

The Populist Moment in American Education

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The school systems of the fifty United States are feeling political pressure from below, as low-income and working class families seek access to schools traditionally favored by the middle class. The weight of this new phenomenon is hard to assess, but even defenders of the *status quo* concede that the populist demand constitutes a moral — and probably a political — threat to the historic pattern of school assignment.

In urban areas, where most of the children live, that pattern is relatively simple. Since the XIXth Century the locus of a child's education has been largely determined by family wealth. If the child is middle class, the family chooses the school; if not, the school chooses the family [1]. The families conscripted have at last come to recognize and to resent this servitude. Opinion surveys report consistently increasing majorities of blacks, other ethnics and the poor who affirm their hope for new school options [2]. Since 1990 a number of state legislatures have responded to this unrest with more flexibility and alternatives; these moderate reforms

all entail the devolution of greater authority and responsibility to these disadvantaged families who historically have had the least influence. This brief essay will identify some of the moral concerns underlying the populist discontent, then outline present and possible responses of government that, over time, may work to democratize the schools — at least those schools that serve children who live in and near the city. I will not consider rural America where distress is strongest among migrant workers whose children now receive spasmodic instruction in the school nearest today's harvest [3].

1. The Mechanism of Class Separation

The states long ago achieved universal education and today continue to advertise their schools as «democratic.» How is it that in practice these tax-supported institutions have segregated children by family wealth? Plainly this division by class was foreseen, hence intended. Founding figures such as Horace Mann and most of his Twentieth Century successors were confident that — when given the proper subsidies and tax

incentives — most middle class parents would make socially responsible choices of schools for their own children. By contrast, these same government educators have consistently viewed immigrants and lower class parents as unreliable partners in democracy; accordingly they designed and maintain school systems that minimize the influence of such families assuring the conscription of their children by professionals [4].

How does it work? The intended effect was achieved with great efficiency, first, by dividing states into school districts and, then, by dividing districts into geographical attendance zones — each zone with its exclusive school. In order to exit one state school for another (even one closer to home) a family must change its residence to the zone of the preferred school. The middle class soon demonstrated its capacity for such educational mobility, clustering in communities of families with similar tastes. Today this shifting and clustering of residences continues, abetted by its own peculiar market system. The real estate profession operates a national data network that is organized according to pupil attendance zones; information about individual schools is overlaid on maps that locate the housing currently being offered for sale or rent in a given area. Each available residential unit is described to the prospective buyer in terms of the quality of the specific government school to which those living in that unit have access; «quality» for this purpose means test scores, curriculum, discipline, graduation rates and social profile including race. The price of any house or apartment is profoundly affected by these

indicators. My wife and I went through this process three times in different parts of the country. We are typical of middle class families.

The market thus presents the particular house and school to the buyer as a package — a locus both of living and learning. Obviously the number of these school-neighborhood options that is enjoyed by a particular family depends upon its capacity to pay; indeed, some attendance zones in effect are available only to the rich. The government school systems thus serve as a potent agency of economic segregation, making many of the popular state-operated schools more *private* than the non-government school that may be located across the street. A Los Angeles family that cannot afford to buy a house in Beverly Hills may still send its child to St. Edmund's or the Montessori School located by chance within that same exclusive district [5].

In our own time government educators have refined the mechanism of class segregation *within* the city districts by operating «magnet» schools that geographically are declared «open» to residents of all attendance zones of the district but, that, in fact, admit only those gifted children who can master the more challenging curriculum. It is not surprising that magnets typically enroll a disproportionate number of children from middle class urban families who can enjoy city life while escaping their neighborhood school. In practice magnets often constitute another form of *private* opportunity that is arranged by government [6].

Class segregation in the state schools is, then, the artifact of conscious policy and not at all inevitable; it could be ended by any of various reforms. For this very reason it constitutes a hostile object in the eyes of those families of ordinary means who are excluded from the government schools that they would prefer for their own children.

