

Université de Montréal

**Justice envers les enfants et
légitimité politique en éducation**

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Résumé

L'idée selon laquelle les enfants sont des sujets à part entière de considérations de justice n'est pas très contestée. Les enfants ont des intérêts qui leur sont propres et ont un statut moral indépendant de leurs parents : ils ne sont ni la propriété de ces derniers ni une simple extension de leur personne. Pourtant, les travaux des plus grands théoriciens de la justice en philosophie politique contemporaine ne contiennent pas de discussion systématique du statut moral et politique des enfants et du contenu de nos obligations à leur égard. Cette thèse contribue à remédier à cette omission à travers l'examen de quatre grandes questions principales. (1) Quelles sont les obligations de justice de l'état libéral envers les enfants ? (2) Quels types de politiques publiques en matière d'éducation des enfants sont moralement légitimes ? (3) Jusqu'à quel point est-il moralement acceptable pour les parents de délibérément forger la vision du monde de leurs enfants ? (4) Quels critères moraux devraient guider l'élaboration de politiques en matière d'éducation morale dans les écoles ?

Cette thèse est constituée de quatre articles. Le premier, « Political Liberalism and Children's Education », aborde les questions du fondement normatif et des implications du principe de 'neutralité éducative' ou 'anti-perfectionnisme éducatif'. Selon ce principe, il n'est pas légitime pour l'État libéral de délibérément promouvoir, à travers ses politiques publiques en éducation, une conception particulière de la vie bonne. L'article défend les idées suivantes. D'abord, ledit principe est *exclusivement* fondé sur des raisons de justice envers les *parents*. Ensuite, l'anti-perfectionnisme libéral n'est pas, pour autant, 'mauvais pour les enfants', puisqu'une vaste gamme d'interventions politiques dans la vie familiale et l'éducation des enfants sont, de manière surprenante, justifiables dans ce cadre théorique.

Le deuxième article, « On the Permissibility of Shaping Children's Values », examine la question de savoir si les parents ont un droit moral de forger délibérément l'identité, la conception du monde et les valeurs de leurs enfants. L'article développe une critique de la conception anti-perfectionniste des devoirs parentaux et propose un nouvel argument libéral à l'appui d'un droit parental conditionnel de forger l'identité de leurs enfants. L'article introduit également une distinction importante entre les notions d'éducation compréhensive et d'« enrôlement » compréhensif.

Le troisième article, « Common Education and the Practice of Liberal Neutrality: The Loyola High School Case », défend trois thèses principales à travers une analyse normative de l'affaire juridique de l'école Loyola. Premièrement, il est légitime pour l'État libéral d'adopter un modèle d'éducation commune fort. Deuxièmement, la thèse selon laquelle la neutralité comme approche éducative serait impossible est injustifiée. Troisièmement, il existe néanmoins de bonnes raisons pour l'État libéral d'accommoder plusieurs écoles religieuses qui rejettent le modèle de la neutralité.

Le quatrième article, « Which Moral Issues Should be Taught as Controversial? », critique à la fois le critère 'épistémique' dominant pour déterminer quels enjeux moraux devraient être enseignés aux jeunes comme 'controversés', et à la fois la manière dont le débat sur l'enseignement des enjeux controversés fut construit au cours des dernières années, d'un point de vue substantiel *et* méthodologique. L'article propose une manière alternative d'aborder le débat, laquelle prend adéquatement en compte la pluralité des objectifs de l'éducation et un ensemble d'autres considérations morales pertinentes.

Mots-clés : Philosophie politique; éthique; John Rawls; libéralisme politique; légitimité politique; droits parentaux; enfants; éducation commune.

Abstract

Few deny that children have fundamental interests of their own and that they are the direct subjects of considerations of justice. Yet, the work of the most influential theorists of justice contains no systematic discussion of the moral and political status of children. My dissertation contributes to filling this important gap by considering four main questions. (1) What does the liberal state owe children as a matter of basic justice? (2) Which types of educational policies are morally legitimate? (3) To what extent (if at all) is it morally permissible for parents to deliberately shape their children's values? (4) What criteria should govern the teaching of controversial moral issues?

This thesis consists of four articles. The first, "Political Liberalism and Children's Education", examines the questions of the grounds and implications of political liberals' often-undefended claim that the state should refrain from adopting educational policies designed to promote a particular conception of the good life. I defend the thesis that the ground for this commitment is solely parent-centric, and not children-centric. Against the charge that political liberalism is thus 'bad for children', I argue that political liberals have the resources to advance a robust agenda of political interventions in children's education.

The second article, "On the Permissibility of Shaping Children's Values", considers the question of whether parents have a right to enroll their children into a comprehensive doctrine and, as such, to deliberately shape their children's worldview. The paper expands and amends the case against the anti-perfectionist account of legitimate childrearing and develops a novel argument in favor of the permissibility of comprehensive enrolment. It also proposes a crucial and as yet overlooked distinction between comprehensive enrolment and comprehensive education.

The third article, "Common Education and the Practice of Liberal Neutrality: The Loyola High School Case", focuses on the legitimacy of specific educational policies. I defend three main claims. First, it is in principle legitimate for the liberal state to favor a strong common schooling system. Second, the widespread view according to which neutrality as an educational approach is both impossible and undesirable is based on an implausible understanding of liberal neutrality. Third, there are nonetheless strong reasons, including reasons of justice for children, to accommodate most religious parents and schools.

The fourth article, "Which Moral Issues Should be Taught as Controversial?", challenges the dominant 'epistemic criterion' for determining what issues should be taught 'as controversial' in schools and, more generally, the way in which the philosophical debate on this topic has been framed in recent years, both from a substantive and a methodological point of view. I defend an alternative way of approaching the issue, which is sensitive to the plurality of educational aims and to a larger set of moral considerations that, I argue, are essential to good normative policy analysis.

Keywords : Political philosophy; ethics; John Rawls; political liberalism; political legitimacy; parental rights; children; common education.

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ERC	Ethics and Religious Culture
KIPP	Knowledge Is Power Program
MELS	Ministère de l'Éducation, du Loisir et du Sport

À mes parents

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Introduction

Les travaux des plus influents théoriciens de la justice en philosophie politique anglo-saxonne contemporaine, dont en tête de file, John Rawls, ne contiennent pas de discussion systématique du statut moral et politique des enfants et du contenu précis de nos obligations politiques, sociales ou individuelles à leur égard. Cette négligence apparaît d'autant plus étonnante considérant que très peu contestées aujourd'hui sont les idées selon lesquelles les enfants ont des intérêts propres, qu'ils ont un statut moral indépendant de leurs parents¹ et qu'ils sont, par conséquent, des sujets à part entière de considérations morales. Cette thèse contribue à pallier cette lacune en développant une conception libérale politique de la *légitimité éducative*, c'est-à-dire de la division et des limites de l'autorité légitime de l'État et des parents vis-à-vis des enfants.

La thèse a pour point de départ une série de postulats libéraux-égalitaristes de base qui marquent la philosophie politique anglo-saxonne contemporaine depuis Rawls (1971, 1993). Ces postulats sont les suivants : (1) les personnes sont libres et égales d'un point de vue politique ; (2) la société doit être conçue comme un système de coopération équitable pour le bénéfice mutuel de tous ses membres ; (3) le pluralisme *raisonnable* à propos du bien – c'est-à-dire le fait que des personnes raisonnables puissent être en désaccord à propos de ce qui a de

¹ Le libertarien Robert Nozick semble faire exception lorsqu'il soutient qu'un enfant est comme l'extension de la personne de ses parents, qu'il fait partie de leur identité, de leur « substance » (Nozick, 1989 : 28-29).

la valeur et de ce en quoi consiste une vie qui vaut la peine d'être vécue, même à un certain niveau d'idéalisation épistémique – est inévitable.

Le problème du pluralisme raisonnable, en particulier, est au cœur de l'enjeu de la légitimité éducative examiné dans cette thèse. Selon Rawls et ses nombreux successeurs, l'État libéral doit respecter le pluralisme raisonnable en demeurant *neutre* dans la justification de l'exercice de son pouvoir à l'égard d'enjeux faisant l'objet d'un désaccord raisonnable entre personnes libres et égales. En d'autres termes, l'État libéral doit justifier l'exercice de son pouvoir d'une manière acceptable par toute personne raisonnable, c'est-à-dire par toute personne qui reconnaît les trois postulats libéraux-égalitaristes de base mentionnés plus haut.

Or, les défenseurs du libéralisme politique adhèrent quasi unanimement (bien que souvent de manière implicite) à l'idée selon laquelle le pluralisme raisonnable s'étend aux questions des intérêts des enfants, de ce en quoi consiste une bonne éducation et du statut métaphysique de la relation parent-enfant (Tomasi, 2001 : 97). Sont ainsi reléguées à la sphère du pluralisme raisonnable, les questions du statut moral des enfants et de nos obligations directes à leur égard. C'est dire que l'« oubli » des enfants par la philosophie politique contemporaine n'est pas entièrement fortuit. Si l'on admet qu'il existe une panoplie de positions raisonnables à ces égards, il s'ensuit que l'État libéral doit demeurer neutre vis-à-vis de ces positions lorsqu'il justifie ses politiques éducatives. Ainsi, le libéralisme politique accorde aux parents adhérant à une vaste gamme de croyances morales, philosophiques et religieuses un pouvoir discrétionnaire énorme vis-à-vis de l'éducation de leurs enfants (Quong, 2011 ; Tomasi, 2001 ; Ebels-Duggan, 2013 ; Vallier, 2014).

Du point de vue de ses critiques, cependant, cette posture de neutralité vis-à-vis du pluralisme raisonnable ferait du libéralisme politique une théorie qui « autorise », politiquement, les injustices à l'égard des enfants, ainsi que des formes de socialisations moralement problématiques au sein de la famille, comme la transmission de croyances hautement « nuisibles » (*harmful*) au bien-être des enfants. C'est ce que Timothy Fowler (2010) appelle « le problème de la neutralité libérale en éducation ». Fowler propose l'exemple d'un enfant homosexuel issu d'une famille religieuse qui considère que l'homosexualité est un péché ; un enfant à qui les parents enseignent que la voie de la rédemption est fermée à ceux qui se livrent à des actes homosexuels (Fowler, 2010 : 375). Il est facile d'imaginer pourquoi la transmission de ce type de croyance par sa famille est susceptible de très sérieusement nuire à l'estime de soi de cet enfant, et plus généralement à son bien-être. Le problème est que l'État libéral ne peut légitimement se prononcer ni sur la fausseté ou la vérité de la croyance selon laquelle l'homosexualité, ou les actes homosexuels, sont moralement répréhensibles, ni sur ce en quoi consiste l'intérêt supérieur de l'enfant. Ce serait prendre position dans des débats métaphysiques, moraux ou religieux *raisonnablement controversés*, et par conséquent, ce serait violer le principe de neutralité libérale. Ceci amène Fowler (2014) à rejeter le libéralisme politique, aussi appelé anti-perfectionnisme libéral, en faveur d'une forme de « perfectionnisme restreint », également défendu par Harry Brighouse (1998, 2000). Selon le perfectionnisme restreint, le principe de neutralité justificative – ou l'anti-perfectionnisme politique – aurait une portée d'application limitée aux actions étatiques dont les sujets directs sont des adultes. Ainsi, il ne s'étendrait *pas* aux politiques publiques en matière d'éducation des enfants.

Il est intéressant de souligner que les objections de Fowler rejoignent de très près les critiques *féministes* du libéralisme politique, en particulier celle de Susan Moller Okin (1994, 2004). Okin doute en effet de la capacité du libéralisme politique rawlsien à justifier les interventions étatiques visant à protéger les *femmes* contre les injustices auxquelles elles sont soumises au sein de la « sphère privée », en raison du traitement inégal et du contenu sexiste des croyances véhiculées par certaines familles et certains groupes religieux. Le problème, soutient Okin, est que la conception de la raisonnable rawlsienne permet d'admettre une gamme de croyances sexistes dans la catégorie des croyances « raisonnables ». Elle offre à son tour l'exemple fictif d'un groupe religieux qui adhère à la thèse *métaphysique* selon laquelle les femmes ont « une âme de porc », mais qui reconnaît l'égalité *politique* des femmes (Okin, 2004). Selon l'interprétation que fait Okin du libéralisme politique, la thèse métaphysique en question mériterait le respect politique au même titre que d'autres, parce qu'elle ne s'accompagne pas d'un dénigrement *politique* du statut de la femme, et d'une volonté de bafouer les droits fondamentaux de ces dernières. Okin souhaite montrer, avec cet exemple, que le prix de la solution rawlsienne au problème de la justification du pouvoir étatique dans le contexte du pluralisme raisonnable est payé par les femmes et plus généralement nuit à la cause de l'égalité homme/femme substantielle, chère aux féministes.

Alors qu'un certain nombre de réponses à la critique particulière d'Okin, et au problème de la justice de genre en général, ont été proposées dans une perspective « libérale politique », notamment par Nussbaum (2003, 2004, 2011), Hartley et Watson (2010), Schouten (2013), Neufeld et Van Schoelandt (2014), le problème à la fois similaire, mais à la fois *beaucoup plus*

délicat, de la justice envers les *enfants* n'a pas reçu le même traitement.

La problématique des enfants – ou de ce que j'appelle la légitimité éducative – est effectivement d'une complexité unique, d'abord en raison du fait que les enfants ne sont *pas* libres et égaux du point de vue politique de la même manière que les adultes. En effet, les enfants n'ont pas – jusqu'à un certain stade de développement – de conception du bien authentiquement leur, à la lumière de laquelle il serait pertinent d'évaluer la légitimité du pouvoir (parental ou étatique) qui est exercé à leur égard. C'est pourquoi le paternalisme envers les enfants est généralement considéré comme étant *pleinement justifié*, contrairement au paternalisme à l'endroit des adultes (y compris, bien sûr, à l'endroit des femmes). Or, le pouvoir d'exercer l'autorité paternaliste envers les enfants est généralement attribué à la famille, en particulier aux parents. À la lumière de deux faits importants d'un point de vue normatif (entre autres), il semble toutefois que l'exercice de ce pouvoir devrait être sujet à des contraintes morales et politiques potentiellement non négligeables. Premièrement, la famille est une sphère au sein de laquelle s'exerce inévitablement un pouvoir immense vis-à-vis des enfants. Les parents sont notamment susceptibles de déterminer le contenu même de leurs croyances, opportunités et aspirations, présentes et futures. Deuxièmement, le pouvoir qui est exercé vis-à-vis des enfants est essentiellement coercitif, car ces derniers n'ont ni de droit de sortie ni de pouvoir décisionnel quant à la famille à laquelle ils s'associeront.

De leur côté, cependant, les parents ont des intérêts d'une force normative spéciale vis-à-vis de l'éducation de leurs enfants, dont celui de pouvoir éduquer ces derniers à la lumière de leurs propres croyances à propos de ce qui a de la valeur. En effet, la parentalité est au cœur de

l'identité profonde et du sens de la vie d'énormément de citoyens-parents, et beaucoup conçoivent leur rôle de parents en termes de leur responsabilité à promouvoir ou transmettre une certaine vision du monde à leur progéniture. Le fait est, cependant, que même si la relation intime et aimante avec au moins un parent est essentielle au développement cognitif, émotionnel et moral *des enfants* (Brighouse et Swift, 2014), les intérêts fondamentaux de ces derniers ne sont pas toujours (nécessairement) alignés avec les intérêts parentaux. En outre, l'État, c'est-à-dire la collectivité démocratique dans son ensemble, a *également* des intérêts légitimes vis-à-vis de l'éducation des enfants, en particulier un intérêt à ce que les enfants soient éduqués à devenir de bons citoyens. Or, ces intérêts peuvent *eux aussi* aller à l'encontre des intérêts parentaux, et même de ceux des enfants.

La combinaison de ces différentes prémisses soulève une série de questions difficiles relatives à la légitimité éducative. En quoi consiste une intervention étatique légitime dans la vie familiale ? Comment l'autorité vis-à-vis des enfants devrait-elle être divisée entre les parents et l'État ? Quelles sont les exigences de la justice en cas de conflit entre les intérêts des enfants, des parents et/ou de l'État ? Quels types de politiques publiques en éducation, et quels modèles d'éducation des enfants, un État libéral peut-il légitimement imposer ou promouvoir ? Quels critères moraux devraient guider l'élaboration de politiques en matière d'éducation morale dans les écoles ? Jusqu'à quel point est-il moralement acceptable pour les parents de délibérément forger l'identité profonde et les valeurs de leurs enfants ?

C'est à l'examen de ces enjeux, et plus généralement au problème de la légitimité éducative dans le contexte du pluralisme raisonnable, que sont consacrés les quatre articles scientifiques qui constituent cette thèse.²

Plus spécifiquement, le premier article de la thèse est dédié à un examen approfondi de la question de savoir si, et pourquoi, le principe de neutralité libérale devrait s'appliquer aux politiques publiques en matière d'éducation des enfants. L'article défend les idées suivantes. D'abord, l'idée de « perfectionnisme restreint » n'est pas cohérente avec le libéralisme politique, contrairement à ce que soutiennent Brighthouse et Fowler. Deuxièmement, ledit principe de neutralité libérale est *exclusivement* fondé sur des raisons de justice envers les *parents*. Cependant, le libéralisme politique n'est pas, pour autant, 'mauvais pour les enfants'. De fait, une vaste gamme d'interventions politiques dans la vie familiale et l'éducation des enfants sont, de manière surprenante, justifiables dans ce cadre théorique.

Le deuxième article examine la question de savoir si les parents ont un droit moral de délibérément forger l'identité, la conception du monde et les valeurs de leurs enfants. L'article développe une critique de la conception anti-perfectionniste des devoirs parentaux de Matthew Clayton et propose un nouvel argument libéral à l'appui d'un droit parental conditionnel de forger l'identité des enfants. L'article introduit également une distinction importante entre les notions d'éducation compréhensive et d'« enrôlement » compréhensif.

Le troisième article défend trois thèses principales, à travers une analyse normative

² Les questions ne sont toutefois pas abordées dans cet ordre particulier.

approfondie de l'affaire juridique de l'école Loyola. Premièrement, il est légitime pour l'État libéral d'adopter un modèle d'éducation commune fort. Deuxièmement, l'idée selon laquelle la neutralité *comme approche éducative* serait impossible est injustifiée. Troisièmement, il existe néanmoins de bonnes raisons pour l'État libéral d'accommoder plusieurs écoles et parents religieux (dont Loyola) qui rejettent le modèle de la neutralité comme approche éducative.

Le quatrième article critique à la fois le critère 'épistémique' dominant pour déterminer quels enjeux moraux devraient être enseignés aux jeunes comme 'controversés' à l'école, et à la fois la manière dont le débat sur l'enseignement des enjeux controversés fut construit au cours des dernières années, d'un point de vue substantiel *et* méthodologique. L'article propose une manière alternative d'aborder le débat, laquelle prend adéquatement en compte la pluralité des objectifs de l'éducation et un ensemble d'autres considérations morales pertinentes.

Les articles de ma thèse sont précédés par une section introductive, destinée à présenter plus en détail le cadre théorique général de la thèse, c'est-à-dire celui du libéralisme politique, en le distinguant attentivement des théories libérales alternatives, en particulier du perfectionnisme libéral.

Le cadre théorique :

Les différents types de libéralisme

Les penseurs du libéralisme adhèrent unanimement à certaines idées cruciales en vertu desquelles leur théorie politique peut être qualifiée de « libérale ». Essentiellement, ils adhèrent à la thèse de l'égalité et de la liberté de tous les citoyens, auxquels ils reconnaissent du même coup un certain éventail de droits politiques fondamentaux. Mais le consensus s'effondre rapidement. Au-delà de cette adhésion commune aux valeurs minimales clés du libéralisme, les philosophes libéraux contemporains sont, depuis quelques décennies, divisés sur au moins deux questions fondamentales : (1) La justification de la philosophie politique libérale devrait-elle ultimement reposer sur une thèse éthique ou métaphysique particulière ? (2) L'usage du pouvoir étatique devrait-il être destiné à promouvoir la vie bonne ?

Les différentes combinaisons de réponses à ces questions permettent de distinguer trois types de libéralisme : le libéralisme *compréhensif*, le libéralisme *perfectionniste*, et le libéralisme *politique* (Quong, 2011 : 15). Les défenseurs du libéralisme dit compréhensif, mais non perfectionniste, dont Will Kymlicka (1989a), répondent positivement à la première question, mais négativement à la seconde. Les défenseurs du libéralisme perfectionniste, principalement représentés en philosophie contemporaine par Joseph Raz (1986) et ses successeurs, répondent par l'affirmative aux deux questions. Quant aux avocats du libéralisme dit politique tel que développé, dans sa version la plus systématique et la plus détaillée, par « le second » John Rawls (1993), ils répondent par la négative aux deux questions.

Dans ce qui suit, je présente le cadre d'analyse de ma thèse en exposant les grands traits caractéristiques et justifications à la base du libéralisme politique de Rawls et en expliquant comment il se distingue des libéralismes perfectionniste et compréhensif.

1. Les libéralismes compréhensif et perfectionniste

Afin de faire ressortir les caractéristiques distinctives du libéralisme *politique*, il est pertinent de le comparer et de le situer par rapport aux alternatives, vis-à-vis desquelles il s'inscrit explicitement en faux. Dans le but donc de mieux dégager non seulement les caractéristiques principales et les atouts, mais aussi les aspirations et ambitions propres du libéralisme politique, cette section présente les caractéristiques définitionnelles des libéralismes *compréhensif* et *perfectionniste*. Je m'attarderai en particulier au libéralisme perfectionniste, parce qu'il représente l'alternative la plus radicalement opposée (dans la tradition libérale contemporaine) au libéralisme politique.

Il existe plusieurs versions du libéralisme perfectionniste, mais ses défenseurs ont au moins un point crucial en commun. Ils soutiennent qu'un des rôles légitimes de l'État est de promouvoir la vie bonne, c'est-à-dire que l'État peut adopter des lois ou politiques publiques dont l'objectif est d'assurer ou de maximiser la capacité de ses citoyens à mener une vie bonne, ayant de la valeur. Jonathan Quong (2011) résume ainsi la thèse centrale du libéralisme perfectionniste : « It is at least sometimes permissible for a liberal state to promote or

discourage particular activities, ideals, or ways of life on grounds relating to their inherent or intrinsic value, or on the basis of other metaphysical claims » (Quong, 2011 : 27).¹

La cohérence et la plausibilité de cette thèse semblent dépendre de la vérité d'une série de thèses philosophiques sous-jacentes. La première est une thèse métaéthique : *l'objectivisme moral*. Il s'agit de la thèse selon laquelle il existe des formes de vies, activités et idéaux objectivement bons, qui réalisent des valeurs objectives. En effet, s'il n'y a pas d'objectivité dans le domaine de la valeur, alors la valeur que l'on peut attribuer à certaines choses n'est que *relative*, c'est-à-dire qu'elle dépend de jugements subjectifs qui varient d'une personne à l'autre et d'une culture à l'autre. Or, si le relativisme moral est vrai, alors la promotion publique de certains idéaux ou activités *au détriment de d'autres, ni plus ni moins valables*, apparaît arbitraire et par conséquent difficilement justifiable.

La seconde est une thèse épistémologique : *un anti-scepticisme* à propos de notre capacité à *connaître* le bien. Il s'agit de la thèse selon laquelle nous pouvons connaître quels idéaux et

¹ Les libéraux perfectionnistes ont en commun d'offrir une réponse affirmative à la question (2) citée plus haut. Cependant, il faut voir que cette définition de base proposée par Quong n'exige pas, en principe, une réponse positive à la question (1). En effet, il est possible de soutenir qu'il est au moins parfois permissible pour l'État d'agir sur la base de considérations perfectionnistes, sans pour autant juger qu'il soit permissible de faire appel à ce type de considérations pour justifier les institutions de base de la société, c'est-à-dire les fondements du régime politique libéral lui-même. Cela dit, il n'est pas clair que quiconque défende cette position.

activités réalisent des valeurs intrinsèques. En effet, si nous, et en particulier l'État, ne pouvons pas avoir une telle connaissance axiologique, alors il serait difficile de voir comment l'État pourrait légitimement promouvoir certains modes de vie plutôt que d'autres *en vertu de leur présumée valeur intrinsèque*.

La troisième est une thèse normative : l'absence de raisons décisives pour l'État de s'abstenir d'agir sur la base de considérations perfectionnistes.

La vérité des deux premières thèses semble nécessaire à la plausibilité du perfectionnisme libéral comme théorie politique, et en ce sens elles représentent ce qu'on pourrait appeler des « conditions de plausibilité »,² mais de toute évidence elles ne *justifient* pas le perfectionnisme libéral en tant que tel. Le subjectivisme (ou relativisme) et le scepticisme à propos du bien pourraient être *faux* sans que le perfectionnisme de l'État ne soit vrai ou plausible. L'État doit avoir de bonnes raisons, toutes considérations faites, d'agir sur la base de jugements perfectionnistes ou de promouvoir des idéaux perfectionnistes. Ainsi, c'est la troisième thèse qui est décisive pour la justification du perfectionnisme. Cela dit, toute forme de perfectionnisme politique n'est pas *libérale*. Pour les défenseurs du libéralisme perfectionniste, seul le perfectionnisme proprement libéral est justifié. Or, le perfectionnisme proprement libéral va à son tour de pair avec une série de thèses philosophiques encore plus spécifiques,

² En principe, un relativiste ou un sceptique pourrait certes défendre une forme de perfectionnisme étatique, mais nous verrons plus loin que ce perfectionnisme ne serait probablement pas *libéral*.

lesquelles caractérisent aussi le libéralisme *compréhensif*. La thèse centrale est celle de la valeur de l'autonomie individuelle.

1.1. Libéralisme et autonomie individuelle

Du point de vue des défenseurs du libéralisme perfectionniste *et* des défenseurs du libéralisme compréhensif (non perfectionniste), l'autonomie individuelle est ce qui confère une valeur morale égale aux personnes et son exercice rend une vie humaine bonne, digne d'être vécue. Pour une vaste majorité de libéraux depuis Kant et Mill, c'est aussi au regard de la valeur de l'autonomie que se justifie le régime politique libéral lui-même. L'idéal fondateur d'autonomie individuelle représente ainsi, pour plusieurs de plus grands penseurs du libéralisme, une partie essentielle d'une conception proprement libérale de la vie bonne. Les libéralismes compréhensifs et compréhensifs-perfectionnistes ont précisément cela en commun, c'est-à-dire qu'ils justifient le régime libéral sur la base de la valeur de l'autonomie individuelle. Cependant, les seconds, contrairement aux premiers, jugent que l'idéal d'autonomie permet *également* de justifier une forme d'interventionnisme étatique perfectionniste tel que défini plus haut. Je propose donc à présent d'examiner, à travers la pensée de Joseph Raz (1986), qui est sans contredit le défenseur du perfectionnisme libéral contemporain le plus influent, comment les libéraux perfectionnistes sont amenés à défendre leur interventionnisme perfectionniste en s'appuyant sur la thèse de la valeur de l'autonomie individuelle.

Chez Raz, l'autonomie individuelle est comprise comme un idéal de « création de soi », c'est-à-dire de prise de contrôle (au moins partielle) par l'individu de sa propre destinée, à travers une série de choix significatifs qu'il effectue librement au cours de sa vie. Or, Raz interprète cet idéal d'autonomie comme *présupposant* la vérité d'une thèse axiologique (objectiviste) bien spécifique : le *pluralisme des valeurs*. Le pluralisme des valeurs, c'est la thèse selon laquelle il existe une variété de genres de vie objectivement bons, mais incompatibles, c'est-à-dire qui réalisent différentes vertus qui ont chacune une valeur intrinsèque incommensurable. Par exemple, on peut penser à la vie du moine et à celle du père de famille : on ne peut pas à la fois réaliser les vertus du bon moine et celle du bon père de famille, mais ces deux genres de vie ont pourtant chacun une valeur objective irréductible.

