

# What's Wrong With Privatising Schools?

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*Full privatisation of schools would involve states abstaining from providing, funding or regulating schools. I argue that full privatisation would, in most circumstances, worsen social injustice in schooling. I respond to James Tooley's critique of my own arguments for funding and regulation and markets. I argue that even his principle of educational adequacy requires a certain level of state involvement and demonstrate that his arguments against a principle of educational equality fail. I show, furthermore, that he relies on an over-optimistic attitude regarding the operation of markets, which involves a failure to appreciate the diversity of quality in states, and that he misreads the evidence concerning private schooling in some developing countries.*

James Tooley (2003) argues that my critiques of some existing market and quasi-market mechanisms in the UK schooling system, however successful they may be against the status quo, do not work successfully against a policy that he calls *the private alternative*, and that I shall call *full privatisation*; that is the complete withdrawal of the state from any role in funding, regulating or providing education. His paper combines arguments against my own views with attempts to show that those same views, or whatever rational kernel they might contain, can be deployed to support the private alternative. In my response I shall restrict my discussion to issues concerning what we usually think of as compulsory education, but which, of course, would not be compulsory under a policy of full privatisation—the education of minors. The main purpose of this response is to explain why, despite our agreement that there are powerful *pro tanto* reasons for supporting school choice, Tooley is wrong to advocate full privatisation.

## **I PRIVATISATION AND THE ADEQUACY PRINCIPLE**

I am going to focus, as Tooley does, on what I shall call the distributive objection to privatisation. Justice requires that children's prospects in the competition for the fruits of social co-operation *should not be entirely dependent on their own talents and the resources and prudence of their parents*. In *School Choice and Social Justice* (2000) I elaborate and argue

for a rather demanding principle of educational equality, which commands that children's prospects should depend as little as possible on the resources and prudence of their parents, but the principle above is much weaker, and is all we need to support the claim that privatisation is wrong. Tooley himself sometimes endorses a principle that we might call the 'Adequacy Principle', that everyone has a right to a sufficiently good education for them to function adequately in the economy they will face as adults (Tooley, 1995).

Let us put aside questions about what counts as 'functioning adequately' in the economy, and the problems with Tooley's arguments for the Adequacy Principle (Brighouse, 1998). And suppose, empirically, that Tooley is right in his conjecture that under a fully privatised régime (almost) all children would, *in fact* have sufficient resources devoted to their education. The mere fulfilment of the Adequacy Principle would not vindicate privatisation. *Justice* requires the adequacy principle be fulfilled, so it is not sufficient for it merely to be fulfilled; its fulfilment has to be guaranteed. A privatised scheme would have to be continually monitored by a state standing *ready* to intervene should any child or children fail to receive the adequate education required, because the state has to act as the ultimate guarantor of justice. That is the state's job in a just society (it is also its job in an unjust society).

Tooley is generally reticent about what justice requires concerning children's education. Even his endorsement of the Adequacy Principle is pretty clearly concessionary and made for the sake of argument. But as long as justice requires that children not be entirely dependent on their parents' resources it is going to be an empirical question whether full privatisation succeeds in doing what justice requires better than a system with some government involvement, and the state will be bound to be ready to supply what justice requires in case the fully privatised system fails.

To say this is consistent with acknowledging, as Tooley frequently insists, that full privatisation *in some contexts* comes closer to doing what justice requires than the existing system of state involvement in education. I would like to see someone make the case that complete withdrawal of the state from education in the United States would enhance educational justice relative to the status quo. On my own stringent principle of educational equality this case might have something going for it; and I suspect that the case could be made powerfully for a range of corruptly strong, and devastatingly weak, states. But even when the case can be made, that is different from making the case that full privatisation is the best of all *feasible* options, which is what it would have to be in order for it to be the right thing to do in the circumstances. The point of this paper is not to argue that full privatisation is *never* justified; but that in many if not most real circumstances, especially in developed countries, it is unjustified.