2. Is Segregation By Wealth Defensible?

Speaking in the idiom of Horace Mann, government educators sometimes defend and justify this isolation of lower-income families with an argument that they discreetly address to the middle class [7]. As already noted, this favorite rationale has it that conscription of the lower classes is the only workable way to keep unsophisticated parents from making destructive selections, most specifically the choice of private schools with their eccentric curricula. Coercive clustering of the poor is the efficient instrument with which to insulate children from ideas and practices that might be bad for them and for society.

I would not make light of this argument; every admirer of Plato recognizes the impulse of the philosopher to rescue the masses by subtle coercion. But educators can serve as platonic guardians of an ethic only if that ethic exists. In the world that produced *The Republic* a unitary and coercive system was a plausible conception — even for the children of the rich; the Athenian *polis* provided Plato a set of ideas that were sufficiently consistent with one another to support his case for a uniform curriculum delivered by a uniform method.

But America may not be the Athens of

IVth Century B.C.; indeed, it may be not the America of Horace Mann and John Dewey. And, to the degree that the content of its culture has become disuniform and indeterminate, what follows? The general answer can be exemplified, first, by the debate over teaching method — a conflict of relatively low intensity that continues among professionals. The imposition of a single pedagogy upon the poor could be justified, if there were some common practice that pedagogues presently recognized as the most efficient to convey the basics to the children. But no consensus of this sort exists. Even those schools that serve the rich have adopted teaching strategies that are diverse, controversial and mutually contradictory. The conflicts among math programs and among strategies for teaching English to the children of immigrants are notorious [8]. But this menagerie of method holds for all subjects — even for the teaching of those few that virtually all Americans agree must be mastered (mostly the «3R's» plus science). Given such indeterminacy, the coercive assignment of a child to a school by the mere accident of family residence lacks all pedagogical justification. It is arbitrary to impose one among a set of contested regimes upon a child whom the professionals have never met.

But, let us set the question of educational method aside as a subsidiary matter. The government schoolman's more fundamental aspiration — whatever the method — is that each school faithfully transmit the American moral consensus to children of unreliable parents. The educators constantly assure the taxpayers that our common vision of human

excellence and the just society are not being corrupted in government classrooms by heretical private notions; non-conformist ideas may be tolerated but they must never be supported by public money [9]. But, again, the premise fails, for no such moral consensus exists and all moralities are non-conformist. Americans agree only to this extent: the child needs to acquire basic skills and a respect for law and democratic process. In the United States, beyond this barest minimum every interesting substantive version of the good life and of an ideal civic order is, by definition, private. This does not mean that no specific versions will be taught; of course they will. Wherever there is a teacher teaching — and whether the school be public or private — some particular morality will be favored; its message will be delivered either explicitly or by indirection. Whether this be good or bad, it is an American reality. And each of these distinctive moralities is no more than the personal belief of those adults who happen to be in charge of a curriculum. The sole question of policy, then, is whether rich families alone will be permitted to shop among this wide range of private ideas.

This simple reality — the inescapable moral pluralism of America — has now been grasped by the popular mind. From this point on, the imposition of private values by state schools that conscript their students must risk the hostility of the have-nots; parents bristle as the media report the battles at the state and district levels over the proper content of the curriculum. On Monday the educators skirmish over what to teach about evolution and creation; on Tuesday they disagree whether homo-

sexual behavior is to be portrayed simply as another «lifestyle.» On Wednesday they move on to other contested issues: global capitalism; race; gender roles; abortion; welfare rights; assisted suicide; the literature of dead-white-males; ethnic studies; sex outside of marriage; gun control; human cloning; and environmental policy. And beneath all these and other specific conflicts lurks that nagging question — ultimate but unanswered: is there an authoritative *source* of values in the first place? Was Hobbes right? Do human beings merely make up the content of morality? Or are some actions really better than others quite apart from our private belief?

There being no American *public* answer to these questions, the schools must and do teach the particular private answer that prevails in their district or neighborhood (or classroom); or, they teach «neutrality» — which typically means some unsophisticated form of relativism; or they pretend (unsuccessfully) to avoid moral issues altogether. In such a world, the specific vision of moral correctness that will be imposed upon any child of the poor is a matter of luck. This moral servitude of the family to strangers and sheer fortune is a primary source of the present popular distress. Poor people care about substance.

