



CAN GROUP RIGHTS JUSTIFY THE DENIAL OF EDUCATION TO ADOLESCENTS? THE AMISH IN THE UNITED STATES AS A CASE STUDY¹

OS DIREITOS DO GRUPO PODEM JUSTIFICAR A NEGAÇÃO DA EDUCAÇÃO ÀS ADOLESCENTES? OS AMISH NOS ESTADOS UNIDOS COMO UM ESTUDO DE CASO

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ABSTRACT

Multiculturalism gives preference to group rights over individual rights. This may challenge democratic values. This paper focuses on the Amish denial of education from their adolescents. Criticizing *Wisconsin v. Yoder* (1972), the paper analyses the power of the Amish community over its members. The main questions are: Is it reasonable to deny the Amish adolescents' standard American education? What are the limits of state interference

¹ This is a revised paper based on a chapter in R. Cohen-Almagor, *Just, Reasonable Multiculturalism* (New York and Cambridge: Cambridge University Press, 2021).

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in norms of illiberal communities who invoke separatism as a mechanism of cultural and religious preservation?

Keywords: Amish; education; open future; state interference; *Wisconsin v. Yoder*

RESUMO

DoD. O presente artigo se concentra na negação dos Amish da educação dos seus adolescentes. A partir das críticas à *Wisconsin v. Yoder* (1972), se analisa o poder da comunidade Amish sobre seus membros. As principais questões são: É razoável negar aos adolescentes Amish os padrões da educação americana? Quais são os limites da interferência do Estado nas normas das comunidades iliberais que invocam o separatismo como mecanismo de preservação cultural e religiosa?

Palavras chave: Amish; Educação; futuro aberto; interferência do Estado; *Wisconsin v. Yoder*.

1. Introduction

Timothy Sauder left his Old Order Mennonite community and his family because he wanted to go to college and pursue a career in science. He could not be both an Old Order Mennonite and a college graduate because his community does not support higher education. Sauder used to dig televisions out of dumpsters to learn about the outside world. Finally, he was able to enroll, without a high school diploma, at the University of Pittsburgh-Greensburg and was later transferred to Columbia University.³

The Old Order Mennonite is a conservative branch of Christianity. People of the Order

³ Olivia B. Waxman, "Breaking Amish: One Ex-Follower's True Story of Moving to the Big Apple," *Time* (September 9, 2012), <http://entertainment.time.com/2012/09/09/breaking-amish-one-ex-followers-true-story-of-moving-to-the-big-apple/>



are Anabaptists who formed a wide variety of Christian churches in Europe and North America. The term 'Anabaptist' means "rebaptiser" because the Order rejected the idea of infant baptism. As infants do not have the knowledge of good and evil, they cannot have sin. The Order believes that baptism is valid only when candidates willingly confess their faith in Christ. Therefore, baptism should be conducted later in life, when people are capable of making a reasoned choice and decide their destiny.⁴

The Amish movement was founded in Switzerland by Jacob Ammann as a reform group. Named after their leader Ammann, the Amish were among the early German settlers in Pennsylvania. During the 18th Century, the Amish who suffered persecution in Europe immigrated to the United States and Canada as both countries promised them religious freedom. Nowadays, there are a number of different groups of Amish people. The most prevalent orders are the Old Order Amish, which is the most common; the New Order Amish, Swartzengruber and Andy Weaver.⁵ Old Order Amish live in 31 states, 4 Canadian provinces, and 2 South American countries.⁶ Though practice varies, today Amish and Mennonites share values of non-resistance, adult baptism, and in some cases plain form of dress.⁷

The Amish believe that they must be separate from worldly sinful practices to receive salvation. They created small and distinctive communities that resist the modern way of life and maintain simple and austere living. They refrain from using electricity and use gas lamps instead. They strive to retain the customs and small-scale technologies that were common in rural society in the 19th Century. The Amish live independently, forsake self-interest and

⁴ Donald B. Kraybill, Karen M. Johnson-Weiner, and Steven M. Nolt, *The Amish* (Baltimore: Johns Hopkins University Press, 2013); Steven M. Nolt, *The Amish* (Baltimore, MD: Johns Hopkins University Press, 2016).

⁵ Ibid.

⁶ "Amish State Guide," *Amish America*, <http://amishamerica.com/amish-state-guide/>

⁷ "What's the difference between Amish and Mennonites?," *Amish America*, <http://amishamerica.com/whats-the-difference-between-amish-and-mennonites/>



submit to the authority of the church with humility.⁸

The Amish are a church, a spiritual union, and an agricultural community that see spiritual worth in the universe in its natural form. They consider formal study beyond the eighth grade unnecessary for their farming lifestyle.⁹ Should multiculturalism give preference to group rights over individual rights? This essay focuses on the Amish denial of education from their youth. The importance of the school cannot be underestimated. Schools play a formative role in shaping career choices, future professions, income level, ability to establish a family, place of residence, social circle and social status. The question revolves around state intervention, whether a dominant culture has a right to interfere in the business of an illiberal cultural minority when its practices and norms are harmful to members of that same minority culture. While recognizing that government should not impose substantial burdens on minority cultures without compelling state interests, it is argued that State intervention to provide the Amish young proper education is justified as it is aimed to sustain and promote basic human rights. State interference does not reduce freedom but provides background conditions needed to secure freedom. While there is a *prima facie* parental right to raise children according to the parents' values, parents are not *solely* responsible. The State is required to balance competing interests: perpetuating the Amish community against children's self-development and right to an open future. The liberal state is obligated to protect the best interests of vulnerable populations, including children. Hence, it should be concerned when parents pre-empt their children's future options and restrict the scope for their children's personal development.

