers from McMaster University found that expectant women were concerned with the ethical dilemmas in prenatal screening, especially as technology improves (Vanstone et al. 2018). Indeed, after NIPT was introduced, some expectant women were concerned about the rising costs and demand for NIPT. In contrast, others were concerned with how NIPT would affect their ability to make truly informed decisions. Likewise, some expectant women also expressed concern with eugenic “judgments about disability” (Vanstone et al. 2018). These worries caused trepidation about the more specific identification of genetic and chromosomal conditions, and that eugenics was being reintroduced in prenatal healthcare.

The concerns uncovered by Vanstone et al. were affirmed by CBS News’ 2017 report, “‘What Kind of Society Do You Want to Live In?': Inside the Country Where Down Syndrome is Disappearing ” (Quiñones and Lajka 2017). In fact, prenatal screenings in Iceland have led to a decrease in the number of people born with Down syndrome. Therefore,

Vanstone et al. concluded that the concerns raised by some expectant women in their study should be considered when making policy decisions about the ethical implications associated with NIPT (Vanstone et al. 2018). Indeed, ethical prenatal healthcare policy discussions are vital, as other expectant women are enthusiastic about the availability and accuracy of NIPT for screening specific conditions, especially Down syndrome (Vanstone et al. 2018).

Accordingly, insight into expectant women's attitudes about prenatal screening is gained precisely when expectant women decide whether to undergo screening for genetic or chromosomal conditions. However, understanding prenatal screening decisions before making them is now possible through an additional ethical and theoretical lens, particularly with respect to civil-civic engagement. In fact, civil-civic engagement can help illuminate expectant parents' explicit and tacit selective values, insofar as these relate to prenatal healthcare and Down syndrome. Expectant parents can then gain a deeper understanding of prenatal screening, testing, counseling, and Down syndrome as these potentially relate to ongoing, and implicit, "soft" eugenic effects.

Neel's own research, surveying women who are in the process of receiving counseling about or simply recording their thoughts about prenatal imaging and care, confirms the persistence of selective attitudes even in liberal-democratic legal regimes. We find Timpe especially helpful here to the extent that he makes clear it is not about blaming anybody; *all* action is ecologically mediated. This includes choosing different paths in a prenatal Down syndrome-involved pregnancy, based on socially mediated expectations, and at times reinforced by economic considerations that may prove an especially acute challenge for families struggling with job loss or other forms of disruption. Nevertheless, from the perspective of civil-civic engagement—and the possibility that similarly situated individuals or families might make very different choices, *not* based on access to care or socio-economic hardship, but rather based on the disability understood in relation to "fitness" itself—a very different kind of dynamic is in play. And it is very difficult to deny its ethical urgency. Consideration of and discussion around it deserve a place at legally supported, and in some cases mandated, civic education and engagement university programs and institutes.

6. Public University Involvement

The starting point of this article is that while, of course, some universities and colleges are increasingly prioritizing civil-civic engagement and may even be introducing the topic of selective reproductive dynamics and eugenics in various history or ethics and philosophy courses, it is less clear whether universities and colleges prioritize the visibility of marginalized communities in their civil-civic engagement initiatives. Here, the dimension of disability (Down syndrome) adds a layer of marginalization. And the possibility of comprehensive prenatal considerations as the backdrop of the discussion further enhances the possibility of marginalization in ways that urgently require addressing in any framework prioritizing civil discourse.

Concerning disabilities, it is vital to recognize that people with disabilities were denied proper education in the U.S. before the passing of the Education for All Handicapped Children (EHA) in 1975, now known as The Individuals with Disabilities Education Act (IDEA) (U.S. Department of Education 2023). IDEA directs early intervention services and special education programs for youth with disabilities (U.S. Department of Education 2023; About IDEA n.d.). IDEA and laws like the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) of 1990 also protect the rights of individuals with disabilities, including those with Down syndrome, who can now pursue higher education (Arrojas 2024; Norlian 2020; Pangrazio 2015). As a result, students with disabilities, including those

with Down syndrome, are integrated into regular classrooms. This helps increase societies' interactions with people with Down syndrome, albeit not significantly.

Some universities, such as Stanford University and the Universities of Iowa and Washington, also offer disability justice and disability studies courses ([Stanford University Disability Community n.d.](#); [University of Iowa 2024](#); [University of Washington 2024](#)). The Centre of Excellence (CoE), additionally, offers an online course on Down syndrome that covers its characteristics, causes, and risk factors, as well as the challenges faced by individuals with this diagnosis ([Centre of Excellence n.d.](#)). Thus, students can take courses on disabilities to learn about different conditions, even as few adequately focus on Down syndrome.