3. Enter Stage Left: The Charter School

But — let us be clear — this is as far as their objection goes. The *ressentiment* is certainly *not* directed to government schools as such. There is *no* populist support for eliminating the state as a

provider of education; the hope is only to end the state's artificial constriction of the intellectual options of ordinary families. Indeed, the vast majority of reforms that were sought and initiated in the 1990's have involved nothing more than the creation of a new form of more lightly regulated government school that has no geographical attendance base. These are labeled «charter» schools and are open to all regardless of residence [10]. They have proved very popular with low-income families and, economically and racially, are at least as integrated as the traditional state schools. Their number nationally at the moment is only two-thousand, but the rate of their formation continues to accelerate and many have long waiting lists. All this strongly suggests that any serious response to the populist impulse will aim to empower more among our existing government agencies — the school districts, but also libraries, cities, universities and museums — to form *public* charter schools that represent a wide variety of method, curriculum and management. Such schools hold great promise to diminish the traditional captivity of the non-rich family. Their logical tendency is the gradual extension of state support for a regime of family self-governance equivalent to that which has so long served the middle class.

It would be futile to describe all the thirty-eight separate new state systems that control the formation and operation of charter schools — showing how each state has fashioned the roles of the new schools, the districts, state, family, unions and teachers in its own peculiar way. These systems are substantially different from

one another, some minimal in their reach, others increasing family options in a substantive way. I will suggest the overall drift of this movement by imagining an ahistorical American state that aspires to equalize access for all families through charter schools and related policies.

Suppose, then, that a fifty-first state is starting from scratch to create and finance a system of schools that will be owned and operated exclusively by agencies of the state. Instead of the traditional devolution of authority to geographical bureaucracies, the founders employ a different principle, creating a large number of *individual* public schools to which any child can apply regardless of place of residence. Each school forms as a non-profit public corporation, and the viability of any particular school will depend upon its ability to attract families. For the parents come shopping armed with state-supplied scholarships to pay for education. The popular state schools prosper, expand, and reproduce themselves; those not chosen must either adapt or close.

Such a system of schools sustained by family scholarships would be simply the most consistent and thorough form of charter school program [11]. Charter schools today are public schools whose founders and faculty enjoy various degrees of independence from those government agencies such as the school districts that typically authorize and often finance them. Students from outside the local neighborhood may attend. The charter school has greater control of its budget and its teachers. It is less subject to the bureaucratic limitations of its geographically organized cousins. But in no state

so far has the legislation carried out the full implication of family autonomy.

Legislation that would embrace the charter principle in a more robust way would need to answer several important questions. One, a typically American problem, asks which state agency is to be empowered to grant a charter to those who would found a new school? Today, some states permit only school districts to issue charters. Others have granted chartering authority to their state departments of education and even to public universities. Predictably, in states where only the local school districts have been given the authority to charter, those new start-up groups who have sought approval have been systematically discouraged. Even when applications are approved one bureaucratic roadblock after another often delays the process, distorting the original design of the school [12].

In our hypothetical American state, legislation might avoid this pattern of defensive behavior by altering the standards by which districts (if they still exist) would either grant or deny charter requests. One available legal device is the strong presumption that any proposal for a charter will be deemed to qualify unless the district makes a specific finding based upon clear evidence that the school would not serve the interests of its students. (California amended its charter school law in this way in 1998.) Given such bounded authority district boards still could (and should) derail plans for grossly deviant schools (e.g., racist schools, schools that teach terrorism, and so on). No such

extremist charter applications have appeared.

Alternatively — or in addition — legislation might authorize other state institutions to grant charters. These could include a special agency whose exclusive job it is to certify charter school applicants. Arizona adopted this approach, and the system has proved to be more neutral in its judgments and more encouraging to potential founders [13]. New providers have a reasonable expectation of obtaining a charter so long as they (1) have a sane educational plan, (2) demonstrate financial responsibility, and (3) show that they are likely to draw a reasonable number of students.