Raz soutient que l'idéal d'autonomie présuppose la vérité du pluralisme des valeurs ainsi compris pour la raison suivante. L'autonomie, selon lui, n'est pas bonne *indépendamment* des choix qu'elle rend possibles, mais conditionnellement à la valeur objective de ces choix. C'est dire que l'exercice de l'autonomie n'a de valeur que si l'individu peut choisir parmi une gamme d'options de vies *qui ont elles-mêmes une valeur objective*. S'il n'y avait qu'une seule forme de vie digne d'être vécue, l'autonomie n'aurait pas de valeur, et l'État pourrait légitimement imposer cette forme de vie à tous ses citoyens. Mais en raison de la vérité du pluralisme des valeurs, duquel dépend la valeur de l'autonomie, laquelle à son tour confère à nos vies individuelles leur sens et leur valeur intrinsèque, l'État doit au contraire être *libéral* (Raz, 1986 : partie V).

Ainsi, si le rôle de l'État est de protéger l'autonomie de tous ses citoyens, comme le soutient Raz, cela implique qu'il doit s'assurer que les différentes options de vie objectivement bonnes soient accessibles aux individus. L'État doit par conséquent protéger le pluralisme des valeurs, de même que la liberté individuelle de choisir. Or, ceci l'autorise à promouvoir certaines activités, idéaux et modes de vies (ceux qui ont de la valeur) au détriment des autres (ceux qui en sont dépourvus), mais sans « forcer » les individus à effectuer certains choix plutôt que d'autres. À son tour, l'obligation de protéger et de promouvoir le pluralisme des valeurs exige de l'État qu'il adhère à une doctrine de tolérance, puisque protéger le pluralisme des valeurs signifie protéger une variété de genres de vie très divergents, parfois irréconciliables (parce qu'ils réalisent des valeurs incommensurables).

C'est donc l'autonomie des individus, ou du moins leur capacité à être autonome, qui est jugée mériter respect et protection étatique dans l'esprit d'un libéral perfectionniste. En d'autres termes, l'autonomie est l'idéal « perfectionniste » au regard duquel se justifie l'intervention de l'État dans la vie des citoyens. Elle justifie non seulement le « libéralisme » de l'État, c'est-à-dire l'attribution de droits et libertés égaux destinés à protéger « négativement » l'autonomie, mais autorise également l'État à promouvoir « positivement » l'autonomie via ses différentes politiques publiques. En ce sens, la position des libéraux perfectionnistes dans le débat sur ce en quoi consiste une vie bonne *précède* leur théorie politique, dans la mesure où, de leur point de vue, la justification du libéralisme, ainsi que la

légitimité de l'usage du pouvoir étatique, repose précisément sur une théorie de la valeur particulière.³

Le libéralisme compréhensif, mais non perfectionniste, ne se distingue pas du perfectionnisme libéral à cet égard. Même si, pour diverses raisons qu'il serait inutile d'explorer ici, ses défenseurs ne suivent pas Raz dans le saut qu'il effectue de la valeur de l'autonomie au perfectionnisme (libéral) de l'État, ils justifient le libéralisme sur la base de la valeur qu'ils reconnaissent à l'autonomie. En effet, si l'on doit attribuer et protéger les droits et libertés de tous dans l'esprit d'un défenseur du libéralisme compréhensif, c'est précisément en vertu de l'autonomie des personnes (ou de leur capacité à être autonomes), à laquelle est accordée une valeur fondamentale. Or, c'est essentiellement là où le libéralisme politique rompt avec les deux autres traditions, dans la mesure où il aspire, et nous verrons pourquoi, à demeurer neutre à l'égard de tout débat philosophique controversé, y compris sur la valeur de l'autonomie individuelle et sur la thèse du pluralisme des valeurs.

³ Martha Nussbaum résume à son tour la théorie de Raz de la manière suivante: « Raz argues in favor of a version of liberalism that is perfectionistic in two ways. First, and most centrally, Raz defends a controversial doctrine of autonomy as the key to what makes lives valuable in general, and he urges that this value ought to be the core value in a liberal society. Raz's autonomy is a controversial perfectionist norm that would be rejected, for example, by believers in authoritarian religions. Second, Raz makes a further perfectionist move when he argues that liberal societies, in order to support autonomy, must accept a doctrine of pluralism that is closely related to Berlin's pluralism » (Nussbaum, 2011a: 11).

2. Le libéralisme politique

Le libéralisme politique, tel qu'élaboré par Rawls (1993), ne se distingue pas seulement par son contenu. Il se distingue d'abord et avant tout au niveau de la problématique (nouvelle) qu'il identifie et aborde, et par conséquent, au niveau de ses objectifs et ambitions. L'objectif clé de Rawls dans *Political Liberalism* est effectivement de répondre à une question qu'il voit émerger d'une tension entre deux constats initiaux : (1) un constat normatif : celui de la société conçue comme un système de coopération équitable entre personnes *libres et égales* ; et (2) un constat épistémique : celui de l'existence d'un pluralisme *raisonnable* de conceptions de la vie bonne (et de perspectives sur le monde) parmi les personnes libres, rationnelles, bien informées et bien intentionnées. Cela dit, pour comprendre la nature de la tension que Rawls observe entre ces idées qui constituent le *point de départ* de sa théorie, quelques remarques méthodologiques s'imposent. En particulier, il est important de voir pourquoi, et dans quelle mesure, Rawls aborde ces idées comme des sortes de « constats » initiaux, à partir desquels il construit sa théorie. On verra alors, notamment, que reconnaître l'existence du pluralisme *raisonnable* exige davantage que d'effectuer un simple constat sociologique, et que le caractère raisonnable du pluralisme est tout à fait décisif eu égard à l'émergence de la problématique qu'identifie Rawls dans son libéralisme politique.

Liberté et égalité des citoyens. D'une part, Rawls conçoit l'idée de l'égalité et de la liberté des personnes, de même que la conception de la société comme système de coopération équitable pour l'avantage mutuel de tous ses membres, comme une position normative minimale faisant l'objet d'un certain consensus dans les sociétés libérales modernes. Il

présuppose donc, dès le départ, et sans se charger de fournir de théorie explicative, l'égalité et la liberté des personnes du point de vue politique⁴ et l'idéal de la société comme système de coopération équitable. Pour le dire autrement, il présuppose l'égalité et la liberté des citoyens parce qu'il constate que ces valeurs sont profondément ancrées dans la culture des démocraties libérales modernes, et qu'elles sont acceptées et justifiées par une panoplie de conceptions du bien diverses.

We start, then, by looking to the public culture itself as the shared fund of implicitly recognized basic ideas and principles [...] This organizing idea is that of society as a fair system of social cooperation between free and equal persons. (Rawls, 1993 : 8-9)

C'est précisément parce que Rawls prend ces valeurs (libérales) minimales comme point de départ de sa théorie qu'on peut légitimement penser que cette dernière n'offre rien aux antilibéraux (elle ne répond pas à la question : pourquoi être libéral *tout court* ?). En d'autres termes, pour pouvoir suivre Rawls dans son entreprise philosophique, il faut dès le départ reconnaître l'égalité et la liberté de tous et concevoir la société comme un système de coopération équitable. En niant ces valeurs, on nie aussi la problématique même qu'aspire à résoudre le libéralisme politique, c'est-à-dire, comme nous le verrons, celle d'expliquer comment la justification publique du pouvoir politique est possible entre personnes souscrivant à certaines grandes valeurs libérales « fondamentales » (Quong, 2011 : 5).⁵

⁴ C'est-à-dire que les personnes en tant que *citoyennes* sont libres et égales. Cela signifie tout simplement que nul n'a naturellement l'autorité sur les autres, de telle sorte que l'exercice du pouvoir politique devrait lui revenir.

⁵ Je suis en effet Quong (2011 : chapitre 5) dans son interprétation du libéralisme politique comme répondant à

Pluralisme raisonnable et difficultés du jugement. D'autre part, Rawls constate que le pluralisme raisonnable est *inévitabile* entre personnes libres et égales en raison d'un phénomène qu'il nomme les « difficultés du jugement humain » (*the burdens of judgment*).

L'idée de « pluralisme raisonnable » réfère à l'existence d'une pluralité de doctrines compréhensives ou de conceptions du bien⁶ raisonnables, c'est-à-dire *susceptibles d'être admises comme étant vraies par des personnes raisonnables*. Une personne raisonnable en est

une problématique *interne* à la théorie libérale. Il est pertinent de souligner que cette interprétation du libéralisme politique comme répondant à une problématique interne à la théorie libérale permet d'éviter l'objection de la circularité parfois soulevée contre le libéralisme politique. Quong explique : « If we aspire to answer the grander question – why liberalism? – it seems suspiciously circular to focus on what people who already endorse certain liberal norms could accept. Once we realize, however, that political liberalism does not aspire to justify liberalism to the illiberal or unreasonable, but only to clarify what kinds of reasons liberals can offer to one another, the appeal to reasonable people no longer looks circular or superfluous » (Quong, 2011: 6).

⁶ Une *doctrine compréhensive*, selon Rawls, est une doctrine souvent associée à une tradition qui couvre des aspects philosophiques, moraux et religieux fondamentaux pour la vie humaine. À la fois la raison pratique et la raison théorique sont impliquées dans la formulation d'une doctrine compréhensive. Une doctrine compréhensive est par ailleurs relativement cohérente, du moins elle n'est pas sujette à des changements radicaux subis et inexplicables. Enfin, différentes doctrines compréhensives se distinguent entre elles (et entrent en conflit) souvent en raison du *poids relatif* distinct qu'elles accordent à différentes valeurs (Rawls, 1993 : 59). Par contraste, une *conception du bien* (souvent utilisée comme synonyme de doctrine compréhensive) peut avoir une portée beaucoup plus limitée. Elle peut n'inclure que des jugements partiels, sur des aspects particuliers de la vie humaine, quant à ce qui a de la valeur (Quong, 2011 : 28-29).

une qui (1) reconnaît l'égalité et la liberté de tous ses concitoyens ; (2) conçoit la société comme un système de coopération équitable ; (3) possède un « sens de la justice » et est disposé à agir conformément, c'est-à-dire à respecter ce qu'elle reconnaît être des termes équitables de la coopération sociale entre personnes libres et égales, et à s'y plier en cas de conflit avec des intérêts personnels immédiats (Rawls, 2003 : 7 et 82) ; et finalement (4) *reconnaît* l'existence des difficultés du jugement, et *accepte* ses conséquences, c'est-à-dire le fait de l'existence d'un pluralisme raisonnable, profond et inévitable (Rawls, 2003 : 191).

Les difficultés du jugement sont cinq obstacles à l'exercice correct et consciencieux des pouvoirs de notre raison et de notre jugement au cours de la vie ordinaire. Ces cinq obstacles à la raison (et sources du désaccord raisonnable entre les personnes, et donc, du pluralisme raisonnable) sont les suivants. Premièrement, l'évidence empirique et scientifique est, dans beaucoup de cas, complexe et parfois conflictuelle, ce qui rend l'évaluation de ces cas difficile. Deuxièmement, même lorsque l'on s'entend pleinement eu égard aux considérations pertinentes à tenir en compte pour juger d'un cas donné, on peut ne pas s'entendre quant à leur poids relatif, et donc néanmoins former des jugements différents. Troisièmement, tous nos concepts sont, à divers degrés, vagues. Cette indétermination relative de nos concepts fait en sorte que l'on doit s'en remettre à l'interprétation et à des jugements à propos des interprétations. Mais la marge d'interprétations raisonnables d'un concept peut être assez large. Quatrièmement, la manière dont on évalue l'évidence et dont on calcule le poids moral et politique des valeurs dépend (jusqu'à un point impossible à déterminer, précise Rawls) de nos expériences de vies. Or, nos expériences de vies diffèrent, souvent très radicalement (dans une société libérale en particulier). Cela fait en sorte que dès lors que nous sommes confrontés à

une question d'une complexité minimale, nos jugements ont tendance à diverger grandement. Cinquièmement, il existe parfois des considérations normatives assez fortes en faveur et en défaveur de deux positions adverses sur un même enjeu (Rawls, 1993 : 56-57).

Rawls adhère ainsi à une thèse épistémologique décisive sur l'inévitabilité du désaccord. Le pluralisme ainsi compris devient le résultat inévitable de l'usage de la *raison humaine* à l'intérieur d'institutions sociales et politiques *libres*. En d'autres termes, étant donné les limites du jugement humain, il existera toujours une pluralité de doctrines compréhensives raisonnables au sein des communautés humaines (libres).⁷ Le pluralisme raisonnable doit donc être considéré comme une caractéristique « permanente » des sociétés et de la culture démocratiques (Rawls, 2003 : 34).

2.1. La légitimité politique : l'enjeu clé du libéralisme politique

La question, donc, qui émerge de ce double constat initial, la société comme système de coopération équitable entre membres libres et égaux, d'une part, et le pluralisme raisonnable, d'autre part, et que Rawls examine dans *Political Liberalism*, est la suivante : comment est-ce

⁷ Cela ne signifie pas, évidemment, que tout désaccord moral est nécessairement raisonnable, et que le pluralisme qui caractérise les sociétés libérales *actuelles* est entièrement raisonnable. Le désaccord moral peut être (et il est souvent) attribuable à l'ignorance, à la mauvaise foi, ou à une complète incohérence de jugement. Dans ces cas, il ne peut être qualifié de raisonnable. L'idée de Rawls est que *même à un certain niveau de compétence épistémique*, différentes personnes peuvent être en désaccord fondamental.

que des personnes libres et égales qui ne se rejoignent sur aucune question philosophique, morale ou religieuse peuvent se doter d'institutions politiques justes, qui respectent l'égalité et la liberté de tous, pour le bénéfice mutuel de tous ses membres ?

Il y a deux problèmes (reliés) soulevés par cette question : un problème de *respect* et un problème de *stabilité*.⁸ Le premier problème est que l'adoption de principes de justice dont la justification reposerait sur une conception particulière du bien *faisant l'objet d'un désaccord raisonnable* entre citoyens libres et égaux ne respecterait pas l'égalité et la liberté de tous. En effet, en adoptant des principes de justice qui reposent sur une conception du bien à laquelle n'adhère qu'une *portion* de citoyens *raisonnables*, l'État ne respecterait pas pleinement l'autre portion, c'est-à-dire ceux qui ne peuvent pas, étant données leurs croyances profondes (*pourtant raisonnables*, doit-on reconnaître), accepter la justification de l'exercice du pouvoir étatique, *auquel ils sont également soumis*. Cela ne semble effectivement pas compatible avec le respect du statut moral égal qu'on leur reconnaît par ailleurs. Le second enjeu, celui de la stabilité, est le suivant : une société organisée autour de principes de justice qui ne seraient susceptibles d'être acceptés que par seule une partie de la population des citoyens libres et égaux ne serait pas une société stable (dans un sens normatif) à long terme, précisément parce que certains citoyens ne pourraient accepter la justification de l'exercice du pouvoir auquel ils

⁸ Certains interprètes perçoivent le premier enjeu comme étant l'enjeu fondamental (Cohen, 2009 ; Larmore, 1999 ; Nussbaum, 2011); d'autres le second (Raz, 1986 ; Weithman, 2011).

sont soumis. Ils n'auraient, par conséquent, pas de *raisons* d'accepter de s'y soumettre (de leur propre point de vue raisonnable).

La solution envisagée par Rawls est la suivante : les principes de justice qui guident nos institutions politiques devront, pour être légitimes, *être susceptibles d'être acceptés par toute personne raisonnable*. C'est ce que Rawls nomme *le principe de légitimité* (Rawls, 1993 : 137). Le principe de légitimité dicte les *conditions* de la légitimité politique. Cette dernière doit être comprise comme un *droit moral de l'État* qui réfère à son pouvoir moral, d'une part, d'imposer *des devoirs* à ses citoyens, et d'autre part, d'avoir recours à la contrainte pour assurer la conformité à ces devoirs (Quong, 2011 : 142). Le principe de légitimité est le cœur du libéralisme politique. Tout le défi consiste ensuite à démontrer qu'une justification qui répond au critère de légitimité est possible, et donc qu'une société juste et stable est possible.

À la lumière de ces considérations, on comprend que le problème pour les défenseurs du libéralisme compréhensif ou perfectionniste, est que s'il existe véritablement un désaccord *raisonnable* sur *toutes* les questions métaphysiques, morales et religieuses, alors l'idéal d'autonomie individuelle fait lui-même également l'objet d'un désaccord raisonnable. Par conséquent, il ne peut pas légitimement justifier nos principes de justice et donc les actions coercitives de l'État. En fait, puisque le désaccord raisonnable touche l'ensemble des débats philosophiques, moraux et religieux, le seul moyen pour l'État de respecter le principe de légitimité est de demeurer neutre à l'égard de toutes les questions qui reposent ultimement sur

des enjeux de nature métaphysique,⁹ lorsqu'il justifie les fondements de l'exercice de son pouvoir. Ainsi, contrairement aux avocats du libéralisme perfectionniste ou compréhensif, les libéraux politiques s'abstiennent délibérément de s'aventurer sur le terrain de la théorie de la valeur et donc de prendre position dans le débat moral sur ce en quoi consiste une vie qui vaut la peine d'être vécue. C'est pourquoi le principe de légitimité du libéralisme politique est aussi un *principe de neutralité justificative*.

Or, toujours étant donné le pluralisme raisonnable, la neutralité justificative implique à son tour que seuls des arguments de nature *strictement politique* sont, en principe, admissibles comme justification du pouvoir politique. En effet, les arguments politiques sont essentiellement les seuls qui soient dépourvus d'un bagage métaphysique, car ce sont des arguments qui ne font appel qu'à des valeurs publiques, implicites dans nos cultures publiques libérales. Pour le dire autrement, seul ce type d'argument (métaphysiquement neutre) est de nature recevable du point de vue de la légitimité politique, parce que seuls ces arguments sont en principe susceptibles d'être acceptés par toutes les personnes raisonnables, profondément divisées par ailleurs sur toutes les questions métaphysiques. Par exemple, un argument qui ferait reposer l'exercice du pouvoir étatique sur l'idée du commandement divin ou de la volonté de Dieu ne serait pas raisonnablement acceptable pour une personne raisonnable athée. De la même manière, un argument qui ferait reposer l'exercice du pouvoir étatique sur l'hypothèse de la non-existence de Dieu ne serait pas recevable pour un croyant. Au contraire,

⁹ Ce qui inclut ni plus ni moins l'ensemble des questions philosophiques et religieuses.

un argument qui avancerait une certaine interprétation des implications du principe politique d'égalité des chances serait, en principe, raisonnablement acceptable pour l'athée *et* le croyant, ou pour toute autre personne raisonnable, peu importe ses croyances philosophiques, religieuses ou morales.¹⁰

Du point de vue des libéraux politiques, donc, ce que j'ai nommé plus haut « les conditions de plausibilité » du perfectionnisme libéral ne peuvent pas servir de justification aux actions de l'État. Cela est le cas *non pas* parce que ces thèses philosophiques sont nécessairement *fausses*, mais plutôt en raison de leur *nature*, qui les rend inadmissibles à la justification de l'exercice du pouvoir étatique. Pour le dire autrement, les défenseurs du libéralisme politique ne nient pas la possibilité que les thèses philosophiques sur lesquelles repose en partie la défense razienne du libéralisme perfectionniste puissent être *vraies*. Ce qu'ils affirment, c'est que *leur vérité (ou fausseté) n'est tout simplement pas pertinente du point de vue de la justification de l'exercice du pouvoir politique*, étant donné le caractère raisonnablement

¹⁰ Nussbaum (2011) semble accepter cette interprétation de la justification du principe de légitimité lorsqu'elle écrit : « But if the plurality of religious and other doctrines is reasonable, then respect and fairness require that we not build a political conception on any one of them. Politics has to prescind from divisive metaphysical or religious claims, if respect is to be preserved. And that shows us why the political doctrine must be both partial, not covering all of human life, and freestanding, justifying itself not through divisive metaphysical or religious ideas but through ideas implicit in the public political culture. In this way, the core value of respect leads directly to the hallmark of *Political Liberalism*, as distinct from *A Theory of Justice*: the claim that the political doctrine is “political, not metaphysical” » (Nussbaum, 2011 : 3).

controversé de ces thèses. Or, cette idée selon laquelle le critère de vérité devrait être remplacé par un critère de légitimité (ou raisonabilité) de nos principes de justice en est une, tel que Raz le souligne lui-même (dans un article critique à l'égard du libéralisme politique), profondément innovatrice en philosophie politique :

[N]ever before has it been suggested that governments should be unconcerned with the truth of the very views (the doctrine of justice) which inform their policies and actions, and never before has it been argued that certain truths should not be taken into account because, although true, they are of an epistemic class unsuited for public life. (Raz, 1990 : 4)

Pour résumer, le libéralisme politique est une théorie qui, dans un sens, est plus modeste, mais est en même temps plus inclusive que les autres formes de libéralisme. En effet, il n'est pas nécessaire d'adhérer à une conception philosophique particulière de l'égalité et de la liberté des personnes, ou d'accepter l'idéal d'autonomie razien, pour adhérer au libéralisme politique rawlsien. Il suffit de reconnaître l'égalité et la liberté des personnes, *point* (peu importe nos raisons). En effet, le libéralisme politique relègue entièrement aux diverses conceptions du bien ou doctrines compréhensives la tâche de justifier les valeurs politiques clés de la culture politique libérale moderne. C'est en ce sens précis que ses ambitions sont beaucoup plus modestes. Le libéralisme perfectionniste est pour sa part plus ambitieux dans la mesure où il contient, et repose sur, une théorie philosophique spécifique quant au pourquoi nous sommes libres et égaux, et par conséquent, il comprend aussi une explication quant au pourquoi les antilibéraux ont tort. Mais ce faisant, il rejette paradoxalement comme ayant tort une foule de personnes libres et égales *raisonnables* (bien qu'elles puissent ne pas accorder une valeur clé à l'idéal d'autonomie individuelle). Or, du point de vue des libéraux politiques, ceci rend les

libéralismes compréhensif et perfectionniste *injustement* exclusifs et « sectaires », pour les raisons que j'ai exposées.

Political Liberalism and Children's Education

“Observe here that we try to answer the question of children's education entirely within the political conception. Society's concern with their education lies in their role as future citizens.” (Rawls, 1993: 200)

“[F]amilies need protection from associations and government, as do the individual members of families from other family members (wives need protection from their husbands, children from their parents).” (Rawls, 1993: 221)

Political liberals typically hold the view that it is impermissible for the state to adopt educational policies aimed at promoting or discouraging particular conceptions of the good. In other words, political liberals generally endorse ‘anti-perfectionism in education’,¹ that is, the view that state interventions in children's education should not be justified by reference to any particular account of what makes a human life worth living, but rather be subject to a requirement of justificatory neutrality. In its critics' eyes, however, this requirement places objectionable limits on permissible state interventions in children's lives, since it deprives the state of the resources needed to justify educational policies designed to protect children's interests from morally problematic parental choices or excessive parental influence.² Two questions then arise. First, must political liberals be committed to anti-perfectionism in education? Second, is anti-perfectionism in education ‘bad for children’?

¹ Waldren (2011) uses the expression of ‘educational neutrality’ to refer to the same idea.

² Timothy Fowler (2010) calls this “the problem of liberal neutrality in upbringing”.

These questions deserve careful scrutiny. For a start, while most philosophers focusing on the implications and educational requirements of political liberalism³ have simply taken for granted that the theory involves a commitment to anti-perfectionism in education,⁴ some authors, i.e. Harry Brighouse (1998) and Timothy Fowler (2014), have argued that political liberalism is perfectly compatible with a form of ‘restricted perfectionism’. According to this view, perfectionist policies are impermissible with respect to adults, but permissible with respect to children. This restricted perfectionist account seems actually more appealing than traditional political liberal accounts, since it is better suited to accommodate the widespread view that one of the purposes of compulsory education in liberal democracies is to prepare children to live fully flourishing lives.

Importantly, it appears that, to the extent that political liberals can resist Brighouse’s and Fowler’s challenge, they can do so only at the price of exacerbating the problem of the undesirability of anti-perfectionism in education for children. Indeed, as I shall argue in this paper, while political liberalism does involve a commitment to anti-perfectionism in education, such commitment is grounded solely on parent-centric considerations, to the exclusion of all children-centric considerations. This appears to reinforce the critics’ suspicion that political liberalism is incapable of justifying at least some state interventions in children’s education that seem highly desirable from the point of view of children’s current or future

³ See, for instance, Gutmann (1995), Macedo (2000) and Neufeld (2013).

⁴ As far as I am aware, however, only Matt S. Waldren (2011) has provided an explicit and detailed defense of this view, which I will criticize in section 3 of this paper.

wellbeing.

Together, these considerations provide the motivations for reconsidering the two questions stated above. My focus here is specifically on Rawlsian political liberalism, that is, on versions based on John Rawls' (1993) well-known account of political legitimacy. In the paper, I clarify whether – and, most importantly, why – Rawlsian political liberals are normatively committed to anti-perfectionism in education. I distinguish three distinct Rawlsian arguments in support of this view: the argument from the realization of basic political justice; the argument from the coercive character and pervasive influence of educational policies on children; and the argument from the coercive character and pervasive influence of educational policies on parents. I argue that only the third argument survives careful scrutiny. That is, I show, against both some recent defenders (Clayton, 2006; Waldren, 2011) and critics (Brighouse, 1998; Fowler, 2014) of anti-perfectionism in education, that political liberals' commitment to the latter view is not grounded on reasons of justice toward children, but only on reasons of justice toward parents. Finally, I argue that, despite this, political liberalism does not leave children vulnerable to harmful forms of socialization within the family or within educational institutions, as its critics typically suggest. I show instead that political liberalism can actually justify a robust agenda of political interventions in children's education, which is based on reasons of justice toward children as future free and equal persons.

1. Rawls' liberal principle of legitimacy

Let us start by considering Rawls' account of political legitimacy.⁵ In order to grasp its main features, it is important to understand the problem that Rawls tackles in *Political Liberalism* (1993). The starting point of his analysis is provided by two fundamental ideas. The first is that a political society should be conceived as a system of *fair cooperation* between *free* and *equal* members. On the one hand, persons are free because they possess the two moral powers required to be fully cooperating members of society, namely, a capacity for a sense of justice and a capacity for a conception of the good. The capacity for a sense of justice refers to the “capacity to understand, to apply, and to act from the public conception of justice which characterizes the fair terms of cooperation”. The capacity for a conception of the good refers to the “capacity to form, to revise, and rationally to pursue a conception of one's rational advantage or good” (Rawls, 1993: 19). On the other hand, persons are equal from a political point of view because they all have the same fundamental moral status. There are no natural superiors and no one has natural authority over the others.

⁵ The concept of political legitimacy refers to a state's (or a government's) moral right to exercise authority over its citizens. More specifically, it refers to the state's moral right to impose binding duties on its citizens and to use some degree of coercion to enforce their compliance with these duties (Simmons, 1999: 746; Quong, 2011: 108). A *conception* of political legitimacy specifies the conditions under which is it legitimate for the state (or the government) to exercise its authority and coercive power over its citizens via its institutions, laws or public policies.

