

The Rhetoric of Choice: Segregation, Desegregation, and Charter Schools

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Over the last decade, talk of choice in education has reached an unprecedented pitch, and the talk has brought forth extensive dollars and human energy. Advocates for school choice, which has become a pseudonym for charter school reform, claim that changing how individual students end up at one school rather than another will contribute to significantly expanded access to quality education.

Forty years ago, many American communities began to reorganize student assignment on a massive scale. Court-ordered busing for desegregation radically altered how students were assigned to schools and on what criteria. It is worth looking at that historical moment to understand the nature and limitations of the present debate. Although desegregation may seem a remnant of a distant era, reinterpreting the history of desegregation raises important cautions for the current interest in charter schools.

A common thread runs through opposition to desegregation and advocacy for charter schools: the rhetoric of choice. This rhetoric emphasizes the power of individual action and decision-making and veils the deep influences of policy and politics. Examining the gap between the rhetoric and the reality clarifies the history of desegregation and contributes to a respectfully critical look at school “choice” in practice today.

“Choice” in the Story of Desegregation

It may seem odd to speak of desegregation and choice together, as the images that desegregation calls to mind are often ones of

compulsion—courts ordered districts to desegregate, students experienced “forced” busing, federal troops pried open the doors of Little Rock’s Central High School. But the rhetoric of choice had an impact on desegregation, both as it happened and as its history has been written.

The accomplishments of desegregation were limited—even at the peak of court-ordered desegregation, in the 1980s, 57 percent of black southerners attended schools that were majority black—and resegregation developed quickly and forcefully, so that by 2005, that figure had risen to 72 percent, similar to patterns in the North as well. The conventional wisdom holds that “choices” made by white parents derailed desegregation. That is, the courts may have compelled desegregation, but white parents made choices that undermined these mandates. Those with the means to do so moved to less diverse or less actively desegregating districts or sent their children to private schools. Exercising this choice, they helped remake the demographics of urban schools from the 1950s through the 1980s. Cities with diverse populations by race and class became predominantly black and predominantly poor. Desegregation plans that rearranged students across schools could not keep up with these shifting demographics. Myriad individual choices—some of them frankly racist—seemed the key factor in explaining the difficulties of desegregation and the resilience of segregation.

Contemporary observers and historians attached to these patterns the label “de facto segregation,” a variant of the rhetoric of choice. The de facto model holds that current (and some past) school segregation comes from the actions of individuals as they enter the housing market, create or reinforce segre-

gation, and then produce segregated schools. De facto segregation provides a description, but lacks the rigor of a real causal explanation. De jure segregation, usually juxtaposed with de facto segregation, comes from state action in explicitly discriminatory law or policy. By contrast, de facto segregation grows from vague “other factors,” as Chief Justice John Roberts put it in 2007 in *Parents Involved in Community Schools. v. Seattle School Dist. No. 1*.

Such weak attention to causality should tip us off: “de facto” segregation does not exist. Although acts of individual racism helped shape desegregation, individual “choice” was never as autonomous as the de facto logic suggested. A deep field of historical work on housing has shown that federal policy frankly encouraged segregated white suburbs and segregated black city neighborhoods. The seemingly autonomous, free-market, white house purchaser was in fact responding to clear policy-based incentives and disincentives. Federal tax and lending policies made purchasing a suburban home both a more possible and a more seemingly desirable choice than remaining in city neighborhoods. Transportation policy helped, too, as low gas taxes facilitated longer commutes on newly opened interstates linking suburbs and the city—some of which opened just months before school desegregation via busing began. These highways facilitated white families’ departures to surrounding, non-desegregating, school systems. Simultaneously, without federally backed mortgages for existing urban homes or access to many suburbs still barricaded by segregationist practices in the real estate industry, most black families, and nearly all poor black families, remained anchored in urban centers. Individuals, both black and white, did make choices, but they did so within boundaries formed by policy.