Now consider the government entities that might create and operate charter schools. A variety of existing agencies that have seldom, if ever, provided formal education could reasonably be authorized to found and/or to operate charters. Cities, for example, might have an interest in creating their own schools in shopping centers, manufacturing zones and office buildings; a lively city administration might thus use charters to lure a specific class or mix of entrepreneurs to the community. Universities might wish to create charter schools that they would themselves operate as laboratory schools or training centers for student teachers. Museums, libraries and other «intellectual agencies» might find a niche in this public market. And, of course, teachers (indeed their unions) could organize new schools with a government imprimatur. In the end, if one is truly committed to the idea of choice among government schools, it is hard to imagine

why any application would be denied that meets the minimum criteria now required of private schools, remembering only that charter schools, being state institutions, could not teach religion.

Another basic issue for legislation is whether certain uniform minimum conditions should govern all charter schools in the state. Two typical concerns are the school's policies regarding admission and the charging of tuition. Charter schools today are generally required to admit all who apply. Where a popular school has too many applicants, the school in most states must select by lottery or on a first-come-first-served basis. And generally it cannot add fees to the amount provided by state and/or district.

The democratic philosophy driving charter schools raises difficult technical questions in the fifty states concerning the continued operation of the old schools — the neighborhood schools, the magnets, and other traditional types that have in so many instances effectively excluded the poor. Assuming that the charter school will be merely one optional form that must compete with tradition, what should the admission rules be for those schools that choose *not* to go charter? Principals in some traditional geographically-based schools have argued that, if charter schools are to be allowed to entice their pupils, the traditional schools in turn ought to be allowed to woo outsiders. Indeed, some school districts facing competition from charter schools have already begun to advertise in the media. Conversely, if, as part of the populist reform, traditional schools are either permitted or required to

open their doors to outsiders, would they still be allowed to prefer those families who live within the neighborhood, thus offering outsiders only the excess space — when and if it exists? And should the non-charter schools be allowed to select among applicants according to their gifts in the manner of magnet schools? Might they even refuse individual applicants on grounds related to the focus of their curriculum such as evidence of musical talent?

Eventual elimination of the traditional neighborhood school is barely imaginable. In a few cities such as Cambridge, Massachusetts and Buffalo, New York, all public schools have become entirely open, and no preference is given to children who live nearby [14]. Families may announce their selection of the nearest school, but that preference can go unsatisfied, especially where the system imposes racial-balance targets.

What I am imagining, then, is an American state that — by empowering the ordinary family — drives toward the ultimate dismantling of the familiar system. No more would it encourage the middle class to buy its protected isolation in tax-supported (but socially exclusive) government schools. Of course, if such a revolution ever occurs, it will not come as a miraculous legislative conversion sweeping away the old system. The middle class will give its necessary imprimatur only if the new scheme offers at least as good a market as at present for locating the right school. The mechanism must be one that encourages charters to provide real competition to the traditional government

schools but also allows the latter to reorganize to meet that competition. In effect charters, and indeed, *all* state schools must be allowed the flexibility of private schools. If all schools were financed through a system of state scholarships offered first to the poor, then to the working class — and finally, to all families — the transformation could proceed, step by step, in an *evolutionary* manner by individual choices. Freed from the exigencies of poverty, the decisions of ordinary citizens would, for the first time, compete on even terms with the middle class in the free market of ideas.

Obviously, these rather abstract and incomplete conceptions can and must be embodied in carefully drafted legislation. Stephen D. Sugarman and I have moved one small step toward the concrete with the following provision that was designed as one part of a detailed proposal for an amendment to the California State Constitution.

«School districts, community colleges, museums, public universities, cities, and counties may establish Charter Schools eligible to redeem state scholarships. Each shall be a public nonprofit corporation governed by rules fixed by the organizing authority at the time of incorporation. Except as herein stated, Charter Schools shall operate according to laws no more restrictive than those affecting private schools on [historic date], including the freedom to prescribe a curriculum, to impose reasonable discipline, and to set terms and conditions of employment. They shall

be subject to the rules of common and statutory law, including bankruptcy» [15].