To reframe the eugenic narratives academically, it is imperative to integrate civil-civic engagement with higher education courses concerning people with disabilities. This will ensure that the voices of "Others" are heard. Whether those with disabilities are directly involved or can share their stories through other resources, students in America's universities and colleges will benefit from learning about "Others." Additionally, integrating civil-civic engagement and disability education with eugenics courses will help students identify advocacy policy strategies. These can help counter contemporary eugenic beliefs in reproductive and prenatal healthcare.

The even more pressing question is as follows: now that civic engagement is competing with civic education at legally supported institutions—and now that both, in some cases, have been legally mandated state by state—what are ways, consistent with the insights of Lévinas and Timpe, to integrate classroom encounters into curriculum that no longer exclude disabled voices, but that remain consistent with the spirit and in some cases the letter of the laws mentioned above (the ADA in particular)? All of these below prescribed exercises, to emphasize, are informed by what we argue is still the *nearness* of selective or eugenic discourses to our era, historically speaking. These suggested classroom experiences are also not limited to, even as they are certainly focused to a greater extent on Down syndrome and prenatal Down syndrome contexts. Here, as we see it, one can find interpersonal settings in which the logic of disability-inclusion and exclusion is thrown into especially sharp relief. Our prescribed classroom encounters thus focus on narrative, language analysis, and reason-giving.

When it comes to narratives: we recommend that learners take up narratives, both of individuals with Down syndrome as well as other disabilities, and that they hear also from mothers who are considering different choices with respect to a prenatal Down syndrome pregnancy continuation. We want to expose students in these first-person accounts to different stories of work and education, dignity and dependency, and civic participation. Students will read and listen and then reflect on these stories with foregrounded questions about how the personal histories problematize simplistic or neat theories of individual autonomy and "burden;" these first-person accounts also extend the classroom discussion to how different civic spaces aid or discourage participation. This is, at the end of the day, a Levinasian approach—with the "Face" of lived, disabled experience slowing students down and potentially interrupting their default to modes of instrumental rationality.

In terms of language analysis: students are asked to analyze materials from prenatal counseling, public health descriptions of Down syndrome and other disabilities, and general medical guidelines. These are, in fact, excerpts from text, and they are anonymized. In poring over the terms, and especially over the loaded ones such as "quality of life," "outcomes," and "risk," undergraduates at legally supported institutions are able to detect patterns, inquire about embedded values, and consider the work that language itself does. This is with respect to predisposing those living with disabilities, and in particular women facing challenging prenatal Down syndrome pregnancy decisions, towards different

choices. The value here, drawing on Timpe's emphasis on language and ecology that structure choices without assigning blame, is that it allows students in civil-civic programs to interrogate the logic of selective abortion, without demanding agreement.

And when it comes to the encounter most closely aligned with selective choice in prenatal Down syndrome contexts, we encourage students and instructors to engage in reason-giving: considering the different rationales individuals in these situations provide for potentially eugenically motivated abortions. These rationales range across the spectrum, arguably, from economic costs, to parental autonomy, to compassion as the woman making the decision understands it, to other considerations. Which of these are acceptable to the students, as reasons (with which they might agree or disagree); and which pass the bar of public justification, so important in liberal-democratic orders, where, in fact, consensus must underlie processes of law formation? In addition to pushing undergraduates to consider whether democratic discourse does, or does not have the tendency (in general) to conclude that certain exclusions are simply neutral, the virtue, it would seem, of this approach is that it brings everyone onto the same discursive plane. Meaning: neither side (or sides) in these discussions can be pigeonholed into the "extremist" box, precisely because all students interacting in a civil way in the classroom can engage on the basis of reasons, with the ethical urgency of exclusion in reference to disabled "Other" perspectives now in full view. Through all of these approaches, students develop their civic imaginations, compassion, and ability to connect with their peers around important issues—not just with respect to Down syndrome in prenatal contexts, but when it comes to lobbying, advocacy, and deliberation about important and sensitive issues *in general*.

7. Conclusions

What are we to take away from this discussion? For too long, theories of civic engagement have systematically overlooked disability as a site of democratic exclusion. This is despite the fact that, as influential cultural and intellectual movements have valorized unsettling ideals of selectivity, the law has been used throughout history to reify and reinforce these theorized exclusions. However, Levinasian ethics, along with insights from Kevin Timpe, provide a non-capacity-based framework for inclusion that takes advantage of the current rebirth in civil-civic engagement across the states and Nation. Selective reproductive and at times eugenic narratives continue to exist and/or have recently resurfaced, and this matters precisely in the context of the theories of civil-civic engagement being expounded at new civic institutes, as well as at established centers that receive civic engagement support. Too often, these theoretical frameworks have missed the mark, at least when it comes to disability. As it turns out, with our proposed Levinasian frame, they need not do so.