Despite its vagueness, the notion of de facto segregation has shaped much jurisprudence on segregation and desegregation, including the 2007 *Parents Involved* decision striking down voluntary desegregation plans in Seattle and Louisville. A five-judge majority drew on a variety of arguments, including the distinction between de jure and de facto segre-

gation. Chief Justice Roberts’s plurality opinion argued that school districts with de facto segregated attendance patterns rooted in historic segregationist policy had neither the contemporary responsibility nor the right to consider race in student assignment. Roberts thus extended the basic logic of the 1992 *Freeman v. Pitts* ruling: “Where resegregation is a product not of state action but of private choices, it does not have constitutional implications.” Justice Clarence Thomas continued the rhetoric of choice when he described patterns of segregation in Seattle and Louisville as “racial imbalance” that “might” have resulted from past de jure desegregation, or from “innocent private decisions, including voluntary housing choices.” Justice Anthony Kennedy, who argued that de facto segregation *could* be addressed constitutionally, left de facto segregation again without a clear definition, writing that while de jure segregation was “imposed by law,” de facto segregation stemmed from “bias masked deep within the social order.”

Dissenting Justice Stephen Breyer, in an opinion joined by Justices Ruth Bader Ginsburg, John Paul Stevens, and David Souter, argued that the de jure/de facto language was “meaningless.” Breyer pointed out that school policies “have often affected not only schools, but also housing patterns, employment practices, economic conditions, and social attitudes.” Nonetheless, the plurality in *Parents Involved* upheld the myth of de facto segregation and further buried the policy foundations of segregation in American education.

Recent historical work supports Breyer’s view. Schools have done much more than receive the products of segregated residential patterns; aspects of school policy have helped construct segregation. When early twentieth-century planners imagined new modes of city design, they thought of schools and neighborhoods as mutually constitutive; many embraced segregation as an appropriate characteristic of both. Historian Karen Benjamin has shown that in Raleigh, North Carolina, early twentieth-century decisions to build new segregated schools in particular areas supported a conscious strategy to invest in segregated white suburbs while concentrating

black residents in one city quadrant. In Nashville, Tennessee, urban renewal projects of the 1950s and 1960s used schools as markers of neighborhoods and intentionally located new public housing nearby, building segregated housing and schooling in tandem. And the North was far from exempt: historian Andrew Highsmith documents how in Flint, Michigan, a philanthropically-supported “community schools” program explicitly made schools the hubs of segregated communities. Policies such as these laid the brick-and-mortar foundation for the segregated patterns of American cities today.

The rhetoric of choice and de facto segregation renders invisible the policies that fostered residential segregation and those that linked segregated schools to segregated neighborhoods. Such invisibility contributes to color-blind suburban innocence, as University of Michigan historian Matthew Lassiter phrases it, through which white suburbanites exempt themselves from culpability for segregation and inequality. Embracing the rhetoric of choice, these suburbanites imagine their own success as the product of autonomous hard work, skillfully overlooking their reliance on extensive and effective government subsidy in housing and beyond.

The powerful language of “choice” overwhelmed another reality in desegregation as well. *How* courts and school districts implemented desegregation continued many forms of inequality. Careful to document the many manifestations of white, middle-class resistance to desegregation, historians long neglected to consider what desegregation meant to black families and communities, how it was experienced by black children. In the 1950s and 1960s, desegregation often brought the closure of black schools, on the racist premise that white students could not be well educated in these venues. Desegregation thus severed black neighborhoods from educational institutions. With busing in the 1970s and 1980s came new waves of school closings, along with unequal practices: black students left their neighborhood schools at younger ages, spent more years riding buses, and rode for longer periods of time than their white peers.

These inequalities may have been

described in the neutral language of logistical necessity, but in fact, they were attempts to accommodate white parental choice, to make it less likely that white, middle-class families would leave desegregating public school districts. The policy-smoothed route to the suburbs gave middle-class white families a stranglehold on city and metropolitan education policy. By threatening to withdraw, these families could turn desegregation plans to their benefit and away from equitable implementation.