⁸ Steven M. Nolt, *The Amish*; James P. Choy, "Religion and the Family: The Case of the Amish," *The Warwick Economics Research Paper Series (TWERPS)* (2016); Mindy Starns Clark, *Plain Answers about the Amish Life* (Eugene, OR: Harvest House publishers, 2011).

⁹ "Education," *Amish Studies*, <https://groups.etaown.edu/amishstudies/social-organization/education/>



AMISH EDUCATION

In the early 1970s, the Amish wanted to withdraw their children from the state educational system before the age of sixteen, arguing that formal education beyond the eighth-grade places the Amish children in an environment hostile to their beliefs, but also because it takes them away from their community, physically and emotionally, during the crucial and formative adolescence period of life. At the age of six, Amish children start first grade by attending a schoolhouse that includes grades one through eight. There are usually 30-35 children in a schoolhouse, many are siblings and cousins. Amish children do not study science because it includes ideas contrary to their conception of the good such as evolution which is contrary to the Bible.¹⁰ Amish education does not include computers because they reject modern technology. Nor does Amish education seek to create artists, scientists, musicians or actors.¹¹ The curriculum is limited to reading, spelling, grammar, penmanship, arithmetic, art, health, history (particularly Amish history), German and some geography.¹² Until age 13, most Amish children attend one-room schools. Believing that education leads to “pride” and to a sense that one is better than those who have lesser education, the Amish require children to drop out after 8th grade and begin working.¹³ The Amish educate for a life of “goodness” rather than a life of intellect; “wisdom, rather than technical knowledge; community welfare, rather than competition; and separation from, rather than integration with, contemporary

¹⁰ Thomas J. Meyers, “The Old Order Amish: To Remain in the Faith or to Leave,” *The Mennonite Quarterly Review*, 68 (1994): 378-395; Karen Johnson-Weiner, *Train Up a Child: Old Order Amish and Mennonite Schools* (Baltimore: Johns Hopkins University Press, 2007).

¹¹ A Look At Amish Education, <http://www.exploring-amish-country.com/amish-education.html>

¹² Mark W. Dewalt, *Amish Education in the United States and Canada* (Lanham, MD: Rowman and Littlefield Education, 2006): 7, 188; Donald B. Kraybill, Karen M. Johnson-Weiner, and Steven M. Nolt, *The Amish* (Baltimore: Johns Hopkins University Press, 2013), chapter 14.

¹³ David L. McConnell and Charles E. Hurst, “No ‘Rip van Winkles’ Here: Amish Education since *Wisconsin v. Yoder*,” *Anthropology & Education Quarterly*, 37, No. 3 (Sep., 2006): 248. See also *Devil’s Background, A Documentary About Amish Teenage Culture* (2002).



worldly society.”¹⁴ Amish education emphasizes the virtues of hard work, community life, group effort (individuality is not encouraged and individual merit is rarely singled out for awards of any kind), simplicity, sublimation of personal desire, surrender to God's will, humility, kindness, responsibility and caring.¹⁵ School is usually within walking distance from home.¹⁶ The timetable for lessons is constructed in such a way so as to allow children to help with seasonal farm work and take part in communal religious practices and ceremonies.¹⁷ When the Amish complete eighth grade, they join their parents at work, learning the required skills for contributing to the community economy. They learn the necessary skills to run a household, farm, or small business.¹⁸

An independent school system isolates the children from the influences of the wider society. Undoubtedly, this severely limits the extent to which the children learn about the outside world. Heterogeneous school mixing teaches students about diversity, pluralism, the right to be different, equality, respect for people qua people. In contrast, the Amish schools are comprised only of Amish people. Students are not exposed to other people from the rich mix of American society. The Amish students are denied an opportunity to meet students of different backgrounds, with different systems of belief. They are handicapped in their knowledge of their surroundings. Furthermore, the limited curriculum put the Amish at disadvantage if they were to pursue life outside the community. The curriculum inculcates Amish values and conception of the good and ensures that the significant other peer group is Amish. The large classes of children of different ages makes teaching a tough assignment as children between the ages of 6 and 13 have different learning capacities and needs.¹⁹ By

¹⁴ *Wisconsin v. Yoder* 406 US 205, 92 S.Ct 1526 (1972): 211.

¹⁵ Mark W. Dewalt, *Amish Education in the United States and Canada*: 7-8, 113, 190, 194.

¹⁶ A Look At Amish Education, <http://www.exploring-amish-country.com/amish-education.html>

¹⁷ Brian Barry, *Culture and Equality* (Cambridge, Mass.: Harvard University Press, 2001): 207.

¹⁸ Mark W. Dewalt, *Amish Education in the United States and Canada*: 7, 115, 190.

¹⁹ For discussion on a typical teacher day in the Amish community, see Mark W. Dewalt, *Ibid.*: 130-134.



insisting on educating the young in one classroom within the community, the Amish prioritize the group over the individual. They deny children certain opportunities while providing them with a cohesive community. The Amish defend this by arguing that freedom of religion protects a group's freedom to live in accordance with its doctrine, even if this limits the individual freedom of children.

The Amish insistence on a particular education curriculum for its children is understandable and, at the same time, challenging. The rationale is sensible from the Amish point of view as the community wishes to retain and perpetuate its culture. Amish theology is inward looking, distancing themselves from the materialistic and the so-called "corrupt world."²⁰ Does denial of opportunities provide a sufficient ground for state interference in support of the children?