On the margins of political science—as confirmed by investigative and reflective articles published by the Claremont Review of Books—figures such as BAP (Bronze Age Pervert) celebrate and call for the direct and deliberate reintegration of eugenic considerations into reworked legal regimes. Strikingly, he has both made headlines and sucked up oxygen in unexpected theoretical spaces (Anton 2019; Gray 2017, 2023). BAP is undoubtedly peripheral, but the individuals and organizations who are platforming him or enticed by one or more of his ideas are—at least in some cases—less so (Anton 2019). Furthermore, concerned individuals and scholars who find themselves discussing BAP's noxious ideas at completely mainstream conferences, such as APSA and SPSA, demonstrate in doing so the vital need to acknowledge the extent to which discourses among some disaffected youth have shifted. If Rod Dreher is right, the related dynamics risk radicalizing a significant percentage of young men, especially on the right. Given all of this, the imperative is to construct and ensure the viability of civic education and engagement spaces—especially at

academic institutions that are supported by the law and that may recently have received citizenship education mandates from their state legislature (Carter 2024). Disability is key, insofar as in these civic education and engagement spaces, socially embedded dynamics of choice and exclusion may operate not in a malicious but in an ecological sense (as described by Kevin Timpe). This just makes it even more important, potentially through and in using the law, to encourage students to confront logics and languages that may implicitly justify exclusion—for the sake of civic practices that broadly and explicitly prioritize inclusion, which is perhaps nowhere illustrated in as compelling a manner as through the genuine and intentional participation of disabled Other.

With these considerations in mind, prenatal contexts are an especially important illustrative domain. This is because the eugenic devaluation of human life is undeniably affecting prenatal healthcare policies and practices, as well as decisions of expectant parents regarding babies with Down syndrome. Therefore, we can and must change the eugenic narratives affecting Down syndrome. Civil-civic engagement in higher education and public spaces is a good place to begin. We need to discuss the various indications that are associated—possibly even assumed—with regard to the history of selective reproductive dynamics and aspects of a revival of eugenics.

This extends to classroom encounters. To emphasize again, at academic institutions supported by the law and possibly implementing legislatively mandated civic education and engagement programs, we have recommended three kinds. All of them are especially relevant in a prenatal Down syndrome context. And they are supported by substantive research on the history of legally enforced eugenic policies, as we present it in this article. One set of classroom encounters would involve the use of narratives. Another would expose students to the targeted application of language analysis. And a third would prioritize reason-giving. All of these encounters, especially in prenatal Down syndrome contexts, challenge students engaged in the conversations to ask where they might be relying, implicitly and ecologically, on hidden logics of exclusion that do not fully integrate disabled voices into civic, political, and institutional life under law.

To phrase it in yet another way: the eugenic devaluation of human life requires added civil-civic engagement activities involving this content at universities supported by law, potentially through legislative mandate. Equally, additional information regarding eugenics' history, eugenic narratives, Down syndrome, and disabilities is essential. Sharing this information with universities, colleges, public organizations, and community agencies will help develop civil-civic engagement that helps shape diversely equitable and inclusive advocacy policy solutions for all.

Making it all even more pressing: although *Roe v. Wade* constitutionalized a broad right to abortion grounded in privacy and autonomy, thereby significantly limiting the ability of states to regulate abortion prior to viability, the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization* fundamentally altered the legal landscape by returning substantial regulatory authority to the states. In doing so, *Dobbs* reopened legal and democratic debate surrounding selective abortion, disability discrimination, prenatal screening, and reproductive decision-making in ways that had previously been more constitutionally constrained. Questions concerning disability-selective abortion—including those implicated in PRENDA statutes and related legislative efforts—have therefore acquired renewed significance within public discourse and state-level policymaking (Denbow 2020; Thomas 2019). Importantly, this shift does not resolve the underlying ethical disagreements addressed in our article. Rather, it intensifies the urgency of civic and legal engagement concerning how liberal-democratic societies understand disability, autonomy, inclusion, and the moral status of selective choice in prenatal contexts.

