

Justice and Denominational Schooling

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Bernard Shapiro's recommendations for extensive public funding of private schooling in Ontario would strongly affect the status of denominational schools in that province. Is increased access to denominational schools justified by Shapiro's considerations of social justice? Shapiro in fact underestimates one of these considerations, failing to appreciate how it might be derived from the right of parents to religious liberty. But this argument fails in any case since the scope of parents' religious liberty must be circumscribed by the child's anticipatory autonomy rights. Due regard for such rights would at the very least require stringent state regulation of religious education in denominational schools. This regulation would have to be far more exacting than any envisioned by Shapiro.

Les recommandations de Bernard Shapiro, qui favorise l'octroi aux écoles privées d'Ontario de subventions importantes prélevées à même les deniers publics, auraient de fortes répercussions sur la situation des écoles confessionnelles de cette province. L'auteur de cet article se demande si l'accessibilité accrue aux écoles confessionnelles, qui dériverait de la mise en application desdites recommandations, se justifie par les considérations de justice sociale de M. Shapiro. Ce dernier sous-estime l'une de ces considérations en omettant de prendre en compte le droit de liberté religieuse des parents. Mais même cet argument ne tient pas parce que la portée de la liberté religieuse des parents doit être circonscrite par les droits à l'autonomie anticipés de l'enfant. La prise en compte en bonne et due forme de ces droits devrait pour le moins entraîner l'application par l'État de règlements stricts en matière d'instruction religieuse dans les écoles confessionnelles. Ces règlements devraient être beaucoup plus exigeants que ceux qu'envisage M. Shapiro.

In a recent article in the *Canadian Journal of Education/Revue canadienne de l'éducation*, Bernard Shapiro claims that increased public funding for private schools in Ontario is desirable on grounds of social justice.¹ Shapiro's lucid and judicious argument has far more than academic interest since it is culled from his work as head of the Commission on Private Schools in Ontario. Eighty percent of Ontario's private schools are denominational,² and the considerations Shapiro marshals to support his recommendations show his sensitivity to the plight of these particular private schools. Despite the force of these considerations, there is good reason to doubt that denominational schools, private or not, can adequately protect the rights of children who attend them. There are also compelling grounds to believe that if such schools are to be tolerated, much less publicly funded, justice requires that stringent constraints be imposed upon the kind of religious education they

provide. These constraints would be far more rigorous than any Shapiro envisioned.

My argument is concerned exclusively with the justice of public policy on denominational schools. I am not concerned with constitutional or other political aspects of that policy. In a democratic society, the attainment of justice depends heavily on public perceptions of what is just. Since my position hinges upon recognition of a range of children's moral rights not widely acknowledged, it is almost certain my position would be unacceptable in the current political climate. However, moral argument can raise moral awareness, and thus alter the scope of what is politically feasible. The modest but significant political successes of feminism in recent years testify to this fact. Our appreciation of children's moral rights remains shockingly feeble, and that may give my argument a Quixotic flavour. But this does nothing to detract from the *moral* force of the argument, and I hope that it may soon have political force as well.

PARENTAL CHOICE AND DENOMINATIONAL SCHOOLING

Shapiro's Argument

Shapiro adduces two reasons to show that justice condemns Ontario's parsimony towards private schools: more generous subsidies for these schools would increase parental choice in education; and they would end the invidious discrimination entailed by a policy that allows extensive funding of Catholic schools but denies such support to other communities.³ I shall examine the second consideration first because it is the one Shapiro emphasizes, though it turns out to be the weaker reason of the two.

It is objectionable for the state to withhold benefits from certain groups or individuals for morally unacceptable reasons. Therefore, Ontario's current practice of subsidizing Catholic but no other denominational schools looks decidedly suspect, despite its historical basis. Shapiro rightly points out that constitutional provisions cited to support Catholic schools' special status are beside the point if we are concerned with the moral defence of that status.⁴

There well may be a serious inequity here, but it does not follow that the just remedy would be to extend public funding beyond the confines of the Catholic community. Consider a parallel case. If a specific tax exemption were arbitrarily restricted—to Aryan business-people, for example—a desire for justice might lead us to change the law in either of two ways. The exemption might be denied to everyone, or the category of persons who qualify could be broadened along morally acceptable lines. Similarly, the inequity Shapiro identifies might be rectified either by ending all public support for denominational schools, or by giving it to any school which

satisfies certain morally defensible criteria. Shapiro believes the latter course is the just one, so it is up to him to show what is wrong with the former. The mere fact that Ontario now selects arbitrarily the denominational schools given support does not show the injustice of a policy that would end arbitrariness by ending all support.

Shapiro's moral argument must, then, rely upon his other consideration, and here we are certainly on stronger ground. Submissions to the Commission on Private Schools in Ontario stressed parents' right to rear children according to parental values, especially where these have a religious foundation.⁵ The denial of public funds to private schools prevents many parents from exercising this alleged right because public schools are uncongenial to their religious beliefs.