WISCONSIN V. YODER

The United States Supreme Court, in *Wisconsin v. Yoder*, dealt with the Amish refusal to send their children to public schools after the eighth grade.²¹ It revolved around the question whether it is reasonable to deny the Amish adolescents' standard American education. Wisconsin challenged the Amish way of life, insisting that the Amish integrate into American community to better serve the best interests of the young. The defendants, members of the Amish faith, refused to send their children, aged 14 and 15, to continue their education at public schools. The defendants were convicted for violating Wisconsin's compulsory school attendance law requiring children to attend school until the age of 16.

The Amish do not have schools of higher learning. After the eighth grade, the children are taken out of school and go to work.²² The Amish argued that forcing their children to

²⁰ James P. Choy, "Religion and the Family: The Case of the Amish."

²¹ *Wisconsin v. Yoder* 406 US 205, 92 S.Ct 1526 (1972).

²² John A. Hostetler, *Amish Society* (Baltimore: Johns Hopkins University Press, 1993): 16.



study in American schools places them in an environment hostile to their way of life. The Wisconsin Circuit Court affirmed the Amish convictions. The Wisconsin Supreme Court, sustaining the defendants' claims that their First Amendment right to free exercise of religion had been violated, reversed the convictions.²³ Then the case reached the United States Supreme Court, which accepted the Amish claim in a six to one decision, with the majority opinion written by Chief Justice Warren Earl Burger.²⁴

The State of Wisconsin argued that some degree of education is necessary to prepare citizens to participate effectively and intelligently in the open political system “if we are to preserve freedom and independence.”²⁵ Furthermore, the State maintained that “education prepares individuals to be self-reliant and self-sufficient participants in society.”²⁶ The Supreme Court accepted these propositions yet sided with the idea that the Amish have group rights to decide their own education system, notwithstanding American law.

The Supreme Court upheld the principles of State non-interference in religious matters and of parental school choice. The Court assigned more importance to children's integration into the Amish community than to their integration into the wider society. It acknowledged that the State has the power to impose reasonable regulations for the control and duration of basic education. Yet this paramount responsibility to provide universal education is not totally free from a balancing process when it impinges on fundamental rights and interests, such as those specifically protected by the Free Exercise Clause of the First Amendment, and the traditional interest of parents with respect to the religious upbringing of their children. Furthermore, the Court was of the opinion that the values and programs of the modern secondary school were in sharp conflict with the Amish mode of life. The mission

²³ 49 Wis 2d 430, 182 NW2d 539.

²⁴ Powell and Rehnquist, JJ., did not participate.

²⁵ *Wisconsin v. Yoder* 406 US 205, 92 S.Ct 1526 (1972), at 221.

²⁶ *Ibid.* See also Ian Shapiro, “Democratic Justice and Multicultural Recognition,” in Paul Kelly (ed.), *Multiculturalism Reconsidered* (Cambridge: Polity, 2002): 174-183.



of Amish education is to teach the skills that are needed to lead Amish life while developing the ability to function independently and do business with the outside world. Enforcing state education would constitute the kind of objective danger to the free exercise of religion that the First Amendment was designed to prevent. It presented the Amish with the impossible choice of either abandoning belief and be assimilated into society at large, or be forced to migrate to some other and more tolerant region. Both choices were deemed unreasonable, unjust and coercive.²⁷

Undoubtedly, continuity is important to the Amish. In coming to analyse the Court decision, it is first noted that the Amish wish to perpetuate their unique tradition and way of living by resisting the pressures of the external world. For them, the need for continuity justifies paternalistic coercion. Education of the young is the key to this. Amish education complements and reinforces church beliefs and values. It promotes community life rather than autonomy and self-expression. Excellence is secondary.²⁸ Amish education is the responsibility of the parents, the school and the entire community acting under the influence of the church.

Second, the Convention on the Rights of the Child voices its conviction that “the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community.”²⁹ Articles 3, 9, 18 and 21 of the Convention emphasize that “the best interests

²⁷ *Wisconsin v. Yoder* 406 US 205, 92 S.Ct 1526 (1972), at 218.

²⁸ Mark Dewalt, *Amish Education in the United States and Canada*.

²⁹ United Nations Human Rights, *Convention on the Rights of the Child*, Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 entry into force 2 September 1990, in accordance with article 49. Preamble. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>



of the child shall be a primary consideration.”³⁰ Article 5 holds that “States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.”³¹ Indeed, generally speaking, we should keep the integrity of the family and safeguard its privacy against state intrusion. There should be very compelling reasons to allow such interference.

Third, the United States is the only country in the world that has not ratified the convention because some critics argued that it would undermine parents’ rights and “give our children unrestricted access to abortion, pornography, gangs and the occult.”³² It was argued that the United Nations Convention on the Rights of the Child is “incompatible with the Constitution, the laws, and the traditions of the United States”, that it would “undermine presumptions of freedom and independence for U.S. families”, and that it would “interfere with U.S. principles of sovereignty, independence, and self-government that preclude the necessity or propriety of adopting international law to govern domestic matters”.³³ Parent-

³⁰ Ibid.

³¹ Ibid.