The second fundamental idea of political liberalism is that liberal societies are characterized by “the fact of profound and irreconcilable differences in citizens’ reasonable comprehensive religious and philosophical conceptions of the world, and their views of the moral and aesthetic values to be sought in human life” (Rawls, 2003: 3). According to Rawls, such pluralism is the *inevitable* result of the exercise of human reason under free social and political institutions. Indeed, because of the epistemic limits that affect human judgment – which Rawls calls the “burdens of judgment” – even rational, well-informed and well-intentioned individuals will *disagree* about religious, philosophical and moral issues and endorse different, and sometimes incompatible, conceptions of the good (Rawls, 1993: 56-57).⁶ According to Rawls, no definite consensus on what makes a human life worth living is thus possible among reasonable citizens living under free institutions. In other words, the existence of the burdens

⁶ Rawls identifies five burdens of judgment: “(a) The evidence – empirical and scientific – bearing on a case may be conflicting and complex, and thus hard to assess and evaluate. (b) Even where we agree fully about the kinds of considerations that are relevant, we may disagree about their weight, and so arrive at different judgments. (c) To some degree all our concepts, and not only our moral and political concepts, are vague and subject to hard cases. This indeterminacy means that we must rely on judgment and interpretation (and on judgments about interpretations) within some range (not sharply specifiable) where reasonable persons may differ. (d) The way we assess evidence and weigh moral and political values is shaped (how much so we cannot tell) by our total experience, our whole course of life up to now; and our total experiences surely differ. So in a Modern society with its numerous offices and positions, its many divisions of labor, its many social groups and often their ethnic variety, citizens’ total experiences differ enough for their judgments to diverge to some degree on many if not most cases of any significant complexity. (e) Often there are different kinds of normative considerations of different force on both sides of a question and it is difficult to make an overall assessment” (Rawls, 2003: 35-36).

of judgment forces us to recognize and accept that reasonable pluralism is “a permanent feature of the public culture of democracy” (Rawls, 2003: 34).

These assumptions generate the fundamental puzzle that Rawls attempts to resolve: “How is it possible that there may exist over time a stable and just society of free and equal citizens profoundly divided by reasonable though incompatible religious, philosophical, and moral doctrines?” (Rawls, 1993: xviii) According to many contemporary political philosophers, this is the most fundamental question of political philosophy itself.⁷ Indeed, if the fact of reasonable pluralism is inevitable, we should expect people to disagree also about the principles of justice that are supposed to govern our society. But then, how can a society be just and stable over time? To illustrate the problem, suppose that a principle of justice *X* were proposed in a given political society, whose justification depends on the assumption that God does not exist. The question is: how could *X* be just (and justify the actions of the state) if it is incompatible with the most fundamental, identity-defining beliefs of religious citizens? Those citizens could not endorse the justification for the institutions to which they are coercively subjected without violating their own conscience. Thus, political authority in such a society

⁷ As Kevin Vallier puts it, “the point of political philosophy is to ensure that people can cooperate in the pursuit of diverse ends despite the fact that they disagree about what morality, justice and the good require of them” (Vallier, 2014: 87).

would be exercised in an unacceptably sectarian way – in a way that does not take seriously the idea that people are truly *free and equal* from a political point of view.⁸

Rawls' principle of legitimacy provides a solution to this fundamental problem. According to it, "our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in light of principles and ideals acceptable to their common human reason" (Rawls, 1993: 137). Rawls' idea is the following. Conceived as a fair system of cooperation between free and equal members, a political society will be just and stable over time (for the right reasons) only if the use of political power against citizens is justifiable *to them*, i.e. to each person in her capacity as a reasonable citizen.⁹ In other words, the state owes its citizens (and citizens owe each other), as a matter of basic justice and basic political

⁸ Likewise, how could *X* ensure the society's normative stability over time if a significant number of its citizens, i.e. the religious ones, have no reason to accept being subjected to its institutions (and therefore have no reason to comply with them over time)?

⁹ The idea of reasonableness is a normative idealization. Citizens are reasonable when they conceive the society as a fair system of cooperation between free and equal members, recognize the existence of reasonable pluralism, and are motivated to propose and abide by fair terms of cooperation. This implies that reasonable citizens are not actual citizens, but an idealized version of them (see Rawls, 1993: 48-50; Quong, 2011: 143-144). It is important to note, however that there is no consensus regarding the appropriate *degree of idealization* required. Most notably, there is disagreement about the *level of epistemic competence* at which people should recognize the existence of reasonable disagreement in order to count as reasonable (see Leland and Van Wietmarschen, 2012; Nussbaum, 2011; Vallier, 2014: chapter 5). I shall leave this debate aside for reasons of space.

respect, a justification for limiting their freedom which they can accept in light of their own reasonable comprehensive doctrine or conception of the good.¹⁰ In turn, this implies that the use of political power must be justified *neutrally*,¹¹ i.e. in a way that is compatible with the truth of any particular reasonable comprehensive doctrine or conception of the good. Indeed, in the context of reasonable pluralism, where citizens disagree about the good and the truth, a justification cannot be acceptable to all reasonable citizens if it is not neutral in the sense of being *publicly* justified (justified to all reasonable citizens, with publicly acceptable reasons).¹²

In light of these characteristics, it should be clear that the Rawlsian account of legitimacy is a form of political anti-perfectionism. Indeed, as suggested in the introduction, one of the core

¹⁰ The connection that political liberals establish between respect for persons and respect for their conception of the good is of key importance. People's conceptions of the good – their deepest values, aims, projects and vision of the world – are constitutive of their identity at the deepest level. Respecting their conception of the good in the sense specified above is, for political liberals, what respecting them as free and equal is all about. As Martha Nussbaum puts it, people's conceptions of the good are "so deeply a part of people's search for the meaning of life that public governmental denigration of those doctrines puts those people at a disadvantage, suggesting that they are less worthy than other citizens, and, in effect, not treating them as fully equal" (Nussbaum, 2011: 22).

¹¹ Political liberals only endorse neutrality *of justification* or neutrality *of aims*. They (and most liberal theorists) reject neutrality of effects and what Rawls calls pure procedural neutrality. See Rawls, 1993: 191-196.

¹² As Jonathan Quong puts it: "[...] because reasonable people disagree about the good life, the state will have to eschew any appeals to conceptions of the good in justifying its core principles. [...] [O]nly public reasons – reasons that are acceptable to all reasonable citizens – can legitimate the coercive use of state power over its citizens" (Quong, 2004: 233).

defining features of political anti-perfectionism is the idea that it is impermissible for the state “to promote or discourage some activities, ideals, or ways of life on grounds relating to their inherent or intrinsic value, or on the basis of other metaphysical claims” (Quong, 2011: 15). In the next section, I shall begin to explore the question of whether – and why – political liberalism involves also a commitment to anti-perfectionism *in children’s education*, that is, to the idea that state policies in primary and secondary education should be justified without appeal to a particular conception of the good and that the state should not aim at improving children’s lives in a comprehensive sense.

2. Does political liberalism involve a commitment to anti-perfectionism in education?

Rawls himself offers some rather brief remarks on the issue of children’s education, in *Political Liberalism*. He writes that we should “try to answer the question of children’s education entirely within the political conception” and that “society’s concern with their education lies in their role as future citizens” (Rawls, 1993: 200). These remarks suggest that the state should not aim at shaping children’s identity on the basis of a comprehensive view. In other words, the state should not directly aim at promoting children’s wellbeing, flourishing or interests according to a particular conception of the human good (even if true). Rather, it should aim at educating children *only* in their role *as future citizens*. Thus, Rawls rejects state perfectionism not only when the subjects of state interventions are adults, but also when state interventions concern children. At the same time, he does not explicitly present the reasons why he thinks that his theory commits him to this conclusion.

Likewise, most discussions of political liberalism's implications for educational policies simply assume that the general constraints of legitimacy apply also to educational policies.¹³

For instance, Ian MacMullen writes:

Those who accept [...] the obligation to support only those exercises of state power that can be justified by appeal to reasons that are accessible to all will reject the idea that schools might be required to cultivate in children values whose justification can only be found by taking sides in the competition among equally reasonable ways of life. (MacMullen, 2007: 22)

Once again, however, the question remains as to *why* political liberals should reject the latter claim (if at all). After all, as we shall consider in more details below, children are not free and equal citizens, since they do not yet possess a conception of the good that is authentically their own.

What are, then, the main political liberals' arguments in favor of anti-perfectionism in education? In the next sub-section, I shall begin by considering what may seem like an obvious argument for thinking that educational institutions are subjects to the constraints of public reason, which I shall call 'The argument from the realization of basic political justice'. I will argue, however, that, *by itself*, this argument is insufficient for justifying anti-perfectionism in education.

¹³ For a good overview of the debate over political liberalism's educational requirements and policy implications, see Neufeld (2013).

2.1. *The argument from the realization of basic political justice*

It is well known that, according to Rawls, the “primary subject of justice is the basic structure of society”. Correspondingly, Rawls thinks that legitimacy does not require publicly based justifications “for all the questions to be settled by the legislature within a constitutional framework” (Rawls, 2003: 91, fn. 13). Rather, the restrictions of public reason apply only to constitutional essentials and matters of basic justice, that is, to questions concerning the basic structure of society.¹⁴ These questions touch on the content of the written constitution (in terms of political rights and liberties) as well as on the nature of other major social, economic and political institutions, which include “the legally recognized forms of property, and the structure of the economy [...], as well as the family in some form” (Rawls, 2003: 10). Importantly for the present purpose, Rawls thinks, first, that matters of constitutional essentials include legislation and policies that “assure that the basic needs of all citizens can be met so that they can take part in political and social life” and, second, that the basic needs in question include some level of “training and education” (Rawls, 1993: 166).

These considerations provide the basis for the following political liberal argument in favor of anti-perfectionism in education. If citizens need training and education *in order to become free and equal* members of society, capable of functioning and cooperating with others as

¹⁴ Rawls writes: “[O]n matters of constitutional essentials and basic justice, the basic structure and its public policies are to be justifiable to all citizens, as the principle of political legitimacy requires” (Rawls, 1993: 224).

such, then the state must make sure, *as a matter of basic political justice*, that each citizen receives the necessary level of education. This requirement seems to follow directly from political liberalism's foundational commitment to the idea of society as a system of fair cooperation between free and equal members. If this is true, however, it follows that educational institutions are within the *scope of justice* and, thus, are subject to the requirements of public justification. As such, in order to be legitimate, the use of political power on matters related to educational institutions must be justified on the basis of anti-perfectionist arguments, i.e. arguments that do not presuppose a commitment to a particular conception of the good.

This conclusion is nevertheless too quick. Indeed, the claim that each citizen needs basic training and education in order to become a free and equal functioning member of society does *not* entail the claim that the state ought to refrain from adopting perfectionist educational policies. This is because we have no reason to think that citizens cannot become free and equal when they are educated according to a particular conception of the good. If this is true, however, the state can equally well fulfill its basic duty to protect and promote the development of free and equal citizenship by implementing school policies which are justified on perfectionist grounds, *provided* that they promote perfectionist ideals that are conducive to the development of citizens' two moral powers, such as critical thinking and moral autonomy. In other words, even if we admit that "primary and secondary educational institutions are part of the basic structure, given their essential role in ensuring the free and equal status of future citizens" (Neufeld, 2013: 793, fn. 4), it does not follow that it is impermissible for the state to educate its future citizens according to a particular conception of good, at least *if* the latter is

compatible with “ensuring the free and equal status of future citizens”.

Therefore, we need an additional reason to think that the state cannot take side among competing conceptions of the good when it comes to justifying educational policies. For that purpose, we need to consider more closely the *reasons why* the use of political power requires publicly based justifications when it comes to the basic structure. This brings us to the second political liberal argument in favor of anti-perfectionism in education.

2.2. *The argument from the coercive character and pervasive influence of educational policies on children*

The use of political power in matters concerning the basic structure is subject to a special justificatory requirement at least in part because the basic structure *itself* is special from a normative point of view. More specifically, according to Rawls, the justification for the use of political power with respect to the basic structure must be acceptable to all reasonable citizens not just because the institutions of the basic structure are coercive,¹⁵ but also because they exert a “pervasive influence” on citizens’ lives. Indeed, such institutions have “deep and long-term social effects and in fundamental ways shape citizens’ character and aims, the kinds of persons they are and aspire to be” (Rawls, 1993: 68).^{16,17} This suggests the following

¹⁵ Political power, Rawls notes, “is always coercive power” (Rawls, 1993: 68).

¹⁶ G.A. Cohen notoriously criticized Rawls’ account of the basic structure’s special importance on the grounds

argument.

If the coercive character of the institutions of the basic structure and/or their pervasive influence on citizens' lives provides us with a reason to endorse political anti-perfectionism, then it seems to provide us also with a reason to endorse anti-perfectionism *in education*. Indeed, educational institutions share the same characteristics of the institutions of the basic

that it generates a fatal dilemma for Rawls: *either* he recognizes that the basic structure includes “social practices [...] patterns of personal choice that are not legally prescribed” (Cohen, 1997: 21-22), thereby discrediting his key distinction between the political as the subject of justice and the personal as beyond the reach of justice, *or* he limits the basic structure to the legally coercive institutions, thereby rendering the basic structure restriction arbitrary. Recent responses to Cohen's challenge can be found in Neufeld (2009), Hodgson (2012), and Schouten (2013).

¹⁷ It is worth noticing that the idea of pervasive influence can be understood in at least two different (yet not exclusive) ways: either in terms of *scale* or in terms of *kind* (Hodgson, 2012). On the first understanding, what matters is the magnitude of that influence, i.e. how deeply the basic structure affects the life prospects of citizens or – in other words – how greatly it impacts the value of “the set of expected payoffs associated with the different options open to [them]” (Hodgson, 2012: 309). On the second understanding, what matters is its constraining effects on people's ability to freely endorse and live in accordance with their own *conception of the good* or, to put it more simply, to set and pursue their own ends. I am sympathetic to the latter understanding of the basic structure's special importance, which Hodgson calls the “controlling influence view”. In fact, I will argue that educational institutions have controlling influence on *both* children *and* parents. However, I need not defend this view of pervasive influence *against* the first understanding. This is because if an institution exercises controlling influence, it also, by extension, exercises pervasive influence in the first sense, since controlling influence is actually a *deeper* sort of influence.

structure. This is especially clear when we consider their impact on children. Consider the extent to which educational institutions are coercive for them. Children have no, or very limited, control over what, where and how they are being taught. They are almost entirely subjected to the (coercive) authority of parents, teachers, administrators and policy makers. Consider, next, the influence that educational institutions have on children. It is hard to deny that such institutions can (and do) shape children's character and worldviews and enhance (or limit) their opportunities in very significant ways, perhaps even more so than the family in some respects. Think of the following questions with respect to a particular child. What school does she attend? What resources does her school have? Who pays for her education? What school options, if any, do her parents have? How much education will she receive? How and what is she being taught, and for what purposes? Who educates her and with whom is she being educated? The answer to these questions – which, importantly, are also *public policy questions* – can undoubtedly affect, and actually do shape, this child's worldview, values, character, desires, aims and opportunities in *extremely* profound ways. This means that educational institutions can potentially have at least as much of a pervasive effect on children's lives (and future lives) as the other major social and political institutions in Rawls' list.

Are these considerations sufficient to justify anti-perfectionism in education? According to Matt S. Waldren (2011), the answer is affirmative. In fact, Waldren thinks that these considerations *conclusively* show that political liberals are committed to what he calls 'educational neutrality', i.e. anti-perfectionism in education. Matthew Clayton (2006: 93-102) proposes similar arguments in support of a more controversial claim, namely, that the norms

of public reason should apply to parents' conduct *inside* the family. More specifically, he argues that parents have a moral (but not legally enforceable) justice-based duty to try and make educational decisions for their children on the basis of non-perfectionist, publicly acceptable, considerations. Importantly, both Waldren and Clayton believe that a commitment to anti-perfectionism in education is justified solely on children-centric grounds, that is, for reasons having to do only with the impact of educational institutions on children's actual and future lives.¹⁸

Interestingly, the idea that, to the extent that political liberals can justify anti-perfectionism in education, they can do so only on children-centric grounds is not shared only by defenders of this view, but also by some of its opponents. For instance, Harry Brighouse (1998) and, more recently, Tim Fowler (2014) have attacked anti-perfectionism in education and, conversely, defended a form of restricted perfectionism, precisely by casting doubts on the plausibility of the children-centric justification stated above. More specifically, Brighouse and Fowler argue that since the subjects of educational policies are children and since children are not free and equal in the same way that adults are, one cannot argue in favor of anti-perfectionism in education by appealing to the same arguments used to support anti-perfectionism in other spheres of state intervention. The reason is that these arguments make

¹⁸ Waldren explicitly writes: "Rawls might argue that, since parents have a choice about where to send their children to school, educational institutions are not coercive. This response misunderstands the focus of the worry, however. The focus here is on children, who normally have little to no say about the educational institution they attend" (Waldren, 2011: 5).

crucial reference to the characteristic moral powers of adult citizens, which children do not yet possess. If this is the case, then, pace Waldren and Clayton, anti-perfectionism in education cannot be justified on children-centric grounds. Yet, if the latter is the only possible justification for that view, then its rejection implies that some form of perfectionism may, after all, be permissible.

In what follows, however, I shall argue – against both its defenders and its critics – that the children-centric justification is not the proper justification for anti-perfectionism in education. More specifically, I will argue that the main ground for political liberals’ commitment to anti-perfectionism in education is not children-centric, but *parent*-centric. My argument will clearly be directed as much against Brighouse and Fowler as against Clayton and Waldren. Since my ultimate goal is to show that there *is* a valid public reason justification for anti-perfectionism in education, however, my focus will be primarily on Brighouse’s and Fowler’s negative argument against anti-perfectionism in education, rather than on Clayton’s and Waldren’s positive defense.

According to both Brighouse and Fowler, the particular case of state interventions in the domain of children’s education raises difficulties because children’s moral status is different from that of adults. For a start, children are not autonomous (at least under a certain age). Thus, they cannot be seen as having a conception of the good that is genuinely their own. Moreover, children are more vulnerable to all kinds of threats, including their own unreflective choices and actions. As a consequence, they are appropriate subjects of paternalistic treatment. Although neither Brighouse nor Fowler specify the notion of

paternalism in any detail, they appear to rely on an understanding of paternalism as a *judgmental act* (Quong, 2011).¹⁹ According to it, paternalistic treatment occurs when (1) an individual A “attempts to improve the welfare, good, happiness, needs, interests, or values” of another individual B, and where (2) A “is motivated by a *negative judgment* about B’s *ability* [...] to make the right decision” (Quong, 2011: 80). Conceived thusly, paternalism toward children is justified on the grounds that children lack the ability to make decisions that effectively advance their welfare, good, happiness, needs, interests, or values, and that they would benefit from having another person exercising authority over them, *on their behalf*. By contrast, paternalism toward adults is *prima facie* wrong because it involves treating them as if they were unable to make appropriate decisions about their own good, that is, treating them as moral inferiors. Since state perfectionism involves such paternalistic judgments, it is thus considered to be wrong by political liberals.

Let us grant all this. Does it follow that the requirement of neutrality is sound in the context of state interventions that are directed toward adults, but not in the context of state interventions directed toward children? The latter is Brighouse’s and Fowler’s position. Brighouse’s argument is spelt out in the following passage:

[N]eutrality is an inappropriate constraint on the state regarding policies concerning children. Children are not yet intimately tied to conceptions of the good, and we do not think that respecting the ties they do have is either a condition of legitimacy of the state or of treating them with respect. Liberals are so impressed with the intimate connection

¹⁹ See Brighouse, 2000: 91; Fowler, 2014: 310.

between persons and their conceptions of the good because persons are presumed properly to regard them as their own. But we should not regard children's conceptions as their own, because they are unequipped to make them genuinely their own. (Brighouse, 1998: 738)

Fowler proposes a similar argument in favor of the same conclusion. He notes that political liberals often describe the wrong of political perfectionism in terms of the wrong of treating adults "as if they were children, in need of guidance and direction about their own lives (Quong, 2011: 315, quoted in Fowler, 2014: 311). Political liberals must, however, recognize that state perfectionism directed toward children is not wrong, not even presumptively wrong. Indeed, like Brighouse, Fowler points out that, insofar as children do not already have a conception of the good, educating them according to a particular conception of human flourishing is not unjust or disrespectful to them. Moreover, to the extent that the state adopts perfectionist policies when it comes to educating children, but treats adult citizens in a non-perfectionist way, then it fulfills its duty to treat all citizens *equally*, for each citizen will be a child for part of her life and an adult for another part.²⁰

²⁰ Christina Cameron proposes a similar objection against anti-perfectionism toward children in the context of her critical discussion of Matthew Clayton's view, according to which the public reason restrictions apply to the exercise of parental power within the family. She writes: "Children [...] do not have the status of free and equal persons that motivates the [public reason constraint] in the state-citizen relationship. So, how can their freedom and equality be violated by the imposition of a comprehensive doctrine, or indeed other impositions of power?" (Cameron, 2012: 343)

In order to assess Brighthouse's and Fowler's strategy against anti-perfectionism in education, it is useful to identify the core premises of their argument. I propose the following reconstruction:

- (1) In the context of reasonable pluralism, whenever the use of political power is coercive and has a profound influence on citizens' lives, aims and opportunities, respect for them as free and equal persons requires the state to adopt a stance of liberal neutrality, that is, an anti-perfectionist stance.
- (2) Liberal neutrality involves giving citizens a justification for the use of political power that they can accept in light of their own reasonable conception of the good.
- (3) However, children do not have a conception of the good.
- (4) So, even if educational policies are coercive and education has a profound and fundamental influence on children' lives, aims and opportunities, exercising authority against them without a neutral justification is not disrespectful to them.
- (5) Therefore, liberal neutrality is an inappropriate constraint on educational policies.

The main problem with this argument is that, even if one grants the soundness of premises (1)-(4), the conclusion in (5) does not follow. Indeed, premises (1)-(4) only support a more moderate conclusion.

To see why, suppose we grant – as I think we should – Brighthouse's and Fowler's claim that, since children are not (yet) free and equal persons, the state does not show any lack of respect toward them by failing to provide *them* with a justification for the use of its coercive

power. If we grant this, we also have to grant that, contrary to what Waldren and Clayton maintain, state anti-perfectionism in education cannot be justified on children-centric grounds. Importantly, however, this does *not* force us to conclude that state anti-perfectionism in education cannot be justified *at all*, as stated in (5). The reason is that there may exist *other* ways to justify anti-perfectionism in education. This remark alone suffices to show that the conclusion that liberal neutrality is an inappropriate constraint on educational policies is not yet established. However, my point is not merely a logical one. In fact, what I want to suggest is that neither Brighouse nor Fowler (or Waldren or Clayton, for that matter) have considered the most powerful justification in favor of anti-perfectionism in education available to political liberals. According to it, liberal neutrality is required by justice due to *parents*, rather than to children, as free and equal persons. This leads us to the third political liberal argument in favor of anti-perfectionism in education, which I shall now present.

2.3. *The argument from the coercive character and pervasive influence of educational policies on parents*

The idea underlying the current argument is that, for most parents, educating their children as they see fit is a very important component of *their* conception of the good. Hence, in order to be legitimate, the state's educational policies must be acceptable to all parents coercively subjected to them, in light of their own reasonable conception of children's interests and parental duties. This means that respect for parents, as free and equal persons, requires the state to adopt a stance of liberal neutrality in education.

Here is a different way to defend the same claim. Both perfectionist and anti-perfectionist liberals can, and should, recognize that the family is the best setting for the paternalistic oversight of children and that the family should be protected against a wide range of intrusive state interventions. In other words, they can, and should, recognize that parents have significant moral and legal rights. As a matter of fact, Fowler argues that state perfectionism in education is perfectly compatible with respecting such parental rights. He writes:

A perfectionist state would only seek to frustrate or override parents' abilities to shape values when these values were not the best possible for the child, when a better set could be taught at school and when this gain in flourishing outweighed any loss of flourishing that derives from the parent-child relationship. (Fowler, 2014: 308)

At the same time, Fowler (like Brighouse) fails to acknowledge that the *nature* of the justification for parental rights, within a political liberal framework, renders impermissible even the most liberal form of state perfectionism in education. The reason is the following. Within a political liberal framework, the justification for parental rights cannot be based on a particular comprehensive view of children's interests. Indeed, reasonable persons disagree about the good and, a fortiori, about *children's good* and *family goods*. Moreover, from the perspective of public reason, parents have a right to shape their children's values according to their *own* reasonable conception of the good (and of their children's best interests) because *they are free and equal* citizens. Most parents identify with their role as parents at the deepest level. Many strongly believe that they have an obligation to pass on their values to their children and conceive the fulfillment of this obligation as a crucial aspect of what gives meaning and purpose to their own lives. Limiting their freedom or ability to do that *without a justification that they could accept*, as *reasonable parent-citizens*, would thus amount to

violating *their* integrity. If this is the case, then, contrary to what Brighthouse and Follow suggest, state perfectionism in education cannot be justified within a political liberal framework.

The upshot is the following. If the state can disrespect its citizens only by disrespecting them as free and equal persons, then the state cannot disrespect children *by adopting perfectionist educational policies*, because children are not free and equal persons. To this extent, Brighthouse and Fowler are right in claiming that the children-centric justification for anti-perfectionism in education is not successful. On the other hand, Brighthouse's and Fowler's conclusion that anti-perfectionism in education is unjustified does not follow. The reason is that there exists another, parent-centric justification in favor of anti-perfectionism in education, which both its defenders and its critics have failed to consider.

This result raises, however, some important questions. If anti-perfectionism in education is justified on parent-centric grounds, does it follow that political liberals are committed to the implausible view that parents' legal rights must be protected at any cost for children? Importantly, what claims do children have on the liberal state? What does the state owe *them* as a matter of justice and basic political respect, and what does it imply in terms of legitimate state interventions in children's education? I shall consider these questions in the next section.

3. Is anti-perfectionism in education bad for children?

In the previous section, I showed that, *if* one is committed to political liberalism, *then* one

should also be committed to anti-perfectionism in education, since this is what justice owed to parent-citizens requires. However, in the previous section I have not shown that one *should* be committed to political liberalism, nor have I addressed the substantial question as to what anti-perfectionism in education itself requires or implies (i.e. what specific moral demands and limits it places on state interventions in children's lives). In fact, one may use the conclusion of section 2 precisely to build an argument *against* political liberalism. Briefly, the argument is the following. Even the most permissive accounts of parental rights²¹ recognize that parental rights do not include a right to inflict harms on children and that the state is entitled to prohibit or discourage certain kinds of parental treatment or actions. Very plausibly, the latter include not only cases of neglect and abuse, but also the inculcation of beliefs that are profoundly detrimental to children's current or future wellbeing. For example, teaching a homosexual child that homosexual acts are fundamentally wrong and repulsive is extremely likely to cause her to greatly suffer, as a child and later in life. The problem is that if the state must justify its actions to reasonable citizens, and if reasonable citizens include citizens who sincerely believe that homosexual acts are sinful, then it seems that the state cannot intervene *in any way* to limit or counterbalance parental influence on their child in morally troubling cases like this. Thus, political liberalism appears to leave children vulnerable to harmful forms of socialization within the family or within educational institutions (e.g. private religious

²¹ For instance, Loren Lomasky's (1987) and Shelley Burt's (1994).

schools).²²

In order to respond to this challenge, we need to identify the content of the anti-perfectionist state's duties toward children, the grounds for political interventions in children's lives, and what type of political interventions can be justified in light of those grounds. In what follows, I shall argue that even though political liberals are committed to justificatory neutrality, and even though the liberal state does not owe children – but only owes reasonable parents – a justification for the use of political power against them that they could accept, the theory can potentially justify a robust agenda of political interventions in children's education in the name of justice for children. In fact, the theory can justify the sort of political interventions that many feminists and perfectionist liberals believe to be required by justice.

3.1. Justifying child welfare and child protection laws

First, let us consider how interventions that are aimed at *protecting* children's basic interests, i.e. child welfare and child protection laws, are justified within a political liberal framework. Such laws are surely the most basic and morally uncontroversial form of political protection for children. In order to grasp the challenge under consideration, it is important to notice that

²² As Susan Moller Okin (1994, 2004) famously argued, the family can be a sphere of oppression and domination for both women and children. Rawls' political liberalism, she claims, is unequipped to deal with injustices occurring within the private sphere because it classifies as reasonable – and therefore to-be-respected by the state – views that are sexist or homophobic.

reasonable disagreement may arise with respect to the issues of (1) the metaphysical status of the parent-child relationship, (2) the nature and value of childhood, and (3) what children's best interests are.