I shall show that this argument from parental rights does not withstand scrutiny. It does not have even the limited merit Shapiro ascribes to it. Nevertheless, it is the most substantial argument in support of public funding for denominational schools and Shapiro's particular misgivings about it are unfounded. His misgivings centre upon the objection that there is no "prior right" to the enhancement of parental choice in the selection of school. He maintains a democratic society cannot tolerate some choices (e.g., slavery); so the enlargement of choice should not always determine policy. Therefore, Shapiro would have us believe, the enhancement of parental choice is merely one "desirable objective" among others "whose claims must be measured against the competing claims of other social practices and goals."⁶

It is important to ask what Shapiro means when he denies that parents have any "prior right" to receive public funding for private schools of their choice. The most obvious interpretation would be that he rejects all moral rights in this area. In other words, prior to the creation of parental entitlements through the passing of new laws, there are simply no rights here at all. But if that is his conclusion, his reasons do not justify it. Undoubtedly, the expansion of personal choice should not be the only aim of government, and it strictly follows that there is no absolute (in the sense of inviolable⁷) moral right to publicly funded private schooling. But there could well be a very strong *prima facie* right to the same benefit. Perhaps Shapiro wants only to say that there is no inviolable parental entitlement which would settle the intricate moral problem he was commissioned to solve. Thus he notes that "the language of rights tends to be rather absolutist and not, therefore, helpful when conflicting rights emerge."⁸ It may be true that in the heat of political debate people are apt to proclaim their *prima facie* rights as though they were inviolable. The difficulties of adjudicating between conflicting rights are formidable, but it is rash to suppose that by dispensing with the language of rights we can avoid these difficulties.

The Importance of Rights

The point to stress is that the concept of a right has a distinct and vital function in practical discourse. The most influential analysis of the concept in recent years has been Dworkin's, and his analysis is important precisely for the way it clarifies this function. Dworkin argues that individual rights, in what he calls the "strong sense," severely limit how we may pursue collective goals such as economic efficiency and social cohesion.⁹ Suppose someone says that there is a right to freedom of religion, but then adds that we may suppress forms of worship whenever even very slight gains to the pursuit of collective goals ensue. On this account, collective goals count for everything and the right to freedom of religion is altogether vaporous. If a right is to have a substantial role in moral and political discussion it "cannot be defeated by appeal to any of the ordinary routine goals of political administration, but only by a goal of special urgency."¹⁰ This fits well with our understanding of what it usually means to have a right in the strong sense. For example, most of us will agree that there are occasions when an act of worship must be prohibited for the sake of goals of special urgency. A religious procession might be banned if it were almost certain to precipitate a bloody riot, despite the fact that we acknowledge a right to religious liberty. On the other hand, due regard for that right is surely incompatible with the belief that the procession should be banned just because it would interrupt traffic or cause some other public inconvenience.

Dworkin maintains that justice, or at least the liberal conception of justice he favours, is essentially a matter of respect for individual rights, and that these are derived from the fundamental entitlement to equality of consideration and respect.¹¹ Even if this controversial position turned out to be mistaken, there would be powerful grounds for regarding rights, in the sense specified by Dworkin, as one vital consideration in assessing the justice of social policies. Once rights are discarded, individuals become mere resources to be exploited for the sake of collective goals,¹² and however desirable these goals, it cannot be denied that injustice occurs when individuals are treated that way.

In light of all this, it is clear that Shapiro weakens the argument from parental rights when he assumes it should be re-interpreted as recommending just one political goal among others. For instance, he brusquely dismisses the claim that the financial costs of extending public funding to private schools could justify the status quo.¹³ But the significance of costs cannot be disposed of so easily if enhanced parental choice is not a matter of parental rights. After all, frugality in government is itself a desirable goal; and though it may be unimportant compared to individual rights, when no one has a moral right to the benefits of some costly policy, the value of frugality must loom large in political deliberation.

It remains to be seen, however, whether any moral right provides a case for publicly funded denominational schooling. Such collective goals as economic efficiency and social cohesion are by no means trifling, and a proliferation of putative rights would gravely hamper us in the pursuit of these goals. Nevertheless, an impressive argument can be made that respect for parents' rights requires that we insure access to schooling which accords with their religious convictions. Since in many instances the only feasible way to insure access would be to assist financially private denominational schools, some new initiatives which Shapiro favours, and perhaps even more radical measures, may well be a pressing matter of social justice.

Religious Liberty and Religious Upbringing

Raising one's children to be pious counts as a profound expression of faith in most religions. Further, this undertaking is something that the faithful believe is *owed* to God. If one is thwarted by others here, one is not just frustrated in a cherished aspiration: one is also made to fail in fulfilling a solemn obligation. We also assume that so long as adults conduct religious upbringing humanely and encourage tolerance of others' views, no harm will come of their efforts. It is at least plausible to claim that the right to religious liberty entitles parents to rear their children within their own faith.