³² B. Shaw Drake and Megan Corrarino, “U.S. Stands Alone: Not Signing U.N. Child Rights Treaty Leaves Migrant Children Vulnerable,” *Huffington Post* (October 13, 2015), https://www.huffpost.com/entry/children-migrants-rights_b_8271874

³³ S. Res.99 - A resolution expressing the sense of the Senate that the primary safeguard for the well-being and protection of children is the family, and that the primary safeguards for the legal rights of children in the United States are the Constitutions of the United States and the several States, and that, because the use of international treaties to govern policy in the United States on families and children is contrary to principles of self-government and federalism, and that, because the United Nations Convention on the Rights of the Child undermines traditional principles of law in the United States regarding parents and children, the President should not transmit the Convention to the Senate for its advice and consent. 112th Congress (2011-2012), *Congress.gov*, <https://www.congress.gov/bill/112th-congress/senate-resolution/99> . See also Joe Lauria, “Why Won’t the US Ratify the UN’s Children’s Rights Convention?”, *Huffpost* (January 25, 2015),



rights groups fear that the treaty might undermine parents' authority, particularly when religious and sex education are concerned.³⁴

PARENTHOOD

Furthermore, parents are the default decision-makers for their children. In many communities throughout the world, parents are responsible for the welfare of their children. Parents inculcate values. They provide guidance and moral compass. They outline prospects for their children. They set standards and expectations. They instruct what is right and what is wrong. John Stuart Mill regarded education as a condition for people to exercise civil liberties and assigned responsibility for children's education to parents and state. The parent owes it to society to endeavour to make the child a good and valuable member. Mill wrote that to raise a child without a fair prospect of being able to provide food for its body and also instruction and training for its mind is "a moral crime,"³⁵ both against the unfortunate child and against society at large. Children have a claim against their parents to provide them with education, "appliances and means" that "will enable them to start with a fair chance of achieving by their own exertions a successful life."³⁶ If the parent does not fulfil this obligation the state ought to ensure that it is fulfilled.

J.S. Mill said that democratic governments must provide proper facilities for education

https://www.huffpost.com/entry/why-wont-the-us-ratify-the_b_6195594?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZmVzZWZyY2hnYXRlM5ldC8&guce_referrer_sig=AQAAAAnj5rkIPVaGKJFZUEYjcWtlyVzeIqsiODSudVMd6-UNq45eo5VB2_YjXtGIFy9-EJ_LFDA7gRH6ufpePqvz1RnP7yhkzw-h4qqFvOTxN2aQmQHsYuYN9zmFvld1ac7FshRhqwf-xIDriuQMhAd22SyFW5DKFrLCaAX_bNa05p6

³⁴ S.C., "Why won't America ratify the UN convention on children's rights?", *The Economist* (October 7, 2013), <https://www.economist.com/the-economist-explains/2013/10/06/why-wont-america-ratify-the-un-convention-on-childrens-rights>

³⁵ J.S. Mill, *Utilitarianism, Liberty, and Representative Government* (London: J. M. Dent, 1948): 160; Mill, *Principles of Political Economy* (New York: D. Appleton, 1885): 201.

³⁶ *Ibid.*



designed for the benefit of society as a whole, but it must not control all educational institutions: "The case is one to which the reasons of the non-interference principle do not necessarily or universally extend."³⁷ Nevertheless, the State must step in when children do not receive education adequate for their growth and self-development. Education meant for Mill the cultivation of the intellect, of moral powers, and of aesthetics. A good government cultivates moral education; moral education makes human beings moral, thinking people who do not merely act as machines and, in the long run, makes people claim control over their own actions and inspires them to intensely seek the truth.³⁸

The Amish assert their parental responsibility. Weighing the best interests of their children, and the best interests of their community, they adopted what they consider a reasonable golden mean. One may ask: Is the liberal way of life better than the Amish? Many would answer in the negative, highlighting the benefits of living in a coherent, supportive community, with a strong cultural backbone, rich heritage and a familiar way of life. There is something reassuring in having a sustained routine, and strong family and community life in which roles, duties and privileges are clear. Undoubtedly, children need to be loved and cared for in a culturally coherent environment. There is a *prima facie* parental right to raise children according to the parents' own values.³⁹ Therefore, one may argue, the Amish parents are

³⁷ J.S. Mill, *Principles of Political Economy* (London: Longmans, Green, Reader and Dyer, 1869), Bk. V, 575. For different interpretations of Mill, see Richard S. Ruderman and R. Kenneth Godwin, "Liberalism and Parental Control of Education," *The Review of Politics*, 62, No. 3 (Summer 2000): 503-529; R. Cohen-Almagor, "Between Autonomy and State Regulation: J.S. Mill's Elastic Paternalism," *Philosophy*, 87 / Issue 04 (October 2012): 557-582.

³⁸ J.S. Mill, *Utilitarianism, Liberty, and Representative Government*: 202-208. Mill wrote: "The very corner-stone of an education intended to form great minds, must be the recognition of the principle, that the object is to call forth the greatest possible quantity of intellectual power, and to inspire the intensest love of truth." See Mill, "Civilization, [1836]," (London: Longmans, Green, Reader & Dyer, 1859), available at <http://ringmar.net/politicaltheoryfornomads/index.php/john-stuart-mill-civilization-1836-in-dissertations-and-discussions-political-philosophical-and-historical-london-j-w-parker-1859-160-205/>

³⁹ Eamonn Callan, *Creating Citizens. Political Education and Liberal Democracy* (Oxford: Oxford University Press, 1997): 139; Allan J. Jacobs and Kavita Shah Arora, "When May Government Interfere with Religious Practices to



entitled to restrict their children's education.

