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EDUCATION IN LIBERAL POLITICAL THEORIES

by  
Amy C. Cain

A thesis submitted to the faculty of The University of Mississippi in partial fulfillment of  
the requirements of the Sally McDonnell Barksdale Honors College.

Oxford  
May 2020

Approved by

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## ABSTRACT

AMY C. CAIN: Education in Liberal Political Theories

(Under the direction of Dr. Robert Westmoreland)

This paper examines two sources of conflict within the literature on education in liberal political theories: the proper justifications for a state-mandated education and the necessary standard for education in a liberal state. After arguing that a liberal state must offer a child-centered justification for the universal mandate and uphold an equality standard of education, this paper proceeds to examine two common objections to such a system of compulsory education in a liberal state. This paper concludes that the perennial objections based upon concerns for familial rights and pluralism do not present a significant obstacle for incorporating a system of compulsory education in a liberal state.

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## INTRODUCTION

The origin of liberal political theories is traceable to a desire for social stability through tolerance of irreconcilable beliefs. These ideas eventually evolved into a family of theories addressing the relationship of liberty and the state which we now know as liberal political theories. Primarily, early calls for tolerance proposed an agreement of nonviolence between different religious sects. More than advocating complete acceptance of all religions, early proponents encouraged a *modus vivendi* in which different groups would compromise to reach an agreement on fundamental principles and tolerate differences in peripheral beliefs.<sup>1</sup> These agreements, although originally intended to protect the stability of the state from the people, eventually promoted a line of thought in which liberty of conscience was justified independently of its role in social stability as an individual right which must be protected from the state.

Many influential, contemporary defenses of liberty of conscience expand beyond the freedom necessary for achieving collective goals like social stability and protect individuals' liberty from state intervention.<sup>2</sup> Many modern liberal theories prioritize the liberty of individuals and propose a state which preserves the conditions under which this liberty can be exercised. Gaus, Courtland, and Schmitz characterize

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<sup>1</sup> Henry Kamen, *The Rise of Toleration*, (New York: McGraw-Hill, 1967): 69.

<sup>2</sup> Whether it is necessary for a liberal theorist to protect a scheme of liberties as opposed to a complete concept of liberty remains incredibly controversial, especially as a point of difference between classical and new liberals. This paper will treat theories protecting either a unified concept or a scheme of liberty as liberal.

liberal theories as guided by a form of the “fundamental liberal principle” which claims that because humans were in a state of total freedom before the emergence of the state, limitations of this freedom by the state must be justified.<sup>3</sup> Prior to the advent of the state, people were free to develop and pursue their own conceptions of the good. This “total freedom” includes complete liberty to form and pursue this conception independent of anyone else’s consent.<sup>4</sup> As such, “[L]iberals accord liberty primacy as a political value.”<sup>5</sup> Thus, the burden of proof lies with the state to justify any departures from complete liberty.

While liberals may be able to rally around the defense of liberty, refining this concept of liberty and its justification remains a contentious issue in the literature. Conceptions of liberty are distinguishable within two families: negative liberty and positive liberty.<sup>6</sup> Classical liberals, as well as many libertarian theorists, propose and defend a conception of negative liberty: liberty as the absence of external human-caused barriers and constraints on one’s action.<sup>7</sup> Perhaps the most influential liberty principle of this kind is that of John Stuart Mill which reads, “The only freedom which deserves the name is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs or impede their efforts to obtain it.”<sup>8</sup> For

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<sup>3</sup> Gerald Gaus, Shane D. Courtland, and David Schmidtz, “Liberalism,” *Stanford Encyclopedia of Philosophy*, Stanford University, January 22, 2018, <https://plato.stanford.edu/archives/spr2018/entries/liberalism/>.

<sup>4</sup> Gaus, Courtland, and Schmidtz.

<sup>5</sup> Gaus, Courtland, and Schmidtz.

<sup>6</sup> Some theorist, including Gerald MacCallum, deny a clear distinction between conceptions of negative and positive liberty; however, for the purposes of this paper, these differences relevant and will be treated as substantial. More information on this debate can be found in Ian Carter’s “Positive and Negative Liberty.”

<sup>7</sup> Ian Carter, “Positive and Negative Liberty,” *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, 2019. <https://plato.stanford.edu/archives/win2019/entries/liberty-positive-negative/>.

<sup>8</sup> John Stuart Mill, *On Liberty* (Indianapolis: Hackett Publishing Company, 1978), 12.

Mill, a person's potential to live an autonomous life in pursuit of his/her perception of the good requires limits on state power.

"Right" liberals in this negative liberty tradition, such as the libertarian theorist Robert Nozick, defend liberty as primarily a right to non-interference by the state.<sup>9</sup> Nozick describes his position as "rights as side constraints" which argues that "[t]he rights of others determine the constraints upon your actions."<sup>10</sup> As a consequence of his dedication to liberty as non-interference, Nozick's conception of rights as side constraints limits the role and authority of the state to the prevention and punishment of rights violations. Nozick maintains that this conception limits the goals which a state may pursue to those which do not violate individuals' liberty.<sup>11</sup> Even if social policies such as the redistribution of wealth would minimize overall rights violations, such policies cannot be pursued if even one person's liberty is abridged.<sup>12</sup> Although Nozick's theory offers an extreme example of this conception of negative liberty, classical liberals stress this idea of liberty as non-interference even while defending a larger role for the state.

"New" liberals conceive of liberty in the positive sense as not merely a right to non-interference, but also as a realized capacity to frame and pursue a conception of the good.<sup>13</sup> These "left" liberals, as typified by John Rawls, attempt to preserve a "fully adequate scheme of equal basic rights and liberties"<sup>14</sup> which allows a substantially more active role of the state and is consistent with substantial

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<sup>9</sup> Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 30.

<sup>10</sup> Nozick, 29.

<sup>11</sup> Nozick, 29.

<sup>12</sup> Nozick, 158-159.

<sup>13</sup> Ian Carter, "Positive and Negative Liberty."

<sup>14</sup> John Rawls, *Political Liberalism* (New York: Columbia University Press, 1996), 5.



restrictions of liberty. Later, Rawls defends liberalism as necessary for a society of fair cooperation amongst equal citizens.<sup>15</sup> Justice provides citizens with equal rights within society due to individuals' two moral powers – the potentialities to form a conception of the good and to give justice to others – and their powers of reason.<sup>16</sup>

In each of these conceptions of liberalism, those which advocate negative liberty and those which defend positive liberty, the central justification is found on the individual level: the liberty of each person limits the power of the state. Thus, the permissibility or impermissibility of policies in a liberal state must be judged on this individualistic basis.

In order to preserve the liberty of individuals to develop and pursue their own conceptions of the good, liberal theorists – in both the positive and negative liberty traditions – propose a neutral state. Liberal theories defend a state that is neutral in regard to differing conceptions of the good, yet the justification for this neutrality differs for political liberal theories and comprehensive political theories. Although neither sect of liberalism claims to be entirely amoral, a “political” liberal theory, as the later Rawls understands the term, proposes political principles which avoid appealing to any *comprehensive* conceptions of the good.<sup>17</sup> Political principles can be agreed upon by all reasonable persons in society, regardless of their personal conceptions of the good.<sup>18</sup> These neutral principles form the moral content of the liberal state.<sup>19</sup>

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<sup>15</sup> Rawls, 15.

<sup>16</sup> Rawls, 19.

<sup>17</sup> Charles Larmore, "Political Liberalism," *Political Theory* 18, no. 3 (1990): 341.

<sup>18</sup> Larmore, 341.

<sup>19</sup> Larmore, 341.

In contrast to this family of liberal theories, comprehensive theories, such as those liberal theories proposed by Immanuel Kant and John Stuart Mill, justify neutrality with appeals to controversial conceptions of the good, both of which are enveloped in the term “individualism.”<sup>20</sup> As Charles Larmore explains, “By remaining neutral with regard to controversial view of the good life, constitutional principles will express, according to them [Kant and Mill], what ought to be of supreme value throughout the whole of our life.”<sup>21</sup> Larmore continues, “Their view was that the individualist value of self-development offers the best justification of the principle that the state should not promote one controversial view of the good life at the expense of others.”<sup>22</sup> In order to support the claim that the state must remain neutral, comprehensive theories rely on contestable ideas of the good.<sup>23</sup> Thus, comprehensive liberalism’s attempts to preserve state neutrality violate the very liberal ideals which it purports to uphold. Larmore describes political liberalism as positioned between the extremes of a controversial comprehensive liberalism and the purely pragmatic *modus vivendi*.<sup>24</sup> This idea of political liberalism will be the ideal of neutrality against which liberal proposals will be measured in this paper.