An obvious but shallow objection can be made to citing this putative right in any argument for public support of denominational schools. In Anglo-American philosophy it has traditionally been assumed that only external interference can curtail liberty.¹⁴ The mere refusal of government to subsidize a particular service does not amount to interference with anyone who might desire that service. Therefore, given the traditional conception of liberty, the denial of public funds to denominational schools does not affect religious liberty, even if it disables many persons from sending their children to such schools.

One way to parry this objection would be to attack the traditional concept of liberty it presupposes. It has been argued by Crocker,¹⁵ for instance, that the traditional concept entails an excessively narrow view of how freedom can be curtailed. But there is a quicker and less contentious way to dispose of the objection. Let us provisionally accept the traditional conception. We must still concede Berlin's point that only where economic and other social conditions have made it "usable" does liberty acquire "genuine value."¹⁶ For example, if I am free but unable to do something, such as send my child to a school which instils my religious beliefs, the freedom I have is useless and hence valueless so long as my inability persists. Therefore, if we want to uphold the value of the right to religious freedom we must create conditions under which the liberties it includes become usable. In the absence of state support for denominational schools, many parents will be unable to send

their children to such schools, and others will endure financial hardships to do so. This makes it appealing to argue that public funding for such schools is necessary to secure the value of the right to religious liberty in the rearing of children. Even modestly prosperous governments surely have a duty not only to avoid direct infringements of individual rights but also to safeguard their value, and the charge of injustice seems apt when either duty is neglected.

The right to religious liberty provides a *prima facie* argument for extensive state support of denominational schooling. But there is at least one powerful objection to that argument. That religious liberty includes a right to denominational schooling is, I believe, at best highly questionable; and if that specific right were included, it would turn out to be a far more circumscribed entitlement than the morality of commonsense would endorse. The counter-argument I shall develop to support this position has important implications for policy.

CHILDREN'S RIGHTS AND DENOMINATIONAL SCHOOLING

Anticipatory Autonomy Rights

In using the language of moral rights it is crucial to be aware of the scope of particular entitlements. A right to religious liberty, say, entitles one to non-interference and perhaps to certain forms of support across a specific range of actions, although reasons of special urgency might sometimes justify interference or denial of support. What is the scope of this range of actions? It certainly excludes numerous possible expressions of faith such as persecuting infidels, conducting holy wars, and so on. It would be ridiculous to say that individuals have a right to commit these acts, even if one adds that weighty countervailing reasons may justify violation of the right. We have no *prima facie* moral claim at all, and certainly no strong right in Dworkin's sense, to act *unjustly*, regardless of what we take to be God's will. Therefore, the right to religious liberty in child-rearing cannot extend to actions that entail injustice towards the child. I believe there are familiar and rarely criticized forms of religious upbringing that by the standards of justice are at the very least morally suspect. To demonstrate this it is necessary first to explain an important class of children's rights which has not figured in my argument so far.

Feinberg has recently argued for the recognition of what he calls the "anticipatory autonomy rights" of children. These particular moral constraints protect the value of whatever "autonomy rights" children will acquire when they achieve adult status. Feinberg maintains that religious liberty is one such autonomy right because it presupposes that one already has

independent religious preferences and convictions of one's own, a condition that does not hold in the case of younger children at least.¹⁷ Nevertheless, even the youngest child already has anticipatory rights to religious affiliation because as an adult she will be entitled to religious liberty and that future right can be eroded or devalued by her experiences as a child.

How would recognition of the anticipatory right to religious liberty affect the way we rear children? It is helpful to bear in mind what it is to be an adult whose right to religious liberty has not been eroded or devalued by upbringing. First of all, one needs psychological resources to insure that the choices one makes are genuinely one's *own*, and not the result of external manipulation. Second, there must be a readiness seriously to confront the possibility that alternative religious loyalties, and perhaps even the complete rejection of religion, are preferable to one's current commitments. The grounds for regarding these psychological characteristics as necessary to the value of religious liberty are easily discerned. If I maintain a certain religious commitment, for instance, only because I have been taught (perhaps unconsciously) to see any alternative as a betrayal of my parents and community, then my choice of religion is as much externally manipulated as that of someone who engages in a form of worship just because it is prescribed by the state. Moreover, the value of religious liberty will depend in part upon the openness of options other than those selected, and the openness of unselected options is curtailed as effectively by fostering a disinclination to consider them seriously as it is by coercion.

If my account of the psychological prerequisites of a valuable right to religious liberty is substantially correct, then it casts a rather dark shadow upon the moral status of what I shall call "strong religious upbringing." I use this term to designate forms of child-rearing in which parents attempt to inculcate or foster certain firm religious commitments prior to the child's acquisition of adult autonomy rights. The practices which constitute this endeavour are prominent in the religious socialization of many children. They are coaxed or compelled to engage in family prayer and to participate in other religious rituals. The truth of particular doctrines is presupposed. Systematic efforts are made to bring the child to a deep sense of "belonging" to a community of spiritually like-minded persons.