Freed from diversity in method and (to a specified extent) in content, state charter schools might become the force that over time could diminish class and racial segregation among America's government schools, opening all of them to ordinary families [16]. It is important, however, to emphasize two crucial realities. The first is the modeling role of the private sector; what the «charter» form anticipates is an order of government schools that are allowed to form and operate roughly in the diverse and largely autonomous manner of private schools. Thus, in designing the public sector to facilitate charters, we cannot ignore the educational and social experience of American private education. The second is the potential service to be rendered by non-government providers who — if invited — might participate in the new system, enlarging the options of the poor. The states must think hard about the sort of regulation private educators could accommodate without endangering the identity of their individual schools. Policy should seek a constant evolution of both sectors toward a regime that is open and fair to all social classes, but which leaves educators free to be themselves. This would require reciprocal commitments of the state on the one hand and of both charter and private schools on the other. There are risks, and the terms must be carefully drafted.

4. The Public Character of Non-Government Schools in the United States

That government schools will cease to monopolize the education of the non-rich family is an important part of the new popular expectation. The democratic impulse expressed today in charter schools extends in spirit to all providers of primary and secondary education. The populist hope is that *every* school will in effect become *public* by being accessible to children regardless of family wealth.

At this point it may be well to describe briefly and broadly the roles that have been played by those American schools that operate outside the state systems — the private sector which in most states has been subject to modest government regulation. In America ordinary people, and especially the poor, have typically experienced «private» schools as both flexible and democratic [17]. Accepting students without geographic exclusion, the private sector has offered easier access for these families than have those state schools that serve only their middle class neighbors. Non-government schools enroll about 12% of the nation's children. This figure includes the one percent of all children who are enrolled in high-tuition schools for the rich; nevertheless — even including these schools for the very rich — the average total cost per pupil of private education is roughly sixty percent of the cost of government schools. With few exceptions (e.g. some parish schools) non-state schools enroll any child for whom they have room, imposing intellectual standards for admission that are in fact as liberal as

those of their state counterparts. Most important, they retain and graduate their students — even those from the lowest social classes — at a rate very much higher than the state schools and with a correspondingly higher rate of college enrollment (all these advantages hold, regardless of social class). Their rates of expulsion and dismissal are vastly lower than the rate of drop-outs and «push outs» in the public systems, where a quarter or more of state-school children simply stop attending with the implicit blessing of the school.

Recent studies also affirm that non-government schools on average are less racially isolated than their state counterparts, suggesting that they also achieve a greater integration among income groups [18]. Again, because they reject residential criteria for admission, even those private schools that are located in expensive neighborhoods are open to all social classes. Their accessibility has been significantly enhanced since 1990 by the growing availability of privately funded scholarships — approaching a billion dollars — for children of the poor. And, as I shall shortly report, a few state government programs now provide roughly ten thousand scholarships that allow children from low-income families — or those enrolled in failing government schools — to transfer to private schools.

The private sector maintains this integrating effect overall in spite of the survival of many small all-minority religious schools that are located in the inner-cities. The communities of white middle-class families — mostly Lutheran

and Catholic — who built these institutions nearly a century ago have long since become middle class and departed for the suburbs. Nevertheless the parishes they left behind — now sparsely attended — continue to operate the old school, today mostly for the education of low-income racial minorities. The costs of running these peculiar institutions greatly exceed the modest tuitions that they charge their families, with the paradoxical result that Catholic dioceses subsidize the education of thousands of Black Baptists. Again, the educational success of the children in these schools exceeds that of children with similar gifts and family circumstances who attend local government schools. In slowly accelerating numbers their graduates are joining their white predecessors in the suburbs, adding a degree of racial integration to the exclusive government school and to the suburban private schools.

Summing up, within this private system that competes with «free» government schools, democratic forces are at work empowering lower class families to make responsible decisions in the manner of their wealthier fellow citizens. One hope of the populist «charter» movement has been to introduce this free humanizing energy into the government systems by empowering ordinary parents in the manner that historically America has empowered its middle class.