Here is an objection to the argument so far. You might think that I am being excessive in my interpretation of privatisation. I have argued that the (just) state must stand ready to act, and that this itself undermines the

case for privatisation, because even if the state need not actively involve itself in education it must not withdraw altogether from a monitoring function. But, Tooley might say, this is too demanding. He could admit for the state a monitoring or stand-by role, but still insist that it should not, in normal conditions, fund, regulate or provide schooling. In order to undermine the case for full privatisation understood in this weaker way we need to adopt a stronger principle of justice than the Adequacy Principle, and for convenience I shall adopt, as a dummy, the principle of educational equality that demands that prospects be entirely independent of parental resources and prudence; although I believe that it could be run successfully with any principle more demanding than the Adequacy Principle.

Underlying Tooley's claim is an unwarranted assumption about the incompetence of the state, so I would like to investigate that for a moment, if only to make clear the level of disagreement. Tooley believes that the state is, basically, an incompetent provider of these goods, and this assumption is underwritten by his commitment to a public-choice economic analysis of politics. The public choice theory tends to see politics as an opportunity for rent-seeking activity, and criticises states that engage in redistributive activities for inefficiency and distorting market processes (Buchanan and Tulloch, 1962; Downs, 1957). Tooley invokes Public Choice theory, linking it to the problem of 'middle class capture':

Empirical evidence from around the world shows rampant inequality in public funding of education—in developed as well as developing countries. As a matter of fact, the middle classes always seem to get more advantage from public education than the poor. There is a large literature which points to the problem of 'middle class appropriation of welfare', which suggests that, if education is provided on a universal level, the middle classes will inevitably benefit more than the disadvantaged (Tooley, 2003, p. 436).

Tooley also points to the evident failure of some states to provide effective and efficient public education universally. His own preferred case is India, where the rise of a market in very low-cost private schools is a response to the spectacular failure of public education; but there are many other examples from developing countries such as South Africa, Brazil, Peru, Romania and the like (Tooley, 2000). In a recent paper on schooling in India, Tooley appeals to the *Public Report on Basic Education in India* (De, Dreze *et al.*, 1999) and the comparison made in that report between government and private schools, arguing that India (and other countries) should loosen regulations and set up voucher schemes in order to allow private schooling to take up the slack left by government schooling (Tooley, 2000, p. 25). He says that the PROBE report 'pointed to private schools that were serving the poor and conceded . . . that problems [such as drunkenness, under-use of resources, etc.] were not found in these schools' (Tooley, 2000, p. 25). He refers in the paper to Geeta Kingdon's

startling analysis confirming that private schools in Uttar Pradesh are more efficient than government schools: that is, that they produce better results for lower cost (Kingdon, 1996). Some might argue (though Kingdon herself determinedly, and I think rightly, does not) that this analysis supports further privatisation.

In assessing claims about middle-class capture we have to be clear about the baseline against which we are measuring their capture. The claim endorsed by analysts like Le Grand (1982) is made relative to equal provision. That is, it is true of many government programmes that, because of their collective lobbying power and individual ability to ‘work the system’, the middle classes get more of what the government distributes than the working classes do: that is, they get more than an equal share of it. But this does *not* mean that the government is failing to redistribute that benefit, or some other associated good, to the advantage of the working class, relative to what they would have had in the absence any redistribution at all. It may be that working-class people get less of the benefit than under equality, but more than if the government was not involved in provision at all, that is, under *full privatisation*.

This is, I believe, almost certainly the case with education in most developed countries. The government distributes more resources to middle-class than working-class children, but because it has paid for these out of progressively raised taxes, working-class children get more, and middle-class children less, than if the government had done nothing. I say *most* developed countries because I have not done a calculation, and am not sure what sort of calculation would be required, but am willing to believe that the USA might be an exception, because it has a less progressive taxation system and a more inegalitarian system of funding schools, than other developed countries.