These practices need not be conducted in a flagrantly illiberal spirit. Parental attempts to involve the child in worship and ritual might be confined to gentle encouragement and mild admonition. Doctrines might be taught in contexts where respect for the religious convictions of others is vigorously promoted and where understanding of one's own commitments, as opposed to mere unreflective zeal, is a professed goal of instruction. But since even those who receive liberal versions of a strong religious upbringing are being taught that they already are (or are in the process of becoming) devout

Moslems, Catholics or the like, it strictly follows that insofar as the teaching is successful, they will come to see their parents' religion as definitive of their identity qua *subjects* of choice and not, at least for the time being, a fitting *object* of choice. Further, religion's epistemological status places certain limits upon how commitment can be fostered. No religious stance has deep roots in evidence and argument. The venerable distinction between reason and faith is in part an implicit acknowledgement of this fact. Therefore, the cultivation of faith can only proceed with confidence if its growth is largely protected from the harsh light of critical scrutiny, even (perhaps especially) when the critical powers of children have begun to unfold. In a culture which complacently accepts parents' right to provide a strong religious upbringing, it is no accident that the philosophical case against theism, or even arguments *for* theism, do not find their way into the curricula of secondary schools.

If children receive a strong religious upbringing, will this detract from the value of the religious liberty they will eventually possess? This is an empirical question, and given the considerable internal variation within the category of upbringing I have postulated, any detailed answer for the category as a whole is almost certain to be false. But this much is at least plausible. If adults have been taught to see their religious commitments as vital constituents of their identities, and if during childhood and adolescence the development and expression of their faith has been largely hived off from the disruptive force of reason, then there is surely a substantial risk that they will be disinclined to subject the grounds of their commitments to searching criticism and similarly reluctant to consider alternative loyalties. In other words, there is a substantial risk that the right to religious liberty will be devalued. Now it does not strictly follow that a strong religious upbringing counts as an injustice towards the child, and thereby falls outside the scope of the parental right to religious liberty. Given that we wish to enhance the value of adult autonomy rights, more liberal variants of this form of child-rearing may reduce the psychological risks to acceptable levels and may have a significant advantage over other forms of upbringing.¹⁸ I shall say something about this supposed advantage later, but I do not wish to defend the radical conclusion that there is no parental right to provide a strong religious upbringing. The conclusion I wish to defend is altogether more modest than that.

Religious Education and the Protection of Children's Rights

If there is any truth to what I have suggested about the risks of a strong religious upbringing, there are grounds for providing children and adolescents with experiences that strongly militate against these risks. The individual needs to participate in social settings where the "correct" religious affiliation is not taken as settled. These social settings would allow her to put

some psychological distance between the self, qua centre of evaluation and choice, and any prior religious loyalties. For instance, the study of other religions might be encouraged, and not just as a means to greater tolerance and understanding. The purpose would rather be to foster in the individual receptiveness to religious traditions other than those of his or her parents, traditions that might well turn out to be more spiritually fulfilling than the latter. Similarly, atheism might be examined as a stance towards religion which is commended by powerful philosophical arguments and which many people have taken without any sense that the choice made their lives less meaningful.

The experiences I have been talking about presuppose that the aim of strong religious upbringing is held in abeyance, even if in other contexts that aim continues to determine the way the child is reared. It is by no means inconceivable that these experiences could be provided by parents engaged in a liberal version of strong religious upbringing. But there are obvious practical difficulties here. Parents will rarely have the intellectual resources to provide an adequate corrective to the moral risks inherent in their attempts to foster faith. More important, they are likely to be less than whole-hearted in allowing experiences that would endanger the success of a strong religious upbringing. In any event, very many parents do not and will not provide these experiences. The task of providing children with these experiences must, then, devolve upon the school.

Can this task be adequately discharged in denominational schools? There are obvious reasons for doubting that it can. It would seem true by definition that a denominational school extends the strong religious upbringing its students receive at home. If a particular school just happened to have a religiously homogeneous clientele, say, but was not at all concerned with bolstering the religious fervour of its students, then it would not be a denominational school in any ordinary sense of that term. The point of insuring that the student body contains few or no nonbelievers, that teachers are doctrinally acceptable, that worship is an integral part of the school day, and so on, is to strengthen faith in a manner acceptable to parents. Of course, this is not to suggest that denominational schools destroy students' critical capacities. Strong religious upbringing can take more or less liberal forms in schools as well as in families. But this much should be clear: to provide experiences which obviate the risks of a strong religious upbringing, denominational schools would have to suspend temporarily the aims which give them their distinctive rationale. Given the vulnerability of faith to searching criticism and to serious consideration of alternatives, this suspension of aims would have to be done with the knowledge that it threatens their achievement. It is unlikely, therefore, that those who control these schools will enthusiastically provide the necessary experiences.