To illustrate the problem, imagine Celine and Paul, truly respectful citizens seeking cooperative relationships with their fellow citizens, who, *as parents*, sincerely adhere to the following set of beliefs. First, they see their children as extensions of themselves,²³ i.e. they do not see their children's identity as detached from their own, from a metaphysical point of view. Second, they conceive of childhood as a mere preparation for an authentic life of devotion to God. Third, they assign supreme value to the salvation of their children's souls and take this role to be the most crucial, identity-defining task and obligation in their lives. In light of these beliefs, they seriously limit their children's exposure and access to a range of intellectual and material goods, including access to basic information about the world that they consider soul-corrupting. Once again, however, they do not see their parental practices as all-things-considered harmful to their children. On the contrary, they sincerely believe that their decisions are in their children's best interest: they are doing what they truly understand as required for their salvation.

Cleary, in order to justify state interventions interfering with those parents' freedom,

²³ Robert Nozick claims that one's children are indeed "part of one's substance [...] [they are] organs of you [...] part of a wider identity you have". Yet, he recognizes that is it "inappropriate to place upon them the burden of fulfilling your own ambitions" (Nozick, 1989: 28-29).

political liberals cannot appeal to the idea that their beliefs are *false*, since this would be a straightforward violation of the principle of legitimacy.²⁴ Yet, one possibility is for them to argue that such parents are not truly politically *reasonable*. Fowler, for one, leans precisely toward this strategy when he writes: “Just as the state can restrict those who would attack or harm other adult citizens because they believe that they are required to do so by their religion, so the state can limit what parents can do to children even in cases where the regulated action is inspired by the parents’ beliefs” (Fowler, 2010: 374). Obviously, citizens who wish to attack or harm other fellow citizens against their will are *not* cooperative members of society, irrespectively of their reasons. As such, they cannot count as reasonable under Rawls’ account. Perhaps, we could say the same about parents who wish to significantly restrict their children’s freedom.

The main problem with this strategy is that it simply presupposes that the moral status of children is, in crucial respects, the same as the status of adult citizens. Recall, however, that, contrary to adult citizens, children are not political equals and that parents have powerful interests – that citizens do not have with respect to other adult citizens – in being able to

²⁴ As John Tomasi writes: “People with an ethical liberal orientation typically argue that parents do not ‘own’ their children, but rather that children own, or at least are on their way toward owning, themselves. [...] But political liberals, by their own view, are required to abandon such ambitions. Political liberals, not ethical ones, are bound to defer to the wishes of parents” (Tomasi, 2001: 97).

educate their offspring according to their fundamental beliefs about the good and the world.²⁵ In light of these considerations, it is far from obvious that parents like Celine and Paul should be seen as unreasonable. In fact, this can actually be seen as the main source of the problem for political liberalism.²⁶

An alternative possibility for political liberals is to argue that state interventions are permissible if, and because, rearing practices such as Celine and Paul's deprive children of certain goods *that are commonly recognized as crucial* for any child's wellbeing. Indeed, this seems the strategy advanced by Ebels-Duggan in the following passage:

It is widely agreed that children need basic material provision and nutrition, safety and the sense of safety, and stable and loving relationships especially with the adults who are their primary caretakers. And it is extremely plausible to hold that any residual disagreement on these fronts should be overridden, even if this requires coercing some who seek cooperative political relationships. Thus we can justify many important child protection and welfare laws by appeal to children's interests. (Ebels-Duggan, 2013: 43)²⁷

²⁵ This implies that while it might be true that some parents should be seen as unreasonable in virtue of their parenting practices or beliefs, there inevitably are things that reasonable parents can legitimately do to their children that they *cannot* do to their fellow citizens, including those with whom they are engaged in intimate relationships.

²⁶ Susan Moller Okin (1989) makes a similar claim.

²⁷ Notice that Ebels-Duggan is *not* saying that it is implausible to regard parents like Celine and Paul as truly *reasonable*. Indeed, citizens who "seek cooperative political relationships" are precisely, according to Ebels-Duggan, *reasonable* citizens. Thus, she suggests that at least some of the "residual disagreement" in question here can appropriately be seen as reasonable.

I believe that this strategy points in the right direction. However, it also seems to underestimate the resources that the theory has to address the issue more convincingly. In fact, political liberals *can* (and should) recognize that children have a distinct moral status from a *political* point of view and that, in virtue of this status, they have claims of their own on the liberal state. Indeed, from a political point of view, children have an independent moral status *as future free and equal persons*, since they possess a non-actualized, yet potential capacity for a conception of the good and a non-actualized, yet potential capacity for a sense of justice. In light of this, reasonable parents should recognize that, from a strictly political point of view, children are *not* extensions of themselves. They should recognize this in the same way as they recognize that their fellow adult citizens are their equals from a political point of view. This implies that the state has legitimate *publicly accessible* reasons – reasons of the right kind from the point of view of legitimacy – to intervene in children’s lives, even against parental will. First, the state can appeal to its own interest, i.e. the interest of the political society as a whole, to develop future citizens’ sense of justice (for the sake of justice). Second, and most importantly, it can appeal to children-as-future-citizens’ *own* interests in successfully developing their “capacity to form, to revise, and rationally to pursue a conception of one’s rational advantage or good” (Rawls, 1993: 19). Finally, and relatedly, it can appeal to children-as-future-citizens’ interest in seeing *themselves* as free and equal citizens.

We can now see why, in the previous example, the state can legitimately limit Celine and Paul’s freedom to educate their children as they see fit. Consider the three reasons available to the state to justify political interventions in children’s lives, which I have just mentioned. The first reason is probably not *weighty enough* to justify limiting the freedom of parents like

Celine and Paul, since political stability does not require that *all* citizens develop a sense of justice.²⁸ On the other hand, the second and third reasons are, potentially, weighty enough, since they are grounded in the political respect due directly to children as future citizens. Indeed, if respect for adults as free and equal citizens requires justifying the use of political power in ways that they can accept in light of their own reasonable conception of the good, respect for children as future free and equal citizens requires protecting and promoting their ability to freely develop and endorse a conception of the good of their own, as well as to see themselves as equal citizens.²⁹ These considerations imply that, *if* parents' educational choices undermine the development of their children's capacity for a conception of the good or for self-respect in this way, *then* the state can legitimately limit their freedom to educate their children according to their conception of the good. Indeed, this seems to be precisely the features of the example. What is at stake in those circumstances is the ability of Celine and Paul's children to access basic material and intellectual resources, such as information about the world. These goods seem nothing short of *essential* for insuring the development of anyone's capacity to become free and equal. If this is true, then state interventions designed to protect children against their parents' harmful practices are (at least) permissible in this case.³⁰

²⁸ This argument has been advanced also by Ian MacMullen (2007), amongst others.

²⁹ In non-ideal contexts where, say, the background social culture is such that we have reason to believe that some category of *adult* citizens lack the ability or the resources to see themselves as equals, the state has the same justice-based duty toward them to intervene.

³⁰ This implies that, contrary to what Rawls suggests, political liberalism is not necessarily more accommodating toward religious diversity than comprehensive or perfectionist liberalism. The reason, however, is *not* that

Even then, however, one might insist that this is still too little, for at least two reasons. First, it might be argued that it is not sufficient for political liberalism to be able to justify state interventions in cases like the one described. A good theory of justice must be able to justify state interventions against parental will also in other, more difficult, cases. In particular, as mentioned above, it must be able to justify a range of positive state interventions in education, e.g. a compulsory curriculum promoting the idea that homosexual relationships are morally permissible, even when they conflict with some reasonable parents' moral convictions. Second, it might be argued that a plausible theory of legitimacy should *require*, rather than merely permit, interventions designed to promote – via educational policies – children's basic moral and political interests.³¹ To these issues, I shall now turn.

political liberalism implies a demanding conception of *civic education*, which justifies limiting parental freedom, as Amy Gutmann (1995) and Stephen Macedo (2000) have argued. Rather, the reason is that Rawls' theory can justify a large range of interventions in children's education on the ground of its commitment to children as future free and equal persons. In other words, even if the state does not owe all children a good *civic education*, for the sake of political stability, it owes *all* children an education that promotes the development of their capacity for a conception of the good. In my view, *this* requirement justifies limiting parental freedom in a way that the classic civic argument cannot do.

³¹ Susan Moller Okin seems to be making this point when she writes: "The myth that state intervention in the family is an option allows those who support the status quo to call it 'nonintervention' and to label policies that would alter it [...] 'intervention'. This language takes the focus off more pertinent questions such as whether the policy in question is equitable or prevents harm to the vulnerable" (Okin, 1989: 131).

3.2. *Justifying educational policies promoting children's interests or wellbeing*

In order to illustrate the first residual worry, let us consider another example, in which the mere fact of being taught a particular moral view seems harmful to a child. Denyse and Daniel are reasonable citizens in Rawls' sense. They are also the caring and loving parents of four children. As parents, they assign great value to the development of their children's autonomy and make educational decisions accordingly. For instance, they send their children to a school that promotes critical thinking. However, Denyse and Daniel strongly and firmly believe that homosexual acts are morally bad and do not want their children to be taught or told that homosexual acts are morally acceptable in any way, especially not at school. Since they are reasonable in Rawls' sense, they agree that homosexual couples should have the same political rights as heterosexual couples and that homosexual persons should not be discriminated against. Nonetheless, they think that homosexual acts are wrong and that, as parents, they have a strong obligation to teach their children that they should not commit such acts. Now, suppose that one of their children, Maxim, is in fact homosexual. Suppose also that his parents know this and know also that teaching Maxim to refrain from 'practicing' his homosexuality is likely to make him seriously unhappy. Still, they are convinced that happiness has less value than morality. The question is: does Maxim have a legitimate claim on the state to receive a homosexuality-friendly education, against his parents' will?

In this case, the idea that the state should *not* intervene directly in the family (by prohibiting the transmission of these beliefs or directly interfering with the parents' ability to share their values with their children) does not actually seem counter-intuitive, since the moral costs of

such state interventions within the family are extremely high in many respects.³² The problem, however, is that anti-perfectionism in education seems to imply that the state cannot intervene *at all*, even in softer and less direct ways, i.e. via its educational policies, so as to make sure that Maxim receives the message (at school) that homosexuality is morally acceptable or (at least) a viable option for him. In fact, the alleged inability of political liberalism to justify this type of state intervention is precisely part of Fowler’s motivation for recommending state perfectionism, as opposed to anti-perfectionism, in the restricted domain of children’s education.³³

In response to this line of thought, it is important to notice, from the start, that anti-perfectionism in education *does* permit policies designed to insure that children are taught that homosexual citizens are equal *from a political point of view*. More generally, the state could permissibly encourage, and even oblige, both public and private schools to teach political respect toward *all* citizens, since no *reasonable* citizen could oppose such a policy. The real question is whether, in our example, the state can *also* require private schools to refrain from teaching children, in accordance with the parents’ beliefs, that homosexual acts are simply

³² The State always has an obligation to opt for the less costly form of intervention in terms of political values, and for one that balances the different political values at stake in a reasonable way. I will say more about this point at the end of the section.

³³ Fowler claims that schools should “instill the belief that homosexuality is an appropriate way to live one’s life” (Fowler, 2014: 317) and presents this precisely as an example of a policy that state perfectionism in the domain of children’s education would recommend, as opposed to anti-perfectionism. See also Fowler (2010).

morally wrong. This question arises because the reasons to which the state can legitimately appeal in order to act against parental will, i.e. promoting a sense of justice and assuring the development of children's capacity for a conception of the good, do not seem to support intervention in this particular case. Indeed, insofar as Denyse and Daniel are politically reasonable and value personal autonomy, they aim precisely at promoting their children's moral powers.

However, things are not as simple as they may appear at first sight. Indeed, it seems very plausible to think that it is extremely difficult for a child to develop a conception of the good that is truly her own if she is a homosexual raised and consistently educated to believe that homosexuality is morally wrong. Furthermore, and most significantly, in social and cultural contexts where homosexuality is commonly seen as morally objectionable, or disgusting, and where homosexuals are actually marginalized and discriminated against, it is, as Lori Watson notes, "difficult to maintain one's identity as free and equal citizen while at the same time identifying as gay or lesbian" (Watson, 2007: 105). This means that, in non-ideal contexts, it may be justified for the liberal state to promote a particular, reasonably controversial, position on 'private' moral issues for *political reasons*, i.e. for reasons of justice toward children.

If these considerations are correct, then they imply, once again, that there *are* good political arguments available to legitimize robust state interventions in children's education. The state simply need not commit to the view that homosexual acts are indeed morally permissible in order to justify its actions in defence of future (or current) citizens. Arguably, the neutral arguments for intervention show that, in some contexts, it may be permissible for the State to go

as far as obliging all schools, including private ones, to promote the view that homosexuality is morally acceptable, as this may be the best (and least costly in terms of parental freedom) way to promote free and equal citizenship. This conclusion shows that, contrary to what is generally thought, political liberals *can* potentially justify many educational policies proposed by defenders of state perfectionism (and skeptics of liberal neutrality in education), such as Fowler. At the same time, the previous considerations do *not* show that the liberal state is *required*, rather than merely permitted, to intervene, via its schooling policies, in order to ensure that children like Maxim receive the message that homosexuality is a viable option for them. This is the second residual worry mentioned above, which I shall now discuss. I will argue that this worry is potentially the most serious objection against political liberalism, despite a recent attempt to show otherwise by Gina Schouten (2013).

In response to the worry in question, expressed by feminist philosophers like Susan Moller Okin among others, Schouten has defended the view that *non-intervention* is in fact *impermissible*, within a political liberal framework, in cases like the one under consideration. Schouten's strategy consists in arguing that both exercises and *omissions* of political power must meet the requirements of the Rawlsian principle of legitimacy, in order to count as morally acceptable. She claims:

Political power may be a necessary means of amending social circumstances that undermine the development of free and equal citizenship. In these cases, abstaining from exercising political power is unacceptable from the perspective of free and equal citizenship. In a liberal state, then, omissions and exercises of political power face the same justificatory burden: they are illegitimate insofar as they are unacceptable to free and equal citizens. (Schouten, 2013: 367)

In other words, Schouten's claim is that the state has a *positive obligation* to promote the development of free and equal citizenship, an obligation that derives from the liberal principle of legitimacy itself. Hence, failing to meet such an obligation represents a morally unacceptable omission of political power.

The problem, however, is that even if Schouten's thesis is correct, it does not necessarily imply that political liberalism will *always* require, as opposed to merely permit, political interventions that protect children's political interests *when their interests conflict with their parents' interests*. Indeed, within Rawls' framework, there is no principled reason for giving *priority* to children's interest in developing their capacity for free and equal citizenship in cases of conflict with parental freedom. Surely, children's interests cannot be sacrificed *completely* if the state has as positive duty to "ensure for citizens access to the necessary means for the development of their moral powers as well as adequate space in which that development can occur" (Schouten, 2013: 377). Yet, public policies can protect children's interests at various degrees. The problem is that, in non-ideal contexts (where, e.g., sexual minorities are dominated and marginalized) what is "necessary to protect the children's development of citizenship" may come at *great costs* in terms of parental freedom. Therefore, the State will need to balance children's interests and parental interests (or, to put it differently, its own conflicting duties) in designing its public policies. It seems however that different ways of balancing those interests could pass the legitimacy test, including ones that attribute greater weight to parental freedom over children's interests in becoming free and equal citizens. If so, perfectionist liberals and feminists that are skeptical of liberal neutrality still have some (although not necessarily decisive) grounds for complaint against political

liberalism. This is because, although political liberalism can justify a much more expansive range of state interventions in children's education than both its defenders and its critics have typically suggested, it cannot guarantee that children's interests will always have priority over their parents' interests. In the end, it is left to the political community to decide how to weigh such conflicting interests.

4. Conclusion

In the first part of my paper, I have shown that political liberals are committed to educational neutrality and that, contrary to what many have maintained, they are so committed primarily for reasons of justice toward parents. In the second part of my paper, I have shown that the liberal state can nevertheless permissibly intervene in children's lives, even against their parents' will, in order to protect the development of their capacity for equal citizenship. In guise of conclusion, it should be noted that my arguments do not imply that, within a political liberal framework, the state owes something to children *as children*. While the interests of children as children *might* in fact converge with their interests as future citizens, this is, of course, not *necessarily* the case. This points toward further issues and complications for the political liberal view, including how to deal with children who do not have the potential to become free and equal citizens (e.g. severely cognitively disabled children). Finally, my arguments leave open the substantial question of what particular public policies in education, e.g. concerning the content of the compulsory curriculum and school choice, actually pass the legitimacy test. These questions are, however, far beyond the scope of the present paper.

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On the Permissibility of Shaping Children's Values

This paper examines the issue of whether parents have a right to enroll their children into a particular comprehensive doctrine. The notion of comprehensive enrolment refers to the idea of seeking to *deliberately* shape the particular content of one's children's values. According to Harry Brighouse and Adam Swift (2014), comprehensive enrolment is permissible provided that it facilitates familial relationship goods, which crucially include the development of the child's capacity for autonomy and the development of her sense of justice. Matthew Clayton (2006, 2012), on the other hand, takes comprehensive enrolment to be inherently problematic. According to him, parents have no right to seek to set their children's ends. They have no right to encourage their children to endorse controversial beliefs about the good or to enroll them into comprehensive practices and ceremonies. Clayton takes his view to imply, for instance, that it is illegitimate for parents "to baptise their child or include her within religious ceremonies" (Clayton, 2012: 362).

In this paper, I pursue two main goals. The first is to expand and amend the case against Clayton's anti-perfectionist account of legitimate childrearing and to propose a novel argument in favor of the permissibility of comprehensive enrolment. The second is to draw a distinction between the notions of comprehensive enrolment and comprehensive education and to argue that, if this distinction is taken into account, Brighouse and Swift's and Clayton's positions can be unexpectedly reconciled.

The paper is structured as follows. After clarifying the main features of the debate and presenting Brighouse and Swift's account, I shall reconstruct and carefully examine Clayton's three arguments against comprehensive enrolment. According to the first, comprehensive enrolment undermines children's autonomy by making the revision or abandonment of their parents' conception of the good emotionally too costly. According to the second, comprehensive enrolment violates children's autonomy because parents cannot reasonably expect them to retrospectively consent to being enrolled into a particular conception of the good, once adults. According to the third, comprehensive enrolment is impermissible because it disrespects children as future free and equal citizens. Against the first argument, I will argue that neither of the two most plausible ways of conceiving the relationship between emotional costs and autonomy supports the conclusion that comprehensive enrolment is impermissible. I will then argue that both the second and third argument mistakenly conflates three different ways of understanding the idea of an individual's 'capacity for autonomy'. In addition, I will argue that even if Clayton's principle of retrospective consent could be defended, his conclusion would still not follow, for there are good reasons – provided by Brighouse and Swift's account of family values – to think that comprehensive enrolment can actually satisfy this principle. Finally, in the last section of the paper, I shall propose an alternative understanding of comprehensive enrolment and argue that the latter opens an unforeseen space for reconciling Brighouse and Swift's and Clayton's positions.

1. Shaping children's values: framing the debate

1.1. Shared assumptions

In order to better understand the specific issues raised by comprehensive enrolment, it is worth clarifying from the start the key tenets around which the debate over comprehensive enrolment is structured.

Generally speaking, the debate *presupposes* three claims. The first is that paternalism toward children is justified because they lack the capacities required to adequately understand and promote their own fundamental interests. The second is that the family is the best setting for the paternalistic oversight of children. The third is that children should not be redistributed at birth to the best possible or to better prospective parents. Thus, the issue under consideration is not whether parents have legitimate authority over their children. The issue is what are the specific limits and constraints on the legitimate, i.e. morally permissible, *exercise* of this authority.

Zooming in more closely on the debate about value-shaping, we can distinguish three key assumptions, shared by both Clayton and Brighouse and Swift. The first is that children have an independent moral status and interests of their own. The second is that the parent-child relationship is non-voluntary and coercive for children. The third is that value-shaping is an exercise of power over children of a particular kind: it has a profound influence on their lives.¹ It is worth examining each of these claims in more details.

¹ In fact, Clayton explicitly builds his main arguments against the comprehensive enrolment of children on the second and the third claims. Brighouse and Swift agree with these claims (although not with Clayton's

According to the first, children are independent beings, in the sense that they are not their parents' property, nor an extension of their parents' selves. Children have interests of their own. In fact, some of their interests are weighty enough to generate moral rights, as well as corresponding duties on the part of others. Brighouse and Swift take the independence of children to be at the heart of the issue of value-shaping:

Given that children are separate people from their parents, and given that we have rejected the proprietary account of the relationship between the two, the core question is why parents should have any special authority with respect to the processes that will shape their children's values. (Brighouse and Swift, 2014: 115)

This first claim alone, however, does not explain what the specific problem with the parental shaping of children's values is. To see this, it is sufficient to notice that *adults* engaged in intimate relationships can 'shape' each other's values too, by influencing each other in all kinds of ways. Yet, we do not typically see adult-to-adult value-shaping or value-influencing as problematic. That is because adults are, in most cases, appropriately seen as autonomous and as moral equals. They have a capacity to select or leave their intimate relationships and to reflect autonomously on the influence that others exercise on them. By contrast, children are not their parents' moral equals, in the sense that they do not have the same moral powers. They cannot escape or consent to being in a relationship with their parents. That relationship is

conclusion). In my view, this is not an accident. Indeed, these are not simply premises in Clayton's argument; rather, they are, together with (1), the basic assumptions framing the debate.

authoritative and coercive in nature. So, shaping children's values is an exercise of power over them.

That is the second important claim structuring the debate. Still, even this does not fully explain the distinctiveness of the issue of shaping children's values. In order to do that, we need to remark that shaping children's values is not an exercise of power like any other. It is one that has a *profound influence* on children's lives. Consider the following example. The parents' choice to make their children eat pasta rather than rice for dinner may be coercive for their children, but does not have the sort of profound and pervasive influence that value-shaping has. By contrast, values are special because, unlike the particular content of a meal,² they are *identity-defining*. Persons identify with their values at the deepest level; they are part of what makes them who they are. So, shaping a child's values means influencing her in the most profound and morally significant sort of way. It means building her identity. In light of these considerations, it is easy to see why the permissibility of shaping children's values is a delicate and contentious topic. Given that children are independent moral beings, and that shaping their values means shaping the kind of persons they will become, in a coercive manner and without their consent, the question arises as to whether parental value-shaping is morally permissible.

² Unless, of course, the choice of the meal is value-driven.

1.2. Brighthouse and Swift's account

Brighthouse and Swift's answer to this question is built on a fundamental idea, which guide their entire book, namely, that children need to be engaged in an intimate and loving relationship with a parent for their most fundamental interests, including their interest in becoming autonomous, to best be met. They argue, moreover, that an intimate and loving relationship unavoidably involves some degree of value-shaping. The main reason is that *some* value-shaping is an inevitable by-product of value-*sharing*. In turn, value-sharing is required by two important ingredients of a successful loving and intimate parent-child relationship: spontaneity and authenticity.

Spontaneity and authenticity are crucial for a good parent-child relationship for two main reasons. The first is that children need close and loving role models to meet their developmental needs. Parents who make educational decisions 'robotically', without spontaneity and authenticity, are unlikely to inspire identification. The second, and perhaps most important, reason is that parents can hardly experience their relationship with their children as a source of joy and fulfillment without 'being themselves' in the relationship. In fact, it is in *children's interests* that parents experience the relationship in this way. Indeed, it is when the relationship is experienced by their parents as rewarding that children's interests are best served by it. The connection with value-sharing is then the following. Insofar as values are identity-defining, at least some of the parents' spontaneous and authentic acts are going to be value-guided and, thereby, involve value-sharing. Given the nature of the parent-

child relationship, the inevitable consequence is that this will influence the particular views that children will hold about what is valuable.

Brighthouse and Swift are aware that value-shaping is *not* always an unintended effect of value-sharing. Some parents seek *deliberatively* to shape their children's values and worldview. In other words, they seek to comprehensively enroll them into their conception of the good. *That* is what Clayton finds objectionable. Brighthouse and Swift disagree.³ They argue that *some* deliberate value-shaping is crucial to intimacy because the sustainability and depth of any intimate relationship demand not only time-investment, but also that the parties share *some* common interests and values. This supports a limited parental right to deliberately shape their children's values for two reasons. First, in early years, only parents can supply the values to be shared in the relationship, since young children do not have values of their own yet. Second, children's emerging value-commitments are typically much more plastic than those of adults. So, parents are permitted to try and shape their children's values in early years *and* to give *some* degree of priority to their own values in exercising their authority – even when children begin to develop their own values and interests.⁴

³ They write: “As long as [...] deliberate shaping of values is needed for a close relationship between parent and child, and as long as it is done in a way that is consistent with the duty to develop the child's capacity for autonomy, then, on our account, parents have a right to engage in it” (Brighthouse and Swift, 2014:155).

⁴ Yet, parents are *also* under a duty to eventually try and adapt to their children's own emerging values and interests by engaging with them in a respectful and open-minded way.

At this stage, one might ask whether Brighouse and Swift's framework implies that it is permissible for parents to shape their children's values in a non-autonomy-friendly way. After all, it may be possible for them to have a loving and intimate relationship with their children *without* effectively promoting their autonomy. Recall, however, that for Brighouse and Swift, a truly good parent-child relationship is one that facilitates familial relationship goods, which importantly include the development of children's autonomy. In other words, an intimate and loving parent-child relationship has only very limited value if it is not autonomy-friendly, since the fact that parent-child intimacy is normally favorable to the development of the child's autonomy is part of the story as to why the parent-child relationship has value in the first instance, as well as to why parents have special rights over their children. It follows that parents have no moral right to shape children's values in a non-autonomy-friendly way.

To sum up, the most important parts of Brighouse and Swift's argument are the following:

- 1) A good parent-child relationship is one that promotes the child's fundamental interests, including her interest in developing a capacity for autonomy.
- 2) *Value-sharing* is essential to a good parent-child relationship.
- 3) Value-sharing inevitably involves *some value-shaping*.
- 4) Value-shaping (both deliberate and unintended) is permissible *when* and *because* it promotes a good parent-child relationship.

2. Clayton's arguments against comprehensive enrolment

Clayton provides three main arguments in support of his anti-perfectionist account of legitimate childrearing, according to which deliberate value-shaping, or comprehensive enrolment, is impermissible: the argument from the cost of rejection, the argument from autonomy and consent, and the argument from respect for children's moral status.⁵ In this section, I reconstruct and examine each of these arguments and argue that they are all vulnerable to serious objections.

2.1. The argument from the cost of rejection

There is one obvious strategy to argue against comprehensive enrolment while retaining the most central features of Brighthouse and Swift's account. It consists in showing that comprehensive enrolment undermines the development of children's autonomy. This is precisely Clayton's first line of attack against comprehensive enrolment.

Clayton's argument states that comprehensive enrolment renders the rational revision or abandonment of one's parents' conception of the good more costly, in a way that undermines one's autonomy.⁶ In other words, the claim is that it is particularly costly for a child who has been comprehensively enrolled by her parents to later use her rational power to revise or reject

⁵ As it will become clear, I understand the last argument to be a variant of the argument from autonomy and consent.

⁶ Clayton calls this the "instrumental argument".

her parents' worldview. To be sure, Clayton does not deny that it can be psychologically difficult to reject one's parents' worldview *also* for a child who has *not* been 'enrolled into it'. That is because the ideals and practices that a child is exposed to during childhood have significant "emotional grip" – especially when they are her parents' identify-defining beliefs. However, Clayton's claim is that comprehensive enrolment *exacerbates* the emotional cost of rejecting one's parents' beliefs, to the point of undermining the child's ability to opt for a conception of the good different from that of her parents.

In order to properly assess this argument, it is useful to begin with the following question: how exactly does Clayton envisage the relationship between autonomy and the emotional cost of rejecting one's parents' beliefs? His argument seems to point to two possibilities. The first is that, above a certain threshold of emotional cost, a person is unable to exercise autonomy and counts thereby as non-autonomous. Let us call this 'the threshold view'. The second possibility is that the higher the emotional cost, the less able to exercise autonomy a person is and, as such, the less autonomous she is. Let us call this 'the degree view'.

