

# Omöjligt uppdrag

Om rättslig styrning och normkollisioner i  
skolans kompensatoriska uppdrag



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## Abstract

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The thesis aims to analyze how two ideological concepts, “the individual” and “the collective”, impact the Swedish school system from a legal point of view. On basis of the theoretical groundwork drawn up by professor Anna Christensen I claim that one can observe two different normative patterns in the law relevant to the aim and delimitations of the study. The pattern that laid the foundation for the Swedish elementary school is collectivistic and relates to the idea about one school system for everyone, breaking down social barriers. Such a pattern is concerned with integrating students with different capabilities, keeping the collective together as one. The other pattern, which has gradually taken over as the dominant cluster of values, is concerned with the rights of the individual. This second pattern primarily manifests in the legal setting as the right to special education on the basis of the students' special needs, which might lead to the student being separated from the bigger group (collective) in order to meet those needs. The tension between these two patterns is a mirror of the tension between collective and individual values on an ideological level that can be observed in the legal rules, the legal principles and in the social norms dominating in “the pedagogical landscape”. There is, therefore, a “collision of norms”, both within the legal system and between legal and pedagogical norms, which is determinantal to the expediency of the legal regulation. There are few, if any, rules or guidelines to balance these collisions of norms, or to give teachers and headmasters directions regarding which values that should be seen as hierarchically superior. As such it is difficult to predict how the pedagogical profession will choose between integration for the benefit of the collective or segregation to take into account the needs of the individual. No matter the choice, one normative pattern will be overlooked, in violation of the law. Because the legal logic surrounding the school system is largely based on ex-post supervision, the state will criticize the pedagogical choice, no matter what it is. Such an order lays the foundation for lack of effectiveness where it becomes more important to do what is legally correct than that which, from a pedagogical point of view, responds best to the students' respective needs. In order to overcome these shortcomings in legal governance, a choice must be made about if the collective or the individual shall be regarded as worthy of greatest protection, as well as changes in the legal set-up in order for different forms of governance not to counteract each other or the overall purpose of the school system.

**Keywords:** public law, education law, administrative law, regulation, legal theory, expediency, legal governance

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