Like Tooley, I am often struck by public choice analyses, and often find them useful, if incomplete; and I believe too much thinking on the left about education assumes away the phenomena that public choice analyses highlight. But, although the left is too dismissive of public choice analysis, I think the right (including Tooley) is too wedded to it. The public choice critique of public provision of welfare states, while it has some power, is highly limited in its applicability. It is no coincidence that public choice analysis was developed in the USA, which has a political system that might have been designed specifically to allow the state to be used as a mechanism for gaining rents. Members of Congress have a lot of power, and are expected to be beholden to the wealthiest people in their own districts and to use their position to gain benefits from the Federal government for those people (and thus, their own districts). Because the state interferes with political parties—for example, by denying them the power to select their own candidates, and by placing unreasonably demanding conditions on access to the ballot—parties are weak and exert little power over policy. So pork-barrel politics prevails especially when, as is usually the case, no coalition holds power across the legislature and executive. In such circumstances you would expect everything Anthony Downs says to be true (Downs, 1957). By contrast, the British,

Swedish and French political systems make rent-seeking much more difficult.

States also vary by how egalitarian their policies are in effect, and they vary partly by competence, partly by intent. Let me make two comparisons here. First, consider the different courses of Sweden and the UK in the three decades after World War II. Both countries enjoyed a roughly social-democratic consensus, but Sweden achieved more equality of condition, and built redistributive institutions that have proved extraordinarily robust against the neo-liberal onslaught of the past two decades. The explanation of the difference, I take it, is to be found in differential competence of the respective social-democratic parties. In particular, crucial to Swedish success in achieving equality (and probably to its success in avoiding deleterious effects on economic growth) was that governments largely eschewed means-tested benefits with their concomitant disincentives for individuals to be economically productive. The nice thing about universal benefits is that they are both more egalitarian than means-tested benefits (because less politically vulnerable), and more efficient (Esping Anderson, 1986; Sassoon, 1996). Second, compare The Netherlands and Germany with the USA: they have both achieved greater equality of condition than the USA, and have done so without apparent loss of productivity since World War II (Goodin *et al.*, 1999). But the US government has *not attempted* to achieve equality of condition or anything like it: it has deliberately fostered inegalitarian outcomes, which it (apparently wrongly) sees as the precondition of healthy economic growth. Political will, here, explains the difference.

Let us return now to the case of India, which internally provides a fine illustration of the variability thesis. Although India overall has low levels of literacy, some states have relatively very high rates. Kerala, for example, a relatively poor state, has extremely high levels of adult literacy, as well as scoring well on a crucial variety of health indices (Sen, 1999). The authors of the PROBE report deliberately chose states in which they knew there was a serious problem with government education, and those are states in which one would expect private schools to be relatively more successful. But pointing to examples of private schools picking up the slack does not justify a widespread policy of encouraging private schooling, and certainly does not support 'loosening regulations', as Tooley suggests (Tooley, 2000, p. 25), although it may support *improving* the regulations, which is a different matter. Here are four reasons not to conclude in favour of encouraging private schooling.

First, we cannot generalise from any number of instances to general claims about private schooling. So the left, with its horror stories about particular cases of privatisation, makes no case at all against it; similarly, the right, with its success stories makes no general case. For example, in the UK widespread use of for-profits in schooling can be expected to raise costs, even though strategic, marginal use of them will not raise costs at all (for proof of this, see Brighouse, 2003; see also Crouch, 2003). Similarly, suppose that Roman Catholic and Church of England schools in the UK are more cost-effective than other schools. These schools draw on a finite

supply of voluntary human capital, which may already be close to exhaustion. That they are more cost-effective now, does not justify extending them.