Within a neutral state, liberal theories recognize the liberty of individuals to pursue their own conception of the good and, as such, reject highly paternalistic intervention by the state which attempts to promote or discourage certain conceptions of the good. This anti-paternalism is a consequence of liberal theorists’ acceptance of

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<sup>20</sup> Larmore, 343.

<sup>21</sup> Larmore 342-343.

<sup>22</sup> Larmore, 343.

<sup>23</sup> Larmore, 343.

<sup>24</sup> Larmore, 346.

irreducible pluralism: in a society in which people exercise their liberty in forming a conception of the good, there will be more than one fully reasonable conception of the good. In discussing the good as manifest in plans of life, John Rawls argues, “Since plans which it is rational to adopt vary from person to person depending upon their endowments and circumstances, and the like, different individuals find their happiness in doing different things.”<sup>25</sup> This multiplicity of conceptions of the good is not the result of some people’s ineffective exercise of liberty. Rather, as Charles Larmore explains, “Reasonableness, by which I mean thinking and conversing in good faith and applying, as best as one can, the general capacities of reason which belong to every domain of inquiry, has ceased to seem a guarantee of unanimity.”<sup>26</sup> Thus, even equally cautious stewards of liberty and reason will arrive at various conceptions of the good. Liberals reject a paternalistic state because the state’s imposition of its own conception of the good precludes individuals’ liberty to discover and pursue their own idea of the good. However, children present a unique challenge to this idea.

With this essential background, I turn to the core of my thesis: justifications and standards for education in a liberal state. Children have not yet formed their own conceptions of the good, so their potential to form these conceptions must be protected from indoctrination by both parents and the state. Stephen Macedo expresses this liberal concern in saying, “Indoctrination is antieducational whether it is undertaken by the government or by parents and churches.”<sup>27</sup> This is motivated by

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<sup>25</sup> John Rawls, *A Theory of Justice* (Cambridge: Belknap Press, 1999): 359.

<sup>26</sup> Larmore, "Political Liberalism," 340.

<sup>27</sup> Stephen Macedo. "Crafting Good Citizens." *Education Next* 4, no. 2 (2004): 15.

the requirement of justice that their future choices and lifestyles be truly their own, including a right of exit from communities in which one was raised. Yet, in order to preserve the liberty of individuals in future society, each generation must retain a certain amount of knowledge and ability to continue the liberal state. Even when conceived in the minimalist form of negative liberty, citizens of a liberal state must be informed of their own rights which they may choose to exercise and the rights of others which they may not violate. These concerns for the liberty of children and stability of the liberal state, either individually or jointly, propel most liberal theorists to incorporate universal state-mandated education into their theories.

This recognition of the necessity of universal education branches into other areas of disagreement. Among such queries are these: who is responsible for funding education, who should provide the physical schools where this education will occur, what ideas *can* be taught in schools, what ideas *must* be taught in schools, and who has the final say in designing a student's academic journey. Although discourse on educational theory rightfully includes considerations of both formal and informal institutions, this paper is primarily concerned with examining the questions related to the system of formal institutions in which children are educated from elementary grades through high school.<sup>28</sup>

The first two sections of this paper critically examine two conflicts within educational theories on the liberal spectrum. Part I examines the differing justification for universal education in liberal political theories and explains these arguments as separable into groups which utilize society-sustaining justifications and those which

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<sup>28</sup> For a discussion of this distinction see Alan Ryan's "J.S. Mill on Education" page 657.

are individualistic and child-centered. This section argues that for an education system to be consistent with a liberal political theory, its justification must be individual and focused on the liberty and potential liberty of children. Part II examines a further division between liberal political theories which present arguments for an adequate level of universal education and those which argue for equality of education. After examining the discourse in this literature, I argue that equality of education is most consistent with liberal ideals.

Having considered these divisions within discussions of education in liberal political theories, Parts III and IV examine and answer two perennial objections to mandating any level whatsoever of education in a liberal political system. Part III analyzes the objection that universal education violates parental rights and undermines the value of the family. Part IV confronts the concern that state-mandated education minimizes pluralism in a way that is inherently illiberal and argues that pluralism, while constrained by universal education, is constrained only for liberty's sake. Thus, this limitation meets the requirements of liberalism.

The ultimate section of this paper synthesizes the results of this analysis and concludes that further work is needed to explore the implications of these arguments for liberal theories not explored in this paper. In particular, Harry Brighouse's work passes the liberal standards proposed in this work and would benefit from an analysis of the specific challenges to his book *School Choice and Social Justice*.

## PART I: SOCIETAL VS. INDIVIDUAL JUSTIFICATIONS

Education plays a foundational role in weaving together generations of citizens into a common culture. As the famous educational reformer, John Dewey, observed, society is dependent upon its ability to pass information to future generations. He explains, “Education, in its broadest sense, is the means of this social continuity of life.”<sup>29</sup> Education provides a societal good in preparing children for their future roles in common life.<sup>30</sup> While this would perhaps be easily achievable through an indoctrination of productive attitudes and beliefs, liberals are particularly concerned with the deleterious effects this will have on students’ liberty.

Accordingly, liberals attempt to avoid Foucault’s conception of the modern school system. From Foucault’s perspective, educational institutions are merely a means by which society exercises power/knowledge to “maximize efficiency” and “neutralize dangers.”<sup>31</sup> This approach, while sustaining a stable society, incorporates indoctrination practices that fail to treat children as individuals who will develop and pursue their own conceptions of the good. As Mill cautions, “...a State which dwarfs its men, in order that they may be more docile instruments in its hands even for beneficial purposes – will find that with small men no great thing can really be accomplished.”<sup>32</sup> From Mill’s view, education is about presenting options to students,

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<sup>29</sup> John Dewey, “Democracy and Education (1916),” *Middle Works Bd 9* (1966): 2.

<sup>30</sup> Dewey, 6.

<sup>31</sup> James D. Marshall, “Foucault and Education,” *Australian Journal of Education* 33, no. 2 (1989): 108.

<sup>32</sup> Mill, *On Liberty*, 113.

not mandating belief.<sup>33</sup> In crafting their educational systems, liberal theorists must balance a desire to perpetuate a liberal state with the desire to preserve the liberty and future liberty of students.

In *On Liberty*, John Stuart Mill argues that “to bring a child into existence without a fair prospect of being able, not only to provide good for its body, but instruction for its mind is a moral crime, both against the unfortunate offspring and against society.”<sup>34</sup> Mill views universal education as both providing the public good of self-sufficient citizens and conferring individual goods in the form of “exalting and dignifying our nature.”<sup>35</sup> This two-pronged justification for state-mandated education – preventing harm to society and injustice to the child – spawned two often competing schools of thought in liberal political theory. Although I argue that it is productive to divide the literature along the lines of societal and individual justifications, it is important to note that these justifications are not mutually exclusive in every theory. Theorists who offer forms of both justifications are noted even as their arguments are divided for separate analysis. This analysis begins by analyzing justifications for state-mandated education which rest upon a concept for maintaining a continuity of the liberal state.

Stephen Macedo in “Liberal Civic Education and Its Limits,” argues for universal education on the basis that “peaceful, orderly, tolerant *liberal* diversity needs to be planned for.”<sup>36</sup> According to Macedo, common schools (physical

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<sup>33</sup> Graham Finlay, "Mill on Education and Schooling," *A Companion to Mill* (2016): 509.

<sup>34</sup> Mill, *On Liberty*, 104.

<sup>35</sup> Finlay, "Mill on Education," 504.

<sup>36</sup> Stephen Macedo, "Liberal Civic Education and Its Limits," *Canadian Journal of Education/Revue canadienne de l'éducation* 20, no. 3 (1995): 304 (original emphasis).

communal spaces in which classes are held) may be a matter of debate, but a basic level of common education is necessary in a political liberal system to ensure shared civic virtues.<sup>37</sup> In particular Macedo sees education as fulfilling the responsibility of teaching students civil respect which he describes not as a skepticism about the truth of one's own beliefs, but as an understanding between equal citizens that some views are irreconcilable.<sup>38</sup> Because of the permanence of reasonable pluralism, citizens in a liberal state must be taught how to view their fellow citizens as deserving of equal respect in the political sphere even in the presence of disagreement about comprehensive conceptions of the good.<sup>39</sup> As civil respect is essential for citizens to cooperate and continue the liberal state, the state must mandate an education which includes the teaching of this value. Thus, the system is ultimately justified in terms of the good which it provides the state.

In "Political Knowledge, Political Engagement, and Civic Education," William Galston contends that because a basic level of knowledge is required to make reasoned decisions, the democratic state has an interest in maintaining this level of knowledge through mandated education.<sup>40</sup> Galston asserts that no normative judgment is required to recognize that a democracy cannot survive without citizens' civic engagement.<sup>41</sup> This seems to be true by definition. If a democracy is a government whose decisions are made by the people, then an absence of people's participation would equate to the absence of a democracy. Nevertheless, a moral

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<sup>37</sup> Macedo, 304.

