



Downes, G. and Simon, C.A. (2017) 'When free schools in the UK and charter schools in the US backfire', in Conchas, G.Q., Gottfried, M.A., Hinga, B.M. and Oseguera, L., eds. *Educational policy goes to school: case studies on the limitations and possibilities of educational innovation*. Abingdon: Routledge, pp. 53-68.

This is an Accepted Manuscript of a book chapter published by Routledge in '*Educational policy goes to school: case studies on the limitations and possibilities of educational innovation*' on 26/09/2017 available online at: <https://www.routledge.com/Educational-Policy-Goes-to-School-Case-Studies-on-the-Limitations-and/Conchas-Gottfried-Hinga-Oseguera/p/book/9781138678750>

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Introduction

Academies and free schools: lessons from England

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The Academies Act (HMG 2010) encapsulated the school reform agenda of the UK Conservative/Liberal Democrat coalition government and has continued to underpin Conservative education policy post 2015. It was one of a collection of major social policy reforms to emerge from a suite of ideologies around freedom, fairness, Big Society, and diversity of provision. Central to Coalition rhetoric was a belief that equality of opportunity and greater social mobility lay at the heart of fairness (Clegg, 2010; HMG, 2011). Enacted with astonishing speed, the Academies Act represented the primary mechanism through which levels of parental choice and competition were to be raised in the system of state schools in England. Academies, already established under New Labour, are state funded schools (maintained), yet self-governing and operating outside of direct local authority (district) control. The 2010 Act extended their scope, permitting all existing state schools, whether primary (elementary) or secondary (high) to apply for Academy status, thus radically changing the education landscape. Closely akin to US charter schools, the Academies programme aimed to promote an egalitarian agenda that would help turn around failing schools, draw in funding and expertise from business and philanthropic interests and bring closer to fruition the notion of a self-improving, school-led system of education, responsive to local need.

However; it has been a policy not without criticism and one which may have fallen sway to the very excesses of hegemonic neoliberalism it sought, in part, to address. Born out of a perceived inertia within an overly centralised, bureaucratic and alienating education system, charter schools offered the promise of a more flexible, community based solution to the problems of compulsory schooling (Timpane et al., 2001). With reference to a halcyon era of

schooling within the US, charter schools were an attempt to reposition the school at the centre of their communities (Brouillette, 2002). Undergirding this approach is a privileging of the local over the national; of individual choice over structural reform; of freedom over imposition (Brouillette, 2002). The key to this repositioning is in the name: 'the charter'. This agreement provides such schools with certain freedoms from central legislation such as freedom from the burden to comply with state or federal requirements relating to attainment and standards (Brouillette, 2002). In so doing, proponents of such approaches aim to remove state imposed constraints perceived to create disenfranchised and demotivated students (Brouillette, 2002). It was not unsurprising that this largely neoliberal policy initiative should gain traction within England; in 2010, the then Minister of State for Education, Michael Gove, introduced a free schools programme, that broadly followed the charter schools model. In a similar fashion to the United States, these schools could be set up by parents, community groups or other interested parties to meet demand for new types of school (Department for Education, 2010). Indeed, demand was the central justification for creating new schools: those groups that could demonstrate demand for a new school, and the values it promoted, would be granted funding (New Schools Network, 2015). However, our research suggests that such schools actually perpetuate existing class relationships and do little to address the reproduction of existing social stratifications in education. To this end the Academies programme has failed its espoused aims of creating equality of opportunity and greater social mobility.

What follows is an account two local communities involved in setting up a new charter/free school; Helen's story based in Colorado USA and Sarah's story from rural England. Their comparative experiences lead to some interesting conclusions about policy backfire. Existing status relationships, predicated on class, had a significant bearing on who was involved, the reasons for setting up the school, the values that were formed and promoted and, ultimately, the intake of pupils who attended the school. Drawing on Nussbaum's concept of thick theory of morality (Nussbaum, 1992), Rawl's interpretation of moral orders

(Rawls, 2010), and May's notion of collectivist anarchism (May, 2008), we argue that the concept of community is not radical enough to deal with the issue of social stratification in local contexts. This is because social spaces go beyond the two dimensional: they are more than relationships between the local and the national (Brenner, 2004). Without an account of the human dimension that is integral to local spaces, the values and hierarchies that are partly responsible for their formation and reproduction, policy initiatives like charter schools and free schools will always struggle to generate new social outcomes. We suggest that rather than focusing on a desire for a demand led model, policy makers need to consider whose demand is being recognised and whose is not. It is only when the values of the educationally disenfranchised are part of the process of governance that existing social hierarchies can be challenged.