Desegregation entailed many choices, but the rhetoric of choice as it makes its way into our histories acknowledges only some of these. That rhetoric fosters a very partial view of how desegregation unfolded, what impeded it, and what encouraged resegregation. The rhetoric of choice focuses on individual decisions and has failed to acknowledge how policy choices were equally if not more important in shaping desegregation. The policies that facilitated white suburbanization rested on other choices—to marshal political power on behalf of some Americans and not others, to let the resulting inequalities go unaddressed. To understand segregation and desegregation, past and present, this full range of choices has to become visible.

Montgomery County, Maryland, launched a desegregation program that demonstrates what is possible when policy tools previously arrayed against desegregation are instead aligned to support it. Through inclusionary zoning and the use of public housing funds to scatter subsidized-rent units across the area, Montgomery County distributed poor students throughout the county, as school assignment followed residence. In a careful evaluation of the effects of this program, researcher Heather Schwartz has shown that the kind of socioeconomic integration Montgomery County adopted had more impact on raising student performance than did compensatory programs targeted at the county’s remaining schools with high concentrations of poverty.

Desegregation produced powerful myths about inequality that rendered invisible a vast web of explicit, intentional policies. These

myths falsely portrayed desegregation's failures as the product of autonomous individual choice. Meanwhile, these myths obscured inequalities in desegregation. A new, but parallel, kind of mythmaking about choice is underway in today's charter school efforts.

What Kind of Choice and for Whom?

Charter schools offer parents "choice" in schooling for their children. But the constraints on that choice are massive, are based in historic and current policy, and yet are rarely acknowledged. The first and most significant constraint is that, despite claims implying broad mobility for students, most charter schools remain creatures of the school district in which they reside. Charter admissions practices respect the jurisdictional boundaries that separate city districts from suburban ones or wealthier from poorer suburbs. Few state charter laws prohibit charter schools from enrolling out-of-district students, but most give priority to applications from students living in the district. Where there are more applicants than spaces, out-of-district students don't gain admission.

And school districts demonstrate striking segregation by race and income. School district lines cordon off the students and the resources of wealthy communities from poorer ones. In his early arguments for school choice, even Milton Friedman observed that poor families had the least choice and the least effective mobility when it came to schooling, and that schools thus "produc[ed] further stratification." Friedman saw this point as one of the many reasons for genuine school choice across district and private/public lines. Yet in most charter schools today, "choice" respects district lines and thus leaves the stratification they reflect unchallenged.

Combine charters' respect for jurisdictional lines with the fact that most suburban districts have been notably uninterested in charter schools, and you have what legal scholar James Ryan labels the "suburban veto" of charter schooling. Parents in some suburban districts and even some well-resourced sections of urban ones, as in New York City, rally against charter proposals, for fear that

charters will draw resources away from their valued public school systems. The suburban veto of charters is just the most recent incarnation of a core theme of education policy of the last fifty years, as Ryan rightly argues: the protection of suburban privilege, rationalized as a necessary concession to parental choice, as in desegregation, or expressed as an exemption from choice, as in charter schools.

The "suburban veto" has contributed to an increasing identification between charter schools and poor, urban students, one embedded in many state charter laws as well. For nearly a decade, Tennessee's charter-authorizing law restricted charter enrollment only to some students: those whose home school had failed to make adequate yearly progress under No Child Left Behind or who had failed to reach proficiency in their grade 3–8 annual tests or were free-lunch eligible (a common indicator for poverty status). As these measures skew toward students of color, the charter law increased the likelihood that charters were segregated places on multiple measures. Tennessee's law was one of the more restrictive, and the state legislature revised the law in 2011 to open some charters more broadly. Yet there and in other states the identification between charters and urban, poor, and struggling students continues.

Charters demonstrate higher rates of segregation by race than do nearby public schools. Some charter advocates contest this finding, but accept that, at minimum, charters are as segregated as the very segregated public schools in our nation's metropolitan areas. Respect for district lines, charter laws that target poor students or those in failing schools, and the suburban veto together produce notably segregated student enrollments.