Second, in order to work efficiently, private markets need well-functioning states. I shall return to this theme in Section III, but it is easy to forget this in the UK and the USA, where there are reasonably strong anti-trust regulations; carefully framed and well-enforced copyright and patenting laws; the political freedoms that guarantee reasonable information flows in markets; basic health and safety regulation; and non-corrupt police and other government officials. It is impossible to forget it in Russia, Zimbabwe or South Africa. So for private schooling to deliver the goods requires that states be more competent and well-functioning than opponents of state schooling presume them to be.

Third, states vary in how well functioning they are, and they vary both by structure and by political will. Literacy rates, and well-being rates in general, vary a great deal from state to state in India, and the variability cannot even be explained by wealth. So, again, both male and female literacy rates in Kerala are not far from those you would expect to find in Western democracies. This reflects long-standing political will, not even the built-in design of the state, which is not so different from that of other states in India. Across the developing world it is striking that the Cuban state, for all its flaws, has been magnificently successful in providing high-quality education and health care to its citizens, despite extraordinarily hostile conditions, and essentially being burdened with a kleptocratic political class.

Fourth, while the private schools that the PROBE report investigated are relatively low cost, they are, nevertheless, unable to provide for most of the poor: 'private schooling remains out of the reach of the vast majority of poor parents' (De, Dreze *et al.*, 1999, p. 105); and although half of all children in the private school come from a scheduled or other backward caste, families often send only one child, normally a boy, to private school (p. 103). Furthermore, insofar as poor people have access to private schools, this phenomenon is largely limited to primary schools: secondary schools are far fewer in number and significantly more expensive, and the socio-economic profile of their pupils is much wealthier than that of primary schools. It is true that private schools have an incentive to seek more poor clients, but they do not have the means to do so. Parents who pay for their children to attend private schools may be happy to know that they are subsidising the presence of able poorer children, who may enhance their own child's educational experience, but they have no reason to subsidise children in need of remedial education. Nor can the private sector combat the reasons that parents are unwilling to invest in their daughters' educations (they can often expect very little return from it) or the reasons that they send their children into the labour market at an early age (to supplement a meagre family income). Only the state can address these sources of inequality, for example by cracking down on child labour, or by giving parents financial incentives to invest in educating girls (see Kingdon, 1998).

Even the partial representation of relatively privileged poor children in private schools may, of course, represent an improvement in educational equality relative to the status quo ante (only patchy, and bad, government schools), because although privileged relative to the very poor, they are not privileged overall. But a long-term strategy aimed at achieving educational equality cannot be satisfied with a system that denies education to all but a few of the very poor (including almost all girls). And as the PROBE report alerts us, 'the expansion of private schools carries a real danger of undermining the government schooling system. When parents from a relatively privileged background withdraw their children from a government school to put them in a private school there is much less parental pressure to improve government schools' (De, Dreze *et al.*, 1999, p. 106).

## II PROBLEMS WITH EDUCATIONAL EQUALITY

Since the above argument has assumed the principle of educational equality, it is only fair to look at Tooley's criticisms of that principle. In fact, Tooley is ambiguous between criticising the principle and criticising my proposals for its implementation. He makes no direct criticism of my argument for the principle, but he identifies two problems with my overall views about educational equality:

1. That my proposals might bring to families 'counter-educational and autonomy undermining incentives' (Tooley, 2003, p. 437). If we really could make children's educational prospects independent of their parents' resources and prudence, parents would have no incentive to choose well for their children in the school system.
2. That 'the *more* you equalise *schooling*, the *more important* family influence will become' (Tooley, 2003, p. 438). In other words, measures designed to enhance educational equality in schools will simply shift the problem of educational inequality into the home, and so will be wasteful.