History of Charter Schools

We begin first with an overview of the history of charter schools. Instigated by charter legislation (1991), charter schools are publicly sponsored schools that, compared to public schools, have relative freedom from government control but are accountable for levels of academic performance (Brouillette, 2002; Fuller, 2009). The schools are predicated on the legal concept of 'a charter': an agreement between a state, or local government agency, to grant certain freedoms from central control in return for a prescribed level of performance (Brouillette, 2002; Fuller, 2009). Although such charters vary from state to state, they do have certain commonalities: the authority agrees to withdraw its exclusive franchise over education in a given district; schools are subject to performance criteria and the charter is renewed every 3 to 5 years following a review process; the schools must be open to admissions from pupils of all backgrounds and must not use performance tests; the school can only exist through choice, no pupil can be made to attend without choosing the school; the school is a legal entity with its own board (Kolderie, 1990). Although the majority of charter schools are still independent (National Alliance for Public Charter Schools, 2016), the ratio varies from state to state. Colorado, has a

relatively low number of multi charter school providers at less than a quarter of the overall provision (Baker, 2015) whilst for other states, such as Illinois, the same figure is above 75% (Baker, 2015). It is also true that the number of not for profit multiple providers (EMO) and for profit providers (CMO) is growing year on year (National Alliance for Public Charter Schools, 2016) and that there has also been a tendency for a concentration of providers, as certain actors start to dominate the market, particularly amongst CMOs (National Alliance for Public Charter Schools, 2011). One of the distinct issues that independent charter schools face is developing and maintaining a distinctive identity. A number of case studies (e.g. Brouillette, 2002; Fulle1; 2009, Wells, 2002) demonstrate the difficulties many of these schools encounter after setting up; often morphing into very different organisations as they seek to expand their expertise and shared understandings in response to unforeseen challenges. However, it should also be noted that most EMO/CMO charter schools are not created as the result of takeovers of independent schools, with 95% of chain schools historically created as start ups (National Alliance for Public Charter Schools, 2011).

Helen's Story: Core Academy

Frustrated by a perceived lack of ambition within the Arrowhead School District of the Denver Metropolitan area, Helen and four friends were amongst the first to take advantage of the Colorado Charter School Bill (1993). Feeling that there was too much emphasis on self-esteem, rather than academic rigour, the group went about setting up a new charter school: Core Academy. The vision was to create a school based on the Core Knowledge Curriculum developed by E.D. Hirsch (Core Knowledge, n.d.). The school was swiftly approved by the Board of Education and opened its doors in September 1993. The Academy was designed around different themes (curriculum, student/teacher ratio, dress code), with each parent taking responsibility for a different area.

Evolution of The Core Academy

The original mission statement of Core Academy was 'Strive for Knowledge and Truth in all you do' (Brouillette, 2002: 44). This somewhat ambiguous statement covered a multitude of tensions between the parents. Counter culture is often defined by what it is not rather than what it is (Roszak, 1995). In reality, there was a paradox at the heart of the project: on the one hand there was unity amongst the founding parents in their antipathy towards the education system; on the other hand, the parents were disunited in their sense of what the school should be (Brouillette, 2002: 4). This led to a degree of inertia as the parents felt unable to trust educators with the leadership of the school whilst also being unable to agree amongst themselves about a way forward (Brouillette, 2002: 45). As a result, the school had a difficult start with a high turnover of Deans and teaching staff (Brouillette, 2002). This turnover was undergirded by tensions between the parental group, the leadership team, teachers and the district education board. These interrelationships proved to be highly destructive as each fought to set the agenda for the school based on their own preconceptions, values and constraints (Brouillette, 2002). Whilst the parents' aim went little beyond maintaining a degree of involvement in the school, the Dean occupied a much more conflicted position, caught between a desire to appease the parents and a need to create cohesion amongst teaching staff. The high turnover of both Deans and teaching staff reflected this conflict as different Deans veered between authoritarian and weak forms of leadership (Brouillette, 2002).