<sup>38</sup> Macedo, 308.

<sup>39</sup> Macedo, 307-308.

<sup>40</sup> William A. Galston, "Political Knowledge, Political Engagement, and Civic Education," *Annual Review of Political Science* 4, no. 1 (2001): 218.

<sup>41</sup> Galston, 220.



judgment *is* required to make this need to sustain democracy the basis for a state-mandated education in a liberal political system. In defense of this judgment, Galston merely prompts the reader to remember that education for citizenship was one of the primary reasons that the American public-school system was created.<sup>42</sup> However, this historical fact does not provide a solid basis for this judgment as faulty reasons are not grandfathered into justice merely because of their antiquity. A full argument for this democracy-sustaining justification is noticeably lacking in the article.

Callan builds upon the state-sustaining justifications defended by Macedo and Galston and takes them a step further by arguing that a liberal education system should actively instill the virtues of democratic liberalism. This expectation goes well beyond the requirements of a political process and instead promotes a liberal social society as well. He says that “a civic education worth its name will steel the spirit against the pull of liberal democratic heresy – it will be antiracist and antidiscriminatory, among other things.”<sup>43</sup> This requirement marks a departure from liberalism restrained to the political sphere and, instead, mandates a comprehensive doctrine: “one which includes an overall theory of value, an ethical theory, an epistemology, or a controversial metaphysics of the person and society.”<sup>44</sup> Callan’s system allows the state to institutionalize the teaching of a comprehensive conception of the good which violates the neutrality of the liberal state. Unlike Macedo who attempts to establish spheres of influence for teaching critical reflection and to

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<sup>42</sup> Galston, 231.

<sup>43</sup> Eamonn Callan, "Citizenship and Education," *Annu. Rev. Polit. Sci.* 7 (2004): 75.

<sup>44</sup> Gerald Gaus, Shane D. Courtland, and David Schmidtz, "Liberalism."

maintain the neutrality of political liberalism,<sup>45</sup> Callan denies that the skills needed to analyze the political realm can be restricted to this domain.<sup>46</sup>

If Callan is correct that a state-mandated civic education will always result in the teaching of comprehensive liberalism, then he presents a compelling argument against his own proposal. At its foundation, liberalism is neutral to comprehensive conceptions of the good.<sup>47</sup> An education system which cannot maintain this neutrality is not helping to sustain a liberal state; rather, such a system promotes and perpetuates an illiberal state. As such, Callan's proposal for a state-mandated education which actively instills the virtues of liberalism outside of the political sphere cannot be incorporated in a truly liberal system.

Whatever their other defects, the primary objection to these state-centered justifications is that they deprioritize liberty. Liberty, whether understood in the negative or positive sense, is applicable to individuals.<sup>48</sup> Justifications which center around continuity of the state wrongly deemphasize humanity's freedom in the natural state. Whether classical liberalism, which defends a state that maintains individuals' liberty of non-interference or new liberalism which proposes a state with more extensive powers to facilitate individuals' realized liberty, liberal theories begin with individual liberty and theorize a state which preserves this liberty. Therefore, educational systems that give priority to concern for the state's continuity are ruled out in principle by liberal theories. A liberal state-mandated education system must be conceived in the same way as the state itself: starting with individuals. Other liberal

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<sup>45</sup> Macedo, "Liberal Civic Education," 311.

<sup>46</sup> Callan, "Citizenship and Education," 76; 82.

<sup>47</sup> For further discussion of the importance of neutrality in a liberal state, please see the introduction.

<sup>48</sup> See the introduction for further discussion of this point.

theorists, often in the Rawlsian tradition, offer individualistic justifications for universal education based upon the potential autonomy and freedom of exit of children.

Amy Gutmann builds upon the Rawlsian tradition and the idea of primary goods in providing a child-centered justification for state-mandated universal education. Gutmann conceives of primary goods as “reflect[ing] a common understanding within society of what goods rational individuals, ignorant of their particular interests, would want provided for them within that society.”<sup>49</sup> She argues that primary goods, which are chosen in a situation akin to Rawls’s original position, determine the extent of allowable paternalism because children do not yet have the developed reason to determine and express settled goals themselves. Thus, primary goods are likely to ensure the greatest range of reasonable choices for them as adults within society.<sup>50</sup> Gutmann includes education, healthcare, family, and proper nutrition among the list of primary goods that properly define a society’s obligation to its children.<sup>51</sup>

M. Victoria Costa argues that an educational system must actively engage in conversations about different conceptions of the good in order to preserve the liberty of students.<sup>52</sup> She contends that this is consistent with Rawls’s political liberalism when it is applied to the reality of multicultural societies in which minority communities are often marginalized.<sup>53</sup> She notes that while Rawls did not include a

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<sup>49</sup> Amy Gutmann, "Children, Paternalism, and Education: A Liberal Argument," *Philosophy & Public Affairs* (1980): 341.

<sup>50</sup> Gutmann, 341.

<sup>51</sup> Gutmann, 340.

<sup>52</sup> M. Victoria Costa, "Rawlsian Civic Education: Political Not Minimal," *Journal of Applied Philosophy* 21, no. 1 (2004): 13.

<sup>53</sup> Costa, 11.

detailed plan for an education system in his theory,<sup>54</sup> he does argue that civic education is important so that individuals know their rights and do not remain in social groups merely because they do not have access to alternatives.<sup>55</sup> Thus, in Costa's view, the explanation of different conceptions of the good within a liberal education fulfills the state's role of protecting a realized right to exit.

Costa creates a false equivalence between freedom of exit and encouragement to exit. Costa seems to be endorsing a comprehensive conception of the good which prioritizes autonomy and self-reflection, yet education in this comprehensive ideal lies outside of the jurisdiction of a political liberal state. Freedom of exit does not require that one understands the complete list of available options. Rather, the exercise of this freedom requires that one knows his/her right to two options: this and not-this. By way of example, if a woman finds herself in an abusive marriage, her exit rights in a liberal state would include the legal right to exit that marriage; this does not require an education in the different types and forms of marriage and marriage alternatives.<sup>56</sup> The state's role is merely to ensure that she is informed of her right of exit and to guarantee that there will be no legal barriers to her exiting that situation. As explored by Sigal Ben-Porath, entrance paths after the point at which people exercise the right of exit are provided by a larger society when it accepts the exiting member and allows them to engage in "civic life, work, and leisure within dominant society."<sup>57</sup> These are the conditions of treating people as equal citizens, all of which

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<sup>54</sup> Costa, 1-2.

<sup>55</sup> Costa, 6-7.

<sup>56</sup> Example borrowed from Sigal Ben-Porath, "Exit rights and entrance paths: Accommodating cultural diversity in a liberal democracy," *Perspectives on politics* 8, no. 4 (2010): 1030.

<sup>57</sup> Ben-Porath, 1026.

are included in the structure of a liberal state. Education in a multitude of ways of life goes beyond this basic duty of the liberal state and, instead, encourages students to pursue the ideal of autonomy and to seek out ways of life aside from those in which they were raised.

Perhaps the most thorough child-centered justification for state-mandated education is provided in the work of Harry Brighouse. Defending a conception of positive liberty, Brighouse argues that all adults have an obligation to provide children with an equal education so that all children have an equal opportunity to develop into autonomous adults *if they choose such an ideal*.<sup>58</sup> According to Brighouse, to view education as a means to maintaining civil order is “precisely to treat children (and the adults they will become) not as potentially self-determining citizens but as subjects of a pre-determined order.”<sup>59</sup> This is, Brighouse argues, illiberal to its core. Brighouse dismisses education’s function in perpetuating the state as of secondary importance. He says, “Education’s status as a public good is irrelevant: that it is required by justice is what justifies state intervention.”<sup>60</sup> Turning the tables on state-centered theorists, Brighouse presents the argument that state legitimacy is threatened by an education which primarily aims to perpetuate the state.

Brighouse argues that the legitimacy of a liberal state is dependent upon its citizens continuously consenting to their government.<sup>61</sup> In order for this consent to be freely given, citizens must be equipped with the skills to evaluate their government.<sup>62</sup>

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<sup>58</sup> Harry Brighouse, *School Choice and Social Justice* (Oxford: Oxford UP, 2000): 15; 2.

<sup>59</sup> Harry Brighouse, "Two Philosophical Errors Concerning School Choice," *Oxford Review of Education* 23, no. 4 (1997): 508.

<sup>60</sup> Harry Brighouse, "Why Should States Fund Schools?," *British Journal of Educational Studies* 46, no. 2 (1998): 151.