The first objection is quite interesting. The problem is this. Choice proposals seek to harness the knowledge of parents to the benefit of the overall schooling system. The idea is that parents have a great deal of knowledge about what is good and bad for their child, and will use two strategies to seek it. First, they will aim to get their child into the most suitable school; second, they will lobby the school their child is in for better provision, and because they have a realistic option of exit, administrators will tend to listen to them. It is reasonable to expect that their efforts will have side effects for other children, and insofar as what is good for one child is good for other children, everyone can benefit from the deployment of these efforts. But if it really were possible to make the quality of schooling a child receives independent of the resources and prudence of her parent, her parent would have no incentive to put effort into securing benefits for her child. The more successfully we implement

educational equality, the less we shall be able to harness choice for the general benefit of schools. So, it is *prima facie* odd for egalitarians to endorse equality, but simultaneously think that market mechanisms will generate efficiencies; because market mechanisms rely for their efficiency on individuals seeking their own advantage.<sup>1</sup>

In my book, *School Choice and Social Justice* (2000), I refrain from addressing the problem, for a rather obvious reason. I assume in my book, and even more so in my more policy-oriented work, that it is impossible to make the quality of schooling completely independent of parental resources and prudence. Given that parents know that there will, indeed, be positional advantages to be gained, they do have incentives to deploy their choice-making skills, and so their efforts can, in principle, be harnessed. So this is a theoretical, not a practical, problem for my overall view.

But how serious a theoretical problem is it? I think it is much less troubling than Tooley does, because my theory of educational equality is nested in a requirement that people get only the material rewards that they deserve. That is, people should enjoy material returns to their effort, but not to the quality of the parenting they have enjoyed, where material returns are understood as, roughly, income and wealth. This is because I see material rewards as being extremely competitive within a cohort—for one person to enjoy more access to them is for others to suffer less access to them. But schooling brings many other kinds of non-competitive, or less competitive, returns, which parents absolutely committed to educational equality in my sense have every reason to want for their children, and which they will be motivated to pursue for them. Assume for a moment that wage rates in an economy are set as equal, so that only effort is rewarded; so that educational equality in my sense is trivially satisfied. Parents would still have good reason to lobby school officials to teach reading more effectively; to make schools more congenial places to be; to demand that their children's particular talents be identified and fostered; to monitor, challenge and punish cruelty and indiscipline in the classroom and the corridor. Good schooling constitutes part of what it is to have a flourishing life when one is at school, and contributes to one's ability to have a flourishing life afterwards, independently of its functionality for one's expected lifetime income. Parents know this, and their knowing it is sufficient incentive for them to deploy their efforts in the marketplace.

This is only half of the response to the first objection. I have shown that parental efforts can be harnessed in the absence of schools unequally providing the positional aspects of education. But why think that these efforts, once harnessed, will have efficiency benefits? In other words, why will a parent seeking the intrinsic benefits of education for her own child benefit other children? The response has two aspects. First, many of the intrinsic benefits of education have a positive-sum structure. So any given child will get more out of the educational experience if others, too, are getting more out of it. My enjoyment of Jane Austen is enhanced by having others around to discuss her with; they, similarly, gain from my enthusiasm. Promoting my own child's love of learning helps others

pursue their own love of learning. Second, many of the factors that lead us to expect choice to have benefits with regard to the instrumental goods should lead to the same with respect to the intrinsic benefits. Parents will withdraw their children from (or avoid) poorly run, wasteful, ill-disciplined schools, and will favour others; in which learning is more likely to occur.

Now consider the second objection. Tooley argues that if my concern is fundamentally with educational opportunities, it is strange that I restrict my attention to schooling since, as I acknowledge, a great deal of education goes on in the home, which therefore produces many of the educational inequalities. My strategy for dealing with this is to posit a realm of activities that are protected from intrusion, because they are central to the value of the family, and that value is prior to the value of educational equality (in something like the way that Rawls says his Liberty Principle is prior to the principle of fair equality of opportunity). So, for example, parents should be allowed to share their lives with their children, and should be free to communicate their enthusiasms to their children, etc. But, as Tooley points out,

communication of such enthusiasms could unfairly advantage [children] over less-advantaged children in the struggle to attain positional goods in society. Children from families such as his [Brighouse's] will have a much greater advantage in the struggle to become top academics, lawyers or other professionals, precisely because the conferment of the parental enthusiasms on their children will enable them to access opportunities in a way that children from families without such parents cannot. And if schools were to be equalised, then the desire—at least among those parents who are hierarchically concerned—to inculcate these enthusiasms in their children is likely to be even greater, because they will wish to give their children as much advantage as possible in achieving these positional goods (Tooley, 2003, p. 439).