At times, this tension also included the local education board. As the district expanded its number of charter schools, the Board initiated moves to mediate governance between it and the schools, primarily through the appointment of a school liaison officer (Brouillette, 2002: 49). At this juncture, the school's Dean openly desired more autonomy. The ensuing power struggle meant the Dean's contract was not renewed (Brouillette, 2002: 49). The upshot of these protracted struggles was a gradual move away from a school characterised by its need to be different and to reflect parental values, to one that became a more formal

institution, characterised by more commonly accepted practices. Today the school occupies a purpose built campus, a long way from the strip mall and grocery store that were its genesis (Speer, 2013). Core Academy retained some aspects of the original school set-up: the school website for example emphasised the 'unique educational opportunities (offered) through our Core Knowledge Curriculum' and referred to 'Core Virtues, and rigorous academics' as well as the importance of 'Our parent community' ("About Academy Charter School," n.d.). This aspect was foregrounded further in a promotional video produced by Douglas County Schools, which began by highlighting the fact the school was run by parents (Douglas County Schools, 2014). However; what had waned was the 'do it yourself' aspect of the free school movement, that is, the need for parents to both set up the school and to keep it upright. As one of the founding group stated:

'it was parents who did the dry walling, painting, laying the carpet, doing all of the remodelling of the strip mall and almost from day one there was a huge waiting list.' (Speer, 2013).

The current requirement of parents to do twenty hours of volunteering a year ("About Academy Charter School," n.d.) is somewhat pallid by comparison; an act of remembrance to the endeavours of the founding members. Indeed, it is difficult to see what separated the school from other public schools. The core knowledge curriculum was distinctive but not unique; indeed it! has been exported all over the world and has gained significant traction in English schools. Furthermore, the demographic data on the school revealed little of the choice that was supposedly a distinctive element of charter schools (Kolderie, 1990). Although the school intake was not very different from nearby schools (those within walking distance) it is difficult to make the claim that it was more diverse. In fact, its intake of children from ethnic minority backgrounds represented the lowest of all neighbouring elementary schools (17% of the intake (728)). A nearby school for example had 30% of the intake (400) from ethnic minority backgrounds (Colorado Department of Education, 2016b). Furthermore, of all

the schools in the area, Core Academy had a significantly lower intake of children who were eligible for free, or reduced fee meals (6.6%). This compares with another local school where the figure was 29.8%. In fact, the next lowest school had nearly twice as many children eligible for free or reduced fee meals (10.6% of 506 pupils) (Colorado Department of Education, 2016a). Thus Core Academy was in reality only offering choice for those in a relative position of privilege within the immediate area. It should also be noted that within Colorado, the area itself was one of relative wealth and privilege; a school further out (26 miles away) had 70% of its intake eligible for free or reduced fee meals (Colorado Department of Education, 2016a).

What emerges from Helen's story in setting up Core Academy is a charter school policy undermined by the very ideologies of choice, autonomy and freedom upon which it was based. Freedom *from* is not the same as freedom *to*; a lesson also writ large in the English experience of freeschools

Background to Free schools in England

Largely the outcome of policy borrowing from the charter school programme, English free schools were volunteered as the answer to some of the perceived social and economic problems associated with state education in England (Gove, 2010). Based on a similar charter style arrangement, free schools policy created opportunities for actors other than the state to engage in educational provision (Department for Education, 2010). Justification for setting up a free school rested on a number of factors: a need for places not currently met by state schools, the want of or desire for something different, or a school focused upon meeting the needs of a particular cohort of children (New Schools Network, 2013). As such, free school funding is provided where the local authority (school district) does not provide sufficient school places, or school places of an adequate standard (New Schools Network, 2013). The schools' legal status rests on a funding agreement enacted between the Secretary of State and the individual school. This is a direct translation of the charter agreement used for charter schools. However, this agreement is no different from that offered to the long established

academies (schools independent from the state but not newly established as a response to local, community or parental pressure). Unlike charter schools, there is also no periodic review of the funding agreement, thus the initial values of the free school have greater potential to become lost over time.

Like their charter school counterparts, free schools operate as stand alone schools or as part of chains run by both not for profit and for profit organizations. However; unlike the U.S. experience the proportion of stand alone schools is much smaller: Bidding groups are encouraged to enter into a memorandum of understanding with a service provider from the outset. Increasingly, such stand alone schools have been the subject of much debate and are under mounting pressure to conform to existing practices. The Al Madinah School, in Derby, for example, which provided an education based upon a Muslim ethos was shut down following a damning Office for Standards in Education, Children's Services and Skills (Ofsted) inspection. Their closure was set against a background of media hype and controversy and fear; mainly because ethnicity and religious ethos were significant aspects of the school's character (Gye, 2013).