Recent legal scholarship on conscientious objection further clarifies why disability-selective abortion raises *separate* questions, which cannot be reduced entirely to the broader abortion debate. Thus, Antonio Quirós Fons argues that legal regimes increasingly organized around sexual and reproductive rights must *still* account for conscientious objection by healthcare professionals. This includes objections grounded not only in religious conviction but also in moral, legal, and scientific concerns about contested biomedical practices (Quirós Fons 2024). Quirós Fons' discussion is especially relevant in the context of Down syndrome, where selective abortion may be framed not simply as a generalized exercise of reproductive autonomy, but as a decision shaped by judgments about disability, genetic difference, and anticipated quality of life. This distinction strengthens the present article's claim that prenatal Down syndrome contexts raise distinct civil-civic questions concerning discrimination, inclusion, and the legal treatment of disability. Similar concerns have also emerged within recent disability-justice scholarship. Increasingly, that scholarship examines the tension between reproductive autonomy and disability inclusion as a distinct ethical and legal problem, rather than merely a subset of broader abortion debates (Tongue 2026). Without resolving the underlying disagreement surrounding abortion, this is exactly what we mean: conscientious objection provides one additional legal and constitutional lens through which to consider how liberal-democratic regimes may weigh considerations of reproductive decision-making and serious concerns about disability-based exclusion.

Adding yet another connection to the law, the legal implications of these questions also extend beyond abstract ethical disagreement and increasingly intersect with evolving state-level approaches to informed consent, disability rights, conscientious objection, and civic education. Again, this is all the more true after *Dobbs v. Jackson Women's Health Organization*. In the post-*Dobbs* landscape, states possess significantly greater latitude to regulate prenatal counseling—as well as disclosure requirements, selective abortion, and reproductive healthcare procedures. Some states have already pursued PRENDA-style legislation. Others have enhanced informational requirements surrounding Down syndrome diagnoses—encompassing the provision of support resources, disability-related educational materials, and adoption or community-assistance information intended to broaden the context within which prenatal decisions are made (Denbow 2020; Thomas 2019). At the same time, recent scholarship on prenatal testing, genetic counseling, and disability justice increasingly emphasizes that disability-selective abortion raises analytically distinct questions. These involve, not necessarily abortion itself, but discrimination, informed consent, and the social construction of disability within medical decision-making (Nov-Klaiman et al. 2025; Houtz and Mueller 2025; Rodríguez et al. 2025). It is around these issues, *in the prenatal context but also at times as distinct from the larger question of abortion*, that we feel it is necessary for students to continue to hone skills of civil and respectful dialogue, contributing a key piece to the success of the burgeoning civil-civic engagement movement across states and Nation as a whole.

In a post-*Dobbs* world, comparative research further suggests that legal and institutional frameworks will continue to shape how concepts such as “severity,” “risk,” and “quality of life” are communicated to expectant parents. This influences the context in which ostensibly autonomous decisions are made (Nov-Klaiman et al. 2025; Houtz and Mueller 2025), and with the changed constitutional landscape, significantly, it now invites a broader diversity of possible responses from the states. Note that these developments do not necessarily align neatly with traditional partisan categories. Thus, even regimes broadly committed to legal abortion may increasingly confront questions about whether informed-consent frameworks adequately account for disability perspectives, whether counseling language unintentionally reinforces exclusionary assumptions, and whether selective abortion based on genetic or disability-related criteria should receive distinct legal

or ethical treatment (Houtz and Mueller 2025; Rodríguez et al. 2025). These unresolved tensions only underscore the importance of legally supported civic education and civil-civic engagement spaces that address these issues. In addition to supporting ideological diversity, civil-civic engagement centers that do address them would, ideally, more effectively foster informed democratic deliberation concerning disability, inclusion, autonomy, and the moral implications of selective choice in prenatal contexts—with positive spillover effects to other areas and spheres of policy, where we affirm the same democratic values and commitments.

However one sees this, advocacy policy solutions framed through robust civil-civic engagement will allow all who are concerned with reproductive and disability rights to incorporate diversity, equity, and inclusion strategies that value “Others” differences, including the differences of “us.” Importantly, and with an eye toward future and ongoing research that explores more fully the legal implications of the research presented in this article, the importance of incorporating—perhaps even through legislative mandate—these classroom encounters that interrogate logics of selection and exclusive choice does not depend on partisan alignment or even the most thoughtful pro-life apologetics. To put it in yet another way: with the Supreme Court not having weighed in as of 2026 on the constitutionality of PRENDA’s—and whether or not PRENDA’s withstand constitutional scrutiny—it is entirely conceivable that someone who, generally, favors significant restrictions on abortion, and someone who does not, might agree—as a *separate question*—on the ethical urgency and moral challenge of selective and disability-related abortion in a liberal-democratic political culture and legal order (Denbow 2020; Thomas 2019). These civil-civic engagement strategies and classroom encounters, then, will help us address the current deficit with respect to disability and inclusion *and to civil-civic engagement itself*. By acknowledging the value of differences and diversity, societies can promote equity and policy solutions that prioritize civic education and engagement, drawing on the strengths of disabled citizens rather than pushing them away in fear. Humanity overall is and will be richer, and more fulfilling, when the foundation of civil-civic engagement welcomes the Other with disability, and even or especially life with Down syndrome.

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