Notice that there are two entirely sensible, but separate, concerns here. One is that if we equalise schooling then *even without any change in parental behaviour*, the family effect will be more significant. The second is that equalising schooling will prompt parents to put more effort into amplifying the family effect outside school hours.

Now, before responding to either version of the objection, I want to make a comment on the way that the priority of value of the family constrains implementation of educational equality. There are two crucial issues in determining whether a measure designed to promote educational equality is permissible. One is the kind of priority the integrity of the family has, and the other is what the content is of the principle of the integrity of the family. I do not have the space to go into much detail here, but there is a strong case for giving strong priority to the integrity of the family, which provides a range of goods both to parents and children that are fundamental to human flourishing and not available through any other institution (see Brighouse, nd). But the content of the ideal of the integrity of the family supports many behaviours and activities that we

know will transmit advantage unequally, and allows for a great deal to be done to promote educational equality. So, for example, mandatory government funded schooling; high taxes on élitist private schooling (even prohibition of private schooling); additional funding of schools attended by low income children; and government-subsidised health and dental care for children, all seem to be entirely consistent with maintaining the integrity of the family on the best understanding of the content of that principle. This is because there is no reason to think any of these measures jeopardise the ability of parents and children to have intimate and loving relationships, which are at the core of the value of the family (see Swift, forthcoming, for more discussion of this effect).

Let us look at the first concern. Would equalising schooling make the family a more significant source of inequality of opportunity, even without change in parental behaviour? I see no reason to suppose that it would. Let us call the effect of family background on a child's ultimate prospects the 'family effect'. Under equalised schooling, what goes on in the home would become a more important factor among those causing inequality of opportunity; but that is only because another source of inequality of opportunity would have been diminished. The family effect might have reduced, even though what goes on in the home has become a larger part of the family effect.

But what about the second concern? Suppose that these measures just provide parents with an incentive to behave so as to amplify the family effect, and advantaged parents, in particular, respond to these incentives. Deprived of the opportunity to confer unfair advantages on their children by spending more money on their schooling, parents pile on the efforts in the home. Several things can be said, and I shall reserve the most compelling response till the end. First, lengthening the school day within limits is permissible (and probably desirable on independent grounds), which would limit the time available for parents to amplify the family effect. Second, it is entirely permissible in my view for the state to engage in affirmative activity that enables disadvantaged families better to raise their children, thus counteracting the family effect. Regular pre-natal support, advice about childrearing, parenting classes in high school and so on, all seem entirely permissible. Third, after a certain point there may be diminishing marginal returns (in terms of conferring positional advantage) to time parents and children spend together, so that it may just be very hard deliberately to amplify the family effect. Fourth, if, as Judith Harris argues (1999), the neighbourhood she lives in has more impact on the child's ultimate personality than parental behaviour, then the state might pursue zoning strategies to undermine class-based segregation of neighbourhoods, which would again counteract the family effect; and I see no reason to think such strategies are impugned by the value of the family or the Liberty Principle.

But the most striking way of resolving educational equality and the integrity of the family in practice is simple. From what we know about the effects of inequality on the educational—and hence lifetime expected income—prospects of children, it is hard to imagine what mechanisms

could achieve educational equality against the background of substantial inequalities of household income and wealth. Measures designed substantially to reduce inequalities of income and wealth do nothing to undermine the integrity of the family: wealthy parents have less money to spend on their children, but they have no less of themselves to share with their children. In fact, since poverty is a major factor in disrupting the smooth operation of the family, reducing inequalities should benefit the institution.