But are parents *solely* responsible? Surely not. The same Supreme Court spoke in *Pierce* about subjecting parental rights to state regulations, offering a compromise between the rights of parents to choose education for their children and the state interests in sustaining public welfare.⁴⁰ In a unanimous decision, the Court upheld parents' right to make educational decisions on behalf of their children while acknowledging the states' right to regulate education, even in non-public schools. The Court held that parental rights are subject to the power of the state "reasonably to regulate all schools, to inspect, supervise and examine them, their teachers and pupils;... that certain studies plainly essential to good citizenship must be taught, and that nothing be taught which is manifestly inimical to the public welfare."⁴¹ Some may argue that education is a far too important issue to be left only in the hands of parents. Liberalism invokes the personal autonomy argument against leaving the decision solely in the hands of the parents. And certainly, the Amish youth should have a voice in the dispute. John Rawls maintained that "The moral education is education for autonomy."⁴² To recall, the Rawlsian Principle of Equal Liberty holds that the State must provide education and training for the less well-off.⁴³

The notion of autonomy involves one's ability to reflect upon beliefs and actions, and the ability to form an idea regarding them, so as to decide the way in which to lead a life. For by deciding between conflicting trends, agents consolidate their opinions more fully and review the ranking of values for themselves with a clear frame of mind. The Respect for

Protect the Health and Safety of Children?," *Ethics, Medicine and Public Health*, 5 (April–June 2018): 86-93. See also Charles Fried, *Right and Wrong* (Cambridge, Mass.: Harvard University Press, 1979).

⁴⁰ *Pierce v. Society of Sisters*, 268 U.S. 510 (1925), at 534. <http://cdn.loc.gov/service/ll/usrep/usrep268/usrep268510/usrep268510.pdf>

⁴¹ *Pierce v. Society of Sisters*, 268 U.S. 510 (1925).

⁴² John Rawls, *A Theory of Justice* (Oxford: Oxford University Press, 1971): 516.

⁴³ *Ibid.*, 302.



Others Principle instructs us to enable self-development. It is important that children should have a real opportunity to become autonomous. This requires mandating autonomy-facilitating education.⁴⁴ Amish adults are entitled to restrict their *own* self-development if so they choose in the spirit of maintaining tradition and culture. But are they also entitled to limit the self-development of their children?

VALUE OF EDUCATION

Amy Gutmann is one of the most influential liberal thinkers who probed the place of education in our life. Gutmann believes that parental influence should be limited by the state to achieve autonomy. Choice needs to be vindicated by its contribution to deliberative democracy essential for developing the necessary tools for taking part in public, democratic life. Gutmann endorses democratic education based on the contributions of the state, parents, and educators to enable integration of the good insights of all. Such education will guarantee that future citizens are able to meaningfully share in self-consciously shaping the structure of their society.⁴⁵ Rob Reich's leading goal in his liberal theory of multicultural education is the cultivation of individual autonomy in children.⁴⁶ Similarly, Rawls' political liberalism requires that children's education include knowledge of their constitutional and civic rights to ensure that they will fully incorporate into society.⁴⁷

Furthermore, the inculcation of deliberative character should be the main purpose of primary education because, Gutmann explains, "Children must learn not just to behave in accordance with authority but to think critically about authority if they are to live up to the

⁴⁴ Harry Brighouse, *School Choice and Social Justice* (Oxford: Oxford University Press, 2003): 111.

⁴⁵ Amy Gutmann, *Democratic Education* (Princeton, New Jersey: Princeton University Press, 1987): 46.

⁴⁶ Rob Reich, *Bridging Liberalism and Multiculturalism in American Education* (Chicago: University of Chicago Press, 2002).

⁴⁷ Rawls, *Political Liberalism*: 199.



democratic ideal of sharing political sovereignty as citizens.”⁴⁸ The government should have authority to impose common standards and to cultivate a common democratic culture upholding the principles of non-repression and nondiscrimination without which “despotism over the mind” might take place.⁴⁹ The United States Supreme Court forfeited these ideals once it gave precedence to Amish group rights at the expense of individual rights, allowing the Amish to be exempted from the required level of education.

Most other liberal democracies enforce a certain level of education. The welfare of children and their best interests are paramount. While compulsory education may seem to be an invasion on the individual's rights, it can be defended on the grounds that, in final analysis, it may guarantee more freedom than it destroys. For if undemocratic curricula may be viewed as a sort of unfreedom, open education increases the number of alternatives for students to pursue their interests. This kind of governmental interference is justifiable as it opens for individuals more paths for liberty in the long run.

In support, Almond and Verba found in their comprehensive comparative research that higher education opens the minds of individuals to the secondary structures of their society, to dimensions of historical depth, and to wider perspectives of the world scene. People learn how to gather information, better understand the working of the mass media and the formal structure of politics, as well as the importance of governmental and political institutions.⁵⁰

While the Amish way of life may be appealing to most Amish people, it might not be appealing to all. Some of the Amish may wish to opt out. The concern I have is whether the independent Amish education system, designed to protect and promote the Amish community, not only restricts freedom of religion but also the options that the Amish have if

⁴⁸ Amy Gutmann, *Democratic Education*: 51.

⁴⁹ Ibid.: 76. See also Stephen Macedo, *Diversity and Distrust: Civic Education in a Multicultural Democracy* (Cambridge, MA: Harvard University Press, 2000).