Sarah's Story: Trinity Academy

Sarah and her family lived in a remote rural area of England. Their nearest secondary school was large (almost two thousand pupils) and was situated over ten miles from the family home. Sarah had a history of local activism: she had written a book and a number of articles on the importance of people taking control of their communities. In many ways, her qualities mirror those of Helen: she was driven, had a clear sense of how things should be, was articulate and she was well connected. Sarah felt the local secondary education offering was inadequate: a large rural school some distance away was not appropriate for children attending small primary schools in a rural setting. Not only was the size of the school an issue for Sarah, their curriculum would not recognize the specific experiences of children in rural settings. With her children approaching secondary school age, Sarah persuaded friends to bid for a new free school.

One of the requirements for a bid was to demonstrate sufficient local support to warrant a school (New Schools Network, 2013). Sarah set about promoting the idea with considerable energy: she knocked on doors, attended council meetings and even stood at the gates of existing secondary schools to garner support. It was the intervention of a local theme park owner that really helped. He provided free access to his park for a day. As parents entered, they were invited to pledge their support for the school, thereby adding a considerable number of signatures to the supporting documentation.

However, the strategy was not without its issues. Although Sarah demonstrated support in terms of the number of signatures, her strategy did not highlight potential resistance to the project, which turned out to be significant on a number of fronts. First, existing state schools, angered by the lack of consultation, believed there was already enough provision in the area and the proposed new establishment was therefore a threat to existing schools and staffing. Second, private schools in the area were worried that a free school would damage their own intake and threaten their survival. Third, the proposed site for the new school, beside a small and picturesque village, angered residents, particularly as they felt they had not been consulted properly. Many only found out about the proposed development *post hoc* and felt that, although there was an attempt to consult, this was precursory ("No to Route 39 Academy," n.d.).

Finally, as in the case of Core Academy, the school struggled to find a shared vision amongst its steering group. Sarah had been keen to create a school with an environmentalist ethos, whilst others wanted to develop a creative curriculum. The issue was further complicated as the group expanded to incorporate educational expertise, a requirement of the bid (New Schools Network, 2013). The group worked with Pearson Publishing on the bidding process, but the partnership was not based on mutual interests. The school wanted Pearson's inside knowledge of education to help with the bid whilst Pearson saw the

project as a test bed, primarily for its digital resources. The group placed an increasing number of demands on Pearson, who eventually felt their involvement was not cost effective and withdrew. The group had also continued to expand in number as the demands of the bid grew. A retired head teacher and his partner (also a teacher) became involved through informal conversations with 'friends of friends'. This pair in particular added a forceful dynamic and this new impetus was to take the group in a new direction. Rather than emphasising 'alternative education', the discourse tended towards more traditional justificatory rhetoric associated with education: equal opportunity and aspiration for the poor, teaching standards, competition, leadership and vision. The purpose of Trinity Academy also shifted; it was now justified in terms of addressing the deficit in the existing provision. As one member of the steering group put it, local schools needed to be given 'a kick up the backside'.

These new justifications were very much in tune with national Government rhetoric on free schools (Department for Education, 2010). Rather than being a local school for local children, the school shifted its focus in favour of those from lower socio economic groups who tended to live in urban areas thereby bringing it into line with existing schools in the urban areas. Competing with these schools meant competing for the same pupils. In truth, a class dimension emerged from the project: cheaper housing tended to be available in the towns whilst the housing in the remote areas was more exclusive, more expensive and therefore more likely to be occupied by aspiring middle class families. Those setting up Trinity Academy were dependent upon families, ostensibly from a different social class, to buy into their middle class values and have the economic wherewithal to travel out of town to the rural setting.

The group's bid was successful and Trinity Academy opened in Autumn 2014, however its continued existence was fraught with difficulties. As well as resistance from other schools in the area, the main issue was with local residents. Although small in number; this group had been extremely effective in subverting

Trinity Academy's development. Part of the bid had been for a new purpose built school to accommodate 700 pupils. However, the short timescales involved, meant the school first opened in a nearby village hall with just over 60 pupils. Originally intended as a temporary measure deputations from local residents resulted in the district council rejected the necessary planning permission for the new premises. National government eventually overturned this judgment ("No to Route 39 Academy," n.d.). Added to this uncertainty, the school received a 'requires improvement' grading from Ofsted in its second year leading to the resignation of the Principal.