In *School Choice and Social Justice* I do explicitly advocate levelling income and wealth on educational equality grounds: if wealth were equalised, parents would not have economic advantages to confer on their children, through education or otherwise. And I also note that under such conditions the case for educational equality would weaken, or at least become much more complicated. The school-choice focus of that book and some of my other work on education makes it natural to give pride of place to discussion of traditionally conceived education policy. But I do not believe that education policy alone can achieve educational equality or anything like it.

Does levelling the wealth really address Tooley's second concern? Why is his objection not still valid where there are no unequal outcomes to aim for? If what mattered was just where one ends up relative to others, and families were still able to influence outcomes for their children, how would levelling the wealth help? Well, where one is ranked in the rewards schedule is not all that matters. It also matters how close one's rewards are to those that others get; and in a more egalitarian society even the least advantaged will be better off relative to others than in a more inegalitarian society (other things being equal). Even if people have exactly the same place in the (material) reward schedule, in a more egalitarian society the stakes are lowered. But also, when income and wealth are more equally distributed, parents are more equal in their ability to pursue it to confer advantage on their children; so at least the opportunities to confer advantage on one's children are less unequally distributed.<sup>2</sup>

### III LIMITS OF MARKETS

Tooley's case for privatisation is, as I said earlier, excessively pessimistic about the state. It is also excessively optimistic about the market, especially when it involves for-profit providers. Consider his comments about Michael Barber's example of a research project that (purportedly) 'succeeded, without additional resources, in raising pupil's attainment in Science, Mathematics, and English' (Tooley, 2003, p. 443). Barber laments that 'in spite of this dramatic result . . . there has been no national initiative to follow it up . . . this should not be left to chance' (quoted on p. 443). 'But', Tooley says, 'is it likely that, in any other service industry (acting in a market where things *are* "left to chance"), if one business found that it could raise productivity by 300 per cent without much increase in resources, that other businesses would simply ignore the

initiative?' (p. 443). Well, they probably would not ignore it. But if profit should be allowed into the equation, profit-making firms would have good reasons to try and prevent imitation, either by patenting/copyrighting, or by protecting their secrets. Of course, successful firms might spread, unsuccessful firms would fall, but all this would take time. Similarly, firms will try to imitate successful practices. But, again, this takes time. Tooley's response to Barber is technically correct; Barber's point does not rule out markets. But he should not give the impression that markets will eliminate transition costs and time lags. They will not.

This neglect of the consequences of patenting reveals that, like many enthusiasts for the market, Tooley renders invisible the role of the state in maintaining well-functioning markets. Think also of his enthusiasm for brands. He explains the advantages of brands as follows:

Take one example: I did my shopping today at a new branch of, let's call it, Safeway's supermarket. From inner-city Brixton where I shopped at Safeway's for eight years, to where I now shop in Northumberland, the quality of food and service seems equally as high. This is in stark contrast to the situation in schooling. The brand name guarantees consistent quality. Children whose parents shop in these chains are guaranteed that they will not become sink supermarkets . . . (p. 445).

Brands do indeed provide lots of benefits. But Tooley has focused on what must be the best example for brands, British supermarkets. Brands go where it is profitable to go, and not where it is unprofitable. So in Britain, because population densities are high, the transport infrastructure is reasonably good, and cities are socio-economically mixed, the high-quality supermarkets serve pretty much everyone. But contrast with a worse case: Los Angeles. Ralphs, Safeway and Vons are entirely absent from South Central LA, and into the vacuum step the demonstrably inferior and more expensive Boys and Jons. The reasons are various; high insurance rates, high crime and low incomes among other things. Given the transport infrastructure and high degree of socio-economic segregation in Los Angeles, schooling would surely follow the same pattern as supermarkets under full privatisation.