5. Criteria for a Truly Public System

Over the last twenty-five years a handful of quite specific technical criteria have gradually become accepted as

necessary elements of any reform proposal, such as state scholarships, that would claim to provide ordinary families greater access to all schools [19]. The intended beneficiaries of these seven policy norms are the state schools and the private schools but — first of all — those children who are disadvantaged by family poverty or similar burden. Before stating these criteria let me note that the need to satisfy these specific conditions is greatest when the system of new options proposes to include *all* families. In a universal system of scholarships disadvantaged children will be competing with the middle class for a spot in either a government or private school; in general the need for protection will be greater. Conversely, when the benefits of a scholarship program are focused exclusively upon a sub-class — for example the poor, or those children who are in special education — a less elaborate regulatory regime is appropriate.

Here, then, in aphoristic form are the requirements of any *general* system of scholarships — one that proposes to empower all families:

1. Government schools must be authorized freely to reconstitute both their management and missions in forms as diverse as those now permitted to private schools.

2. Participating private schools must be protected from regulations that further restrict their autonomy regarding curriculum, hiring, discipline, and other elements of identity.

3. Admission and tuition policies must

ensure all children fair access to participating schools; the poor may not be priced out either by residential criteria or unaffordable tuition.

4. Scholarships must be large enough to stimulate new providers in both sectors.

5. Students in special education must be afforded choice in both sectors under admission policies that aim for balance between the family's interest in access and the school's interest in maintaining identity.

6. Where transport is necessary to ensure access, it should be guaranteed for reasonable distances to families who cannot afford it.

7. Adequate information must be assured to less sophisticated parents through private and/or public agencies.

Three Eastern states already operate scholarship programs that serve roughly ten-thousand children under state-legislated rules that are generally *stronger* than these seven principles would require. Two of these programs are in the cities of Milwaukee, Wisconsin [20] and Cleveland, Ohio [21] respectively; the third serves the entire state of Florida [22]. In both of the city-focused programs the state legislation restricts eligibility for scholarships to children from low-income families. In each city the opportunity has been exceedingly popular and heavily oversubscribed. The Milwaukee scholarships, usable in participating private schools, are perhaps 75% of the average cost of the government schools from which the children transfer;

in Cleveland they are only slightly smaller. All three programs require the private providers to admit applicants on the same terms as charter schools and to accept the state scholarships as *full* payment. Legislation in each state now encourages new *charter* schools that offer transferring families new options in the public sector.

The Florida scholarships are smaller than government school costs, but still substantial and plausibly sufficient to encourage new providers. The children eligible in Florida are those enrolled in any government school that, for two successive years, is a «failure», as measured by average test scores and other educational standards. In reality most such children will be from low-income and, very often, minority families. The admission rules in Florida are similar to the two city-focused programs, and private schools may not add extra tuition. Government charter schools are multiplying in Florida, hoping to persuade these same families to remain in the public sector.

These programs all are complex, imperfect — and very promising. So far, the students who transfer tend to be the weaker academic performers, traversing the common objection that choice «creams» the better students. Test scores are rising; the families are happy and involved; and the politicians are restless. The whole country awaits the eventual decision by the Supreme Court of the United States that will settle the question whether subsidized parental choice of a religious school constitutes a forbidden «establishment» of religion. Note that passage of this federal test would not necessarily remove diverse

constitutional barriers that may be asserted in roughly twenty-five states; however, the Wisconsin Supreme Court by a narrow majority has already found that its own state constitution allows the Milwaukee program.

The political history of these reforms seems to endorse my thesis: After a century-and-a-half of assignment by coercion, ordinary and low-income families are at last being heard. And they are being heard by both political parties; it is noteworthy that each of these three programs emerged from an improbable alliance between a Republican governor and minority-race Democratic legislators from the inner-city. American education may be gently evolving into its century of authentic democracy.