⁵⁰ G. Almond & S. Verba, *The Civic Culture* (NY: Little, Brown & Company, 1965): 105, 317-318, 502.



they wish to opt out. The Supreme Court reflected on Thomas Jefferson who believed that some degree of education is necessary to prepare citizens to participate effectively and intelligently in the American open political system in order to preserve freedom and independence. The Court acknowledged that education prepares individuals to be self-reliant and self-sufficient participants in society. However, the Court said that the evidence “persuasively” showed that an additional one or two years of formal high school for Amish children in place of their long-established program of informal vocational education “would do little to serve those interests.”⁵¹ It is one thing to say that compulsory education for a year or two beyond the eighth grade may be necessary when its goal is the preparation for life in modern society; it is quite another if the goal of education be viewed as the “preparation of the child for life in the separated agrarian community that is the keystone of the Amish faith.”⁵² Thus, here the Court had in mind the Amish adolescents who wish to remain in the community. It did not consider those who might wish to opt out, and the options presented to them if and when they leave the community.

The State of Wisconsin raised the issue of dissenters, arguing that the Amish education system was fostering ignorance and insisting that it is the role of the State to protect the children from such a policy. The State has a right to free children from ignorance. The Supreme Court accepted that the State has a duty to protect children from ignorance but maintained that “this argument does not square with the facts disclosed in the record.”⁵³ The State argued that Amish children who leave their church would not be able to make their way in the world without the education available in the one or two additional years required by the State. The Supreme Court dismissed this argument as “highly speculative.”⁵⁴ The Court

⁵¹ *Wisconsin v. Yoder*, at 222.

⁵² *Ibid.*

⁵³ *Ibid.* For further discussion, see John A. Hostetler, “The Amish and the Law: A religious minority and its legal encounters,” *Washington and Lee L. Rev.*, 41(1) (Winter 1984): 40-44.

⁵⁴ *Wisconsin v. Yoder*, at 224.



found no evidence of the loss of Amish adherents by attrition, nor any showing that upon leaving the Amish community the dissenters would become burdens on society because of educational short-comings. It seemed that the Court and the State were speaking in parallel lines. The Court said “not only do the Amish accept the necessity for formal schooling through the eighth-grade level, but continue to provide what has been characterized by the undisputed testimony of expert educators as an ‘ideal’ vocational education for their children in the adolescent years.”⁵⁵ But this ‘ideal’ education was for those who wished to remain in the Amish community, not for those who wished to leave it.

The Supreme Court raised another important issue relating to the question of traditional concepts of parental control over the religious upbringing and education of children, on the one hand, and to State intrusion into family decisions in the area of religious training, on the other. The Court understood that if it were to interfere, this would give rise to questions relating to religious freedom.⁵⁶ The Court felt that this interference is not merely about education but rather about the religious future of the Amish children and this, the Court thought, was well outside the remit of reasonable interference. Weighing one against the other the State's interest in requiring two more years of compulsory education in the ninth and tenth grades versus the importance of the “concededly sincere Amish religious practice to the survival of that sect,”⁵⁷ the Court was convinced that the latter outweighed the importance of the former.

Furthermore, courts “are not school boards or legislatures, and are ill-equipped to determine the ‘necessity’ of discrete aspects of a State's program of compulsory education.”⁵⁸ The Court ruling was made with great circumspection in performing the sensitive and most

⁵⁵ Ibid, at 224.

⁵⁶ *Wisconsin v. Yoder*, at 231.

⁵⁷ Ibid., at 238.

⁵⁸ Ibid., at 235.



delicate task of weighing the State's legitimate social concern when faced with religious claims for exemption from generally applicable educational requirements.

However, a liberal court should weigh the conflicting considerations of autonomy and paternalism. Here the court observed the tension between parental paternalism and state paternalism but it ignored the agent's autonomy. The Supreme Court reasoning is inconsistent with basic liberal principles, and the conception/interpretation that the Court gave to the right of freedom of religion is problematic and contested. The majority of the Court defined freedom of religion primarily in terms of the group's ability to live in accordance with its doctrine, rather than the individual's ability to form and revise his or her religious beliefs.

In previous decisions, the U.S. Supreme Court has repeatedly affirmed the state's duty and legal power to protect children.⁵⁹ Not this time. Reflecting on *Yoder*, Kymlicka and I argued that the Court never really even addressed that question systematically, since it defined freedom of religion in a non-liberal, group-based way. We were not saying that group-imposed restrictions on education are necessarily inconsistent with individual freedom of choice, but that for a liberal interpretation of freedom of religion, this is what needs to be examined. The demands of the group must be consistent with the real and ongoing capacity for choice by individuals.⁶⁰

Hence, my concern is with the test the Court invoked to assess the Amish situation. Of course, one could argue that the Amish should be exempt from the usual liberal conception

⁵⁹ *Prince v. Massachusetts*, 321 U.S. 158 (1944); *Ginsberg v. New York*, 390 U.S. 629 (1968); *Parham v. J.R.*, 442 U.S. 584 (1979). For further discussion, Carmen Green, "Educational Empowerment: A child's right to attend public school," *Georgetown Law J.*, 103 (2015): 1129-1130.