Consider the threshold view. In order for Clayton's claim that comprehensive enrolment is impermissible to succeed, it must be the case that *all* instances of comprehensive enrolment bring the child to such a level of emotional cost that she is unable to exercise autonomy. However, this seems implausible. In fact, in his recent work, Clayton himself explicitly recognizes that comprehensive enrolment does *not* always prevent people from becoming autonomous or from exercising autonomy. He writes: "[...] enrolment is wrong even when parents also educate their child such that later in life she can autonomously decide to continue

with or reject the religion into which she has been enrolled” (Clayton, 2014: 130). This is enough to conclude that, despite the fact that comprehensive enrolment *may* generate high rejection costs, it is not the case, even by Clayton’s own light, that such costs are always higher than the threshold required to prevent the future adult from exercising autonomy.

Consider now the degree view. To the extent that the ability to exercise autonomy is not linked to a specific level of emotional cost, this view seems to avoid the objection raised against the threshold view. However, Clayton’s argument presents two other problems. First, it does not seem to be the case that comprehensive enrolment always generates higher emotional costs of rejection and, thereby, a lower degree of autonomy, than non-comprehensive educational approaches. Indeed, as pointed out by Brighouse and Swift (2014: 170-171), as well as Cameron (2012: 350-351), people enrolled into comprehensive doctrines that attribute great value to autonomy, such as liberal Anglicanism or secular humanists views, are not especially likely to find it very difficult to abandon their parents’ worldview.⁷ Symmetrically, it is far from clear that abandoning one’s parents’ beliefs is always *less* emotionally costly for those who were *not* enrolled into a comprehensive doctrine. Indeed, children who were not enrolled into a comprehensive doctrine may still be very aware of what their parents’ deepest convictions are, and may still fear to disappoint them by not endorsing them – despite not having been explicitly encouraged to embrace those beliefs. The emotional cost of rejection

⁷ This particular reply, however, presupposes that being educated according to an autonomy-friendly comprehensive doctrine is an instance of comprehensive enrolment – something that Clayton too clearly seems to believe. I will challenge this assumption in the last section of this paper.

seems to be determined by factors that have little to do with comprehensive enrolment *per se*, that is, with whether or not the parents' shaping of their children's values was *deliberate*.

The second problem with Clayton's argument is that it is not clear whether the degree view itself is a plausible view of the relationship between emotional cost and autonomy. For one, it does not seem to be true that not incurring any emotional cost when rejecting previously held views is a sufficient condition for a person to count as maximally autonomous. However, this is an implication of the degree view. In fact, abandoning a previously held conception of the good can be very emotionally difficult for anyone, since conceptions of the good are identify-defining. So, the fact that it is emotionally difficult for a person to abandon her parents' conception of the good may actually mean that that person was truly and autonomously committed to it.

The upshot is the following. Whether Clayton adopts the threshold view or the degree view of the relation between emotional cost and autonomy, his conclusion that comprehensive enrolment is impermissible does not hold. Thus, Clayton's first argument is unpersuasive.

2.2. *The argument from autonomy and retrospective consent*

The argument from autonomy and retrospective consent suggests that comprehensive enrolment is *intrinsically* autonomy-violating. The argument is based on the idea that a person's *autonomy can be violated* when another person makes decisions for her *while she is unable to decide for herself*. More precisely, Clayton's claim is that a non-yet-autonomous

person's autonomy *is* violated when the person who chooses for her does not properly take into account the prospect of her *retrospective consent*. In light of this, Clayton argues that comprehensive enrolment is problematic on the ground that parents cannot reasonably expect their children to retrospectively consent to having been enrolled into a particular conception of the good, since they might end up autonomously endorsing a *different* reasonable conception of the good.

I propose to reconstruct Clayton's argument as follows.⁸ The starting point is the claim that (1) there is a duty to respect each person's autonomy. Clayton then claims that (2) a person's autonomy can be violated even when she is unable to decide for herself. More specifically, the autonomy of a person who is unable to make autonomous decisions is violated if she cannot reasonably be expected to retrospectively consent to the decision that is made for her. From (1) and (2), it follows that (3) the person in a position to decide for another who is unable to make autonomous decisions has a duty to decide for the latter person in light of reasonable expectations about her retrospective consent. Moreover, Clayton thinks that (4) when a person in a position to decide *does not know* the content of the other person's beliefs, she cannot reasonably expect the latter to retrospectively consent to being treated according to a particular conception of the good. The reason is that the latter person may end up not endorsing that particular conception of the good. Thus, (5) if the former person decides that the latter be treated according to a particular conception of the good, she violates that person's autonomy.

⁸ My reconstruction is mostly based on Clayton's 2012 paper, in which he specifies and defends his view in response to Christina Cameron's (2012) objections.

According to Clayton, this line of thought applies directly to children. In fact, even though children are unable to make autonomous decisions, they will be able to do so in the future and thereby to retrospectively consent or dissent to how they were treated. Thus, from (2), it follows that (6) children's autonomy is violated if they cannot reasonably be expected to retrospectively consent to the decisions that are made for them. From (3), it follows that (7) parents, who are in a position to decide for their children, have a duty to decide for them according to what they can expect their children to retrospectively consent to. From (4), it follows that (8) since parents do not know the content of their children's future beliefs, they cannot expect them to retrospectively consent to being comprehensively enrolled. Hence, (9) when parents comprehensively enroll their children, they violate their autonomy. Therefore, from (1) and (9), it follows that, all other things equal, (10) the comprehensive enrolment of children is impermissible.

There are two problems with this argument. One is with premise (2), the other with premise (4). In what follows, I will argue that neither premise can be successfully defended. I will start, in this section, by considering premise (2). Clayton himself takes this premise to be the heart of the issue. As he puts it: "The pivotal issue [...] concerns whether and how others' treatment of a person when she is incapable of acting autonomously is relevant to an assessment of whether her autonomy has been violated" (Clayton, 2012: 356). In fact, Clayton appears to think that it is *sufficient* for him to defend premise (2) against the so-called end-state (or achievement) view of autonomy – endorsed by his critics, including Brighouse and Swift – in order to save his conclusion. Here is Clayton's defense.

According to the end-state (or achievement) view, “[w]hen a person lacks the capacity to form, revise and follow a set of comprehensive goals, others’ conduct towards her cannot violate her autonomy (except insofar as they may fail to fulfill their duties to develop or restore that capacity), simply because she is, by hypothesis, incapable of leading an autonomous life” (Clayton, 2012: 356).

Clayton’s most recent and most detailed attempt to defend premise (2) against this view proceeds by means of examples designed to convince the reader that choosing for a non-autonomous child can indeed violate her autonomy.⁹ He considers the following case.

Skin Graft plus Nose Job: Betty, who is an unknown visitor, is rendered unconscious by an accident and is having a skin graft to restore the damaged skin on her face. The doctor also sees that Betty’s nose might be a more attractive shape and so fixes that as well. (Clayton, 2012: 357)

Clayton suggests that Betty’s situation is analogous to a child’s situation in two important respects. The first is that Betty is unable to make autonomous decisions. The second is that the doctor has no clue what Betty’s conception of the good and preferences are. The first point is true of children; the second of parents who have authority over them. According to Clayton, this example is important because, in Betty’s case, we would clearly say that the doctor has done something wrong to Betty by deciding to fix her nose. More specifically, Clayton thinks that the nature of this wrong is captured by the idea of retrospective consent. His idea is that if

⁹ See Clayton, 2012.

respect for someone's autonomy requires getting her consent, which is surely highly plausible, respect for the autonomy of someone who is unable to make autonomous decisions requires deciding for her according to what she can reasonably be expected to retrospectively consent to. This applies directly to Betty's situation. As Clayton puts it: "When she returns to consciousness, we are almost certain that Betty will thank the surgeon for the skin graft, but far less confident that she will endorse the nose job" (Clayton, 2012: 357). Yet, if Betty's situation is relevantly analogous to a child's situation, then this example shows that a child's autonomy can similarly be violated when her parents decide for her in ways that she cannot reasonably be expected to retrospectively consent to.

I share the intuition that Betty's autonomy has been violated. I am also willing to accept the connection that Clayton establishes between autonomy and retrospective consent in this case. However, I believe that recognizing this does *not* commit me to accepting the view that *children's* autonomy is similarly violated when their parents decide for them without taking into account the retrospective consent requirement. The reason is that there is a very crucial disanalogy between Betty and a child. Betty *does not lack a capacity for autonomy*. She is just temporarily unable to *exercise* her autonomy. However, she *will* be able to consent or dissent to how she was treated while she was unable to decide as soon as she regains consciousness. This is true even if she has not previously reflected on the particular option of getting plastic surgery for her nose. (Indeed, we would not say that an individual lacks the capacity to autonomously decide about a given issue simply because she has never thought about it before.)

In fact, Clayton's analogy seems to be based on a conflation. There are indeed three different ways in which an individual can be regarded as incapable of exercising autonomy. To see this, consider the following three ways of understanding the notion of a 'capacity for autonomy'. According to the first, an individual has the capacity for autonomy if she possesses the physical and the cognitive resources for becoming autonomous, provided that she receives an adequate education, in the adequate context or environment, etc. According to the second, an individual has the capacity for autonomy if she is disposed to exercise autonomy in the *appropriate* circumstances (e.g. when she is directly confronted with a particular choice). According to the third, an individual has the capacity for autonomy if she can exercise autonomy in whatever circumstances she *actually* happens to be. Correspondingly, there are three different ways in which an individual can be thought to lack the capacity for autonomy. To give some examples, a child with very severe cognitive disability does not possess the capacity for autonomy in any of the three senses of the term; most notably, she cannot become autonomous. Instead, a child *without* severe cognitive disability is capable of becoming autonomous, if appropriately educated; yet, at an early stage of her childhood, she is incapable of deciding for herself and, thus, of exercising autonomy. Finally, a typical adult possesses an already developed capacity for autonomy, which she can exercise in normal circumstances. At the same time, that individual will not be able to exercise autonomy in all circumstances. For instance, she will not be able to make autonomous decisions if she is asleep or unconscious. Similarly, she will not be able to make an autonomous decision about a given issue, e.g. which apartment to rent, if she is not informed that she has a choice to make. And so on.

These distinctions explain what is wrong in Clayton's example. Betty is incapable of exercising her autonomy only in the third sense, but not in the second. She has a developed capacity for autonomy. However, given the circumstances in which she finds herself, she is unable to exercise her autonomy. By contrast, a child is incapable of autonomy not just in the third sense, but also in the second. Indeed, the child has not yet developed a capacity for autonomy, which would allow her to exercise autonomy in the appropriate circumstances, although she might be able to develop such a capacity in the future, provided that she is not cognitively impaired and that she receives an adequate education. In other words, contrary to what Clayton maintains, children are *not* akin to sleeping or unconscious people. If this is the case, however, his analogy fails and, with it, the idea that it is possible to violate the autonomy of a person who does not yet possess the capacity to make autonomous decisions.

2.3. The argument from respect for children's moral status

At this point, one might wonder whether it is possible to save Clayton's conclusion that the comprehensive enrolment of children is impermissible by reformulating his argument in a slightly different way. In particular, instead of saying that children's autonomy is violated if they cannot reasonably be expected to retrospectively consent to the decisions that are made for them, Clayton could say that what is violated in such cases is the respect owed to children in virtue of their *moral status as future free and equal persons*. In other words, to comprehensively enroll children would be a way to disrespect children as future free and equal persons, rather than a way to violate their autonomy. For this reason, I shall call the resulting argument 'the argument from respect for children's moral status'.

In my view, this argument is closer to the fundamental idea that motivates the Rawlsian public reason restriction on the legitimate use of *political* power – which Clayton endorses and takes to support his conclusion (Clayton, 2006). Indeed, Rawlsians and most public reason liberals believe that, since the state-citizen relationship is non-voluntary, coercive and has a profound influence on people’s lives and since *people are free and equal* from a political point of view, the state owes its citizens (and citizens owe each other) a justification for the use of power that they can accept in light of their own reasonable conception of the good. This is a matter of basic respect for their moral status.¹⁰ Now, as we have seen in section 1, the parent-child relationship shares the three characteristics just mentioned: it is non-voluntary, coercive and has a profound influence on children’s lives. If so, parents’ authority seems to be subject to similar legitimacy requirements as the state’s authority. There is, of course, one difference between the two cases: unlike citizens, children are not yet free and equal persons, but only *future* free and equal persons. However, Clayton would say, once again, that this only shows that, *as a matter of respect*, parents owe children a justification that they can reasonably be expected to *retrospectively* accept, no matter what their future reasonable conception of the good turns out to be. With this qualification, the parallel with the state-citizen relationship seems to remain fully in place.

¹⁰ As Kevin Vallier puts it: “Recognizing our fellows as free and equal means recognizing them as persons to whom a justification is owed” (Vallier, 2014: 32).

It may seem like the argument from respect for children's moral status, thus conceived, avoids the objection raised against the argument from autonomy. Indeed, at first sight, the claim that parents can *disrespect* their not-yet-autonomous children by failing to justify their actions to them in a way that they could accept *as future free and equal persons* appears more plausible than the claim that, by deciding for them, they can violate their children's autonomy. However, appearances are misleading. In fact, the argument from respect fails for the same reasons as those invalidating the argument from autonomy. This is because, within the Rawlsian framework, the use of political power against citizens is subject to a special justificatory requirement only on the ground that citizens are *actually* free and equal from a political point of view. Given that, the question arises as to why, in the children's case, one would think that parents can fail to respect their children if they are unable to provide *them* (as not yet free and equal persons) with a justification that they can reasonably be expected to accept *in the future*. There seems to be no reason for holding this view.¹¹ Or perhaps, the only reason for holding this view is if one thinks that parents can disrespect their children's moral status as *actually* free and equal persons on the ground that their children *will* have such a status *in the future*. However, the problem with this line of thought is that it commits the same mistake as the argument from autonomy, which erroneously supposed that it is possible for parents to violate their children's autonomy on the ground that their children will possess a capacity for autonomy in the future.

¹¹ See also Cameron (2012) and Hannan and Vernon (2008).

If these considerations are correct, then the argument from respect for children's moral status is unsuccessful. The upshot is that, within a Rawlsian framework, parents simply do not face the same justificatory burden toward their children that the state has toward its citizens, or that citizens have with respect to one another.

3. A public reason argument in favor of comprehensive enrolment

I have argued that Clayton's claim that parents have a duty to make educational decisions for their children in light of principles that they reasonably can expect their children to retrospectively endorse cannot be defended. At least, I have shown that such a claim can neither be defended on the basis of Clayton's argument from autonomy – which, as my reconstruction suggested, can be understood independently of the parallel case with Rawls' account of political legitimacy – nor on the basis of the argument from respect for children's moral status.

However, suppose for the sake of the argument that it were possible to defend Clayton's claim on grounds other than the ones discussed so far. Even then – I will now argue – Clayton's argument does not deliver the conclusion that comprehensive enrolment is impermissible. The reason is that, in order for his argument to succeed, Clayton must also be able to defend premise (8), according to which children cannot reasonably be expected to retrospectively consent to being enrolled into a particular comprehensive doctrine. In what follows, however, I will suggest that Brighouse and Swift's account of family values provides us with a reason to believe that children *can* be expected to retrospectively consent to being

enrolled into a particular comprehensive doctrine. More specifically, and in more familiar Rawlsian terms, I want to show that there is a publicly acceptable justification for comprehensive enrolment, i.e. a justification that any reasonable person could accept, no matter what her conception of the good is.

As we have seen, the reason provided by Clayton in support of premise (8) is that children might end up rejecting their parents' conception of the good. More precisely, his claim is that, *since* parents know that their children might later endorse a conception of the good different from their own, they *cannot reasonably expect* that their children will retrospectively consent to having been raised according to their own conception of the good. The crucial assumption underlying this claim is that there is no justification that a reasonable person could retrospectively accept for her parents' choice to raise her *according to a conception of the good that she presently rejects*. In other words, no good reason – one that a reasonable person herself can recognize as such – can be given to her that would support such a decision.¹² Or so Clayton presupposes.

However, this assumption can be challenged. Indeed, a reasonable person can reasonably be expected to endorse at least one kind of context-specific justification, namely, a justification that appeals to Brighthouse and Swift's idea that value-shaping may be "needed"

¹² For instance, she could not be expected to accept a justification for her enrolment into a comprehensive doctrine that appeals to the *truth* of that particular doctrine, since she now believes it to be false.

for developing a close child-parent relationship. For instance, here is one valid justification that a sincere parent might give to her child.

“I deliberately tried to enroll you into my conception of the good because this was sincerely the only way for me to be myself in our relationship as I conceived of it. Seeking to enroll you was the only way for me to experience our relationship as a source of joy, pride and fulfillment. That is because I took myself to be under a fundamental *duty* to inculcate *true beliefs* in you and to encourage you to live a virtuous life – one that respects the precepts and ideals of my conception of the good. I saw this duty as the most crucial, meaningful and gratifying task of my life. Thus, requiring me to refrain from comprehensively enrolling you would not only have violated my conscience and integrity, but would *also* have effectively *harmed you*. Given who I am, given my commitments, it would have prevented me to develop with you the kind of loving and intimate relationship that is conducive to meeting *your* fundamental interests, including the development of your autonomy.”

If, as Brighouse and Swift have persuasively argued, an intimate and loving parent-child relationship is indeed the best possible setting for meeting children’s most fundamental interests and *if*, as a matter of fact, some parents, given their particular beliefs, cannot develop such a relationship without trying to deliberately shape their children’s values, *then* we have a perfectly good anti-perfectionist public reason argument for comprehensive enrolment. Indeed, a reasonable person cannot reasonably be expected to reject a justification for being raised according to a conception of the good that she will eventually abandon, which appeals to her *own* fundamental interests, including the interest in developing the capacities for having

a conception of the good. The reason is that a reasonable person is bound to recognize such interest as fundamental for her no matter what conception of the good she ends up endorsing. To put it differently, some (perhaps most) parents cannot develop an intimate relationship with their children unless they try to deliberately shape their views in the sense of trying to inculcate in them beliefs about the good that they take to be correct and crucial for leading a good life. This is compatible with the parents' acknowledging that they are also under a duty to enable their children eventually to decide autonomously what to believe.

Incidentally, this justification also shows that the parent who brings her child to church may have a right to do so that the parent who brings her child to cricket might not, contrary to what Brighthouse and Swift suggest. The reason is the following. Many parents see themselves as being under a fundamental duty to foster particular values, such as religious values, because they sincerely believe that a commitment to such values is essential for leading a good life. By contrast, few (if any) parents see themselves as being under a duty to make sure that their children will come to share their particular *preferences*, e.g. a preference for cricket over other sports. Indeed, a parent may dream that her child will one day share her love for cricket. However, it is unlikely that she sees herself as being under a duty to create a cricket lover. If so, the latter parent's ability to develop an intimate relationship with her child will not be tied to the freedom to enroll her child into 'cricket' in the same way that a religious parent's ability to develop an intimate relationship is tied to the freedom to enroll her child into religious practices or ceremonies.

If these considerations are on the right track, then they offer a direct confutation of Clayton's premise (8). Thus, even if we assume that parents have a duty to make educational decisions that their children can reasonably be expected to retrospectively endorse, Clayton's conclusion that comprehensive enrolment is impermissible does not hold.

4. Redefining the debate: an alternative interpretation of comprehensive enrolment

In the previous sections, I argued that Clayton's claim that comprehensive enrolment is impermissible cannot be successfully defended. In this section, I want to nuance my conclusion in one important way. Indeed, so far I have simply taken for granted – as both Brighthouse and Swift, on the one hand, and Clayton, on the other, seem to do – that comprehensive enrolment (or deliberate value-shaping) and comprehensive education are one and the same thing. However, in this section, I want to suggest that Clayton's own definition of comprehensive enrolment is narrower than he himself explicitly recognizes and does not cover some important instances of deliberate comprehensive value-shaping, which Clayton deems to be impermissible. In the end, my goal is to show that Brighthouse and Swift's and Clayton's positions can be unexpectedly reconciled.

Let us then reconsider Clayton's definition of comprehensive enrolment. As we have seen, Clayton believes that comprehensive enrolment should be understood as parents' "seeking to impart comprehensive convictions" on their children, or, in other words, as parents' *intention* to 'set their children's ends', to shape their comprehensive values so that they adopt such values as their own. As Clayton puts it: "The notion of 'enrolment' and 'seeking to impart

comprehensive convictions' make reference to particular aims [...] namely, the aim of having one's children be part of a comprehensive practice, or having them adopt the comprehensive convictions in question" (Clayton, 2006: 110). Crucially, Clayton distinguishes the attitude of actively *seeking* to make it the case that one's child comes to endorse certain values from the attitude of *hoping* that this will be the case. He writes: "We must distinguish between an individual's *hope* that someone else comes to affirm her atheism, say, and her *seeking to make it true (or more likely)* that he does" (Clayton, 2006: 115). Importantly, while Clayton thinks that the latter is impermissible, he believes that hoping that one's child comes to endorse one's convictions is actually permissible.

Let us now reconsider the doctrines and practices that Clayton regards as instances of comprehensive enrolment and, thus, as impermissible. Clayton includes within this class *all* moral, religious and secular *comprehensive* approaches to education, i.e. all approaches to education that attempt to shape children's values in a comprehensive way. This is because he thinks that, when parents are "motivated by adherence to a particular comprehensive view", then, no matter the content of their comprehensive view, their conduct "involves the assertion of a right to determine one's child's goals" (Clayton, 2012: 363). As I will now show, however, there is reason to doubt that the conduct of most 'comprehensively motivated' parents involves any such assertion. My central claim is that, when a parent recognizes the value of autonomy and is deliberately committed to developing her child's autonomy (for her own particular *comprehensive* reasons), then her attempt to deliberately shape her child's values is best described as stemming from her *hope* that her child will come to endorse certain values, rather than from her *seeking* to produce such a result. Indeed, by deliberately seeking

to shape her child's value in an autonomy-friendly way, the parent aims at providing her child with the resources (i.e. knowledge, dispositions, experiences, etc.) that will allow her to *decide for herself* whether or not to endorse her parents' worldview, in an informed and enlightened way. As such, while hoping that her child will adopt her own set of values, the parent remains open to the possibility that her child might endorse a different set of values.

It is true that, when a parent baptizes her child, or brings her to church or to a cricket match, then she is effectively increasing the likelihood that her child will come to understand and appreciate the values associated with, respectively, a religiously committed life and with sport. However, if such a parent is genuinely committed to autonomy, then her engagement in those activities are most accurately characterized as being motivated not by the *intention* to make it the case that her child adopts some specific values, but only by the *hope* that her child will so develop.¹³

If these remarks are on the right track, then the notion of comprehensive enrolment, or “seeking to impart comprehensive convictions”, does *not* appropriately describe the commitments and aims of a parent who deliberately tries to shape her child's values while, at the same time, being committed to making sure that she learns to endorse those values autonomously. Rather, the notion of comprehensive enrolment describes only the

¹³ It seems reasonable to guess that reasonable parents who educate their children according to an autonomy-friendly comprehensive doctrine would refuse to give their children a ‘value-determining pill’, which would make it the case that their children end up endorsing the same comprehensive values. I take this thought experiment to support my claim.

commitments and aims of a parent who *rejects* the value of autonomy or attributes less weight to it than, say, salvation.

If this is true, it follows that Clayton and Brighthouse and Swift are, after all, in agreement. Indeed, both Clayton's and Brighthouse and Swift's positions imply that deliberate value-shaping is impermissible when it is non-autonomously-friendly in the sense specified above. At least, this is what Clayton should recognize in light of his own distinction between 'seeking' to shape one's child's values and 'hoping' that she endorses those values. I conclude that, if we adopt Clayton's narrow definition of comprehensive enrolment, Brighthouse and Swift's and Clayton's positions can be surprisingly reconciled.

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Common Education and the Practice of Liberal Neutrality:

The Loyola High School Case

In a recent paper, Kyla Ebels-Duggan (2013) distinguishes four models of education. First, schools may educate children *exclusively* within their parents' worldview, *without* transmitting knowledge about other worldviews, values or ways of life. Second, schools may educate children about a range of worldviews, while at the same time treating their parents' worldview as superior or true. Third, schools may educate children about a diversity of worldviews in a *neutral* way. Finally, schools may educate children within a single worldview chosen by the state (Ebels-Duggan, 2013: 42).

This paper explores the question of whether it is morally legitimate for the liberal state to promote the third model, that is, to either encourage or oblige schools to adopt a single, neutral approach to teaching about diversity. I examine this question through the normative analysis of a recent Canadian Supreme Court case, *Loyola High School v. Quebec*, which challenges the legitimacy of such a model, as recently adopted by the Quebec government.

The context of my discussion will be the following. Since 2008, all of Quebec's primary and secondary schools are required to teach the course 'Ethics and Religious Culture' (ERC henceforth) from a neutral, secular perspective. The Quebec government has thus opted for a strong program of common schooling, one that not only imposes a set of common educational *goals*, but *also* a specific curriculum *content*, focusing on ethics and religions, and a unified

approach to teaching that content. This orientation has however been met with some resistance. In particular, Loyola High School – a private Jesuit school for boys in Montreal – asked to be specifically exempted from the obligation to teach the course *neutrally*. In support of this demand, Loyola’s defenders argued that Quebec’s program itself is *not* neutral, since it cannot be defended on neutral grounds and since neutrality, as an educational practice, is simply impossible.

This charge is especially important from a liberal perspective. Indeed, *if* it is true that the program is non-neutral, in the sense that its justification presupposes the truth of a specific and reasonably controversial worldview, *then* it should indeed be seen as *illegitimate*. This implies that, by imposing such a program on all schools and parents, the state would not make morally acceptable use of its coercive power. As a matter of fact, Ebels-Duggan reaches a similar conclusion, from a more general perspective. She argues that since educational policies can never be genuinely neutral and since the liberal state *must* remain neutral, it follows that the liberal state should simply not be a provider of education.¹ According to her, there should be no state schools. Rather, a consistent liberal point of view recommends adopting the second model of education within a general system of school choice.

In contrast with this line of thought, in this paper I shall argue that the ERC program *is* neutral in the above-mentioned sense, since it constitutes a reasonable effort from the state to promote important liberal-democratic values. At the same time, I shall *deny* that it is morally

¹ McConnell (2002) and Vallier (2014: chapter 7) make a similar argument in the same direction.

permissible for the state to impose the *means* for achieving the legitimate goals of the program on *all* schools. In particular, I shall argue that, in order for the imposition of a specific secular version of the program on reluctant schools to be legitimate, the state must be able to show: (a) that that school's alternative program is unlikely, or much less likely, to achieve the desired goals; and/or (b) that the alternative program comes at significant costs in terms of other political values, e.g. children's capacity to become autonomous. Absent strong evidence supporting either of these claims, the state has no right to limit the freedom of religious parents and schools opposed to the program. Against Ebels-Duggan, I will thus show that it *is* permissible for the liberal state to sponsor the third model of education. At the same time, I will *also* show that it is impermissible for it to systematically refuse to accommodate religious schools, like Loyola, wishing to adopt the second model of education mentioned above.

1. The 'Ethics and Religious Culture' program and the Loyola High School case

In September 2008, the Quebec Ministry of Education introduced a new compulsory course on 'Ethics and Religious Culture' in the public education curriculum. Since then, *all* children have to attend a continued training in ERC from the beginning of elementary school to the end of high school (in both private and public schools), for an overall period of 11 years. This program replaces the previous policy, dating back to 1984, which gave parents the choice between, on the one hand, a course of 'moral and religious catholic education' or 'moral and religious protestant education' and, on the other hand, a course of 'moral education' *tout court*. The choice between confessional religious education and non-confessional moral education within the public schooling program has thus been completely abolished in favor of

a single, *non-confessional* and *unified* training in ERC, offered to all children independently of their parents' religious or moral beliefs.