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Notes

- [1] See generally, COONS, J., CLUNE W., and SUGARMAN, S. *Private Wealth and Public Education* (Cambridge, Harvard University Press, 1970); COONS, J., and SUGARMAN, S. *Education By Choice* (Berkeley, University of California Press, 1978).
- [2] See e.g. 31st Annual Gallup Poll of Phi Delta Kappan (1999), on Internet <http://www.polkitl.org/kappan/kpoi9909.htm>.
- [3] For a proposal encouraging peripatetic schools for farmworkers see COONS, J., and SUGARMAN, S. *Making School Choice Work for All Families* (San Francisco, Pacific Research Institute, 1999) at p. 53.
- [4] The best relation of this democratic story is that of GLENN, C. *The Myth of the Common School* (Amherst, The University of Massachusetts Press, 1988). See also, TYACK, D. *The One Best System: A History of*

American Urban Education, (Cambridge, Mass., Harvard University Press, 1974) and VITERITTI, J. *Choosing Equality* (Washington, D.C., Brookings Institution Press, 1999).

- [5] Overall the correlation between the personal wealth of district residents and the value of land that is available to be taxed by the district is weak, being skewed by the presence or absence of valuable commercial property, *Private Wealth and Public Education*, supra at pp. 356-57. Thus, middle class districts do not necessarily have more per pupil to spend on their schools for any given rate of property tax. What the residents do have is each other; what they do not have is the poor — two educational influences which raise the value of their homes.
- [6] Magnets can operate to increase racial integration; indeed, some have done so. See PETERSON, P. and HASSEL, B. *Learning from School Choice* (Washington, D.C., Brookings Institution Press, 1998), at p. 7. This does not traverse my point; the minority children who get the chance to attend typically are higher achieving students from not-so-poor families.
- [7] See generally *The Myth of the Common School*, supra, note [4].
- [8] See generally BERRICK, J., and GILBERT, N. *With the Best of Intentions: The Child Sexual Abuse Prevention Movement* (New York, The Guilford Press, 1991); BERRICK, J., and BARTH, R. *Child Sexual Abuse Prevention: Research Review and Recommendations*, *Social Work Research and Abstracts* (December, 1992), 28:4, 6-15.
- [9] For extended arguments that under proper «liberal» forms of pedagogy, even the old regime could have democratic effects, see GUTMANN, A. *Democratic Education* (Princeton, Princeton University Press, 1987); WELLS, A. *Time to Choose* (New York, Hill and Wang, 1993); COOKSON, P. *School Choice: The Struggle for the Soul of American Education* (New Haven, Yale University Press, 1994).
- [10] See generally BILLINGSLEY, K., and RILEY, P. *Expanding the Charter Idea: A Template for Legislative and Policy Reform* (San Francisco, Pacific Research Institute, 1999). For more conservative assessments of charter schools see *Time to Choose*, supra, note [9]; WELLS, A., LOPEZ, A., SCOTT, J., HOLME, J. (1999) *Charter Schools as Postmodern Paradox: Rethinking Social Stratification in an Age of Deregulated School Choice*, *Harvard Educational Review*, 69, p. 172.
- [11] See *Making School Choice Work for All Families*, supra, note [3], at pp. 18-23, 25-28; and, generally, *Expanding the Charter Idea*, supra, note [10].
- [12] *Id.* at pp. 12-18.
- [13] SUGARMAN, S., and KEMERER, F., (eds.) *School Choice and Social Controversy* (Washington, D.C., Brookings Institution Press, 1999), at pp. 55-59. The Arizona legislation is set forth in haec verba in *Expanding the Charter Idea*, supra, note [10], at pp. 86-100.
- [14] *School Choice and Social Controversy*, supra note [13], at 19.
- [15] *Making School Choice Work for All Families*, supra, note [3], at p. 22.
- [16] In a recent paper the doyen of racial integration scholars, Gary Orfield, and his colleague Yun have described racial segregation in schools today as literally worse than in the 1960's. ORFIELD, G., and YUN, J., *Resegregation in American Schools*, The Civil Rights Project: Harvard University, June 1999 (on file with the author).
- [17] There is now a thirty-five year record of social science inquiry concerning the civic and social practices and effects of non-government schools. The major works since 1980 are identified and reviewed in *Choosing Equality*, supra note [4], at pp. 80-86. The nearest thing to a common conceptual framework for these works is COLEMAN, J., and HOFFER, T. *Public, Catholic and Private Schools: The Importance of Community* (New York, Basic Books, 1987). My own sense is that community — crucial as it is — depends upon the family's awareness that its identity and authority remain intact to the extent that it can do what the middle-class does, namely, seek the preferred community in freedom.
- [18] GREEN, J., *Civic Values in Public and Private Schools*, in *Learning From School Choice*, supra, note [6], at pp. 95-100.
- [19] Resistance to regulation of subsidized parental choice has become less obstructive and more selective even