If it is true that denominational schools will not or cannot provide a potent corrective to the risks of a strong religious upbringing, then it is difficult to see how any right to send one's children to them could possibly be deduced from the right to religious *liberty*. At stake here is the value of the religious liberty to which children will become entitled when they are adults. If neither the family nor the school provide rich opportunities for serious and independent reflection upon one's existing religious loyalties and their manifold alternatives, then the psychological prerequisites of a meaningful right to religious liberty are gravely imperilled. The denial of such opportunities to children and adolescents is unjust, and therefore the religious liberty to which parents are entitled cannot include a right to forms of schooling that deny their children those opportunities. Moreover, it is clear that if the argument from parental rights collapses at this point it follows that increased access to denominational schools cannot be defended even on the grounds that greater room for parental choice is a desirable collective goal. Greater choice cannot be desirable where it leads to greater injustice.

I have suggested that the distinctive rationale of denominational schooling tends to make it inhospitable to educational experiences upon which the value of adults' religious liberty depends. Nevertheless, it remains conceivable that appropriate experiences could be offered in some form of schooling which retains that rationale. It may even be true that I have overestimated the difficulties that would be encountered in providing those experiences in denominational schools. The parental right to *this* form of denominational schooling could be affirmed without inviting the criticisms I have offered so far. However, if parents have a legitimate claim only to a particular species of religious school, and if other species involve injustice towards the child, then there is clearly a powerful argument for prohibiting all religious schools which do not belong to the morally acceptable species. This point is deeply relevant to the assessment of Shapiro's recommendations with regard to legal control of private schools.

Shapiro is by no means blind to the child's anticipatory autonomy rights, though he does not explicitly acknowledge them. He argues that the goal of compulsory schooling should be "to enhance the moral and intellectual autonomy of the young." The child should be educated to make "informed and independent choices of his own."¹⁹ This concern with developing the psychological prerequisites of meaningful liberty is echoed, albeit too weakly, in the criteria of adequate instruction which Shapiro believes all private schools should be obliged to satisfy. Among these criteria are two which clearly reflect a preoccupation with upholding the value of autonomy. Shapiro suggests that all schools should "develop critical thinking skills in both the intellectual and moral spheres," and that they should also "provide students with ready access to alternative points of view about their areas of

study.”²⁰ He suggests further criteria that must be satisfied for a school to qualify as an “associated school” and thereby secure access to substantial public funds, but none of these makes a great difference to the protection of the child’s anticipatory rights so I shall ignore them.²¹

The value of religious liberty clearly depends in part upon being able to think critically and having access to alternative points of view. To the extent that they support those necessities, Shapiro’s recommendations are a step in the right direction. Unfortunately, this step does not go nearly far enough. The trouble is that students might develop their capacities for critical thought and have access to alternative viewpoints in situations where they are strongly discouraged from seriously criticizing the faith of their parents. Critical ability can be tightly harnessed to the defence of orthodoxy, and opposing views can be portrayed as aberrations from the one true path. Suppose a Christian school presents evolutionary theory to students as a heinous error promulgated by secular humanists. The students would have access to the secular humanist view as well as the Christian view of the origins of the universe, and they might even pick up some critical skills in this context. But it hardly follows that their anticipatory autonomy rights would be adequately protected.

If we are serious about enhancing the autonomy of the young, then we cannot be satisfied with Shapiro’s rather lax notion of adequate instruction. There are at least two additional criteria worth considering. First, schools might be *required* to develop courses that encourage students to think critically about the grounds their religious loyalties, even if this threatens their current beliefs. These courses would also sensitize students to a range of alternatives to their parents’ faith, alternatives presented as genuine possibilities of choice for students. Second, there is ample reason for the state rigorously to control the teaching of these courses, as well as the texts and other curriculum materials. Given that denominational schools will tend to be inhospitable settings for this kind of educational endeavour, rigorous control would be needed to insure that the endeavour remained faithful to its prescribed purposes. For example, appropriate pre-service or in-service training in religious education might be demanded of anyone who would teach the courses.

If Shapiro had made these or similar proposals, his report would have outraged that very large segment of the population which prizes parental rights but is not much bothered about the anticipatory rights of children. In that event, his recommendations would not have been politically feasible. But justice is not necessarily politically feasible. Of course, that does not mean that morally responsible policy makers should ignore practical constraints upon their deliberations. But when practical constraints lead us to policies that fall short of justice, we should candidly admit that justice is not now

possible, then work as hard as we can to make it possible in future. By dignifying a rather unfortunate moral compromise with the name of justice, Shapiro obscures the magnitude of changes we must make to secure the rights of children in the context of religious education.

SOME OBJECTIONS

In this last section I rebut a few of the more interesting objections to my position.²²

It has been argued that the depth of religious commitment that is the aim of strong religious upbringing also facilitates depth of religious understanding. This is the supposed advantage of such an upbringing to which I alluded earlier. The child reared within a particular faith can appreciate the insider's view of that faith in a way difficult if not impossible for even the sympathetic outsider, and this depth of understanding enhances religious practice as a possible object of autonomous choice.²³ This argument might be extended to show how more harm than good would likely come from experiences I have called a necessary corrective to the risks of a strong religious upbringing. By threatening the success of strong religious upbringing, these experiences threaten the depth of understanding facilitated by depth of commitment. For that reason, such experiences might seem contrary to the child's interests as a potentially autonomous being.

