

SCHOOL CHOICE:
THE NEXT CIVIL RIGHTS CRUSADE?

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This panel has been asked to address a very specific question: Is choice the next civil rights crusade? Pardon the expression, but I think the answer to that question depends upon what you mean by a "civil rights crusade."

Clearly, if one looks at the Constitution, it is very hard to make the case that anybody has an inherent right to school choice. But if by civil rights crusade, we mean a movement which began in the early 1950's to achieve social and political equality for racial minorities and poor people, then the idea begins to have some resonance. Certainly, if we have any commitment in this country to social and political equality, and they are a real goal for the American people, then we must begin by providing everyone with a decent education.

If you will indulge me a bit, I would like to read to you from a Supreme Court decision:

Today, education is perhaps the most important function of state and local government. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. . . . It is the very foundation of good citizenship. Today, it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training and helping him to adjust normally to his environment. In these days it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an educa-

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tion. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all in equal shares.¹

That quote is from *Brown v. Board of Education* which was handed down by the Court in 1954. I cite it for a couple of reasons. One is that it is a very clear declaration of the idea that everyone in this country — all children — have a right to a decent education. But, also, it is a cogent explanation of how important education is for fostering equality in a social sense, in a political sense, or in an economic sense — in any way imaginable. If you don't have a good education, you don't advance.

Well, that was 1954. How far have we come? I will refer you to a major study that was just published by the Brookings Institution, under the editorship of Christopher Jencks and Meredith Phillips called *The Black-White Test Score Gap*.² It tells us that today, 45 years later, race and class are still the most reliable predictors of educational achievement in this country. And the problem is most dramatically demonstrated when we look at cities which have a disproportionate number of poor and minority children, and which also have a disproportionate number of failing schools.

I refer you to several papers in that volume, and another volume being published by Brookings, edited by Susan E. Mayer and Paul E. Peterson, which show that there is a very clear connection between one's ability to earn a living and one's opportunity to be well educated. There is a correlation between test scores and earning capacity.³

I also point you to seven generations of political science research which shows again and again how educational achievement is associated with political efficacy. Jefferson said that an educated citizenry is the best guarantee for a healthy democracy.⁴ Without a decent education, people cannot be expected to be equal players in the political process. Education is a requirement beyond the removal of the kinds

¹ *Brown v. Board of Educ.*, 347 U.S. 483, 493 (1954).

² CHRISTOPHER JENCKS & MEREDITH PHILLIPS, eds., *THE BLACK-WHITE TEST SCORE GAP* (1998).

³ SUSAN E. MAYER & PAUL E. PETERSON, eds., *EARNING & LEARNING: HOW SCHOOLS MATTER* (1999). See also NORMAN E. NIE, et al., *EDUCATION AND DEMOCRATIC CITIZENSHIP IN AMERICA* (1996).

⁴ Thomas Jefferson, *A Bill for More General Diffusion of Knowledge*, in SAUL PADOVA, ed., *THE COMPLETE JEFFERSON* (1943).

of legal barriers that *Brown*, the Voting Rights Act and the relevant case law have managed to remove.

The egalitarian argument becomes even more compelling when you begin to examine such questions as: Who has choice? Who wants choice? And why? In some ways, choice is really an academic question, because the fact of the matter is that many people in the United States already enjoy choice. I am not just referring to those families who can afford, when they don't like the public school in their neighborhood, to lay out the money to attend a private or religious school. Choice is also attainable through residential mobility when people have the ability to move into communities where the public schools work well. There is an abundance of social science evidence to demonstrate this. I won't bore you with it now, but it is there.

When we look at the question of who wants choice, again, the evidence is plentiful. Phi Delta Kappa is an organization that has been polling the American public on this issue since 1994. It publishes a magazine that is read widely in the education community, and each year the editors engage the Gallup organization to poll people on a variety of education issues. The polls show that support for vouchers has risen gradually over the years.⁵ Slightly more than half of the American public now support the idea of providing public funds for children to attend non-public schools.