Trinity Academy therefore developed in an *ad hoc* manner. Despite the aim of improving opportunities for all, the number of children on free school meals remained broadly in line with other schools in the area. Furthermore, evidence from parents and prospective parents interviews indicated a tendency to see Trinity Academy as an alternative to state provision that was also exclusive. All of those who expressed a desire to send their children to the school, for example, referred to its small size. One parent stated that their child 'would not be able to cope in a large school because of their specific emotional needs' a view indicative of many parents' attitudes: the school was considered an appropriate place for pupils with emotional issues who could not cope in a larger school. In addition, the notion of bullying came up consistently: the school was perceived as a good place for children who might otherwise be bullied. The class dynamic was also evident here: those from wealthier backgrounds used the word 'bullying' and there was a strong perception that children from more deprived backgrounds would not attend the school. To quote another parent, 'they would be too lazy to catch the bus in the morning'. Indeed, parents interviewed from a local housing estate did not want to send their children to the school.

One of the freedoms enjoyed by academies and free schools is the ability to remove pupils with little or no recourse. The Principal of Trinity Academy was forthright in her assertion of this right, stating that pupils who did not work

within the schools' values would be asked to leave. The travel time and the extended school day were further elements that deterred parents from the housing estate; but there was also a clear sense that Trinity Academy was not for them. One parent commented that a child from the estate had gone to the school, to which the reply came: 'not for long' followed by laughter from the rest of the group.

Towards a more progressive communitarianism

The reading of these two cases suggests there are deeper, more manifest tendencies within the process of social reproduction.. As Roger Dale observes, this process of education centres on three questions:

1. Who gets taught what, how, by whom, and under what conditions and circumstances?
2. How, by whom, and with what relations to other sectors and through what structures, institutions, and processes are these things defined, governed, organized and managed?
3. To what ends and in whose interests do these structures and processes occur, and what are their social and individual consequences?

(Dale, 2000: 438).

What is foregrounded in these questions is the issue of power. Steven Lukes defines power as: *A* exercises power over *B* when *A* affects *B* in a manner contrary to *B*'s interests (2005: 47). Based on the example of Trinity Academy outlined above, *A* can be defined as the steering group of the school. Although the group is heterogeneous in both their social makeup and motivations, they can be seen as a single group in that they are colonizing a predetermined space through a process of legitimation and mutual agreement. In other words the group is able to make decisions about where the school will be, who can and cannot get in, and the expectations placed upon pupils and their parents. By contrast, *B* is the group that can try and attend the school but they cannot decide

the rules to which they are to be subjected. Of course, this does not necessarily preclude the notion that all prospective parents are subjected to an asymmetrical power relationship: using Lukes' criterion, it can be argued that this arrangement is in the interests of some pupils and parents. Indeed, gaining an advantage was often a motivating factor amongst the slightly wealthier participants from urban areas. This group viewed the school as a positional good, that is, a good that can only provide utility through negative consumption by others. In this instance, they were able to gain utility through matching values with those of the agenda setters. The participants were keen to present themselves as knowing, active consumers in the education market. They wanted an education that enable their child to 'reach their potential' whilst realizing that this potential had limits. They liked the idea of an extended school day and were keen to highlight the fact that the parents of poorer children would not be prepared to make the effort to get their offspring into school for an early start. Furthermore, the participants' reference to bullying reveals a strategy to align themselves with a more favorable social group than was otherwise afforded to them. Here, the participants only referred to bullying as a problem that is unique to existing state provision. By placing their children in the new school, they were taking them away from the threat of bullying. Although the small size of the school was identified as a factor, the school's values and creative curriculum were also mentioned. As discussed earlier, these are factors that are historically engrained within the social fabric of the English education system: creative moral education can be placed in an advantageous, hierarchical, discursive relationship with the basic skills approach attributed to the lower orders.

By contrast, the participants from the poorest backgrounds did not share the same values. Some said that they would not send their children to Trinity Academy because the school day was too long and they believed it was important for children to spend time at home with their families. They also presented themselves as consumers and foregrounded the notion of choice but it was evident that these choices were framed negatively and were not related to the

notion of education as a positional good. For many; choice was a strategy for survival: they *moved* their children from school to school to try and find a place where they would fit in enough to get through the education system. Many had been 'diagnosed' with behavioral or learning difficulties and choice had more to do with ensuring their children could cope rather than the idea that their children could attain excellence or reach their potential.