It might be doubted that religious commitment and understanding are connected in the way this argument implies, but even if these doubts are set aside it is clear that the argument fails. For if depth of commitment does contribute to depth of understanding, it still cannot be denied that the latter is conceptually dependent upon the kind of experiences which the argument suggests are inimical to depth of understanding. If I understand a particular religious stance *deeply*, then surely this entails that I have scrupulously weighed the best objections that can be made against that stance and given serious thought to rival positions. In religion there may be an intimate connection between commitment and understanding, but the two cannot be so tightly interwoven that an adequate religious education precludes searching criticism. Furthermore, respect for anticipatory rights of children receiving a strong religious upbringing requires far more than insuring the availability of parentally approved options for autonomous choice. Even if that end could be encompassed without the kind of religious education I have recommended (and I do not for a moment think that it could), it would still be the case that respect for the child's rights obliges us to secure *other* options as well. That obligation certainly cannot be discharged when strong religious upbringing is conducted without strenuous attempts to circumvent its distinctive moral risks.

The second objection stresses the importance of cultural coherence between the various social settings in which the child grows up. If one is subjected to a cacophony of dissonant influences at too early an age, then the emergence of a stable self, and *a fortiori* the development of an autonomous self, will be endangered.²⁴ If children and adolescents in school are encouraged to subject their prior religious commitments to serious criticism and to give equally serious consideration to alternative positions, then this could be expected to generate some discord between the cultures of school and home. The discord might be sufficiently strong to damage or even completely undo the growth of stable and autonomous selves.

There is more than a little truth in the premises of this argument. Indeed, some of the more prominent debacles in the history of Canadian education—the schooling of native peoples comes to mind—stem in large part from a failure to secure enough concord between the culture of the home and community on the one hand and the culture of the school on the other. The need for concord may be especially pressing in the context of religious education because religion is typically central to cultural identity. If religious loyalties are to be challenged and alternatives explored within the classroom, clearly this calls for a great deal of pedagogical tact. The prospect of ardent atheists hectoring six-year-old Catholics about the philosophical deficiencies of Thomism should send a chill down everyone's spine.

All this can be readily conceded, yet it does not constitute a telling objection to my position. The role I have prescribed for the school in circumventing the risks of strong religious upbringing *might* be performed with crass and destructive insensitivity. But then again, any worthy undertaking for schools might be prosecuted in that manner. The relevant question is whether or not the best feasible attempts to perform the role I have prescribed are liable to generate so much cultural discord in the child's life that the stability and potential autonomy of self will be marred. Again we are faced with an empirical question, but an obvious conceptual point strongly suggests that this question need not especially trouble us.

The importance of sustaining a certain level of cultural concord in the child's life is one that has to be acknowledged, but the introduction of increasingly pronounced elements of cultural discord as the child grows up and a stable self begins to coalesce is also necessary. For if there are to be meaningful autonomy rights for the adult, an upbringing in which all social influences are orchestrated to lead in one direction is simply out of the question. Only when the individual can independently assess the merits of diverse and radically competing forms of life can freedom be exercised in a manner faithful to the ideal of autonomy. The role in religious education I prescribe for the school is simply to insure that this conceptual requirement of meaningful autonomy rights is met. I have already noted that it is

unreasonable to assign that role to the family, and the other sources of social influence in the child's life—the mass media, the peer groups and so on—are patently too prone to manipulation to be equal to that task.

The two objections to my position I have so far discussed both presuppose that children have anticipatory autonomy rights that limit what counts as just child-rearing. Those who make these objections merely believe that I am mistaken about the kind of schooling respect for those rights necessitates. More radical criticisms of my position would repudiate the priority liberalism has traditionally assigned to respect for individuals' rights. It might be argued that churches possess morally weighty collective rights that override moral claims of individuals in the determination of public policy concerning religion. Further, the ideal of community could be invoked to support minimal state regulation and generous financial support for denominational schools, even where this would lead to some violations of individual rights.

The argument from collective rights is not a promising line of attack on my position. Churches, trade unions, cultural groups and other such institutions are all created and maintained by choices of particular people who give the collective their loyalty. From this perspective, collective rights seem to be reducible to the entitlements of individual members. The collective's right to control membership and otherwise to regulate itself can be reasonably construed as derived from the autonomy right to freedom of association possessed by each and every member. For example, if the state denied a church or political party authority to expel apostates, it would seriously restrict the freedom of orthodox members to associate and organize with like-minded persons. But collective rights cannot provide any ammunition against my argument if they are just a shorthand way of referring to the rights of individuals. I have shown that a certain kind of religious education is required if the value of individual rights is to be safeguarded. One cannot coherently argue against this position by stressing the allegedly overriding importance of collective rights when these are reducible to the same individual rights. After all, the individual right to freedom of association—and hence so-called collective rights—may as effectively be devalued or undermined by failure to obtain the necessary education as may any other autonomy rights.