When you look at this data and examine it carefully, you find out there is a very strong pattern of support for choice among poor and minority people. I do not think there is any mystery about why this is the case. It is so because people whose children get stuck in failing schools year after year are looking for alternatives. I had just finished my book on school choice when the organizers of this conference called to invite me to participate.⁶ In thinking through the issue, I came to the conclusion that there are really four very compelling arguments for choice if one wants to look at it as an issue of fairness or equity. The first point is that some people have it and some don't. The second is that whether one has it or doesn't is very much a function of class. The third is that those who don't have it want it. And the fourth is that those who don't have it need it in order to provide their children with a decent education.

⁵ *Phi Delta Kappa: Gallup Poll of Parent's Attitudes Toward Schools* (1998).

⁶ JOSEPH P. VITERITTI, *CHOOSING EQUALITY: SCHOOL CHOICE, THE CONSTITUTION AND CIVIL SOCIETY* (1999).

I think these points are the essential ingredients of the egalitarian position. We policy makers, lawyers, and professors can discuss these issues ad nauseam, but if the debate is going to really take form, and carried forward honestly, we must start listening to what poor people, who generally are not represented at these kinds of forums, have to say about it.

There has been an ongoing debate within the social science community about the academic performance of public schools versus private schools. The debates continue, and there is no consensus among us about the efficacy of choice. However, there is a clear pattern evident when one asks the parents of children who have had an opportunity to participate in choice programs. We have had a considerable amount of experience with this. There are now about 1,200 charter schools in the country. We have about 30 states with privately funded voucher programs. We have had publicly supported voucher programs in Milwaukee and Cleveland. And while we may disagree about the evaluations of student performance, when parents are polled, they say they are much happier with the education their children are getting in the choice schools. That is a very important piece of information.

Poor people understand that the schools their children typically attend are not working. One just needs to review the performance data, and you realize that for whatever reason it is, we are not serving poor children very well, especially those who live in cities. However one wants to analyze the arguments and the data, it is very hard to make the case that providing children with an opportunity to go to a choice school is harmful to those children. Given the evidence we have so far, we should not have to justify giving choice to the poor. Those who would deny choice to the poor should be required to provide a compelling reason why we should do so. I do not believe that one exists when the question is approached on the ground of equity. It is useful to explain that there are many forms of school choice in operation. The term does not just refer to private school choice or vouchers. It also encompasses intra-district and inter-district choice among public schools as well as charter schools.

In order for choice to provide real opportunity to underserved populations, it must be properly designed to do so. That has not been the case in most places. We now have more than thirty charter school laws in the nation. Most of these laws place severe caps on the

number of charter schools permitted, and most charter schools do not enjoy the same level of funding as regular public schools.

New York, for example, recently passed a charter school law. After much debate and legislative haggling, the opponents of choice finally agreed to a law that permits state authorities to create 100 new charter schools. That sounds like a lot of new schools until you realize that there are more than 6,000 regular public schools in New York State. Charter schools in New York City receive about 80% of the funding that regular charter schools receive. That's the law. What kind of competition do you think this introduces to education? What kind of opportunity for children who flee failing schools in search for a better educational alternative? Children have become the pawns in legislative deals struck to appease the opponents of choice. Artificial constraints have been imposed to assure that real competition does not take place

Policy makers must design choice to succeed. There should be no limit placed on the number of charter schools permitted in a jurisdiction and such schools should enjoy financial parity with regular public schools, so long as charter schools meet the criteria set for determining adequate performance. Voucher programs should be designed specifically to permit poor children to attend private and parochial schools of their choice. There should be no limit placed on their number, and the value of the voucher should equal the per capita amount that would be spent on a child if he or she remained in public school.

Any private or parochial school that agrees to participate in such a program should be required to accept the voucher in full payment for the child's tuition (not to exceed the cost of educating the child). When there is an over-subscription of students to charter and voucher programs, preference should be given to those who attend failing public schools. If the number of applicants still exceeds the number of spaces available, the seats should be appropriated on the basis of a lottery.

School choice – in the form of charter schools and vouchers for the poor – should be designed specifically to help underserved populations, and it should be designed to succeed. Then it can be properly called a vehicle for educational opportunity. As such opportunities spread and reach a significant number of children who are not properly educated, we can begin to speak of a new crusade.