<sup>61</sup> Harry Brighouse, "Civic Education and Liberal Legitimacy," *Ethics* 108, no. 4 (1998): 720.

<sup>62</sup> Brighouse, 735.

He argues that this is achieved through an autonomy-facilitating education that is distinct from civic education.<sup>63</sup> Importantly, this autonomy-facilitating education is independently justifiable. Brighouse argues,

The fundamental interest each has in living well yields an obligation on all to provide prospective adults with an instrument for selecting well among ways of life. Confidence that others have a real opportunity to live lives that are good *for them* is only possible if we provide the means to select one.<sup>64</sup>

Brighouse acknowledges the need for a just liberal state to maintain legitimacy from the consent of its people, yet he offers a completely independent justification for state-mandated education which is rooted in the individual liberty of children.

Unlike a strictly civic education which is justifiable by its role in legitimizing the state, an autonomy-facilitating education is justified completely by society's duty to children and, as a byproduct of this process, provides the option for legitimation of the state. According to Brighouse, this education includes (1) basic academic curriculum, (2) skills to identify fallacious arguments, (3) explanations of a full range of ethical views and their reasonings, and (4) training in how people have dealt and continue to deal with religious and moral disagreements.<sup>65</sup> Brighouse argues that his autonomy-facilitating style of education preserves liberty more thoroughly than an autonomy-encouraging education. Whereas an autonomy-encouraging education promotes a certain conception of the good (namely, an autonomous life itself), the autonomy-facilitating education provides students with the tools to live an autonomous life if they should choose such a path.<sup>66</sup>

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<sup>63</sup> Brighouse, 727.

<sup>64</sup> Brighouse, 731-732 (original emphasis).

<sup>65</sup> Brighouse, 732-733.

<sup>66</sup> Brighouse, 734.

Brighthouse attempts to distinguish his own proposal of autonomy-facilitating education from autonomy-encouraging education by saying that the curriculum provides knowledge and skills instead of focusing on acquired virtues. However, the line between these concepts is not as distinct as he hopes.<sup>67</sup> If a parent tells a child that he/she can choose any sport to play but also hands him/her a bat and glove, the parent has encouraged the child to choose baseball even if it was through actions and not words. Brighthouse admits that in practice autonomy-encouraging and autonomy-facilitating curricula may be indistinguishable.<sup>68</sup> Nevertheless, Brighthouse maintains that this subtle nuance is pivotal to maintaining the legitimacy of the state. By ruling out in principle, even if not clearly in practice, autonomy-encouraging education, Brighthouse retains a student-centered justification for universal education while also providing an avenue by which this education provides an opportunity for the legitimization and preservation of the liberal state.

From a historical standpoint, it is also worth noting that in American judicial precedent, child-centered justifications for universal education are given priority over state-centered concerns. In *Wisconsin v. Yoder*, the Supreme Court based their ruling on considerations of whether the state's interest was satisfied in producing citizens who would not be a burden on the state while also reflecting a concern for a child's personal development and freedom of exit. Writing for the majority, Chief Justice Burger argues,

...the State is not concerned with the maintenance of an educational system as an end in itself; it is rather attempting to nurture and develop the human potential of its children, whether Amish or non-Amish: to expand their

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<sup>67</sup> Brighthouse, 733.

<sup>68</sup> Brighthouse, 734.

knowledge, broaden their sensibilities, kindle their imagination, foster a spirit of free inquiry, and increase their human understanding and tolerance.<sup>69</sup>

He adds,

A State has a legitimate interest not only in seeking to develop the latent talents of its children, but also in seeking to prepare them for the lifestyle that they may later choose, or at least to provide them with an option other than the life they have led in the past.<sup>70</sup>

This line of reasoning reflects a concern for the liberal concept of a child's right of exit.

These child-centered justifications for a state-mandated education fulfill the requirements of a liberal political system by prioritizing the liberty of individuals above the interests of the state. Theorists offering either justification – state-centered or child-centered – may offer equally robust education systems which allow significant state intervention in children's liberty, and in practice, systems built on either foundation may look incredibly similar. The argument of this section is that only one of these families of ideas genuinely fulfills the requirements of a liberal system. I have argued that liberalism rules out in principle those educational requirements which are proposed to fulfill a state need rather than to protect the liberty and future liberty of students. The next section explores the standards of education which a liberal system must maintain following its justification on the basis of children's liberty.

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<sup>69</sup> “Wisconsin v. Yoder, 406 U.S. 205 (1972),” Justia Law, Accessed February 23, 2020, <https://supreme.justia.com/cases/federal/us/406/205/#tab-opinion-1949691>.

<sup>70</sup> “Wisconsin v. Yoder, 406 U.S. 205 (1972).”



## PART II: ADEQUACY VS. EQUALITY STANDARDS FOR EDUCATION

Having examined the proper justifications for a liberal education, this paper shifts to an analysis of the appropriate contents of a liberal state-mandated education. Due to the complexity of evaluating the particular curriculum defended by individual theorists, this paper proposes a simplified framework in which the substance of these systems can be scrutinized. From a big-picture view, standards of state-mandated educational achievement can be divided into two groups. The progression of liberal thought has witnessed a divide between theorists who argue for an adequate level of universal state-mandated education and those who defend an equal level of universal state-mandated education for all students.

Beginning with John Stuart Mill, classical liberals often fall into the segment of theorists who defend an adequacy standard. For Mill, education is a parental duty that serves as a means to guarantee that children do not become a burden on the state while also dignifying the individuality of each student in allowing him/her the opportunity to live an autonomous life.<sup>71</sup> The state's primary educational function is to hold parents to their duty and to ensure a minimal standard for schools and teachers.<sup>72</sup> Mill opposes a state monopoly on the provision of education; however, he contends that the state should administer yearly tests on basic subjects in order to "make the universal acquisition and, what is more, retention of a certain minimum of

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<sup>71</sup> Mill, *On Liberty*, 104.

<sup>72</sup> Alan Ryan, "J.S. Mill on Education," *Oxford Review of Education* 37, no. 5 (2011): 662.

general knowledge virtually compulsory.”<sup>73</sup> Thus, while some students will achieve levels of education above this minimum, the state is justified in compelling all students to reach this adequacy standard.

Graham Finlay presents a compelling internal objection to Mill’s adequacy standard. He says that in areas other than linguistics, reading, and math, Mill limits state-mandated education to merely the reproduction of facts which seemingly incentivizes behaviors counter to the development of critical thinking skills.<sup>74</sup> This proposal seems to contradict Mill’s goals of dignifying individuals and providing the tools for an autonomous life. Finlay contends that this oversight is mostly due to Mill’s “lack of familiarity with the practicalities of education.”<sup>75</sup> Mill’s attempt to limit the standard of compulsory content results in a failure to fulfill his proposed objectives for a liberal education.

Mill’s *On Liberty*, in which he presents this conception of a minimal standard, was originally published in 1859, yet “adequacy” seems to have a different meaning for varying societies at various times. An education which adequately prepared students for the 19<sup>th</sup> century society and workforce of Mill’s day would be woefully inadequate in the 21<sup>st</sup> century where educational and employment opportunities are dependent upon some level of technological literacy. Many theorists who have defended an adequacy standard since Mill’s time attempt to incorporate mechanisms by which this standard of adequacy can evolve to meet the needs of children in each new generation and society. James Tooley offers a market system for this process.<sup>76</sup>

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<sup>73</sup> Mill, *On Liberty*, 105.

<sup>74</sup> Finlay, "Mill on Education," 512.

<sup>75</sup> Finlay, 512.

<sup>76</sup> James Tooley, *Disestablishing the School* (Abingdon: Routledge, 2017): 119.

However, other contemporary liberal theorists avoid the problems associated with an evolving standard of adequacy and instead defend a standard of equal education for all students. Harry Brighouse is a prominent example of such a theorist. The discourse between James Tooley and Harry Brighouse exemplifies the argument between liberals on the right and left sides of the liberal spectrum. Tooley proposes minimal state intervention in his adequacy model of educational provisions while Brighouse argues for a system of state-involved education focused on equality of education amongst students. Their disagreement centers around the conflict between adequacy and equality standards of education.

In *Disestablishing the State*, James Tooley challenges the idea that the state must be intimately involved in educational as a matter of necessity.<sup>77</sup> In his work Tooley takes seriously the concerns of writers such as H.L. Mencken who worries that “the aim of public education is not to spread the enlightenment at all; it is simply to reduce as many individuals as possible to the same safe level, to breed a standard citizenry, to put down dissent and originality.”<sup>78</sup> Tooley sees his theory as an antidote to these forms of Foucauldian and Millian fears. He proposes to build a bridge between those he refers to as “radical ‘deschoolers’” who object to any state involvement in education and those who do not even question whether government involvement is required in education.<sup>79</sup>

Tooley challenges the idea that the state must be robustly involved in education by building on the work of E.G. West. West develops a “market model” of

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<sup>77</sup> Tooley, 1.