The course is conceived as an affirmation of the state's neutrality toward all religious worldviews. From an historical point of view, its introduction is part of a broader process of secularization of Quebec's institutions, which has been taking place in the province roughly since the so-called *Quiet Revolution* in the 60's. The ambition is to teach religion 'neutrally', i.e. by means of an historical and cultural approach, rather than by a confessional and moralizing one. The main goals of the program are political in nature. More specifically, the program aims at contributing to harmonious social relations in today's pluralistic Quebec society by facilitating and promoting (i) the recognition of others and (ii) the pursuit of the common good. According to the program, the realization of these goals requires the development of three key competencies in children/future citizens, namely, the abilities to reflect on ethical questions, to demonstrate an understanding of the religious phenomenon, and to engage in dialogue.

The program has provoked two Supreme Court cases. In this paper, I shall focus on the most recent one: *Loyola High School v. Quebec*.² Here are some of the key facts about it. The

² The other was the *S.L. v. Commission scolaire des Chênes* (2012). This case involved, on the one hand, a coalition of catholic parents and, on the other hand, a school board in the city of Drummondville and the Attorney General of Quebec. The religious parents (*S.L.*) requested that their children be fully exempted from attending the ERC course. In particular, they argued that "the ERC Program is not in fact neutral and that students following the ERC course would be exposed to a form of relativism which would interfere with their ability to pass their

case, which began in March 2014, involved, on the one hand, Loyola High School and John Zucchi – a parent of a child attending the school – and, on other hand, the Quebec Ministry of Education. Loyola’s request was to be allowed to teach its own Catholic – hence, confessional – version of the program, instead of the official, secular version.

Paul Donovan and Fr. Rob Brennan, S.J. – respectively, Loyola’s school principal and its (former) President – offered two main reasons in support of Loyola’s request for special exemption. The first was that the ERC program is incompatible with the religious convictions conveyed by Loyola and with its mission as a Catholic institution. According to them, “the methodological ‘neutrality’ proposed by the [...] program [...] implies a moral relativism that contravenes the beliefs of many people and religions, including Catholicism [and] is also unrealistic and impossible to achieve in practice” (*Loyola High School v. Courchesne*, 2010: 10).

Donovan and Fr. Brennan’s first argumentative line was supported by Douglas Farrow, recognized as an expert in religion and theology, and heard as a testimony, by the Superior Court of Quebec. Farrow insisted on the idea that the ERC program’s goal is not only to *inform*, but also, more ambitiously, to *form* students, by transmitting them specific “norms”. In

faith on to their children” (*S.L. v. Commission scolaire des Chênes*, 2012: 5). The Supreme Court ruled against the parents on February 17, 2012.

addition, Farrow contested the program’s (alleged) reliance on the non-neutral philosophy of “normative pluralism”.³

[W]hat is at issue is whether the pluralist philosophy [...] should be imposed upon those who do not share it or think it sound; and whether the hegemony of pluralism, backed by government fiat, should extend even into the realm of religious schools. [...] All that needs to be said here is that its imposition cannot be justified in the name of some putative ‘neutrality’ that is characteristic of pluralism. Pluralism is not neutral, nor [...] is the ERC program that has taken pluralism as its foundation. (Farrow, 2010: 6)

The second reason in favor of Loyola’s request, offered by its representatives and defenders, was that the school’s own alternative program is “equivalent” to the ERC program, since it embraces the key goal of promoting tolerance and respect for all, regardless of individual beliefs or values. In fact, Loyola’s representatives claimed that their program goes even beyond this, for it teaches that “each human being, regardless of race or religion, is created in God’s image and is therefore imbued with dignity and a value requiring not only respect for but love of all” (Farrow, 2010: 8).

The Supreme Court of Canada sided with Loyola on March 19, 2015.

2. Some misunderstandings about liberal neutrality

In this and the following sections, I shall assess in detail each of the arguments advanced by Loyola’s defenders. As we have seen, Loyola’s first argument relies on the claim that the ERC

³ Farrow borrows the term from the philosopher Georges Leroux (2008), an important *defender* of the program.

program is non-neutral. As mentioned in the introduction, liberal theorists should take this charge very seriously, since state neutrality is typically considered a condition of political legitimacy. At the same time, it must be kept in mind that the notion of neutrality admits of several, alternative interpretations.⁴ It is thus important to carefully examine in what sense the ERC program can be seen as non-neutral. More specifically, in order to assess the merits of Loyola's first argument, we need to assess whether the ERC program is really non-neutral in a sense that is relevant for political legitimacy.

Liberal theorists typically distinguish three forms of neutrality: *justificatory neutrality*, *neutrality of effects*, and *pure procedural neutrality* or *neutrality of ground* (Kymlicka, 1989; Rawls, 1993: 191-194). Roughly speaking, a policy is neutral at the justificatory level only if its justification does not appeal to, or presuppose, the truth of any reasonably controversial conception of the good. In other words, a policy is neutral at the justificatory level only if the state can justify it on the basis of reasons that all reasonable citizens could accept, in their capacity as free and equal members of society – where citizens are reasonable, according to Rawls, provided that they recognize that people are free and equal from a political point of view, recognize the existence of reasonable pluralism, and are willing to politically cooperate with others, despite the fact that they endorse different (and sometimes incompatible)

⁴ John Rawls, one of the most famous defenders of liberal neutrality as a condition of political legitimacy, rightly observes that “[t]he term neutrality is unfortunate; some of its connotations are highly misleading, others suggest altogether impracticable principles” (Rawls, 1993: 191). In fact, the idea of liberal neutrality is the object of much confusion, both in philosophy and in political debates.

worldviews.⁵ On the other hand, a policy is neutral at the level of effects only if it does not favor some conceptions of the good, or ways of life, over the others, in the sense of making it more likely that some conceptions will obtain more adherents over time. Finally, a policy is purely procedurally neutral only if it is grounded on principles that do not reflect any substantive moral values or beliefs.

Of all these forms of neutrality, only *justificatory* neutrality is taken to be essential for political legitimacy by liberal thinkers such as Rawls (1971, 1993), Dworkin (1978), Gaus (2009), Nussbaum (2011), and Quong (2011). Rawls' own argument in favor of justificatory neutrality is the following. Since persons are *free and equal* from a political point of view, they are owed – as a matter of basic justice – a justification for the use of political power against them, which they can accept from the perspective of their own reasonable conception of the good.⁶ Yet, since persons reasonably *disagree* about what a good life consists in, such a

⁵ Correspondingly, we can distinguish three (overlapping) classes of *unreasonable* people. The first includes those who reject the idea that citizens are free and equal, e.g. racist individuals, who believe that some people are naturally inferior to others. The second includes those who reject the idea that society should be conceived as a fair system of cooperation, e.g. those who believe that society should be organized so as to serve their own exclusive interests. Finally, the third includes those who deny the existence of reasonable pluralism. See Rawls, 1993: 48-71; and Quong, 2011: 37-38, 142-144.

⁶ The use of political power must be justified only to the narrow constituency of *reasonable* people because, as Quong rightly points out, “[t]here are many ignorant, immoral, self-obsessed, or otherwise troublesome people in the world as we know it, and we do not want our political principles to be hostage to their unreasonable demands” (Quong, 2011: 37). Furthermore, the group of reasonable citizens is itself a hypothetical, idealized, group of reasoners. As Kevin Vallier explains: “Idealization is typically employed on the grounds that an

requirement implies that the state must justify its actions in a way that is neutral about the good.

Quong (2004) summarizes the argument as follows:

[B]ecause reasonable people disagree about the good life, the state will have to eschew any appeals to conceptions of the good in justifying its core principles. Put another way, only public reasons – reasons that are acceptable to all reasonable citizens – can legitimate the coercive use of state power over its citizens. It is in this way, and this way only, that the state should remain neutral between competing conceptions of the good in liberal theory. (Quong, 2004: 233)

These remarks suggest that, from a liberal perspective, the ERC program counts as illegitimate only if it is non-neutral at the justificatory level. By contrast, it cannot be considered illegitimate if it is non-neutral merely at the pure procedural level or at the level of effects.⁷ In fact, justificatory neutrality does *not* imply either pure procedural neutrality or neutrality of effects. Consider pure procedural neutrality. It should be clear that the principle of justificatory neutrality that liberals defend is not *itself* neutrally grounded. Rawls is explicit on this point: “Justice as fairness is not procedurally neutral. Clearly its principles of justice are substantive and express far more than procedural values, and so do its political conceptions of society and person” (Rawls, 1993: 192). Indeed, as we have seen, the Rawlsian principle of

individual’s justificatory reasons may differ from the reasons she actually affirms, as her actual affirmations are likely based on poor information, flawed reasoning and incoherent beliefs and desires” (Vallier, 2014: 29). See also Quong, 2011: 143-145.

⁷ I will qualify this claim in section 5, where I shall consider a plausible way to object to the ERC program on grounds of its non-neutrality *of effects*.

neutrality derives from minimal but substantive philosophical and normative commitments, namely, from the ideas that persons are free and equal, that society should be conceived as a fair system of cooperation, and that there is reasonable disagreement about the good.

Not only do these substantive values *ground* the principle of liberal neutrality itself, but their *promotion* is also essential for the stability and health of the liberal-democratic regime.

As Jocelyn Maclure and Charles Taylor put it:

A liberal and democratic state cannot remain indifferent to certain core principles, such as human dignity, basic human rights, and popular sovereignty. These are the constitutive values of liberal and democratic political systems; they provide these systems with their foundations and aims. Although these values are not neutral, they are legitimate, because it is they that allow citizens espousing very different conceptions of the good to live together in peace. (Maclure and Taylor, 2011: 12)

Thus, it is perfectly consistent for liberal theorists to defend liberal neutrality and, yet, to maintain that the state should *not* remain neutral when it comes to promoting the above-mentioned foundational liberal values via its educational policies. In turn, this explains why preeminent civic education theorists and liberal neutralists, such as Stephen Macedo, explicitly reject the claim that the ‘mission’ of public schools is to provide children with the skills and knowledge necessary for personal autonomy *while at the same time completely refraining to “push them in a particular direction”*. According to Macedo, children *should* in fact be pushed toward a “liberal” direction (Macedo, 2000: 237; italics mine).⁸

⁸ In the same way, Amy Gutmann argues that “[t]reating every moral opinion as equally worthy encourages children in the false subjectivism that ‘I have my opinion and you have yours and who’s to say who’s right?’ This

The previous considerations suggest two important points. The first is that, in order to be legitimate, educational policies should be neutral, in the justificatory sense, only amongst ways of life and conceptions of the good that are compatible with the core liberal values. The second is that liberal neutrality is compatible with *at least* one case of non-neutrality of effects, namely, the case when an educational policy has the consequence of promoting liberal values.

From these observations, we can immediately conclude, against Farrow (2010), that the fact that the ERC program's goal is not only to *inform*, but also, much more ambitiously, to *form* students by transmitting specific "norms" is not problematic, *as such*, from the point of view of liberal neutrality. Indeed, to the extent that the purpose of the ERC program is to create respectful democratic citizens, prepared to live in a pluralistic society, its formative nature does not compromise its political legitimacy.

To repeat, what matters for legitimacy is whether the ERC program can pass the liberal test of justificatory neutrality as specified above. This is the question to which I shall now turn.

moral understanding does not take the demands of democratic justice seriously. [...] If children come to school believing that 'blacks, Jews, Catholics, and/or homosexuals are inferior beings who shouldn't have the same rights as the rest of us,' then it is criticism [...] of children's values that is needed" (Gutmann, 1987: 56).

3. Can the ‘Ethics and Religious Culture’ program be justified neutrally?

The key argument in favor of the ERC program offered by its main authors and defenders (Ouellet, 2000, 2006; MELS, 2005; Leroux, 2008) is that teaching about religious diversity is important to prepare pupils for life and democratic citizenship in a pluralistic society, where they will inevitably interact with people adhering to different religious views.⁹ Like most liberal philosophers of education (e.g. Gutmann, 1987; White, 1990; Levinson, 1999; Brighouse, 2000; Macedo, 2000; Reich, 2002; Callan, 2004), the defenders of the ERC program also believe that the fact of pluralism amplifies the necessity of *common* education in liberal-democratic societies. One important reason why this is the case is that pluralism may threaten the stability and the perpetuity of liberal and democratic institutions themselves, by disfavoring allegiance to basic liberal-democratic values. That is because pluralism may increase the *risk of mutual misunderstandings*, due to the radical divergence of people’s worldviews. In turn, such misunderstandings might bring about social conflicts, erode social relations and render more difficult an authentic and respectful dialogue amongst citizens. As a matter of fact, it is precisely in order to mitigate these dangers that many liberal theorists stress the role of *common schooling* and the need to assign common schooling greater political relevance. In Terence McLaughlin’s words, common schooling carries, indeed, “heavy burdens” (McLaughlin, 2003): it should both respect and protect (reasonable) diversity *and*, at the same time, pursue the unifying goal of inculcating in all children the common virtues that are needed for respect, mutual recognition, and democratic dialogue.

⁹ The choice of the specific religions discussed in the curriculum is justified accordingly.

The ERC program can be seen as a reasonable attempt to promote common liberal-democratic values in response to the challenges of pluralism. Indeed, there are at least two reasons for thinking that teaching *about* different religions, from a non-confessional perspective, promotes liberal-democratic values. First, this helps students see that other people have “diverse sources of spiritual inspiration” and “how deep-seated religious traditions have evolved over time” (Reich, 2002: 198). Second, it contributes to ensuring that children recognize that their own (or their families’) views about religion are not the only ones and that people holding different views are nonetheless worthy of respect – even if they might be wrong.

These are the main ideas that motivated the adoption of the ERC program. Are they based on, or do they presuppose, any worldview that a reasonable citizen might reject? Superficially, one might think that this is the case. As we have seen, Loyola’s defenders hold that the ERC program is based on the philosophy of normative pluralism (to which they also refer as moral relativism) – a philosophy that some reasonable citizens may actually reject. We have also seen that appeal to pluralism plays a major role in the justification of the ERC program. In light of this, one may conclude that Loyola’s complaint is indeed justified.

However, this line of thought is the result of a conceptual confusion. To begin with, Farrow and Donovan are mistaken in equating normative pluralism and moral relativism. Briefly, normative pluralism is the view according to which there exists a plurality of moral *principles*

and/or *values*.¹⁰ By contrast, moral *relativism* is primarily a meta-ethical theory according to which there is *no objective moral truth*, i.e. there is no objective standard in light of which different moral practices or beliefs can be evaluated and compared.¹¹

Most importantly for the present purpose, the justification of the ERC program does *not* presuppose the truth of either normative pluralism or moral relativism. Rather, it presupposes only the existence of reasonable pluralism, that is, the fact that people reasonably disagree

¹⁰ Pluralism about moral principles is the view according to which there is a plurality of moral principles, i.e. principles that tell us which actions are right and wrong. Its opposite is monism about moral principles, according to which there exists a single fundamental moral criterion of rightness and wrongness. On the other hand, value pluralism is the view according to which there is a plurality of things possessing final value (these may include liberty, happiness, love, etc.). Value pluralism contrasts with value monism, according to which all values are reducible to *one* “supreme value”. When value pluralism is concerned, another important (and overlooked) distinction is the one between internal and external value pluralism. Joseph Raz, one of the most famous defenders of value pluralism, characterizes “external” moral pluralism in terms of two claims. The first is that there is a plurality of morally acceptable, although incompatible, ways of life. The second is that these ways of life realize distinct values that can be “pursued for their own sake” (Raz, 1986: 369). External pluralism is the opposite of “internal” value pluralism. According to it, there is a diverse range of intrinsically valuable goods, but only *one good way of organizing them all*; so only one form of life is truly good. As Martha Nussbaum notes, “[m]ost cultures, including religious cultures, are internal-pluralists: Internal pluralism is just a feature of any reasonably sane cultural view. It is difficult indeed to think of a morality that is genuinely monistic, reducing all the values to one, unless it be Benthamite Utilitarianism” (Nussbaum, 2011: 10).

¹¹ Alternatively, moral relativism can be understood as a *normative* theory, according to which what one ought to do is entirely *relative* to either one’s individual opinions (individual relativism) or to one’s cultural norms (cultural relativism).

about fundamental evaluative matters, and the political need to negotiate with such pluralism in virtue of our common commitment to basic liberal-democratic values. This is compatible with the denial of both normative pluralism and moral relativism. To give just one example, one might acknowledge the existence of a plurality of reasonable moral outlooks and believe at the same time that *only one* of them is objectively correct.

As Kevin Vallier puts it, to recognize reasonable pluralism means:

[...] to recognize that one's disagreement with her fellow citizens are not necessarily due to vice or ignorance on their part. Instead, she must be open to the fact that rational, well-informed and fair-minded persons may adhere to an ideal or philosophical doctrine entirely different from her own. (Vallier, 2014: 89)

Crucially, these are ideas that Loyola's defenders can – and actually *do* – accept in light of their own beliefs.¹² But then, since *these* are the ideas on the basis of which the ERC program

¹² “Described in its August 25 submission to the Minister, Loyola's program would have students [TRANSLATION] “explor[e] a range of ethical systems, beliefs and practices”, and would encourage them “to think critically” (application judge's reasons, at para. 38). As further clarified in this appeal:

... on all significant ethical questions, students are required to understand not only the position of the Roman Catholic Church, but also those of all major thinkers and viewpoints.

[T]hey are free to criticise the position of the Catholic Church on any given issue and will be graded on the basis of the quality of their reasoning, not on the basis of adherence to the Catholic position in preference to other positions. [A.F., at para. 13]

In all aspects of Loyola's program, including the ethics competency, [TRANSLATION] ‘the goal of teaching respect for all, regardless of our individual beliefs or customs, is of crucial importance’, informed by ‘our ethical

is justified, it seems that the ERC program passes the test of political legitimacy. At the very least, it appears that, from a liberal perspective, the state is justified in adopting educational policies that *aim* at promoting mutual respect, as well as the pursuit of the common good.

It is important to notice, however, that this is a rather modest conclusion. Indeed, the previous considerations show simply that the *goals* of the ERC program are legitimate. They do *not* show instead that the government has a right to impose its own preferred *means* to fulfill such goals on all schools. As a matter of fact, however, *this* is what Loyola's representatives ultimately contest, namely, the *particular way* in which the ERC program proposes to achieve its goals. Arguably, this sort of objection is expressed, in different forms, both by the first and by the second argument offered by Loyola's defenders. I shall consider each instance of this objection in turn.

4. An objection from the impossibility of neutrality as an educational practice

Recall Donovan and Fr. Brennan's first argument in favor of Loyola's request for special exemption. After claiming that "the methodological 'neutrality' proposed by the [...] program [...] *implies a moral relativism* that contravenes the beliefs of many people and religions, including Catholicism", Donovan and Fr. Brennan argue that such a neutral approach "*is also unrealistic and impossible to achieve in practice*" (*Loyola High School v. Courchesne*, 2010:

ideal...not simply to 'tolerate' others but indeed to 'love' others, as our Christian faith teaches us' (application judge's reasons, at para. 38)" (*Loyola High School v. Quebec (Attorney General)*, 2015: 73-74).

10; italics mine). According to one interpretation, the two parts of this argument express the same objection, namely, that “[t]he practical result of [neutrality] is a kind of individual relativism in the context of state agnosticism that understands truth as something residing entirely within each individual with the state presenting the view that religious truth cannot be really known or judged” (Donovan *et al.*, 2011). According to this interpretation, then, Donovan and Fr. Brennan’s argument is simply meant to convey the message that the ERC program is non-neutral at the level of effects.¹³

However, there exists another possible interpretation. In fact, the claim that neutrality is “impossible to achieve in practice” may point to an additional, and more serious, objection against the ERC program. To see this, I will examine Donovan and Fr. Brennan’s claim in light of an argument recently offered by Kyla Ebels-Duggan (2013).

The target of Ebels-Duggan’s argument is the legitimacy of a state-sponsored ‘neutral’ *approach* to teaching about moral and religious diversity. Her starting point is the idea that liberal neutrality *as an educational approach* is simply impossible. More specifically, Ebels-Duggan claims that presenting different moral or religious views “neutrally” reduces to presenting them “as on an evaluative par”. In teaching different worldviews, then, a teacher can only choose between two possible approaches: she can either present them “as on an evaluative par” with one another or present some “as superior to others”. Ebels-Duggan immediately notices that the latter is not an acceptable option from the point of view of liberal

¹³ I will examine this interpretation in section 5.

neutrality. The reason is that reasonable citizens could obviously reject educational policies that are instantiated in such a way as to communicate the superiority of moral or religious views to which they are opposed. In fact, however, Ebels-Duggan argues that the alternative approach is equally problematic. The reason is that, by presenting different moral or religious views “as on an evaluative par”, teachers inevitably end up communicating the idea that such views are just matters of *personal preferences*. The problem is that many reasonable citizens (e.g. religious ones) see their own moral or religious commitments as *non-discretionary*, and understand their obligations as parents to include the transmission of such commitments to their children. They could thus reasonably reject an educational approach that is so starkly in contrast with their convictions.¹⁴ The upshot is the following. Since liberal neutrality is *impossible* to achieve in practice, insofar as it simply reduces to evaluative parity, then the liberal state cannot permissibly promote it, let alone oblige reluctant schools to adopt it. Indeed, promoting a neutral approach to teaching about religious diversity amounts to promoting a conception of religion that is antithetical to the beliefs of many reasonable religious citizens. In fact, Ebels-Duggan’s conclusion is even stronger. Her claim is that, since neither of the two approaches available to teachers in state schools is legitimate from a liberal

¹⁴ Ebels-Duggan writes: “Presenting some of the views as superior to others is obviously unjustifiable to citizens who affirm one of those in the latter category. But presenting all as on an evaluative par would also be problematic. Most everyone thinks that some matters are appropriately regarded as evaluatively discretionary while others are not. But, and this point is of central importance, which matters are evaluatively indifferent is itself an important, difficult and controversial normative question. This is just the sort of question over which reasonable citizens will persistently disagree. Many parents take themselves to be obligated to help their children get these matters right.” (Ebels-Duggan, 2013: 48).

point of view, it follows that the liberal state should not be a direct *provider* of education at all. State-operated schools should simply be abolished in favor of a system of school choice

It should be clear that Ebels-Duggan's argument is especially relevant for the case under consideration. For one, her starting point, according to which neutrality as an educational approach is impossible, is very close to Donovan and Fr. Brennan's. What is more is that, if her argument is correct, the implications for the Loyola case are radical. Indeed, her argument implies not only that Loyola should be accommodated, but also that the ERC program should be completely eliminated. It is thus important to assess the merits of Ebels-Duggan's line of thought.

To begin with, it must be observed that *if* religious beliefs were indeed presented (implicitly or explicitly) as akin to inconsequential preferences, such as preferences for a particular ice cream or a particular dress, then not only would liberal neutrality be violated but the goals of the ERC program as well would be undermined. Indeed, presenting religious beliefs in this way would have the effect of *trivializing* them. By so doing, however, the program would fail to teach children about the nature of religious beliefs *as many (most) religious believers conceive of them*. In addition, by portraying the beliefs of some reasonable citizens in such inauthentic and misleading ways, the program would likely fail to effectively achieve the goal of promoting mutual respect and democratic dialogue.

That being said, the crucial questions that we need to consider are the following. First, is it true that presenting religious beliefs 'neutrally' involves presenting them 'as on an evaluative

par’, as Ebels-Duggan maintains? Second, assuming that this is the case, is it true that this *inevitably* involve trivializing religious beliefs? Let us start from the second question. Saying that two views are on an evaluative par is equivalent to saying that there is no sufficient reason for endorsing one rather than the other. In this sense, choosing one of these views *is* a matter of personal preference. Even so, however, it does not follow that choosing between these views is a trivial matter or that such views are themselves trivial. The opposite conclusion holds only if one treats *all* personal preferences as akin to tastes, that is, to things for which no reason can be asked and which plays no important role in shaping one’s identity. However, this is not true of all sorts of preferences. Indeed, in at least some cases, forming a preference between two views that are on an evaluative par may require one to fully appreciate the reasons that support each of those views and to understand the significance that such reasons may have for one’s overall commitments.¹⁵ This is especially true in the case of moral and religious beliefs. Contrary to what Ebels-Duggan suggests, then, even if such views were presented as matters of personal preferences, they would not necessarily be trivialized. The teacher would clearly have an important role to play in distinguishing the case of moral and religious beliefs from other cases involving matters of mere taste. Although difficult, this could not be an impossible task for them to accomplish.

The most important objection that one can raise against Ebels-Duggan consists, however, in denying that presenting religious beliefs ‘neutrally’ involves presenting them ‘as on an evaluative par’. In order to develop this objection, it is helpful to consider an analogy with the

¹⁵ Thanks to Mauro Rossi for drawing my attention to this point.

teaching of philosophy. Many philosophy teachers choose to remain neutral with respect to different philosophical views; they treat each view as charitably as possible and do not reveal to their students which theory they think is true or best. At the same time, most philosophy teachers actively seek *not* to convey the message that philosophical theories are matters of personal preferences or that all philosophical views are equally plausible or good. In other words, they make sure to convey the message that that such views are not *actually* on an evaluative par. Now, it is hard to deny that at least some teachers *succeed* both in remaining neutral in this sense and in communicating to their students the ‘right’ message about the nature of philosophical inquiry. I see then no reason to think that this cannot be done also in teaching religions.¹⁶ It must of course be admitted that the analogy between the teaching of religious and philosophical beliefs may be imperfect. Notably, some philosophical beliefs may not shape an individual’s identity in as deep ways as some religious beliefs. However, this is not true across the board. That is, some philosophical commitments may be extremely important sources of meaning and give purpose to an individual’s life (consider, for instance, philosophical beliefs about applied ethical matters such as abortion, euthanasia, and so on).

¹⁶ While teaching philosophy, teachers not only teach their students the content of particular philosophical theories, but also how to assess those theories. They refer to criteria such as logical validity, explanatory power, simplicity, extensional adequacy, and so on. Similarly, teachers could provide students with the means to assess at least *some* aspects of religions, e.g. their moral prescriptions, their cosmology, etc. Teachers need not actually tell their students which religion they think is best (if any), but just tell them that evaluating religions is something possible and meaningful. By so doing, they may convey the thought that religions can be assessed on their merits, while at the same time remaining neutral about them. Thanks to Michele Palmira for suggesting this line of thought to me.

If all this is true, it follows that, contrary to what Ebels-Duggan (as well as Donovan and Fr. Brennan) maintains, neutrality as an educational approach is in fact possible.¹⁷ The implication for our current discussion is that the first objection against the approach chosen by the state to achieve the goals of the ERC program fails. It must nevertheless be emphasized that the previous considerations show simply that it is *permissible* for the state to promote the neutral teaching of religious cultures (at least *in principle*). However, they do not show that the state can legitimately *impose* such an educational approach on all reluctant schools. We now need to consider this objection, as expressed by the second argument offered by Loyola's defenders. To this I shall turn in the next section.

5. The issue of equivalence

Recall the second argument offered by Loyola's representatives. Its main point is that Loyola's alternative program is "equivalent" to the ERC program. As we have seen, Loyola's representatives defend this claim mainly by arguing that their program embraces the core goals of promoting tolerance and respect for all, regardless of individual beliefs or values. Clearly, however, this may not be enough to support the claim that Loyola's program is *really* equivalent to the ERC program. Indeed, there are at least two ways in which, despite embracing *similar* goals, Loyola's program may be considered morally inferior to the secular

¹⁷ Obviously, the fact that it is possible to pursue such an approach does not imply that it is *easy* to do so. In light of what has been said, the undeniable difficulty of the task cannot be taken lightly.

version. First, it may be argued that the confessional character of Loyola's program renders it *unreasonable*. Second, it may be argued that Loyola's program is significantly less effective than the ERC program.