among free market enthusiasts since the crushing defeat of Proposition 174 in a 1993 California plebiscite. This proposal would have provided scholarships to all children virtually without concern for the impact upon the poor or upon government schools. See COONS, J., and SUGARMAN, S. *Scholarships for Children* (Berkeley, Institute of Government Studies, 1992).

- [20] GREEN, J., PETERSON, P., and JINGTAO DU, *School Choice in Milwaukee: a Randomized Experiment*, in *Learning From School Choice*, supra, note [6], at p. 335.
- [21] GREEN, J., HOWELL, W., and PETERSON, P., *Lessons From the Cleveland Scholarships Program*, in *Learning From School Choice*, supra, note [6], at p. 357.
- [22] HENIG, J., and SUGARMAN, S., *The Nature and Extent of School Choice*, in *School Choice and Social Controversy*, supra, note [13], at p. 28.

Sumario:

El actual movimiento populista en la educación norteamericana

Este trabajo desea responder a la pregunta de hasta qué punto las escuelas públicas norteamericanas son realmente públicas. Según el diccionario, el significado de esta palabra es «accesible para todos». Algunos ejemplos de instituciones públicas serían las bibliotecas, las piscinas, los museos, las carreteras y los colegios. Los niños, sin embargo, están excluidos en Estados Unidos de todos los colegios públicos salvo de aquel que se encuentre más cerca de su casa. Por esta razón, en la práctica, sólo las familias más pudientes tienen posibilidad de elegir entre colegios «públicos» decidiendo para ello previamente su lugar de residencia; los pobres y los trabajadores de a pie se ven obligados a acudir al colegio más próximo. Esta realidad se está haciendo más patente entre las personas de menores ingresos, lo que ha comenzado a originar un clamor

popular que pide tener la posibilidad de inscribir a sus hijos en cualquier colegio. Esta demanda se satisfaría fácilmente a través de sistemas de elección de centro escolar subsidiada por medio de becas del gobierno que fueran aplicables tanto a colegios públicos como privados.

En Estados Unidos todos los colegios privados, salvo unos pocos, son al menos tan accesibles para los pobres como los públicos; en las grandes ciudades, por ejemplo, las familias que se inscriben en colegios católicos que tienen un costo bajo tienden a ser, en su mayoría, de negros no católicos que huyen de las escuelas estatales. Estas familias, además, han descubierto que en colegios confesionales los chicos más desfavorecidos consiguen mejores resultados. Logran también índices mucho más altos de graduación y de asistencia a clase. Paradójicamente, al ser más accesibles a todos, son realmente mucho más «públicos» que los colegios estatales. Las autoridades públicas en varios estados del Este están facilitando a miles de familias pobres el abandonar la educación pública, financiando su elección de colegios privados que siguen unas normas estatales.

Al mismo tiempo, los colegios públicos están empezando a introducir en serio la elección para los pobres, a través de la nueva organización de los que se llaman «charter schools», colegios públicos que son autorizados a seguir unas normas especiales que desean expresar un carácter propio. En el artículo se describen diversos sistemas de elección regulada, que cambiarán el sistema educativo hacia un modelo más democrático y abierto a todos. Estos sistemas propuestos protegerían a las familias más desfavorecidas a través

de unas específicas estructuras legales que protegerían al pobre de la discriminación en la admisión, subvencionarían su desplazamiento hasta el centro elegido y pondrían en marcha programas de información a los padres sobre los distintos tipos de colegios existentes.

KEY WORDS: Social class and Choice in America. Freedom of education. Moral pluralism. Charter schools. General system of Scholarships.



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