<sup>78</sup> Tooley, 2.

<sup>79</sup> Tooley, 2.

education from a thought experiment which begins with the absence of state intervention in education and incorporates (1) the stipulation that parents are the default providers of education and (2) an infancy protection clause which allows for intervention in families if children are mistreated.<sup>80</sup> In Tooley's proposal, all state involvement in education is justified on the individualistic level of protecting children; thus, Tooley's theory fulfills the initial requirements of a liberal educational theory defended in Part I.

Extending West's "market model," Tooley argues that the state's involvement in education should be limited to (1) regulation of a minimum standard of education through government inspection, (2) funding the education of children from families who are unable to pay, and (3) coercion of students to participate in education who would not do so willingly.<sup>81</sup> Tooley argues that inspectors can use "rules of thumb" developed within their own cultures to decide when educational opportunities are insufficient.<sup>82</sup> He contends that a "minimum adequate education could be ensured without the state being involved in promoting a particular curriculum."<sup>83</sup> Instead of defending even a very vague curriculum, Tooley contents himself with having "ruled out, for many readers, what seemed to be the very demanding curricula of education for democracy, and education for autonomy."<sup>84</sup>

In order to strengthen his own case for an adequacy standard for education, Tooley examines the educational proposals in other liberal political theories and

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<sup>80</sup> Tooley, 4.

<sup>81</sup> Tooley, 4.

<sup>82</sup> Tooley, 146.

<sup>83</sup> Tooley, 146.

<sup>84</sup> Tooley, 147.

argues that an adequacy standard fulfills their requirements as well. Tooley contends that Rawls's theory is compatible with West's market model by arguing for a by-pass around the difference principle in regard to education.<sup>85</sup> Rawls's difference principle stipulates that social and economic inequalities are justified "only if the difference in expectation is to the advantage of the representative man who is worse off."<sup>86</sup> Tooley says, "...West's 'minimum adequate education for all' satisfies Rawls' position on equality of opportunity, with the proviso that instead of seeking the difference principle, we substitute what Rawls was seeking from it, namely a society with an adequate guaranteed minimum, or safety net."<sup>87</sup>

Tooley's insistence on equivalence between adequacy and equality of opportunity is a point of contention for defenders of equality of education such as Harry Brighouse. Brighouse directly addresses Tooley's qualms with Rawls in "Why Should States Fund Schools?" Brighouse rejects Tooley's assertion that Rawls would accept an adequate safety net as a substitution for equal opportunity in education. Brighouse contends, "...since fair equality of opportunity is the key notion, prior to the difference principle (or any more defensible substitute), Rawls will still require life-prospects to be as insensitive as possible to family circumstances, even if he abandons the difference principle."<sup>88</sup>

Brighouse defends this claim with two sub-arguments. He concedes to Tooley that Rawls does allow for inequality of opportunity when such inequalities aid the

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<sup>85</sup> Tooley, 27.

<sup>86</sup> John Rawls, *A Theory of Justice*, 68.

<sup>87</sup> Tooley, *Disestablishing the School*, 30.

<sup>88</sup> Brighouse, "Why Should States," 143.

least advantaged.<sup>89</sup> However, because inequalities in education will likely not fulfill this purpose in a single generation, Brighthouse concludes that they are not allowed by Rawls's theory.<sup>90</sup> Additionally, Brighthouse rejects such inequalities because children, the participants in the unequal system, would not understand the justification of such differences. He explains, "Children cannot be presumed to understand the social purpose of inequalities, which will appear to place greater value on the lives of beneficiaries."<sup>91</sup> On these grounds, Brighthouse argues that Rawls's theory supports an equality standard over an adequacy standard.

Brighthouse defends a standard of equality of education among all students as a matter of justice among equal individuals. Brighthouse explains,

Equal opportunity is desirable as a way of implementing a presumption of the equal moral worth of all persons. This is an individualist criterion: having society devote less resources to someone's life for arbitrary reasons is not much less of an assault on his [or her] moral standing than having society license such discrimination on other bases.<sup>92</sup>

He continues to argue that allowing students with wealthier parents to receive more educational resources than children of low-income families is, in fact, the sort of arbitrary allocation of society's resources that denies moral equality between persons.<sup>93</sup> Importantly, Brighthouse is defending the position that society as a whole is responsible for this breach of justice if a child is not provided equal opportunities; thus, society is collectively responsible for preventing this injustice. Brighthouse argues,

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<sup>89</sup> Brighthouse, 143.

<sup>90</sup> Brighthouse, 143.

<sup>91</sup> Brighthouse, 143.

<sup>92</sup> Brighthouse, *School Choice*, 152.

<sup>93</sup> Brighthouse, 152.

It is not good enough that people just happen to get what they have a right to: justice requires institutional guarantees. From the point of view of justice it is not good enough that an individual's rights never happen to be violated: it is essential that we establish institutional forms which assure individuals that they can make and execute their life plans without fear of rights violations. The state is an indispensable means for doing this...<sup>94</sup>

Brighouse argues that justice requires that children's possibilities of securing societal goods, such as education or employment, not be limited by the intellect and resources of their parents (as would be the case in a market model) or their own aptitudes.<sup>95</sup> For Brighouse, inequality is tracked by determining the degree to which inequality in educational resources correlates to inequalities in family economics, parental educational attainment, or abilities of the student.<sup>96</sup>

Tooley denies Brighouse's equal-opportunity based objection to privatization of education on three grounds: (1) the impracticality of thinking that the state can ever provide genuine equality of opportunity, (2) the lack of incentives for parents to advocate for better schools, and (3) the assertion that equalizing schools will not equalize education.<sup>97</sup> Brighouse admits that complete equality of education may be impractical, but in answering Tooley's first and third objections, Brighouse argues that it matters not only where people are ranked on society's ladder, but also how close the rungs are to each other.<sup>98</sup> Although a liberal state may never achieve perfect justice, it maintains a duty to approach this ideal as closely as possible. As a response to Tooley's second objection, Brighouse contends that because the intrinsic benefits

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<sup>94</sup> Brighouse, 162.

<sup>95</sup> Harry Brighouse, "What's Wrong with Privatising Schools?," *Journal of Philosophy of Education* 38, no. 4 (2004): 617.

<sup>96</sup> Brighouse, *School Choice*, 140.

<sup>97</sup> James Tooley, "Why Harry Brighouse Is Nearly Right About the Privatisation of Education," *Journal of Philosophy of Education* 37, no. 3 (2003): 436-438.

<sup>98</sup> Brighouse, "What's Wrong," 627.

of education are positive-sum, parents will maintain an incentive to advocate for better schools in a public system.<sup>99</sup> So, even if parents cannot provide their child with a competitive advantage by campaigning for improvements in her education, they will advocate for improvements in education which benefit their child and all other students.

Beyond his initial objections, Tooley isolates what he sees as a paradox in Brighouse's argument: "that the *more* you equalise *schooling*, the *more important* family influence will become."<sup>100</sup> Brighouse offers suggestions to mitigate this influence, including lengthening the school day and providing assistance to disadvantaged families to aid in the upbringing of children in the home.<sup>101</sup> He continues to endorse the suggestion that the state adopt zoning policies which actively disrupt the settlement patterns of class-based neighborhoods.<sup>102</sup> However, these solutions seem to raise more problems for Brighouse's theory. Without providing a thorough argument for each of these suggestions, Brighouse leaves himself open to a *prima facie* objection that such reforms exceed the justified powers of a liberal state and violate individuals' liberty. This lack of support remains a problem to be explored in his work.

Tooley further argues that Brighouse's work leaves open the possibility of an "efficiency argument" in favor of school privatization which says that if privatization were more efficient economically in providing the same education, then it would be

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<sup>99</sup> Brighouse, 624-625.

<sup>100</sup> Tooley, "Why Harry Brighouse," 438 (original emphasis).

<sup>101</sup> Brighouse, "What's Wrong," 626.

<sup>102</sup> Brighouse, 626.



preferable to a public system.<sup>103</sup> While this may be true, Tooley would need substantial empirical evidence to prove that this is indeed the case. Brighouse counters that Tooley can only argue that in some circumstances full privatization is closer to fulfilling the requirements of justice than the current public system.<sup>104</sup> Brighouse provides case studies to argue that this is not evidenced in developing countries.<sup>105</sup> The sporadic reports which favor privatization are, Brighouse argues, insufficient to mandate the switch to this system.