Finally, there is the objection that an adequate moral theory would accord greater importance to the ideal of community than autonomy, and hence give us reason to prize denominational schools as a means of fostering commitment to the communities they serve. This is the weightiest objection to my position. Since it is entangled with current controversies in moral philosophy, it cannot be adequately discussed in a few sentences.²⁵ However, there are grounds for believing that there may be less force to the communitarian objection than meets the eye, and these grounds can be briefly

indicated. Community may be an essential constituent of the good life, but it is at least plausible that particular communities lose that value when their continuance is insured through violation of individual rights. This view of the relationship between community and justice has recently been defended by Slote:

Consider the sense of community, the mutual affection, that (in the interest of illustrating an ideal type) we might attribute to the antebellum South: whites feeling affection for their black mammys . . . [and] blacks knowing their place and regarding with affection and awe the whites who took such benevolent care of them. The fundamental injustice of the whole social system would . . . eclipse that society's characteristic sense of community, largely devaluing it as a social virtue, as an admirable feature of the system.²⁶

Slote's point is not that depriving people of their rights is too high a price to pay for the good of community; his point is rather that community virtually ceases to be a good at all when achieved at that cost. If he is right, then the communitarian objection to my argument fails. Although the educational policies I have advocated might gravely weaken certain communities, these would necessarily be communities whose continuance depended, at least in part, upon violating the anticipatory autonomy rights of children. In that event they would belong to the same moral category as Slote's idealized antebellum South. It is far from obvious that we should regret the erosion of communities that can only perpetuate themselves by denying children the kind of religious education justice requires.²⁷

NOTES

¹ Bernard J. Shapiro, "The Public Funding of Private Schools in Ontario: The Setting, Some Arguments, and Some Matters of Belief," *Canadian Journal of Education* 11, no. 3 (1986), pp. 264–77.

² *The Report of the Commission on Private Schools in Ontario* (Toronto: The Government of Ontario, 1985), p. 6.

³ Bernard J. Shapiro, "The Public Funding of Private Schools in Ontario," p. 269.

⁴ *Ibid.*

⁵ *The Report of the Commission on Private Schools*, pp. 27–28. The argument from parental rights does not have to be confined to defense of the right to publicly supported denominational schooling. It might be used, for instance, to argue for state aid to schools which promote specific moral or political ideals favoured by parents. An assessment of this use of the argument is beyond the scope of the present paper.

⁶ Bernard J. Shapiro, "The Public Funding of Private Schools in Ontario," p. 269.

⁷ Rights which are not absolute in the sense of being indefeasible or inviolable can still be absolute in the sense of being inalienable. That is to say, their possession is absolute—they cannot be given or taken away—but violations may sometimes be justified, all things considered.

- ⁸ Bernard J. Shapiro, "The Public Funding of Private Schools in Ontario," p. 273.
- ⁹ Ronald Dworkin, *Taking Rights Seriously* (Cambridge, MA: Harvard University Press, 1977), pp. 90–93.
- ¹⁰ *Ibid.*
- ¹¹ *Ibid.*, pp. 150–83.
- ¹² This claim is a very familiar one in contemporary ethics, especially among critics of utilitarianism. E.g., see Robert Nozick, *Anarchy, State and Utopia* (New York: Basic Books, 1974), pp. 30–33; H.L.A. Hart, "Between Utility and Rights" in Alan Ryan, ed., *The Idea of Freedom* (Oxford: Oxford University Press, 1979), pp. 77–80; David A.J. Richards, "Rights and Autonomy," *Ethics* 92, no. 1 (1981), p. 5.
- ¹³ Bernard J. Shapiro, "The Public Funding of Private Schools in Ontario," p. 270.
- ¹⁴ E.g., Felix Oppenheim, *Dimensions of Freedom* (New York: St. Martin's Press, 1961), pp. 67–89; S.I. Benn and R.S. Peters, *Social Principles and the Democratic State* (London: Allen & Unwin, 1959), p. 249; William Parent, "Some Recent Work on the Concept of Liberty," *American Philosophical Quarterly* 11, no. 3 (1974), 149–67.
- ¹⁵ See Lawrence Crocker, *Positive Liberty* (The Hague: Martinus Nijhoff, 1980).
- ¹⁶ Isaiah Berlin, *Four Essays on Liberty* (Oxford: Oxford University Press, 1969), p. liv.
- ¹⁷ Joel Feinberg, "The Child's Right to an Open Future," in William Aiken and Hugh LaFollette, eds., *Whose Child? Children's Rights, Parental Authority and State Power* (Totowa, NJ: Littlefield, Adams & Co., 1980), pp. 125–26.
- ¹⁸ T.H. McLaughlin, "Religion, Upbringing and Liberal Values: A Rejoinder to Eamonn Callan," *Journal of Philosophy of Education* 19, no. 1 (1985), pp. 119–27.
- ¹⁹ Bernard J. Shapiro, "The Public Funding of Private Schools in Ontario," pp. 273–74.
- ²⁰ *The Report of the Commission on Private Schools*, p. 42.
- ²¹ Associated schools would have to accept any student, regardless of race, ethnicity, or religion, who agrees to participate fully in the school's programme. However, this could hardly be expected to liberalize the ethos of many schools since their programmes could still have a strong religious slant that would deter almost all nonbelievers. See *The Report of the Commission on Private Schools*, p. 56.
- ²² I do not provide an exhaustive discussion of all serious objections to my position. For example, the same issue of the *Canadian Journal of Education* in which Shapiro's article appears also includes an article by Romulo Magsino, "Human Rights, Fair Treatment and the Public Funding of Private Schools in Canada," and Magsino's argument might be at odds with my own. Magsino argues for parity of public funding between private and public schools on the basis of what he regards as a powerful presumptive principle of equal treatment. A thorough response to Magsino's fine paper could be a very lengthy undertaking, but the gist of that response can be conveyed succinctly.
First, the philosophical foundations of his argument are vulnerable to criticism. His assumption that a strong presumptive principle of equality (i.e., all cases should be treated alike unless a weighty countervailing reason applies) can be deduced from the uncontroversial principle of nonarbitrary treatment (i.e., like cases should be treated alike and different cases differently) is highly questionable. It is by no means clear that just because like cases should be treated alike we have even a weak prima facie reason to treat all cases equally. The distinction between the presumptive principle of equality and the principle of nonarbitrary treatment is usefully explored in Joel Feinberg, *Social Philosophy* (Englewood Cliffs: Prentice-Hall, 1973), pp. 99–102.
Second, it is worth noting that the position I have defended is not necessarily