There are two obvious responses to this objection. The first would be to turn the responsibility for cutting crime rates and bettering itself economically back onto the community. Even if this were an appropriate response to the inequality of quality of supermarkets, it is not appropriate in the case of schools: children can hardly be held responsible for, or be expected to improve, the quality of the communities in which they are raised. A second response would be to demand full privatisation of everything: so that along with privatisation of schools would go a refund of all the taxes related to schooling. This would not solve the branding problem—brands need regulation—but perhaps it would address the inequality problem? This returns us to the possibility surveyed in Section I, that schooling would be more equal than under the status quo if the state fully withdrew at least from funding and provision. As I said earlier,

whether this is true depends on the quality of status quo in particular contexts. In the case of Los Angeles in particular, it is possible that state withdrawal from funding and provision, if accompanied by withdrawal from the accompanying taxation, would lead to more equal schooling than is currently implemented (at least if Los Angeles is taken to include the whole of the Los Angeles metropolitan area). But even in other parts of America it almost certainly would not, and in the UK I have no doubt that it would not. Of course, this question is fundamentally empirical, and it would take an economist to do the proper accounting. But even if partial privatisation would improve things in Los Angeles, nothing follows about privatisation more generally.

A final comment about branding and Tooley's and my agreement concerning the desirability of schools facing hard budget constraints (Tooley, 2003, pp. 443–444). Hard budget constraints force unsuccessful schools to close, rather than leaving decisions about closure to bureaucrats who face non-budgetary pressures, and will therefore be tempted to keep unsuccessful schools open. However, Tooley's comments about brands, and their virtues and likely emergence, have made me wonder how feasible it is for even privatised schools to face hard budget constraints, for two reasons. Brands will run multiple schools, and will sometimes have brand-maintenance reasons for keeping open schools that could not otherwise survive, just as brands in other sectors do not subject every income-generating unit to strict budget constraints. The brands might, for example, sometimes be liable to support unprofitable schools to protect the brand from accusations of callousness (maybe this would be a good thing, I do not know). But, more importantly, there is a very hard question about feasibility. As anyone who has observed the recent fiascos in the financing of the British railway network will know, governments find it very hard to not to bail firms out even in relatively unregulated markets, especially if those markets deliver what is seen as an essential service. Firms know this, so they often act as if they do not face hard budget constraints (because they believe they do not). This is less serious with small businesses, so if each school were provided by an individual entrepreneur it would not be a problem. But, even if we had full privatisation à la Tooley, large firms (brands) would probably proceed with confidence that there would be a chance of being bailed out.

#### **IV CONCLUDING COMMENTS**

What would be wrong with full privatisation in most developed countries? It would make the educational prospects for the least advantaged (and for many who are just less advantaged than the mean) even worse than they currently are, and hence diminish their prospects for accessing the unequally distributed benefits of social co-operation, by making them entirely dependent on the resources of their parents. Many, I believe, would not even get an adequate education (on any reasonable understanding of adequacy): especially the least talented among the least

advantaged. This does not mean that parental choice should have no role in allocating children to schools: there are many reasons for thinking that it should. There may also be some entirely proper role for private provision, and I can imagine socially-just proposals for extending private provisions even in Britain and the USA. But choice and privatisation are different. And from the consistency of some partial privatisation with justice it does not follow that full privatisation could be just. In reasonably well-functioning liberal democracies, justice normally requires extensive government funding and regulation of schools. Full privatisation would be wrong.<sup>3</sup>

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## NOTES

1. There are replies to this general point. See, in particular, Carens (1981).
2. In responding to Tooley's objections to educational equality, I may sound as if I am defending the principle. In fact I have, since writing *School Choice and Social Justice*, come to have considerable doubts about the principle and even more doubts about the role I suggest it should play in a theory of educational justice, largely prompted by the work of Matthew Clayton (2001) and Richard Arneson (1999). But I think the principle is robust against Tooley's objections.
3. I am grateful to Adam Swift, Michael Apple and Kathleen Lynch for encouragement and corrections to previous drafts.

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