For the sake of argument, Brighouse assumes Tooley's position that perhaps justice only requires an adequate education.<sup>106</sup> Brighouse explains, "Justice requires the adequacy principle be fulfilled so it is not sufficient for it merely to be filled; its fulfillment has to be guaranteed."<sup>107</sup> Even if Tooley is able to provide a defense for the claim that justice requires an adequacy standard, which Brighouse notes is lacking in Tooley's work, Tooley's market system does not guarantee that the standards of justice are fulfilled.<sup>108</sup> At best, the standard of adequacy in education only satisfies the requirements of justice by chance. Thus, justice between equal citizen in a liberal system requires a standard of equality as opposed to a standard of adequacy.

After examining the debate between adequacy and equality standard for a liberal education, I conclude that for a liberal state to fulfill its duty in protecting the liberty and political equality of its citizens, liberal education systems must adopt standards of equality. Adequacy standards may prove sufficient for preventing

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<sup>103</sup> Tooley, "Why Harry Brighouse," 441.

<sup>104</sup> Brighouse, "What's Wrong," 621.

<sup>105</sup> Brighouse, 622.

<sup>106</sup> Brighouse, 618.

<sup>107</sup> Brighouse, 618.

<sup>108</sup> Brighouse, 618.

children from becoming a burden on the state, but as I argued in Part I, liberal institutions must be justified on the individual level of respecting citizen's current and future liberty. Equality standards, as presented by Brighthouse, are faithful to the child-centered justification in their demand that all students be treated as equally deserving of the opportunity to frame and pursue their own conceptions of the good within the liberal state.

### PART III: PARENTAL RIGHTS AND FAMILY VALUE

A perennial objection that liberals face when defending state-mandated universal education, particularly of the individual equality-based variety defended in Parts I and II, is that such a system violates parental rights and undermines the value of the family. Because children are not yet fully rational beings who are capable of giving consent, they must be treated paternalistically.<sup>109</sup> The question becomes who will exercise this paternalistic power. For many theorists, the obvious and complete answer is the child's biological parents.<sup>110</sup> However, because of the priority of a child's liberty and future liberty in any liberal theory, parental rights to control over their children's education are disputable.

In particular, critics of an equal state-mandated education worry that this system undermines the right of parents to raise their children within their own religious lifestyle. Education could be detrimental to these lifestyles by (1) violating a religious doctrine which prohibits education or (2) resulting in the voluntary departure of children from the religious way of life after receiving an education. Gutmann confronts this first concern and explains, "We rank children's rights to education above their rights to religious freedom since we believe that this restriction of their present liberty is necessary to create the conditions for future enjoyments of

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<sup>109</sup> Gutmann, "Children, Paternalism, and Education," 339.

<sup>110</sup> This is one of the foundational assumptions in E.G. West's market model which is later adopted into the foundation of James Tooley's argument in *Disestablishing the School*.

religious and other freedoms.”<sup>111</sup> Thus, while children may mature into adults who adhere to a religious doctrine which advocates the immorality of education, this religious freedom can be limited in childhood in order to guarantee that this religious view and lifestyle is chosen freely as an exercise of liberty and not as a function of indoctrination. This argument is analogous to that provided by John Stuart Mill in his explanation of why a liberal state can prohibit voluntary slavery contracts. In Chapter V of *On Liberty*, Mill argues that a state can restrict such contracts on the grounds that this singular act precludes a lifetime of exercising one’s liberty.<sup>112</sup> He says, “The principle of freedom cannot require that he should be free not to be free.”<sup>113</sup> Gutmann’s argument follows suit. Religious freedom cannot be used to deny a child access to an education which allows him/her to understand and exercise liberty in the first place.

A challenge of this religious variety is raised and dismissed in *Mozert v. Hawkins*. *Mozert*, the parents of students in the Hawkins School District, “claimed interference with their parental right to control the religious and moral upbringing of their children”<sup>114</sup> because the school district utilized reading materials which, the parents alleged, featured topics such as feminism and socialism.<sup>115</sup> The court ruled that the students could be compelled to use these textbooks because they were not coerced to accept the ideas in the texts.<sup>116</sup> The books were merely used to develop citizens through the cultivation of critical thinking skills in areas such as morality and

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<sup>111</sup> Gutmann, "Children, Paternalism, and Education," 349.

<sup>112</sup> Mill, *On Liberty*, 101.

<sup>113</sup> Mill, 101.

<sup>114</sup> Martha M. Michael, "Free Exercise of Religion within the Public School-Mozert v. Hawkins County Board of Education," *Notre Dame JL Ethics & Pub. Pol'y* 3 (1987): 482

<sup>115</sup> Michael, 480.

<sup>116</sup> Michael, 485-486.

social issues.<sup>117</sup> Furthermore, the fact remains that the Mozerts are free to teach their children their chosen side of these issues outside of school hours.

Even classical liberals who defend negative liberty, such as John Stuart Mill, are perhaps not as deferential to parental rights over a child's education as may be supposed. Alan Ryan, a Mill scholar, contends that Mill generally "brushes off the common view that parents had a natural right to determine the content of their children's teaching."<sup>118</sup> Mill repudiates parents' conception of their rights over their children. He says,

It is in the case of children that misapplied notions of liberty are a real obstacle to the fulfillment by the State of its duties. One would almost think that a man's children were supposed to be literally, and not metaphorically, a part of himself, so jealous is opinion of the smallest interference of law with his absolute and exclusive control over them, more jealous than of almost any interference with his own freedom of action: so much less do the generality of mankind value liberty than power.<sup>119</sup>

Thus, even with the acceptance of the necessity of paternalistic influences on children, parental rights over their children are in no way as absolute as rights over oneself. Mill denies that parents should be the final authorities over the content of their children's education for the simple fact that "[t]he uncultivated cannot be competent judges of cultivation."<sup>120</sup> Mill contends that average parents have an insufficient understanding of the education that students require.<sup>121</sup>

Amy Gutmann argues that a parent's negative liberty to live their life as they see fit cannot be extended to rights over other people, including their children.<sup>122</sup> She

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<sup>117</sup> Michael, 492.

<sup>118</sup> Ryan, "J.S. Mill on Education," 663.

<sup>119</sup> Mill, *On Liberty*, 103-104.

<sup>120</sup> Finlay, "Mill on Education," 509.

<sup>121</sup> Ryan, "J.S. Mill on Education," 663.

<sup>122</sup> Gutmann. "Children, Paternalism, and Education," 345.

says, “We have no a priori reason to favor one paternalistic agent over another.”<sup>123</sup> As opposed to assuming the role for biological parents, Gutmann maintains that paternalistic rights should be given to the agent that is most able to satisfy the interests of the child.<sup>124</sup> In her conception, parents are given paternalistic rights on the condition that they satisfy these needs which “leaves open, at least in theory, the possibility that parents will not be the appropriate paternalistic agents for their own children.”<sup>125</sup> While this argument may appear upon first glance to be offensive to society’s conception of the nuclear family, this idea aligns with our common conception of guardianship which encompasses parental rights while being transferable to other family members, adopted family members, and even the state.

Harry Brighouse’s conception of parental rights complements that of Gutmann by expanding on the idea that these parental rights are derivative while a child’s liberty and right to an education are fundamental. Brighouse argues because parental rights are rights over another human being, to affirm the priority of parental rights in education is to ignore that children are also individuals.<sup>126</sup> Parental rights are not fundamental; they are derivative rights based upon the benefit to children for development.<sup>127</sup> Thus, fundamental rights of the child can trump derivative rights of the parents.<sup>128</sup>

In his critique of Brighouse, James Tooley commits Brighouse to the idea that authorities can prescribe paths of action for individuals better than the individuals

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<sup>123</sup> Gutmann, 341.

<sup>124</sup> Gutmann, 343.

<sup>125</sup> Gutmann, 343.

<sup>126</sup> Brighouse, "Why Should States," 149.

<sup>127</sup> Brighouse, 149-150.

<sup>128</sup> Brighouse, 150.

themselves.<sup>129</sup> He argues that a centralized state-mandated education, such as the autonomy-facilitating education proposed by Brighouse, neglects to take into account the variety of experiences and intellectual abilities which would be accommodated more efficiently if parents and local authorities maintained control over education.<sup>130</sup> In effect, Tooley accuses Brighouse of unacceptable paternalism in regard to the students' parents. In Tooley's view, the state is unjustly exercising its power and violating parents' liberty by removing these choices from the parents' purview.

Tooley's objection of unwarranted paternalism both misses Brighouse's point on parental rights as derivative rights and blurs the division between allowing experts to shape policy and accepting unrestricted orders from a dictator. The individuals affected by educational policy are not the ones who will make the decisions in any suggested theory. The consensus is that children are insufficiently developed to be entrusted with these decisions themselves. Thus, paternalism is inevitable in regard to education.