⁶⁰ W. Kymlicka and R. Cohen-Almagor, "Ethnocultural Minorities in Liberal Democracies," in Maria Baghramian and Attracta Ingram (eds.), *Pluralism: the philosophy and politics of diversity* (London: Routledge, 2000): 228-250. For further discussion, see Tariq Modood, *Multiculturalism* (Cambridge: Polity, 2013). For a contrasting view, see C. Kukathas, *The Liberal Archipelago: A Theory of Diversity and Freedom* (Oxford: Oxford University Press, 2003).



of freedom of religion, on the grounds that they do not fall under the jurisdiction of the Bill of Rights. But that was *not* the argument that the Amish made, nor was it the basis for the Court's decision. So long as the Amish appeal to the right of freedom guaranteed in the constitution, the liberal state should interpret that as one which protects and defends the capacity of individuals to form and revise their religious beliefs.⁶¹

QUALITY OF EDUCATION

The Court maintained: "There is nothing in this record to suggest that the Amish qualities of reliability, self-reliance, and dedication to work would fail to find ready markets in today's society."⁶² The Court also cited a study that indicated that Amish children in the eighth grade achieved comparably to non-Amish children in the basic skills.⁶³ This finding has been contested. The Amish teach very little science, history, social studies, art and music. Almost three quarters of each day is spent on reading, spelling, and arithmetic.⁶⁴ Some Amish communities teach very little English.⁶⁵ Amish education is based on the same textbooks for many years. Saloma Miller Furlong as a teacher taught from the same textbooks that she studied as a child.⁶⁶ The Amish curriculum is not comparable to that of an average American

⁶¹ For further discussion of the Court's (divided) reasoning on this case, see S.F. Peters, *The Yoder Case: Religious Freedom, Education, and Parental Rights* (Lawrence, KS: University of Kansas Press, 2003); Dena Davis, "The Child's Right to an Open Future: Yoder and Beyond", *Capital University Law Review*, 26 (1997): 93-105; Richard Arneson and Ian Shapiro, "Democratic Autonomy and Religious Freedom: A Critique of *Wisconsin v. Yoder*," in Ian Shapiro and Russell Hardin (eds.), *Political Order: Nomos 38* (New York: New York University Press, 1996): 365-411, and Shelley Burt's reply, "In Defense of *Yoder*: Parental Authority and the Public Schools," in I. Shapiro and R. Hardin (eds.), *Political Order*: 412-437.

⁶² *Wisconsin v. Yoder*, at 224.

⁶³ *Wisconsin v. Yoder*, at 226, note 13.

⁶⁴ William A. Fischel, "Do Amish One-Room Schools Make the Grade? The Dubious Data of 'Wisconsin v Yoder'," *University of Chicago Law Review*, 79(1) (2012): 107-129.

⁶⁵ "Woman Who Left The Amish Community Opens Up To Megyn Kelly," *Megyn Kelly TODAY* (July 18, 2018), <https://www.youtube.com/watch?v=WvFaEM2uX80>

⁶⁶ Saloma Miller Furlong, *Bonnet Strings* (Harrisonburg, VA.: Herald Press, 2014): 197.



school.

If children arrive from school and tell their parents that today they learnt Creationism in Biology class, parents might become concerned. It is one thing to study Creationism as theology and quite another to learn it in science class. If children report that their science teacher taught them that one school of thought thinks the earth is flat, some parents might see this as a sign of openness, that the teacher entertains all schools of thought and plurality of ideas whereas other parents might perceive this as a sign for narrow-mindedness, that the teacher abuses authority to advance and promote a certain agenda that has been refuted a long time ago. Some parents might even ask to see the headmaster and complain about the level and quality of education their children receive at school. After all, so they may claim, they do not send their children to school to learn outdated ideas that science has disputed time and again. Conversely, the Amish are unlikely to complain. Some of the Amish children were taught to think that the earth is flat and that if they go too far they might fall.⁶⁷ Furthermore, Amish educators are not qualified teachers. Often their education does not extend beyond the eighth grade.⁶⁸ Many of the teachers are young, unmarried Amish women. Commonly they teach for three to five years and then get married and establish families. Community pressure is such that couples are expected to marry young and immediately start a family. Teacher turnover is a constant in the Amish community.⁶⁹

PROTECTIVE COMMUNITY?

⁶⁷ "Woman Who Left The Amish Community Opens Up To Megyn Kelly," *Megyn Kelly TODAY* (July 18, 2018), <https://www.youtube.com/watch?v=WvFaEM2uX80>; Candace Sutton, "I thought the earth was flat': Teenage girl's escape from the Amish," *News.com* (August 3, 2018), <https://www.news.com.au/lifestyle/relationships/family-friends/i-thought-the-earth-was-flat-teenage-girls-escape-from-the-amish/news-story/0fccfec5ea82e975f00202a4f47b76c3>

⁶⁸ James A. Cates, *Serving the Amish* (Baltimore, MD: Johns Hopkins University Press, 2014): 63.

⁶⁹ Mark W. Dewalt, *Amish Education in the United States and Canada*: 117, 195.



The Amish offer a very constricted framework of life. Life is simple, expected, with a well-known routine comprised of limited education, steady job, family and community. At least, one may think, the Amish offer its members a safe and protective life. They present themselves as a sheltered, self-sustained community. In school, children study with staff and children they know. This, indeed, was the assumption in *Yoder*. The Justices believed that Wisconsin's mandatory attendance statute was unnecessary for the protection of children as they would live their entire lives in sheltered communities.⁷⁰

Amish children are protected from many child welfare risks such as parental unemployment, divorce, and homelessness. These are virtually nonexistent in Amish communities. People who are vulnerable by age, health, or ability are well cared for within their tightly-knit social fabric. Children grow up in large families with strong ties to their large family. When a family experiences a hardship such as death, injury or illness, the community will rally around them.⁷¹ I wanted to know what happens to those who wish to exit this way of life. Then, to what extent Amish education is, indeed, sufficient, and how successful are those who chose to leave the community and who try to establish a new chapter in the wider American society? Some of the stories of those who left the Order are truly troubling. They speak about child abuse, sexual harassment, exploitation and cover up. James A. Cates, a psychologist who worked with the Amish, argues that all too often child abuse in the community occurs with impunity.⁷² The Amish do not like to wash their dirty laundry outside, and they are protective of those who sin. As forgiveness is an essential value of their teachings, the Amish tend to forgive those who commit crimes. They shelter the abuser and fail to provide safety and protection to their young. Saloma Miller Furlong grew up in a home

⁷⁰ *Wisconsin v. Yoder*, 210-211.