Amongst this group there was also a strong sense of exclusion, not just from Trinity Academy; but the education system writ large. One parent spoke emotionally about her attempts to join a school's parent group, only to be provided with rebuttals or told the wrong meeting times. In his book 'Relations in Public' Erving Goffman outlines the ways in which individuals and groups territorialize spaces through a process of claims (1971). Following through Goffman's framework, it is the parents from the lower socio-economic groups who are clearly excluded from the creation and habitation of the new space; in other words, the new school. Given that there is a strong tendency for children from such backgrounds to do badly at school, there is a strong case that they are at the wrong end of an asymmetrical power relationship. However, whilst the wealthier parental group gain an advantage *over* the poorer parents, it is also possible to make the case that they too are disadvantaged in relation to Sarah and her friends because they still *have* to comply with the wishes of the school's founders.

It should be noted at this point that the steering group for the school were united in their desire to get parents *involved* in the running of the school but they were also frustrated by the lack of a response from parents. In the case of Trinity Academy, some of this can be attributed to material considerations: Sarah and her friends were able to take time out of working to set the school up whilst prospective parents are not always able to do this. The school is also over ten miles from other parents' homes whilst it is close to Sarah's. However; this alone does not explain the entirety of the problem. Some of the lack of participation is

due to social stratification. Here we argue, with reference to Jacques Ranciere's work, that once the school was imagined with a certain set of values, the gatekeepers of those values are in the ascendancy: it is only through their acceptance that an individual can join this group and they can only be accepted if they adhere to the group's values. Of course, over time, it might be possible to exact some change on the group but this is a high-risk strategy for any prospective incumbent.

Active and Passive Equality

At this point we want to emphasize that the process of policy backfire is not down to the moral limitations of people like Sarah and Helen. Both were committed to the common good and both were trying to improve opportunities for their own children and others. Instead, we proffer that the problem is with the system of education, and particularly the discursive structure that undergirds it. Here, we use Jacques Ranciere's theory of 'policing' (Ranciere & Corcoran, 2010) and Todd May's concepts of 'active and passive equality' (2008) to provide explanations and possible solutions. For Ranciere, the problem of policing (a group's ability to decide whilst others' lack of ability to make decisions goes unrecognized) is at the heart of social injustice. The argument that Sarah is in a privileged position here has already been documented but it also is necessary to acknowledge the fact that asymmetric power relationships do not end with Sarah and the steering group; they are also operating within a predetermined structure created by others. Sarah, in particular, felt a deep sense of frustration towards the Department for Education for the lack of support and guidance. On one hand, the school was having to follow predetermined rules and regulations laid down by successive governments, on the other, the group began with little or no experience of the education system. This sense of alienation was compounded by a negative Ofsted inspection in the school's second year; thus, the excluding were also the excluded.

For May (2008), this situation can only be addressed through a closer look at the process of interaction. In the education system on both sides of the Atlantic, it is an existing group who decide what inequality looks like and how it should be addressed. In other words, the problem is reduced to one of distribution rather than formulation: one group decide what is of value and then what each group is entitled to; those who are without are only acknowledged in terms of what they should receive. This is an example of passive distribution: one that is particularly prescient in the case of education. For May, the issue can only seriously be addressed through a process of active equality: one that begins with an assumption of equality between people rather than ends with equality as an outcome (May, 2008; 38). This means that equality can only happen when people are able to interact and negotiate around the issues raised by Dale. In the case of community schools, it is therefore necessary for all interested parties to be represented in the formulation of the school from the outset. One solution here would be to ensure that the bidding groups demonstrate that they are representative of the people who will use the school. Of course, this would not exclude the problem of uneven funding provision at a government level (people like Sarah will always be more successful in gaining provision from people 'like them'). Therefore, representation and negotiating mechanisms are required at all levels of the education system. This requires a privileging of democratic process over economic discourses; it requires the promotion of fairness over productivity, and it requires the placement of social diversity over meritocracy. It is only by doing these things that society will be able to truly flourish at all levels. As Martha Nussbaum also observes, although the rhetoric appears diametrically opposed to existing approaches, it need not be mutually exclusive (Nussbaum, 2012). It is possible for a more inclusive education system to be more, rather than less productive. In the words of Bill Withers: ' no one can fill, those of your needs, that you won't let show'. Perhaps it's time we were more vocal in expressing what we think education should be doing for us.

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