As was recognized in Part II, Brighouse's theory is susceptible to an argument from efficiency. For Brighouse, parental rights are merely a pragmatic social construct. Brighouse argues that parental rights are merely a convenient vehicle for fulfilling all adults' obligation to children.<sup>131</sup> He argues that while all adults have an obligation to provide children with the opportunity to become autonomous individuals, most adults are not in a position to fulfill this obligation.<sup>132</sup> Thus, out of

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<sup>129</sup> Tooley, "Why Harry Brighouse," 434.

<sup>130</sup> Tooley, 435.

<sup>131</sup> Brighouse, *School Choice*, 15.

<sup>132</sup> Brighouse, 15.

convenience, this duty falls to parents.<sup>133</sup> However, if the child's best interests are served by dividing this duty with other adults, then that is the option that should be chosen.<sup>134</sup> If parental decisions were found to produce a consistent pattern of superior outcomes and levels of equality for children, Brighthouse would have to defer to the parents over supposed experts. However, until this state of affairs obtains (which Brighthouse appears to see as an unlikely event), paternalistic decisions are entrusted to the entity which can best satisfy the educational needs of students: the state's experts. Thus, reliance on educational professionals is not unqualified in the way that one would expect from a blindly paternalistic state. Additionally, as argued in Part II, the liberal state must guarantee that all students receive an equal standard of education. I think that there is a *prima facie* case for assuming that a decentralized system of nearly complete parental control over education, which Tooley suggests, would be unable to more effectively fill this requirement than a smaller group of state experts.

Unsurprisingly, leftist liberal theories are susceptible to the criticism that they not only violate parental rights but are also generally unfriendly to the family as an institution. In anticipation of this concern, Brighthouse incorporates a caveat into his principle of transferability of parental rights. His full position reads,

If children's interests in general are best served by a division of authority between parents and some other agency, then that division is to be preferred over giving parents exclusive authority, *as long as this division does not infringe the fundamental rights of parents to intimate relations with their children.*<sup>135</sup>

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<sup>133</sup> Brighthouse, 15.

<sup>134</sup> Brighthouse, 17.

<sup>135</sup> Brighthouse, *School Choice*, 17 (emphasis added).



Elsewhere, Brighouse directly confronts the concern that his suggestions are antagonistic to the value of the family. To address this issue, he posits an area of affairs that is free from state interference by the mere fact that such matters are essential to the value of families and that family value is “prior to the value of educational equality.”<sup>136</sup> He provides two specific examples of activities which occupy this intrusion-free space: the right to transmit one’s passion to one’s children and the right to share one’s life with one’s children.<sup>137</sup> These restrictions on state action imply that when children are not at school, parents will be able to teach their own religious doctrines and/or comprehensive conceptions of the good to their children without fear of the state’s obtrusion. Brighouse contends that his theory respects the value of the family because there is no reason to think that the possible restrictions imposed by his theory (such as prohibiting private schooling) will affect the loving relationships between parents and children that exists during family hours.<sup>138</sup>

I offer a supplementary argument to bolster Brighouse’s claim. The family value which opponents of an equality standard for state-mandated education purport to defend is entirely unique to the family unit. If family value is unique to the familial institution, such value cannot be transferred to another entity. Familial rights exist in this sphere of the family’s nontransferable value, i.e. value that cannot be found in any other institution. Brighouse’s two suggestions of sharing one’s life with one’s

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<sup>136</sup> Brighouse, “What’s Wrong,” 625.

This priority is described as analogous to the priority of the Liberty Principle in Rawls’s *A Theory of Justice*.

<sup>137</sup> Brighouse, 625.

<sup>138</sup> Brighouse, 626.

children and the ability to share one's passions with one's children<sup>139</sup> are included within the category of familial goods with nontransferable value. Complete parental rights over education would allow parents who are "good choosers" to provide their children with a positional economic good of an education above the level of equality with fellow students. However, positional economic goods can be derived from multiple entities outside of the family, such as through volunteer experience within the community. Thus, positional economic goods are not part of the unique value of the family. It follows that limitations on parents' ability to choose a superior education that provides these positional economic goods do not affect the unique value of the family itself. Therefore, equalizing education does not diminish the value of the family.

Many liberal theorists feel compelled to defend their theories against the accusation that their educational proposals negatively affect the familial institution either by violating parental rights or undermining the institution's value. However, a closer analysis of these concerns and liberals' responses renders these objections ineffective. By limiting parents' ability to provide their children with a higher level of education than the children's peers, liberal theorists neither infringe on parental rights nor diminish the value of the family.

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<sup>139</sup> Brighouse, 625.

#### PART IV: MINIMIZED PLURALISM AND LIBERAL EDUCATION

Other common objections to a state-mandated education rest on the concern that such a system renders some ways of ways life inaccessible. By requiring all children to receive an education, liberals are removing, in effect even if without intention, some ways of life from the realm of citizens' choices. The opponent of a universal mandatory education argues that this violates liberal tenets and minimizes the societal pluralism which liberals are supposed to protect.

Liberals who advocate for a state-mandated education defend themselves from such objections through various arguments for the claim that the prioritization of individual liberty is not directly translatable into a maximization of pluralism. In *On Liberty*, Mill argues that some ways of life which are entirely antithetical to liberty will necessarily be restricted by a liberal society. One such lifestyle is that of voluntary slavery.<sup>140</sup> Mill maintains that a liberal society will not permit this lifestyle and explains that “[t]he principles of freedom cannot require that he should be free not to be free. It is not freedom to be allowed to alienate his freedom.”<sup>141</sup> In Mill's theory, one cannot pursue a life of slavery even voluntarily; this conception of the good is ruled out in principle by a liberal state. Liberalism is justified in restraining the pursuit of such lifestyles because it does so for the preservation of liberty.

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<sup>140</sup> Mill, *On Liberty*, 101.

<sup>141</sup> Mill, 101.

Mill advocates for the protection of pluralism as a means not as an end with intrinsic value. This diversity of lifestyles is an experiment for determining which conceptions of the good are worth pursuing.<sup>142</sup> As people are allowed to pursue different lifestyles and plans for creating a good life, individuals within society are able to witness the results and determine for themselves which lifestyles are indeed worth pursuing. These experiments in different ways of life “would promote and destroy pluralism at the same time.”<sup>143</sup> As people move between communities and start new practices in pursuit of their conceptions of the good, those lifestyles which fail to gain new adherents will eventually cease to be a part of society. Pluralism has only instrumental value in this sense.

Alan Ryan, in his article “Mill in a Liberal Landscape,” applies these ideas to the landmark Supreme Court case *Wisconsin v. Yoder*. Ryan claims that in regard to *Yoder*, a liberal could argue based on a child’s freedom of exit that “[i]f the Amish cannot preserve their hold over their young people without preventing them from learning whatever an American high school might teach them after the age of fourteen, they have no business trying to preserve their way of life at all.”<sup>144</sup> A liberal society has no obligation to maintain the highest possible level of diversity in lifestyles; rather, the liberal state retains a duty to preserve the liberty of *individuals* in its citizenry.

Fear of a child’s exit or the diminution of a community’s population by the free choices of its next generation cannot be used to limit a child’s access to

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<sup>142</sup> Alan Ryan, “Mill in a Liberal Landscape,” In *The Cambridge Companion to Mill*, edited by John Skorupski, 497-540. Cambridge: Cambridge UP, 1998: 534.

<sup>143</sup> Ryan, 537.

<sup>144</sup> Ryan, 527.

education. This would prioritize liberty of groups over the liberty of individuals in a way which violates the fundamentals of liberalism. In the article “Fairness to Goodness,” John Rawls presents the argument that fairness to individuals takes priority above fairness to ways of life.<sup>145</sup> He explains,

[I]ndividuals are not identified with their actual or possible plans but are viewed rather as beings that have a capacity for forming, adopting, and changing these plans, should they be so moved; and who give priority to preserving their liberty in these matters.<sup>146</sup>

This liberty of individuals to construct and pursue their own conceptions of the good must be preserved by the liberal state even at the expense of diminished membership in some communities. Group rights are derived from the liberty and free consent of its members. So, the fundamental liberty and right of exit of a groups’ members cannot be limited merely to preserve a unit with only derivative rights. As argued in Parts I and II, education is a matter of fundamental liberty for children; thus, the interests of groups cannot be leveraged to abridge this liberty.

Some liberal theorists argue that diversity of lifestyles is also necessarily limited by the need to teach students the political values of mutual respect or toleration in a truly liberal state. In order for the state to protect the liberty of its whole population, citizens must be allowed equal respect and participation in the political sphere. This requirement necessitates that comprehensive conceptions of the good which reject this political equality, and their corresponding lifestyles, will be made unavailable by the teaching of this political value. John Rawls argues that although the liberal state includes a reasonable diversity of lifestyles, the liberal state

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<sup>145</sup> John Rawls, "Fairness to Goodness," *The Philosophical Review* 84, no. 4 (1975): 554.