Some high-poverty, racially segregated schools can achieve remarkable successes, and some credit their segregation for part of their success—as they enjoy a strong community ethos or can target particular kinds of student need. But it is crucial to note that segregation does not imply that charters serve all the most needy students—as the disproportionately low levels of enrollment of English language learners and students with special needs indicates—or that racial segregation means

charters have reached the poorest students.

One reason segregation matters is because it creates political vulnerability for charter schools as individual institutions and as a reform strategy. The political challenges echo other past social policies that falter because political support wanes once they are identified as programs “for” poor people or people of color. Although some charter schools have received extensive funds from private philanthropy and some districts have provided valuable public subsidies, fewer public dollars flow to charters, on a per-pupil basis, than to district schools. The causes for this disparity vary: some state laws allocate fewer dollars per charter pupil or exclude charters from some forms of state aid. Some charters must use their per-pupil allocation to pay for services usually covered by district, rather than school, budgets. Charter schools remain vulnerable to shifts in funding and political support, a vulnerability only heightened if they become identified as places for poor children residing in racially and economically segregated city neighborhoods. Efforts to intentionally diversify charter schools by facilitating enrollment across district lines, like that underway now in Rhode Island, not only bring the benefits known to accompany desegregated student experiences, but are more likely to encourage a more enduring base of political support for charters.

Some charter advocates use choice-talk to attempt to dismiss the fact of segregation in many charters, describing concentrations by skin color and class as “freely chosen,” in Paul Peterson’s words that contain echoes of the “de facto” language. Segregation by race and/or class that emerged out of actual “free choice”—of schools across a range of geographic locations, with differing demographics and pedagogical approaches—would be one thing. Many of the early advocates for charter schools found the image of such broad choice inspiring and motivating. Charter schools differ as widely as parents’ reasons for choosing them, but many promise more orderly school climates, more committed teachers, and higher levels of academic achievement. But even when they realize these promises, most charter schools offer much less than “free choice.” For most families, and

particularly for poor families, charter schools in their best form have brought the meaningful, but more restricted, possibility of attending better or similarly performing schools in their neighborhood or nearby, with similarly or more segregated student populations. But considering the growing power of urban-focused, consciously branded charter networks, charters are rarely vehicles of desegregation or jurisdictional boundary-crossing, and common measurement on narrow test-score matrices limits pedagogical variation.

If the rhetoric of choice is in fact so distant from the reality, why does it remain so powerful? Because, like the powerful myth of de facto segregation, it offers an appealingly simple, yet fundamentally false, line of thinking about what makes segregation and inequality and what could create greater equality. For some students and some families, charter school choice is transformative. But building policy on those instances of transformation reflects a willful ignorance of where broader patterns of inequality and segregation come from, of how much American policy choices over decades have constrained some individual choices and enabled others.

During the post-Second World War boom in suburbanization and sharp segregation in the metropolitan United States, white, middle-class families had extensive policy encouragement to “choose” the suburbs. Today, in another era of sharp segregation by race and class, the rhetoric of choice promises poor families of color a tool to overcome the reality

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of unequal education rooted in layers of policy. Yet “choice” today comes without the policy supports—in housing, transportation, movement across jurisdictional lines—that middle-class white families enjoyed earlier.

When we trace the rhetoric of choice across the decades, we see that it has migrated from describing an obstructionist power held by white, middle-class families to a supposedly curative one increasingly offered to poor families of color. Rarely in American history have public goods moved from doing service for the elite and powerful to become tools for disadvantaged communities. When the rhetoric suggests that choice has become such a tool, we should pay close and skeptical attention.

Both our historical understanding of deseg-

regation and our present-day discussion of charter schools suffer from the distorting rhetoric of choice. “Choice” alone did not sink desegregation; nor will it alone galvanize educational equality. We need a better way to think and talk about how both current and historic policy choices interact with individual choices, understanding that just as neither alone determines outcomes, any approach to educational improvement needs to take account of both. And we need just as much careful attention to the fine details of implementation as to the grand rhetoric.

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