Let me begin with the first objection. This objection seems to be endorsed, in a different context, by Amy Gutmann (1995). More specifically, in her analysis of *Mozert v. Hawkins* – one of the most widely discussed legal disputes in American civic educational theory – Gutmann suggests that the Mozert complainants should be seen as unreasonable citizens because “[t]heir religious convictions [...] command them not to expose their children to knowledge about other ways of life unless the exposure is accompanied by a statement that their way of life is true and all the others are false and therefore inferior” (Gutmann, 1995: 571). Although there are some significant differences between the Loyola and the Mozert cases, which I do not have space to discuss in this paper, the two are similar in at least one respect: Loyola's plaintiffs seem to share the same belief as Mozert's that it is their ‘mission’ to teach the ‘truth’ to their children, where this implies not remaining neutral when it comes to discussing religious and moral diversity. The question is: does *that* make them unreasonable?

I believe not. The reason is that, *unless* their belief in the falsehood of other worldviews is accompanied by a *further*, distinct belief, according to which those who embrace false worldviews ought not to be respected or are themselves inferior, there is nothing unreasonable (from the point of view relevant for political legitimacy) in thinking that worldviews contrary to one's own are ‘inferior’ in the sense of being incorrect or false. In fact, it is rather common for people to believe that there are truths about morality, religions and philosophy and that

their own beliefs about these matters are the true (or at least the most plausible) ones. *By itself*, however, this does not make them unreasonable. I conclude that Gutmann’s objection should be rejected. Applied to the present case, this implies that Loyola’s insistence on presenting its own religious view as true to their pupils, in the face of the alternatives, is not sufficient to make its program unreasonable.¹⁸ If so, it begs the question against Loyola to claim – as Line Gagné (Assistant Deputy Minister for School Networks) did in her response to the school – that the its program cannot qualify as equivalent *because* its approach is faith-based, as opposed to “cultural” (secular) (*Loyola High School v. Courchesne*, 2010: 12-14).

Let us now turn to the issue of the effectiveness of Loyola’s program. Whether or not Loyola’s alternative program – or the state’s for that matter – can successfully achieve its goals is of course an empirical question. That is, in order to assess the effectiveness of Loyola’s program, we need detailed empirical evidence. This raises an important issue concerning the burden of proof. Is it Loyola’s task to provide evidence that its confessional program can equally satisfy the goals of civic education? Or is it the state’s task to show that the ERC program is significantly more effective than Loyola’s alternative?

I believe that the burden of proof lies squarely on the state. Indeed, this appears to follow directly from the recognition that people are free and equal, so that it is the party in a position of authority, i.e. the party that has the capacity/intention to limit other people’s freedom, that

¹⁸ This, of course, does *not* imply that parents have a moral and political right to indoctrinate their children into embracing their own conception of the good.

should ‘prove’ that the proposed restriction of liberty is justified. *At least*, this is true when *basic* freedoms, such as freedom of conscience, are at stake – as they are in the Loyola case. Indeed, insofar as Loyola parents sincerely think that they have a duty to make sure that their children are educated within the Catholic perspective that they endorse and that defines their identity, then, by imposing on *them* (via Loyola) the adoption of a neutral approach, the state *violates their conscience*. Those parents have thus some reasonable grounds for rejecting the state’s program.

In fact, this line of thought implies that, in order to reasonably justify its decision to impose on Loyola the *means* to achieve the ERC program’s goals, the state must *not only* provide solid empirical evidence showing that its own secular version is superior, but – assuming that this can be done – *also* provide some reasons to think that the benefits of achieving the goals of civic education more effectively through the ERC program *trump* Loyola parents’ freedom of conscience.¹⁹ In more general terms, when individuals propose reasonable, and supposedly equivalent, alternatives to state policies, in line with their fundamental convictions, it is the state that must provide evidence against the proposed alternatives’ capacity to achieve the same results. In the present case, then, given the absence of evidence disproving Loyola’s equivalence claim, my conclusion is that, as a matter of legitimacy, the state ought to accept Loyola’s request.²⁰

¹⁹ Put differently, *even if* the state could show that its secular program is significantly more efficient, this would *not* necessarily settle the legitimacy question.

²⁰ My argument contradicts Stephen Macedo’s, when he writes, in the context of his discussion of the Mozart case: “Of course, there are uncertainties [about] efficacy, along with all other efforts to inculcate moral virtues. It

Against this argument, one may observe that the state is not the only party in a position of coercive authority in the case under consideration. Parents too – via Loyola – exercise coercive authority over their *children* by imposing on them an educational approach that involves presenting a reasonably controversial worldview as the true one. So, it seems that the state and Loyola parents share the same justificatory burden of having to show that their exercise of authority can be justified.²¹

However, this objection can be resisted. Indeed, there are some important reasons to think that the state/citizen and the parent/child relationships differ in crucial respects. First, unlike adult citizens, children are not (yet) free and equal persons. As such, parents do not owe them a justification for the use of coercive power that they could reasonably accept, as the state

would be extremely hard to show that any particular school program is crucial for realizing the core liberal value of toleration. Empirical questions in this area seem intrinsically hard to settle, however, and so judgments about fundamental rights should turn on other grounds. The program stands as a reasonable effort to familiarize students with diversity and teach toleration. The basic question of principle is, Do families have a moral right to opt out of reasonable measures designed to educate children toward very basic liberal virtues because those measures make it harder for parents to pass along their particular religious beliefs? Surely not. [...] Liberal civic education is bound to have the effect of favoring some ways of life or religious convictions over others. So be it.” (Macedo, 1995: 485)

²¹ In particular, this line of thought implies that, while the state should try to provide evidence *to* Loyola parents that its program is significantly more effective than Loyola’s own program in achieving the goals of civic education, Loyola parents should try to provide contrary evidence *to* their children. For objections against this line of thought, see the following paragraph and, especially, the first and second papers of the present thesis.

instead owes the parents themselves. Second, as we have seen, parents have a powerful interest in educating their children as they see fit. Indeed, transmitting their values to their children is, for many parents, part of what gives meaning to their lives. Thus, parents have reasonable grounds for not being submitted to the coercive authority of the state in matters concerning their children's education. Of course, this does not mean either that parents have unlimited authority over such matters or that the state has no legitimate interest in children's education. Nevertheless, since parental interests are, *all other things equal*, comparatively weightier than the state's, the state has a special burden of justification.

This conclusion must be qualified in one crucial way. In fact, children too have important interests of their own. In particular, children's own individual interest in becoming autonomous, i.e. in acquiring the capacity to rationally develop their own conception of the good, *is* potentially weightier than their parents' (and the state's) interest in exercising control over their education.²² This implies that, *if* there is *prima facie* reason to suspect that the development of children's autonomy may be compromised, or disserved, by a particular approach to education, *then* the burden of the proof of showing that this is not the case lies on those advocating such an approach.²³

²² It is fairly uncontroversial amongst liberals that children have a right at least to an autonomy-facilitating education, if not to an autonomy-promoting education (Brighouse, 2000). This implies that the state has a duty to create or protect the conditions that make it possible for a child to develop her capacity for autonomy. In fact, this is typically seen as *the* most important goal of common schooling.

²³ It must be stressed that, for the reasons given above, the fact that children have an interest in becoming autonomous does not imply that their parents (or the state) owe *them* a reasonably acceptable justification for

Is there a *prima facie* reason to think that Loyola’s confessional program undermines the development of children’s autonomy or that the state’s secular version is significantly more effective at promoting such a goal? This seems doubtful. On the one hand, both Loyola’s program and the ERC program are committed to the same goal of encouraging students to “think critically” and “examine popular beliefs and practices”.²⁴ On the other hand, the fact that Loyola’s program adopts a confessional, rather than a secular, approach – which marks the main difference between the two programs – is not, by itself, a sufficient reason for thinking that Loyola’s program fails to promote, or to promote as effectively as the ERC program, the development of children’s autonomy. Unless other reasons are given, then, the conclusion reached above, according to which Loyola should be accommodated, does not change.

Let me now turn to considering one final argument that a defender of Loyola might propose – an argument that I have so far ignored, but that, I will claim, might further support Loyola’s case. As a starting point, recall the definition of neutrality of effects, provided in section 2. According to it, a policy is neutral at the level of effects only if it does not favor some specific conceptions of the good, or ways of life, over others. In the same section, we saw that there is at least one instance of non-neutrality of effects that is not problematic, from a liberal point of view. This is when a policy has the effect of promoting core liberal values. What about cases

subjecting them to a specific educational approach. What is owed to children is simply an autonomy-friendly education *as such*.

²⁴ *Loyola High School v. Courchesne*, 2010: 10. See also fn. 12.

of non-neutrality of effects in which what is promoted are, instead, reasonably controversial values or worldviews? This question is especially important for the issue under consideration. Indeed, a defender of Loyola might argue that, although neutral at the level of *justification*, the ERC program is not neutral at the level of its *effects* in a way that goes beyond the mere promotion of core liberal values. More specifically, a defender of Loyola might argue that teaching children to develop a capacity to recognize, respect, and engage with diversity from a neutral perspective may have the unintended, yet likely, effect of turning many of them into moral relativists. As we have seen, this is perhaps the complaint against the ERC program advanced by Donovan and Fr. Brennan in the second part of their first argument, where they affirm that the ERC program is “impossible to achieve in practice” and may have the practical result of promoting “moral relativism”.

In response to this argument, it must be conceded from the outset that ‘pure’ neutrality of effects is indeed impossible to achieve. Incidentally, this is one reason why virtually all liberal neutralists reject the claim that neutrality of effects is part of the ideal of liberal neutrality. Rawls, for example, is unequivocal on this point:

It is surely impossible for the basic structure of a just constitutional regime not to have important effects and influences as to which comprehensive doctrines endure and gain adherents over time, and it is futile to try to counteract these effects and influences, or even to ascertain for political purposes how deep and pervasive they are. (Rawls, 1993: 193)

However, the fact that it is impossible to achieve neutrality of effects does not mean that the state should never take into account the effects generated by specific policies. Indeed, it is possible, and, in certain contexts, it is actually the case that some public policies create

identifiable losers. When this happens, a case can be made for compensating those minorities (especially if they are reasonable), by accommodating them in appropriate ways (Tomasi, 2001; Weinstock, 2006). In other words, if a minority's capacity to flourish is undermined by (otherwise legitimate) public policies, the state ought to accommodate it, *at least* when such accommodation comes at no other political costs (e.g. in terms of children's autonomy or stability).²⁵

In principle, then, Loyola's defenders have another argument in support of their case. That being said, however, I have serious doubts that this argument holds *in practice*. More specifically, I have serious doubts that Loyola *is* in fact an identifiable 'losing' minority in the

²⁵ What about a situation in which (a) Loyola turns out to be a 'losing' minority, (b) its 'educational environment' turns out *not* to be very autonomy-friendly and, yet, (c) the government decides to accommodate Loyola anyway? Is the government acting *illegitimately*? My answer is that it might be acting *unjustly*, but not necessarily *illegitimately*. Recall that political legitimacy specifies the conditions that make *the use of political power* morally *acceptable* in the context of reasonable pluralism. Justice, on the contrary, can be defined as being the all-thing-considered *best* answer to the question of how political power should be organized and exercised. If we could all agree about what justice requires, there would be no need for a theory of political legitimacy. In order to count as morally acceptable, the principles that guide our institutions – as well as the government decisions regarding issues of basic justice – must be *reasonably* just, rather than *perfectly* just. What will ultimately differentiate different reasonable conceptions of justice is their balancing and ordering of political values. Now, from the point of view of justice, I think that there are good reasons for thinking that the protection of children's autonomy should have *priority* over the protection of cultural diversity. However, a society might democratically decide to place more weight on the protection and preservation of its reasonable diversity. I do not see any reasons for thinking that this would not be a reasonable choice: it is compatible with the recognition and respect of the core liberal and democratic values; and in fact, it is a decision that can be made in their very name.

sense specified above. Indeed, it seems unlikely (though this remains of course an empirical issue) that implementing the ERC program at Loyola would significantly increase the chances that children will end up embracing views (e.g. moral relativism) that are contrary to the school's (and their parents') reasonable conception of the good.

In any case, the conclusion that Loyola should be granted an exemption does not depend of the fate of the argument from neutrality of effects. Indeed, in order to accept my conclusion, one only needs to grant my previous point that whenever public policies are highly costly for minorities, in the way that the ERC program is for Loyola, we need to provide them with a *justification* that they can accept for imposing these special costs on them. In other words, even if the 'cost' of having their children turned into moral relativists is not one that Loyola would actually have to pay, the fact that the state cannot reasonably justify limiting Loyola's freedom to teach ERC according to an approach that its community genuinely conceives of as compatible with its mission is sufficient to vindicate the Supreme Court's decision to rule in Loyola's favor.

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Which Moral Issues Should be Taught as Controversial?

A Challenge for the ‘Epistemic Criterion’ and a Proposal to Reframe the Debate

The idea that some moral issues should be presented ‘as controversial’ in the classroom is the object of a certain consensus among educational practitioners. Quite surprisingly, however, little guidance is offered to schools and teachers about how exactly to tackle controversial issues in class. In fact, most official guides for teachers in Canada, Europe and the United States offer remarkably vague definitions of controversial issues (if any) and provide confusing or questionable recommendations.¹ According to Michael Hand, this situation raises two fundamental questions. First, what does it mean to teach an issue as controversial?

¹ For instance, the Alberta Guide to Education ECS to Grade 12 (2015-2016 edition) indicates: “Controversial issues are those topics that are publicly sensitive and upon which there is no consensus of values or beliefs. They include topics on which reasonable people may sincerely disagree. [...] Controversial issues that have been anticipated by the teacher, and those that may arise incidentally during instruction, should be used by the teacher to promote critical inquiry and/or to teach thinking skills. The school plays a supportive role to parents in the areas of values and moral development and shall handle parental decisions in regard to controversial issues with respect and sensitivity” (Alberta Education, 2015-2016: 79-80). The Oxfam document (2006) on teaching controversial issues gives similarly vague recommendations. Quite surprisingly, it includes also “bullying” in the list of topics that should be taught as controversial. See Hand (2008) on the urgency of addressing the ethical issues around the teaching of controversial issues.

Second, what subjects should be taught as controversial? In a series of influential papers, Hand has tried to advance the debate by offering a detailed answer to each of these questions (Hand, 2007, 2008, 2013).

With respect to the first question, Hand claims that teaching an issue as controversial means teaching it according to a *nondirective* approach to moral education. This approach requires teachers to frame the discussion in a certain way and to be committed to a particular educational aim. More specifically, it requires them (a) to portray alternative views on a specific issue in a balanced and, as far as possible, impartial way – without endorsing any position or seeking to influence students in one direction or another; and (b) to make sure that students appreciate that a range of views can be held on that topic and, ideally, to help them make their own considered judgments on the issue. By contrast, *directive* teaching consists in providing students with substantive moral guidance, by endorsing and promoting one particular moral position on a given topic, e.g. the idea that slavery is wrong.²

With respect to the second question, Hand argues that nondirective teaching is appropriate when more than one position on a specific issue is “epistemically justifiable”. As he puts it: “Where two or more conflicting views on a matter enjoy the support of corroborating evidence

² It should be noted, however, that, according to Hand, directive teaching is *not* a “pedagogical method or style”. As he writes, directive teaching “need not, of course, be didactic or ‘teacher-centered’: it is quite possible to use investigative or ‘pupil-centered’ teaching methods to enable students to find their own way to an approved solution or correct answer” (Hand, 2008: 213).

or credible arguments, teachers should present those views as impartially as they can. Where only one view enjoys such support, teachers can and should endorse it” (Hand, 2008: 217). Hand calls this the ‘epistemic criterion’ for determining what moral issues should be taught in a nondirective way.

The main goal of my paper is to raise some doubts about the epistemic criterion as well as about Hand’s argument in its favor. By so doing, I also intend to achieve another, more general goal, namely, to challenge the very way in which Hand has framed the philosophical debate over teaching controversial issues in recent years and to suggest an alternative way of thinking about this topic, both from a substantive and from a methodological point of view. I shall proceed as follows. In the next section, I shall argue, on the one hand, that unless Hand adopts a specific account of epistemic justification, his criterion cannot deliver *determinate* verdicts about what issues should be taught as controversial; and, on the other hand, that it is unclear whether all plausible accounts of epistemic justification support his particular judgments about which issues should be taught as controversial at school. Next, I shall focus on Hand’s defense of the epistemic criterion. I shall argue that his defense is problematic since it takes into account only *one* aim of education, whereas, in the context of the present debate, a larger set of moral considerations is relevant and ought to be considered. Finally, in the last part of the paper, I shall argue that focusing on the question of what issues should be taught in nondirective versus directive ways is an unhelpful way of framing the debate. The reason is that nondirective teaching has several dimensions, which may play different, and potentially conflicting, roles in the pursuit of legitimate educational aims. I will conclude by sketching an alternative way of framing the debate, which is more sensitive to the plurality of educational

aims and morally relevant considerations identified in the paper.

1. A dilemma for the defenders of the epistemic criterion

In this section, I want to argue that, by itself, the epistemic criterion is not determinate enough for it to be regarded as a plausible criterion for deciding which issues should be taught as controversial. My argument relies on the claim that a good moral principle must be able to deliver determinate moral recommendations. Clearly, this goal cannot be fulfilled if a moral principle is *indeterminate*, for instance because it is underspecified or too vague. In such case, the principle should be either revised or rejected. The claim that I want to defend in this section is that Hand's criterion is indeed underspecified, so that, contrary to what Hand maintains, it cannot deliver sufficiently determinate moral recommendations.

I shall begin by clarifying further the nature of Hand's epistemic criterion. For this purpose, it is important to illustrate how Hand's criterion is related to the notions of justification, truth, and rationality. Let me start by considering the pair justification/truth. The notion of justification is clearly distinct from the notion of truth. For one, different persons may well be justified in holding different views on a topic, even if only one view is true. In fact, a person may be *unjustified* in holding a belief even if that belief is true, for instance if she does not have sufficiently good evidence or reasons in support of that belief. Clearly, Hand's criterion is about epistemic justification, rather than truth. Indeed, Hand does not claim that an issue should be taught nondirectively when there are multiple *conflicting true positions* on that issue. This would potentially commit him to a form of moral relativism (of the least plausible

sort),³ which he explicitly rejects. Instead, Hand claims that when conflicting views on an issue are *justified*, the issue should be taught nondirectively. This is compatible with the possibility that those views may actually be *false*.

Let us consider now the pair justification/rationality. It is commonplace to think, as Hand does, that a belief (or an action) cannot be justified unless it is formed (or performed) in conformity with the norms of rationality. Even if justification *implies* rationality in this sense, the two ideas remain nonetheless different. According to Robert Audi, one important difference is that justification is always *focal*, since it always concerns something specific, like a belief, an action or a policy. By contrast, rationality can be *global*, since persons can be rational in an overall way. As he puts it: “‘She is justified’ is semantically incomplete, whereas ‘She is rational’ is not. Attributions of rationality to people need not depend on beliefs about their rationality regarding some proposition or issue; but this does not hold for justification” (Audi, 2011: 25). I believe that Hand’s epistemic criterion is not concerned with people’s overall rationality, since this is not directly relevant for determining what should be taught nondirectively. Rather, I take Hand’s position to be that, when more than one belief or view on a given moral issue is justified, in the sense of being *supported by adequate reasons and/or evidence*, that issue should be taught nondirectively. If this is correct, then Hand’s criterion requires figuring out when a belief, or a set of beliefs, is justified. In other words, in order to reliably determine what issues should be taught nondirectively by Hand’s light, we

³ Indeed, if there are conflicting ‘true’ moral positions on a given issue, then there is no universally valid standard of morality.

need an account of epistemic justification.

Unfortunately, Hand does not explicitly provide such an account. Despite this, he suggests that his epistemic criterion delivers determinate verdicts. For instance, he argues that his view implies that the issue of the morality of homosexual acts should be taught *directively* (Hand, 2007). His strategy consists in critically examining what he takes to be the most plausible arguments in support of the idea that homosexual acts are wrong and in showing that they are *not* good arguments. Having done this, he concludes that his epistemic criterion recommends teaching such a topic *directively*, since only one position (i.e. that homosexual acts are morally permissible) passes his test of philosophical scrutiny.

I do not wish to question the claim that homosexual acts are morally permissible. However, I want to challenge the *strategy* pursued by Hand to defend the idea that those who believe that homosexual acts are impermissible are *unjustified* in believing this. There are at least two problems with it. The first is that the arguments selected by Hand do not warrant unanimity. The defenders of the immorality of homosexual acts typically reject some of their main premises or question the reasons given in their support.⁴ The second, and most important,

⁴ For example, contrary to what Hand suggests (Hand, 2007: 77), it is perfectly possible for religious believers to be committed to the idea that biblical texts are morally authoritative, while denying at the same time that all biblical injunctions are morally sound, *when taken in a literal sense*. As a matter of fact, those who offer arguments in defense of particular moral views, based on scriptural authority, rarely rely on the latter claim. According to them, saying that the Bible is morally authoritative simply means that the Bible provides *some*

problem is that the success of Hand's strategy seems to depend on the specific account of epistemic justification that one endorses. In the present case, the idea is that not all plausible accounts of epistemic justification converge to the conclusion that believing that homosexual acts are impermissible is always unjustified. In fact, there exist plausible, and widely held, theories of justification that do not necessarily lead us to such a conclusion. Take, for example, Gerald Gaus' – a preeminent public reason liberal – procedural conception of justification, according to which:

[One] has a sufficient reason R to hold that β is the thing to believe, or ϕ is the thing to do, if, and only if, (i) he has arrived at R by following the norms of good reasoning and (ii) if [he] engaged in a 'respectable amount' of reasoning, he would not (or did not) discover defeaters for R . (Gaus, 2011: 249-250)

Gaus' account implies that some people may justifiably believe that homosexuality is wrong. This is so for two main reasons. First, since his account is procedural, there are no substantive restrictions on what a person may be justified in believing. Second, what constitutes a 'respectable amount' of reasoning depends on the context, including the epistemic position from which the person begins her process of reasoning. Thus, a person may have good reason (which others do not have) to believe essentially anything, provided that her moderately

evidence of what constitutes right or wrong conduct – evidence that must nevertheless be carefully interpreted. Thus, a fully charitable assessment of arguments from scriptural authority requires evaluating the plausibility and coherence of different *interpretations* of the Bible, and not simply the plausibility of literal biblical passages.

As an aside, it is important to notice that even if some arguments from biblical authority turned out to be epistemically reasonable, this would *not* imply that such arguments may permissibly be used in the context of public deliberations concerning the rights of homosexual citizens (see Macedo, 2015).

idealized self would stick to the same belief after a sufficient amount of good reasoning – *given* her own particular set of beliefs and her own contextual epistemic limitations. This implies that different people may be justified in holding conflicting views, since the epistemic positions from which they may engage in a ‘respectable amount’ of good reasoning may be, and remain, different (see Gaus, 2011: 232-258). Surely then, in light of this account, it is perfectly possible for a person to be justified in believing that homosexual acts are wrong.⁵ So, at least one plausible account of epistemic justification appears to contradict Hand’s conclusion.⁶

Why is this a problem for Hand? Could he not simply reject Gaus’ account of epistemic justification and adopt an account that supports his recommendation about how the morality of homosexual acts should be taught? There are three problems with this reply. First, unless we have some independent reasons to favor an account of the latter kind, this reply is simply *ad hoc*. Second, even if we do consider all the relevant reasons in favor of the different accounts of epistemic justification, there is no guarantee that the most plausible account will actually support Hand’s conclusion that no-one can justifiably believe that homosexual acts are morally problematic. Lastly, there is an apparent tension in attempting to ground the criterion

⁵ Jonathan Quong (2014) goes as far as to argue that Gaus’ conception of what it means to have a sufficient reason to believe or to act is compatible with a person’s “having a sufficient reason to believe, for example, that it is morally required for him to kill infidels” (Quong, 2014: 547).

⁶ Arguably, any coherentist theory of epistemic justification could lead to the same conclusion, which stands contrary to Hand’s.

for determining which moral issues should be taught as controversial at school on a particular theory of epistemic justification that is itself controversial, in the sense of being the object of reasonable disagreement between informed and competent reasoners, such as well-trained philosophers. Indeed, if we ought to take reasonable disagreement about moral issues seriously – in fact, if we think that this provides the ultimate rationale for adopting Hand’s epistemic criterion – then it seems that we ought take reasonable disagreement about epistemological issues seriously too. Paradoxically, then, the rationale for adopting Hand’s own criterion seems to undermine the strategy under consideration.

The upshot is the following. Unless Hand adopts a more specific account of epistemic justification, his epistemic criterion for determining which issues should be taught as controversial remains fundamentally indeterminate. In fact, given that different theories of epistemic justification are compatible with different conclusions as to what one can justifiably believe, Hand’s epistemic criterion potentially implies that almost *everything* should be taught non-directively.⁷ On the other hand, the problem for Hand is that he cannot just exclude some of these theories of epistemic justification without either begging the question against his opponents or potentially violating the spirit of his epistemic criterion.

⁷ In addition, given the widespread disagreement among philosophers about justification and reasonable epistemic disagreement (and the complexity of those issues), it is hard to see how policymakers and teachers could reliably use this criterion to determine what to teach as controversial. The question of what considerations can and should guide policymakers or teachers when it comes to deciding how to teach moral issues, however, is distinct from the question of what *makes* a particular approach to moral education morally appropriate or not. I shall leave the first question aside for reasons of space.

2. The need to balance different educational aims and values

In the previous section, I argued that the defenders of the epistemic criterion face a challenge. The criterion must be specified in such a way as to deliver more determinate recommendations. Yet, it is unclear whether this may be done without generating other problems. Be that as it may, I will now assume that there exists a way to respond to the challenge. The question, then, becomes the following. Can the epistemic criterion be successfully *defended* as a criterion for determining what moral issues should be taught in a directive way? I will explore this question in the current and the next section.

To begin with, it is worth noticing that Hand is not the first to defend the epistemic criterion. In fact, his account clarifies and expands Robert Dearden's (1981) account, according to which an issue should be taught as controversial when "contrary views can be held on it without those views being contrary to reason" (Dearden, 1981: 86; quoted in Hand, 2008: 214). According to Hand, Dearden's epistemic criterion implies that issues such as "bullying, prejudice, and racism" should be taught *directively because* "these are matters on which only one view is epistemically justifiable: namely, the view that they are morally bad or wrong" (Hand, 2008: 217). Despite agreeing on this conclusion, Hand maintains that Dearden's arguments in support of the epistemic criterion are rather weak. In part, this is due to the fact that Dearden's arguments are merely negative, i.e. they only provide reasons to reject alternative criteria. This motivates Hand to propose a new, positive defense of the epistemic criterion. In what follows, I shall argue, however, that Hand's defense too is

ultimately unconvincing.

In order to do that, I propose to reconstruct his main argument as structured around six claims:

- 1) The central aim of education is to develop children's capacity and disposition for "rational thought and action", for the latter is a constitutive element of, and has instrumental value for, human flourishing.
- 2) Rationality involves adopting, and acting on the basis of, good (i.e. "epistemically adequate") reasons.
- 3) Thus, the central aim of education to develop children's capacity and disposition for rational thought and action requires encouraging students to endorse only claims or views that are supported by good (i.e. "epistemically adequate") reasons.
- 4) In turn, this requires conveying to students the message that, when it comes to moral issues, epistemic considerations are decisive, i.e. that "evidence and arguments" are the "proper warrant for belief" (Hand, 2008: 218).
- 5) Teaching 'epistemically uncontroversial' issues nondirectively, or 'epistemically controversial' issues directly, conveys the wrong message to students, namely, that when it comes to moral issues, evidence and arguments are *not* decisive.
- 6) Therefore, the central aim of education requires adopting the epistemic criterion for determining what to teach as controversial, i.e. "the issues we ought to teach as controversial are precisely those on which 'contrary views can be held without those views being contrary to reason'" (Hand, 2008: 219).