<sup>146</sup> Rawls, 553.

maintains no obligation to preserve “unreasonable” comprehensive conceptions of the good. He says,

Political liberalism assumes that, for political purposes, a plurality of reasonable yet incompatible comprehensive doctrines is the normal result of the exercise of human reason within the framework of the free institutions of a constitutional democratic regime. Political liberalism also supposes that a reasonable comprehensive doctrine does not reject the essentials of a democratic regime.<sup>147</sup>

However, liberal theorists must not be overzealous in incorporating these ideals in an education system. While students must be taught the political values of respect and equality of persons, the teaching of these ideals as comprehensive values outside of the political sphere violates the neutrality of the liberal state by actively discouraging illiberal lifestyles. Thus, the teaching of values which may limit societal pluralism must be justified on the grounds of protecting individuals’ liberty and political equality.

In “Civic Education and Social Diversity,” Amy Gutmann argues that a liberal education must teach students the political value of mutual respect. Initially, she claims that diversity is limited because liberalism produces a society in which citizens “respect each other’s basic rights and opportunities.”<sup>148</sup> Later in the same article, Gutmann expands this conception of mere tolerance for the sake of civic equality to the more expansive requirement of mutual respect.<sup>149</sup> She argues that the concept of simple tolerance of equality would result in a “live and let live” mentality that is irreconcilable with true equality of opportunity.<sup>150</sup> Using the example of

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<sup>147</sup> Rawls, *Political Liberalism*, xviii.

<sup>148</sup> Amy Gutmann, "Civic Education and Social Diversity," *Ethics* 105, no. 3 (1995): 559.

<sup>149</sup> Gutmann, 561.

<sup>150</sup> Gutmann, 561.

nondiscrimination in hiring practices, Gutmann contends that tolerance will produce discrimination between different societal groups which usually avoid interacting with one another while mutual respect (a level of positive regard) amongst all citizens would mitigate this problem. Thus, she argues that mutual respect is a necessary value in the political sphere of society.<sup>151</sup>

Gutmann preempts possible objections to this idea by clarifying that mutual respect is only taught to students as compulsory in the political sphere. Gutmann explains,

Political liberalism does not value mutual respect as a nonpolitical virtue—part of what living an open-minded or autonomous life entails—but it still embraces mutual respect as an essential political virtue because it is a practical prerequisite for nondiscriminatory employment practices.<sup>152</sup>

Tolerance would require merely that different groups coexist within society even if in isolation from one another; however, Gutmann sees mutual respect as guaranteeing that these groups can interact equally and peacefully as is required in the political sphere of a liberal state.

The teaching of mutual respect necessarily precludes the existence of groups in society which hold dogmatic biases against other groups. Gutmann accepts that some ways of life are irreconcilable with liberal political systems. She elaborates, “Liberal democracy is not committed to enabling all valuable ways of life to flourish, no matter what. The dilemma of diversity arises because the value of a conscientious way of life apparently comes into conflict with the terms of fair cooperation among citizens.”<sup>153</sup> According to Gutmann, ways of life which deny equality between

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<sup>151</sup> Gutmann, 561.

<sup>152</sup> Gutmann, 561-562.

<sup>153</sup> Gutmann, 566.

persons are suppressed in a liberal state which guarantees such equality in the political sphere. This restriction of pluralism is inevitable for a liberal state.

Eamonn Callan presents another view on these concerns and claims that Rawls's fair terms of cooperation require mutual understanding between citizens.<sup>154</sup> He says that in order to cooperate politically, citizens must be able to see the world from the perspective of other citizens. Callan argues, "Because I must seek to cooperate with others politically on terms that make sense from *their* moral perspective as well as my own, I must be ready to enter that perspective imaginatively so as to grasp its distinctive content."<sup>155</sup> This entails a "positive regard for each others' extra-political beliefs and practices."<sup>156</sup> Even more extensively than Gutmann's suggestion of mutual respect, Callan's educational system will actively discourage many ways of life which reject this style of moral equivalence between beliefs.

To draw this conclusion from Rawls's standard of fair terms of cooperation is a mischaracterization. One must be able to agree to disagree and accept the results of a fair political process in Rawls's system; however, one does not have to fully understand or interact with the other's side in order to reach this agreement. Going beyond the teaching of the political value of tolerance and respect, the teaching of mutual understanding intentionally discourages students' free choice of dogmatic or illiberal comprehensive conceptions of the good. However, the liberal state must maintain neutrality towards *all* reasonable comprehensive conceptions of the good,

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<sup>154</sup> Callan, "Citizenship and Education," 76.

<sup>155</sup> Callan, 75 (original emphasis).

<sup>156</sup> Macedo, "Liberal Civic Education," 308.



including illiberal conceptions. Thus, a liberal state cannot mandate the teaching of mutual understanding.

Macedo rejects Callan's conception of mutual understanding which requires appreciation of other beliefs and, instead, argues that civic respect in the political sphere should be included in a liberal education. Civic respect acknowledges that some comprehensive views are irreconcilable with one another but also contends that these disagreements do not necessarily hamper political cooperation, shared political principles, or respect between equals.<sup>157</sup> The respect required for a liberal political system does not necessitate that citizens exhibit the same respect in social interactions. Macedo reasons that an education can include critical thinking about the political process while also allowing for religious differences and the dogmatic way these views may be held.<sup>158</sup> Macedo denies the implied inevitability in Callan's system that such respect cannot be confined to only the political realm, and in doing so, Macedo provides the space for a greater degree of societal diversity in his theory, including illiberal comprehensive conceptions of the good.

Although liberals must limit some aspects of pluralism in their proposed systems, my analysis concludes that most common objections to state-mandated education based upon this restricted pluralism are benign. The preservation of children's liberty and interest in education cannot be sacrificed in order to further the derivative interests of societal factions. Because a liberal state must maintain and propagate a system of political equality between citizens, additional restrictions on pluralism will result from an education in toleration or respect. Nevertheless, all such

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<sup>157</sup> Macedo, 308.

<sup>158</sup> Macedo, 311.

limitations must be justified by arguments based on the fundamental goal of the liberal state: preservation of citizens' liberty to construct and pursue their own conceptions of the good.

## CONCLUSION

Liberal theorists across the ideological spectrum have debated about justifications and standards of state-mandated education in a truly liberal political system. However, these discussions have largely neglected to separate these arguments into distinct families for individual analysis. Part I concluded that only child-centered justifications of a state-mandated education uphold the liberal standard of prioritization of liberty while state-centered justifications neglect this requirement. Part II defends the positions that these child-centered justifications lead to an equality standard for education in a liberal state. Through the examination of the discourse between James Tooley and Harry Brighouse, the adequacy standard is rejected as failing to treat children as prospective full equals in society with lives to lead.

Parts III and IV argue that two perennial objects to equal state-mandated education in a liberal state based on parental rights and the preservation of diversity do not present a significant obstacle for liberal theorists. Objections to a state-mandated education which are rooted in the supremacy of parental rights are dismissible due to their prioritization of parents' derivative rights over the fundamental liberty of children, while objections based on familial value fail to show that state-mandated education in any way affects this unique value. Furthermore, concerns that liberal theorists neglect liberal foundations in allowing the restriction of pluralism in society are shown to be based on a misunderstanding of the role of diversity in a liberal state. Pluralism in a liberal society is a means by which citizens

can pursue their own individual conceptions of the good. However, their ability to form and pursue this conception is prior in importance to this diversity in society. Although an education which includes liberal political values renders some lifestyles unavailable, these restrictions on pluralism are justified by the liberal state's duty of preserving citizens' equal respect in the political sphere as well as their liberty to pursue their own conceptions of the good.

Harry Brighouse's theory, as presented in *School Choice and Social Justice*, aligns with both the liberal child-centered justification and equality standard of education while providing adequate answers to both perennial objections presented in this work. Within his own theory, Brighouse admits to a substantial problem with translating this equality standard into a reality. In particular, Brighouse claims to possess only a partial answer to the "bottomless pit problem" for equal education: a situation in which the education of naturally gifted students would be neglected completely in order to dedicate resources to the segment of the student populace who may never be able to achieve the success of the highest achieving students.<sup>159</sup> Additionally, Brighouse's attempts to reconcile an equality standard with real world constraints forces him to employ the idea of deserved inequality, yet this concept is neither sufficiently explained nor justified.<sup>160</sup> To build upon the arguments in this paper, further work is needed to address these complications in Brighouse's theory.

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<sup>159</sup> Brighouse, *School Choice*, 131.

<sup>160</sup> Brighouse, 117-118.

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