opposed to parity of funding between public and (some) private denominational schools. If a private denominational school can provide the kind of religious education I have advocated as effectively as the public schools, then differential funding could not be justified on the grounds that the private school imperils students' anticipatory rights. In these circumstances I would have no objection to parity of funding, though for obvious reasons it may be doubted that these circumstances would often arise.

²³ T.H. McLaughlin, "Religion, Upbringing and Liberal Values," p. 122.

²⁴ Ibid., pp. 122–23; T.H. McLaughlin, "Parental Rights and the Religious Upbringing of Children," *Journal of Philosophy of Education* 17, no. 2 (1983), pp. 75–83.

²⁵ There has been a recent revival of communitarian ethics. Important examples of the genre are Alisdair MacIntyre, *After Virtue* (Notre Dame, Indiana: University of Notre Dame Press, 1981); Michael Sandel, *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982); and Michael Waltzer, *Spheres of Justice* (New York: Basic Books, 1983).

²⁶ Michael Slote, *Goods and Virtues* (Oxford: Clarendon Press, 1983), p. 69.

²⁷ I am very grateful to Michael Jackson, Romulo Magsino and two anonymous reviewers for the *Canadian Journal of Education* for helpful comments upon an earlier draft of this paper.

Bernard Shapiros Vorschläge zur umfangreichen finanziellen Unterstützung von Privatschulbildung in Ontario durch die öffentliche Hand würde den Status konfessionsgebundener Schulen in dieser Provinz stark beeinflussen. In dieser Untersuchung wird die Frage gestellt, ob ein erweiterter Zugang zu konfessionsgebundenen Schulen, der durch diese Vorschläge sichergestellt würde, durch Shapiros Überlegungen zu sozialer Gerechtigkeit gerechtfertigt ist. Shapiro unterschätzt eine dieser Überlegungen, und zwar dadurch, daß er sich nicht darüber klar ist, wie diese vom Recht der Eltern auf Religionsfreiheit abgeleitet ist. Aber auch dieses Argument mißlingt, da der Umfang der elterlichen Religionsfreiheit von den vorgreifenden Rechten des Kindes auf Eigenständigkeit begrenzt werden muß. Eine angemessene Berücksichtigung solcher Rechte würde zumindest eine strenge staatliche Regelung des Religionsunterrichts in konfessionsgebundenen Schulen erfordern. Diese Regelung müßte weitaus strenger sein als eine jede, die von Shapiro in Betracht gezogen wurde.

Las recomendaciones de Bernard Shapiro, sobre proveer financiamiento extensivo a los colegios privados en Ontario, afectaría profundamente el estatuto de los colegios de una denominación dada en la provincia. Este artículo se pregunta si el acceso extendido a colegios de una denominación, que las recomendaciones asegurarían, se justifica por las consideraciones de justicia social de Shapiro. Shapiro subestima una de estas consideraciones al no darse cuenta que implica el derecho de los apoderados a la libertad de religión. Pero incluso este argumento fracasa puesto que el alcance de la libertad de religión de los apoderados debe ser circunscrito por los derechos de autonomía anticipatoria del niño. Adecuada consideración por tales derechos requeriría, al menos, regulaciones estatales estrictas de la educación religiosa en colegios religiosos. Esta regulación tendría que ser bastante más exigente que cualquiera de las regulaciones propuestas por Shapiro.

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