Let us start by focusing on the first premise of Hand’s argument, which concerns the central purpose of education (understood in the narrow sense of schooling). Suppose we grant that nurturing rational thought and action is an important – or perhaps the main – goal of education. Clearly, as others have noted, this does not entail that there are no *other* important aims of education or no other values that schools ought to promote.⁸ For instance, it is widely recognized that schools have also the important responsibility to promote good citizenship and justice, as well as the development of children’s talents and creativity. Is the alleged existence of a plurality of educational aims a problem for Hand’s account? One might emphasize that Hand’s account is perfectly compatible with the existence of such a plurality of educational aims. After all, he describes rationality as the “central” aim of education, not as the “unique” aim. However, things are not so simple. Indeed, as long as there exist other educational aims, then, in case of conflict, the aim of developing children’s ability and disposition to act and think rationally must be carefully balanced against them.⁹ The problem is that different ways of balancing conflicting aims may lead to different normative recommendations for educational policy and practice. Because of this, no practical conclusions can be drawn by considering only *one*, albeit the “central”, goal of education alone. In other words, it is a

⁸ See Cooling, 2012; Nocera, 2013; Hess and McAvoy, 2015.

⁹ This is crucial to preserve the action-guiding potential of our normative analysis.

mistake to draw normative conclusions for policy and practice by focusing on the educational aim of developing children's rationality in isolation from the other educational aims.¹⁰

In response to the previous objection, Hand can pursue one of the following three strategies. First, he may *deny the existence of a plurality of educational aims*. Second, he may *deny the potential for conflict* between different aims. For instance, he may argue that, by nurturing rational thought and action, schools can effectively achieve, in one way or another, all the other moral purposes of education. Finally, he may argue that, in case of conflict, the aim to develop children's rationality *trumps all other educational aims*. I believe there are reasons to be skeptical about all these claims. In fact, I will show that, when it comes to educational policy and practice in general, and to teaching controversial issues in particular, the set of morally relevant considerations to take into account is likely to be much broader and more complex than any of these strategies suggest.

Consider the first strategy. Recall that, according to Hand, the point of teaching rational thought and action is to promote human flourishing. This implies that, in order for the claim that rationality is the unique aim of education to be true, two other claims must also be true. First, human flourishing must be the only purpose of education. Second, rationality must be

¹⁰ I am not suggesting that good normative policy analysis requires *only* to identify and to balance moral aims or values in the abstract. On the contrary, it requires identifying and assessing all kinds of morally relevant considerations and empirical evidence, including implementation risk factors of all sorts, feasibility constraints, as well as possible trade-offs between short term and longer term moral gains.

the sole contributor to it. Neither claim is obvious. The second in particular appears very questionable. Indeed, it is hard to deny that some other goods, besides rationality – goods such as being imaginative or emotionally stable or even being physically healthy and having material wealth – have instrumental value for, or are partly constitutive of, human flourishing.¹¹ Yet, if human flourishing is complex in this way, then *education for flourishing* cannot consist only in developing rationality. If, for example, emotional control is essential to flourishing, and if emotional control can be taught and learned, then educating for emotional control should be seen as a central aim of education too. Thus, simply by considering Hand's *own* justification as to why rationality is supposedly the central purpose of education, we can identify some reasons to think that there exists a plurality of values or aims that schools should promote alongside with rationality. If this is true, then the first strategy to resist the objection against Hand's first premise is unsuccessful.

Let us now consider the second strategy. Hand may argue that, although human flourishing does have other components, these can be realized by means of an education aimed solely at developing children's rationality. In other words, Hand might say that the other aims of education generate the same educational requirements as the aim of nurturing rational thought and action. However, I believe that different educational aims will inevitably lead to conflicts.

¹¹ It is worth noticing that the *concept* of human flourishing is itself very controversial. Philosophers disagree about what, if anything, distinguishes it from happiness or wellbeing, for example. But I need not take a position on that question here, since no matter how we define it, it seems implausible that human flourishing is uni-dimensional in the sense suggested above. The burden of showing the opposite is on Hand.

In fact, it is not difficult to imagine classroom scenarios in which this is the case. For example, in some circumstances the aim of promoting respect for others – typically considered an essential aspect of good citizenship – will conflict with the aim of promoting rational thinking and action. Arguably, the aim of promoting rationality is best served by encouraging students to speak their own minds on a specific issue in a sincere and intellectually candid way, at least before being challenged by the teacher or by others.¹² However, when it comes to certain topics, encouraging students to speak their own minds without restraint or consideration for other students’ sensibilities or vulnerabilities may actually *frustrate* the goal of fostering respect for others. More concretely, this means that a teacher may, for example, be confronted with a choice between, on the one hand, ‘silencing’ a student for the sake of civility or respect for other students and, on the other hand, allowing/inviting the student to elaborate her opinion for the sake of promoting the development of her rationality. In addition, there may be conflicts between students’ short term or immediate psychological wellbeing and the development of their ability and disposition to think and act rationally in the future. Indeed, at least for some children, learning rationality may come at some costs in terms of their everyday enjoyment of the schooling experience. In the same way, there might be trade-offs between the goals of promoting students’ formal academic achievements (i.e. their grades) and providing

¹² Eamnon Callan argues that a public culture of sincerity and intellectual candor serves “our collective ability to pursue the truth” and to “learn from each other” (Callan, 2011: 12-13). Insofar as rational thinking requires truth-seeking and an ability and openness to learn from others, it can also be served by promoting sincerity and intellectual candor in the classroom.

them with an enjoyable schooling experience.¹³ As far as I am aware, there is no evidence that these important educational aims generate the same practical requirements. In fact, in non-ideal educational contexts – especially those in which resources are very limited – conflicts between moral values or aims seem largely inevitable. This is precisely because realizing moral aims requires all kinds of resources, so that the less resources a school has, the more priority decisions have to be made – bringing with it some inevitable moral costs. But if real tensions do arise between different important educational aims, then we need an account of how to deal with such tensions and of how to weight values.¹⁴

Finally, I am also skeptical about the last strategy available to Hand to deal with the objection raised above. The general problem that Hand faces is simply that it is far from clear whether, to what extent, and under which circumstances, the aim of developing children's rationality should have *priority* over the other educational aims and values. To see this, suppose that a conflict arises between the aim of fostering a sense of inclusiveness in the

¹³ Schools that adhere to the Knowledge Is Power Program (KIPP) seem to generate this conflict because of their relative success in terms of improving students' academic achievements, on the one hand, and their harsh disciplinary policy, on the other. On the complex ethical challenges raised by KIPP schools, see Brighthouse and Schouten (2014).

¹⁴ Notice that the different educational aims or values that schools ought to promote need not be incommensurable for such an account to be needed. Even if all the values that schools ought to promote are justified in virtue of their instrumental value for some final good (e.g. human flourishing), we still need an account of their relative importance with respect to that final good, in order to determine what education decisions and practices are right or wrong.

classroom and the aim of developing rationality. In this case, it is not obvious that the latter should trump the former. The reason is that fostering a sense of inclusiveness (especially for vulnerable minorities) appears to be a very basic requirement of justice, one that – almost nobody denies – schools have a basic responsibility to uphold. Note that the potential for conflict remains even if one admits that an atmosphere of inclusion in the classroom is, to some extent, required for learning rationality.¹⁵ Indeed, insofar as the educational value of inclusiveness goes beyond its instrumental value for learning rationality, then the attempt to *optimize* children’s sense of inclusion and the development of their ability and disposition to think and act rationally may generate morally delicate trade-offs between these two aims. My claim is that the importance of promoting inclusion and basic respect for others in the classroom is such as to justify giving priority to this aim, in case of conflict with the aim of promoting the development of children’s rationality. At least, the burden of the proof seems to fall on those who believe that the aim of educating for rationality trumps the values of inclusion and respect. Be that as it may, we need a detailed account of all the values to be promoted in schools and of how they ought to be balanced in order to be able to determine

¹⁵ Indeed, one might say that since achieving the latter aim requires achieving the former – at least to some extent – this is not a plausible example of aims that can be in tension. In other words, one might argue that since the development of rationality itself demands the creation and promotion of an inclusive classroom atmosphere, the two cannot conflict. That inclusiveness facilitates the development of children’s ability and disposition to rational thinking and action is, indeed, highly plausible. But it is equally plausible that the value of inclusiveness goes beyond that. Inclusiveness seems not only required for justice, as suggested above, but also to foster a sense of belonging and community and to promote children’s ability to simply enjoy the schooling experience.

what the morally right policy or educational approach will be in different contexts.¹⁶

These considerations show that it is far from obvious that Hand can successfully vindicate the first premise of his argument in favor of the epistemic criterion. Clearly, however, they do not conclusively show that it is *impossible* for him to do so. Nevertheless, the point remains that, in its current form, Hand's defense of the epistemic criterion is incomplete and therefore unpersuasive. Perhaps more importantly, the considerations offered in this section suggest that we need to develop a more integrated methodological approach to the ethics of teaching controversial issues, one that carefully takes into account *all* the morally relevant considerations. In the next sections, I will elaborate on this point by further challenging Hand's argument as well as the key notion of directive teaching.

3. Does nondirective teaching promote rational thought and action?

In this section, I want to suggest that even if Hand can successfully complete his defense of the first premise in one of the three ways suggested above, his argument remains unpersuasive, since it fails to vindicate the conclusions stated in (3) and (6) above. I shall then argue that the gaps in Hand's argument illuminate how the whole debate over teaching controversial issues should be re-framed. In particular, my main claim is that framing the debate in terms of what issues should be taught in nondirective versus directive ways is unhelpful. A more "multi-dimensional" approach to the ethics of teaching controversial issues should be adopted

¹⁶ This account may be *highly* context-sensitive.

instead.

Let us proceed in order. My first doubt regards the connection between developing an inclination to act and think rationally and the idea of “encouraging students” to endorse a claim “if, and only if, the evidence is epistemically adequate”. More specifically, I am not convinced, contrary to what the inference from (1) and (2) to (3) suggests, that the fact that rationality involves acting on the basis of adequate reasons *implies* that cultivating rationality *at school* requires encouraging students to endorse only claims or views that are supported by good reasons. This is because it might be the case that students can sometimes learn to think and act rationally more efficiently when they are *not*, at least not *explicitly*, encouraged to accept only claims supported by epistemically adequate reasons or evidence. For instance, it might be that, under certain circumstances, students can learn to think and act rationally better when they are simply taught how to recognize a good from a bad reason, e.g. by learning the basic rules of logic. Another possibility is that they may learn rationality more efficiently when the teacher challenges their beliefs, or displays respect for their beliefs, in the right sort of way. The point is that actively encouraging students to endorse *only* claims supported by good reasons might have the consequence of encouraging them to abandon some of their current *identity-defining* beliefs (e.g. moral or religious beliefs), on the ground that they are not supported by good enough reasons. In some cases, however, this may have the further, perverse effect of making students more dogmatic or more prone to stick to their initial beliefs unreflectively – for instance, if they feel marginalized or under attack as a result, or if this confuses them in a way that harms the development of their ability to think for themselves. Indeed, many authors have stressed that “consolidating the young child’s provisional sense of

identity” is important for the subsequent development of her autonomy (MacMullen, 2007: 185).¹⁷ Thus, even if we grant that promoting rationality is a key goal of education, it does not necessarily follow – as Hand seems to assume – that “actively encouraging” students to think and act rationally is always the best way to realize that goal.

These remarks are only meant to suggest that (3) does not straightforwardly follow from (1) and (2). At most, there exists only a contingent connection between them. In order to determine whether this is the case, we need empirical data as well as a clear account of what it means, in practice, to actively encourage students to endorse a claim if and only if it is supported by adequate reasons. Without such an account, and without all the relevant empirical information, we simply cannot be confident about what the goal of developing children’s ability and disposition to think and act rationally demands of schools or teachers. Hand’s claim in (3) is thus, at best, an empirical assumption, which stands in need of a defense.

My main source of skepticism, however, concerns Hand’s derivation of the conclusion

¹⁷ The claim, which seems to be supported by the empirical evidence (see MacMullen, 2007: chapter 8), is that autonomous thinking requires stable beliefs to examine in the first place and, for this, “cultural coherence”. On the basis of this claim, many authors argue that comprehensive religious schooling, or ‘conservative’ moral education, is autonomy-friendly at least until secondary school. Their claim is that comprehensive moral and religious education provides children with the necessary basis for autonomous deliberation, since it helps children develop stable religious and moral beliefs and identities, which they can eventually submit to critical examination. See, for instance, Burt (1999) and MacMullen (2007).

stated in (6). Suppose, for the sake of the argument, that the aim of cultivating rational thought and action requires encouraging students to endorse only claims or views that are supported by adequate reasons. The question is: does it follow that we ought to adopt the epistemic criterion for determining what to teach nondirectively? In what follows, I shall argue that it does not.

The starting point of my argument is the observation that nondirective teaching, as Hand's conceives of it, has *multiple* dimensions. Indeed, when Hand claims that the central educational aim of cultivating rationality requires adopting the epistemic criterion, he suggests that, when, *and only when*, a topic is epistemically controversial, then, in order to promote the development of children's rationality, teachers should do *all* of the following things: (a) they should present different views as impartially as they can; (b) they should refrain from endorsing any of those views; and (c) they should help students understand such views and decide for themselves what to believe in a reflective way.

This account of nondirective teaching raises several questions. The first concerns the exact nature of each of the previous dimensions. The second concerns the connection between them. While Hand clearly sees a strong link, for he otherwise would treat them separately, it is not obvious whether this is really the case. The third, and most important, concerns the relation between these dimensions and the goal of developing children's rationality.

In order to show how the answers given to these questions may generate some problems for Hand's argument, I shall focus specifically on the dimension of refraining from endorsing controversial views. I will argue that the development of children's rationality does *not* require

that teachers refrain to endorse a view when and only when the topic being discussed is epistemically controversial. In fact, teachers may well succeed at effectively promoting the development of children's rationality by endorsing a view on a topic that is epistemically *controversial*, or by *not* endorsing a view on a topic that is epistemically *uncontroversial*. In the process of defending these claims, I will also show that endorsing a view does not necessarily imply being partial toward it, nor does it necessarily have the effect of preventing students from learning how to decide for themselves what to believe.

First of all, however, let us start by clarifying what it means, as an educational practice, to 'endorse a view'. There are at least two (non-mutually exclusive) possibilities. One is that for the teacher to endorse a view means for her to *disclose* her moral beliefs, i.e. let her students know which view she personally believes to be correct. The other is that for the teacher to endorse a view means for her to *actively encourage students to accept* one particular view as the true or correct view on a given moral issue. Correspondingly, non-endorsement refers either to non-disclosure or to a deliberate effort not to influence students' substantive moral commitments. Both understandings seem compatible with Hand's statement that "[w]hat is not proper [...] is for teachers to present their own views on [epistemically controversial] issues, rationally considered or not, as the right ones" (Hand, 2008: 221).

With this in mind, we can now ask whether it is true, as Hand maintains, that the *goal of developing students' rationality* requires teachers to refrain from endorsing a view (in either one of the two ways of understanding this idea) on a topic that is epistemically controversial.

Consider the first understanding, i.e. endorsing as disclosure. I believe that we cannot assume that if a teacher tells her students (e.g.) “I personally believe that some wars are justified, but let us discuss the reasonable perspective of pacifists”, she conveys the message that this topic is not a proper object of rational deliberation and thereby harms their ability and disposition to think rationally on the topic of the morality of wars. That is, even if we grant the claim, stated in premise (4) above, that the development of children’s capacity and disposition for rational thought and action requires teachers to convey the message that, when it comes to moral issues, epistemic considerations are decisive, we have no obvious reason to think also that teachers’ disclosure of their moral views to students will fail to convey that message. If this is true, then the question becomes the following: is there any other reason to think that a teacher’s disclosure *as such* undermines the development of students’ rationality? I can see three possible reasons that are worth examining. The first is that disclosing may be incompatible with practicing intellectual charity.¹⁸ The second is that disclosing may be incompatible with a sincere commitment to promoting students’ autonomy or critical judgment. The third is that, given teachers’ powerful influence on their students, disclosing may undermine their students’ ability to think for themselves on a given issue. However, these three claims are false. Thus, any attempt to defend the general impermissibility of disclosure

¹⁸ This argument presupposes that (i) developing a disposition and ability to practice intellectual charity is important for developing a disposition and ability for rational thinking and action; and that (ii) children learn intellectual charity best by ‘seeing’ it in practice. I would submit, however, that practicing intellectual charity in the classroom is a very important professional duty that teachers have for reasons that go much beyond its possible importance for developing children’s rationality or autonomy. For a good account of the importance of the virtue of intellectual charity in relation to autonomy, see Kyla Ebels-Duggan (2015).

on either of these grounds is bound to fail. Here is why.

To begin with, it is perfectly possible for a teacher both to disclose her own beliefs and to teach alternative perspectives in a fully charitable and balanced way. Her disclosing is also compatible with her being truly committed to the value of personal autonomy and rational thinking, as well as with her being fully engaged in helping her students figuring out for themselves what to believe. In fact, a teacher may decide to disclose her beliefs on a particular topic *precisely* in order to promote open-mindedness and autonomous thinking – for example, if she endorses a view that a significant proportion of her students have strong prejudices against and are likely to unreflectively dismiss as a result. These are not just far-fetched possibilities: there are concrete examples of real-world educational practice that have those features. For instance, in a recent study Diana Hess and Paula McAvoy (2015) have found that many teachers are in favor of disclosing because they judge that disclosure can have an important “educational value”. As an example, they refer to a teacher who “could model for students how to reason through a complex issue” by telling them “how he came to hold his views” on the basis of the “evidence and values he found most convincing” (Hess and McAvoy, 2005: 187).¹⁹

Two points must be noticed. First, there is no reason to think that a teacher who uses

¹⁹ As Hess and McAvoy (2015: 198) also note about Mr. Walter, a 12th grade teacher at an independent Christian school in the US: “in a climate in which students are already prone to dismissing views from the left, Mr. Walter’s occasional sharing helps him develop tolerance and critical thinking among students.”

disclosure ‘as a pedagogical tool’ (to advance values such as intellectual charity and autonomy) is *partial* in any morally problematic way. In other words, disclosure is compatible with impartiality. Second, the previous considerations are *not* meant to suggest that the students’ knowledge of her teacher’s beliefs can never influence their thinking.²⁰ In fact, they are compatible with the recognition that most teachers do have great power and influence – both intentional and unintentional – over their students.²¹ And this is morally very significant. However, influencing students is not problematic *per se*. If a teacher can successfully use her ‘disclosing-influence’ for *legitimate educational purposes*, then her influence (and her disclosure) should *not* be seen as morally problematic. The bottom line is that there is no reason to think that disclosure is morally problematic *in itself*. It remains an open empirical question whether, and when, disclosing is appropriate, all-things-considered, from the point of view of students’ ability to learn rationality.

Consider, now, the second way of understanding the idea of ‘endorsing a view’, i.e. endorsing as *actively encouraging* students to accept one particular view on an epistemically controversial topic. Arguably, in this case, endorsing a view necessarily involves some degree of *partiality*, for it involves presenting one controversial point of view under a better light than

²⁰ At the same time, Hess and McAvoy (2015: 187) suggest that there is no good empirical evidence that disclosure influences students in the sense of making them ideologically closer to the teacher’s positions.

²¹ To be sure, it is difficult to see how disclosure as a pedagogical tool for addressing prejudices, stimulating reflection, or opening a new space for rational deliberation on a topic, could be successful if the teacher did not have the ability to influence her students’ thinking in some way, via the trust that the latter put in the teacher herself or in her judgment.

others and aiming at making it more likely that students come to appreciate that particular point of view. In practice, this may mean, for example, allocating more space in the curriculum to the discussion of that particular point of view. The question is: does *this* inevitably undermine the goal of developing students' rationality? I remain skeptical. The reason is that even if the teacher wishes to inculcate her own values or points of view and makes her teaching decisions accordingly, she may *nonetheless* be sincerely committed to doing so in a way that fully respects and promotes her students' autonomy and ability to think rationally. For example, Mr. Walters, a 12th grade teacher in an independent Christian school interviewed by Hess and McAvoy (2015), describes his teaching practice and commitments as follows:

While I would never balk at sharing with my students how I felt about these certain political and social issues and why I felt it, I wouldn't say 'This is also how you should feel'. Now there is a little different dynamic here, because certainly when we are trying to train out students to have a Christian worldview, I am going to say this is how I think one would think Christianly about this issue ... But I am still not going to say that you are going to hell if you don't think this way. (Hess and McAvoy, 2015: 197)

Mr. Walters is committed to creating good Christians and to promoting what he takes to be the correct Christian perspective on different, epistemically controversial, moral or political issues. At the same time, he is committed to training his students to become good critical thinkers and would certainly not want his students to become unreflective Christians. We can even speculate that he would rather see them become atheists than dogmatic or heteronomous religious believers. Mr. Walters can, and does, practice intellectual charity and he compels his students to think critically about different topics, from within or outside the Christian tradition. So, his aim of creating good Christians, and his practice of attributing more weight to the

Christian perspective in the curriculum and classroom discussions may not at all undermine his students' ability to learn rational thinking.

To sum up, the overall discussion in this section leads us two general results. The first is that Hand's conclusion that the central educational aim of developing children's rationality requires adopting the epistemic criterion for determining what to teach as controversial is not sound. As the previous considerations hopefully show, the problem with Hand's argument lies with premise (5). Pace Hand, it is simply not true that teaching 'epistemically uncontroversial' issues nondirectively, or 'epistemically controversial' issue directly, unavoidably conveys the wrong message to students, namely, that when it comes to moral issues, evidence and arguments are *not* decisive.

The second result is that the line between directive and nondirective teaching is blurry – much more so than Hand admits – and that the different dimensions of Hand's definition of directive teaching do not necessarily move in the same direction. As a consequence, they should not be considered as a 'package', but rather be the object of *separate* philosophical discussions.

4. Reframing the debate: concluding remarks

I want to conclude by emphasizing that the previous sections reveal not only the existence of some substantial problems with Hand's conclusion, but also a *methodological* problem with his overall approach. As we have seen, Hand begins with the key methodological assumption

that the question of what should be taught directly or indirectly “will properly depend on features of the question itself” (Hand, 2007: 70). More specifically, he takes the debate over teaching controversial issues to be fundamentally about the identification of the relevant ‘criterion of controversiality’, i.e. about determining in what *sense* (empirical, political, or epistemic) a moral topic or issue must count as controversial for nondirective teaching to be appropriate with respect to that issue. However, the remarks offered in this paper suggest that it is preferable to begin with a different assumption. In fact, as I hope to have shown, the question at the heart of the issue is that of what the relevant considerations are, which must be taken into account when it comes to determining how to teach *any* topic. Accordingly, the very first step of the normative analysis should be to identify and justify the complete set of relevant considerations at stake with respect to any question of educational policy or practice. Hand’s methodological assumption is, at best, a defensible candidate *answer* to this first step, but it is not itself a proper *methodological* starting point. This is because it might well be the case that some of the morally relevant considerations to take into account when it comes to determining which educational approach to adopt in moral education have nothing to do with the controversial or uncontroversial character (in any sense) of the topic under consideration. For example, the consequences of how we teach for students’ immediate wellbeing in the classroom seem to matter greatly. However, these consequences may depend on factors other than the ‘controversiality’ of the topic being taught. In brief, we need to abandon both the distinction between directive and nondirective teaching and the idea that we should be looking for the appropriate ‘criterion of controversiality’. Instead, we need to adopt a broader, more multidimensional, perspective on the topic of teaching controversial issues. My proposal is that, rather than asking “What moral issue should we teach nondirectively?”, we should focus

on more specific questions, such as: (1) When does a teacher's disclosure or non-disclosure serve the values and purposes of education? (2) What is professional impartiality and when is it morally appropriate or required in the classroom? (3) What goals should teachers be committed to, or not be committed to, when they teach moral issues? (4) To what extent are the morally appropriate teaching methods and approaches dependent on the classroom or school context? I believe that these questions provide a more fruitful agenda for future research on the topic of teaching controversial issues.

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Conclusion

Dans son ensemble, cette thèse s'inscrit en faux contre deux perspectives dominantes, mais bien distinctes, sur le libéralisme politique et ses implications en matière de politiques publiques. D'une part, elle rejette la perspective de ceux (dont, par exemple, Kyla Ebels-Duggan, John Tomasi, Kevin Vallier) qui considèrent comme une *force* de cette théorie le prétendu fait qu'elle n'autoriserait qu'un interventionnisme très minimal de l'État en éducation, et plus généralement vis-à-vis de la famille et des groupes religieux. Cette thèse démontre qu'il est inadéquat, même du point de vue de l'anti-perfectionnisme, de prendre systématiquement le parti de la liberté parentale ou religieuse en cas de conflit avec les intérêts des êtres les plus vulnérables de la société, en particulier ceux des enfants. Plus généralement, elle démontre que lorsqu'est pris au sérieux le point de vue des enfants – et non seulement celui des parents ou de l'État – le libéralisme politique est susceptible de justifier une gamme d'interventions politiques beaucoup plus radicales que ne le reconnaissent la majorité des libéraux politiques.

Cette idée est notamment défendue à travers une critique de la position selon laquelle la 'neutralité' comme approche éducative serait impossible et donc moralement inacceptable. Les arguments développés dans cette thèse démontrent que la neutralité éducative est, au contraire, moralement défendable et que, par conséquent, il est effectivement moralement légitime pour l'État libéral de promouvoir un système d'éducation commune fort – sans pour autant miner injustement la diversité religieuse.

Du même coup, cette thèse rejette la perspective de ceux (dont, par exemple, Harry Brighouse, Timothy Fowler, Susan Moller Okin) qui croient que le libéralisme politique doit être écarté ou considérablement révisé, *parce qu'il* ne permet pas de justifier certaines politiques publiques moralement désirables du point de vue des femmes ou des enfants. En d'autres termes, les arguments offerts dans cette thèse impliquent qu'il est *injustifié* d'abandonner le libéralisme politique en faveur d'une forme ou une autre de perfectionnisme libéral *en vertu* de l'incapacité présumée du premier à justifier d'importantes mesures de protections ou de promotions des intérêts d'individus vulnérables. De fait, les arguments mis de l'avant suggèrent que les deux théories de la justice libérale, perfectionniste et politique, sont susceptibles de justifier des interventions étatiques comparables, bien que pour des raisons différentes. En même temps, toutefois, la « solution » particulière de Matthew Clayton au problème de la légitimité éducative, selon laquelle les contraintes de la neutralité libérale s'appliqueraient *directement* au comportement parental *au sein* de la famille, est rejetée.

Cette dernière conclusion, ainsi que les conclusions générales de la thèse, laisse ouvertes, et soulève, une panoplie d'autres questions philosophiques, dont celles (reliées) de savoir en quoi consiste exactement un usage parfaitement juste de l'autorité parentale et si, en quoi, et pourquoi le paternalisme à l'égard des enfants est pleinement justifié. En fait, il semble exister de bonnes raisons de penser que les enfants, *à un certain stade de leur développement*, peuvent avoir des croyances authentiques définissant leur identité. Plus spécifiquement, les enfants sont potentiellement susceptibles d'avoir des croyances sincères et authentiquement leurs à propos du bien, ayant un poids moral considérable, bien *avant* que le paternalisme (ou l'exercice du

pouvoir) parental ou étatique à leur égard ne cesse d'être justifié – toutes choses étant considérées.

Cette possibilité est ignorée par les philosophes politiques et théoriciens du paternalisme qui abordent typiquement l'enfance « en bloc », sans distinguer entre différents stades de développement. Pourtant, si l'idée ci-haut mentionnée est fondée, des implications normatives importantes s'ensuivent notamment quant à l'éthique de la relation parent-enfant. Entre autres choses, cette idée impliquerait qu'il faille dissocier l'idée de paternalisme justifié de celle de l'incapacité à adhérer à une conception du bien (pour reprendre l'expression de John Rawls) de manière authentique. J'espère consacrer mes recherches futures à l'examen de ces enjeux.

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