⁷¹ Lisa Aronson Fontes and *Jeanette Harder*, "Working with Amish Families on Child Abuse and Neglect," *Psychology Today* (May 18, 2019).

⁷² James A. Cates, *Serving the Amish*: 92.



where her father resorted often to violence, confessed, and then reverted to violence. The cycle of violence continued unabated.⁷³ Only in rare instances where excommunication does not yield the right results, the Amish turn to external law enforcement, such as in the case of Chester Mast who was excommunicated three times for the rape of his younger cousins before he was finally reported and arrested. The alleged assaults took place for five years, between 2004 and 2009.⁷⁴

In October 2018, 53-year-old Ora F. Troyer was sentenced to one term of 15 to 25 years in prison and two terms of 10 to 15 years for sexually assaulting three girls multiple times during 2003-2018.⁷⁵ One may argue that sexual abuse crimes happen in many communities, not only in the Amish. The disturbing fact is that in this case the perpetrator got away with committing abuse over a 15-year period. In January 2019, two Amish brothers, Alfred N. Yoder, 22, and Enos R. Yoder, 22, faced multiple sexual charges in Daviess County. They allegedly performed sexual acts on two minors on multiple occasions. The alleged crimes took place between 2014 and 2018.⁷⁶

⁷³ Saloma Miller Furlong, *Bonnet Strings*: 22, 51; Shelly Bradbury and Peter Smith, "Forced forgiveness: Plain community sexual abuse victims sometimes pressured to take offenders back," *Post-Gazette* (May 28, 2019), <https://newsinteractive.post-gazette.com/coverings/mennonites-forgiveness-sexual-abuse-coverings-plain-amish-lancaster-county/>

⁷⁴ Naimah Jabali-Nash, "Amish Man Arrested in Two-State Child Sex Crimes Case," *CBS News* (June 10, 2010), <https://www.cbsnews.com/news/amish-man-arrested-in-two-state-child-sex-crimes-case/>; Mike Devlin, "10 Weird Facts About The Amish," *Listverse* (August 29, 2014), <https://listverse.com/2014/08/29/10-weird-facts-about-the-amish/>

⁷⁵ Cole Waterman, "Amish man faces 18 counts of sexual assault involving 3 girls," *Bay City News* (August 16, 2018), https://www.mlive.com/news/bay-city/index.ssf/2018/08/amish_man_faces_18_counts_of_s.html; "Michigan Amishman Gets 15-25 Years For Sexual Assault," *Amish America* (October 18, 2018), <http://amishamerica.com/michigan-amishman-gets-15-25-years-for-sexual-assault/>

⁷⁶ Nick Sadowski, "Amish brothers accused of years-long sexual abuse of minors in Daviess County," *KMZU* (January 24, 2019) <http://www.kmzu.com/amish-brothers-accused-of-years-long-sexual-abuse-of-minors-in-daviess-county/>



Misty Griffin published a book about her ordeal.⁷⁷ She describes the Amish community as a place of fear, animal cruelty and sexual abuse. Griffin was sexually abused by the bishop. Other books written by women who left the Amish portray similar if not identical troubling stories. One may question the reliability of books by disgruntled people who left the Amish. Still, we should not ignore these repeated examples of evidence. Saloma Miller Furlong published two books about her Amish experience. She was abused by both her father and her older brother.⁷⁸ Torah Bontrager was subjected to continued sexual abuse until she ran away. She did not find help within the Amish community.⁷⁹ Mary Byler was raped by several different attackers.⁸⁰ Byler was considered the villain by the Amish because she broke with the community and brought in outside authorities.⁸¹ When charges are filed, Amish communities often refuse to cooperate with investigations, and witnesses are ordered not to testify. Victims find little support or opportunity for recovery and are punished for making their experiences public.⁸² In 2017, a local bishop admitted to covering up sexual abuse in his community.⁸³

The disturbing stories about sexual abuse have common features, as a result of the

⁷⁷ Misty Griffin, *Tears of the Silenced: A True Crime and an American Tragedy; Severe Child Abuse and Leaving the Amish* (La Vergne: Mango, 2018).

⁷⁸ Saloma Miller Furlong, *Why I Left the Amish: A Memoir* (East Lansing, MI: Michigan State University Press, 2011); Saloma Miller Furlong, *Bonnet Strings*.

⁷⁹ Torah Bontrager, *An Amish Girl in Manhattan: A Memoir* (Know-T Publishing, 2018).

⁸⁰ Jennifer Lavoie, "Under Grace: Legal Isolation and the Children of the Old Order Amish." *The Modern American* (Spring 2006): 32-34.

⁸¹ "Sexual Abuse in the Amish Community," *ABC News* (December 10, 2004), <https://abcnews.go.com/2020/story?id=316371&page=1>

⁸² *Ibid.*

⁸³ Wesley Robinson, "Amish bishop admits to covering up sex abuse, sentenced to probation," *Penn Live* (September 11, 2017), <https://www.pennlive.com/news/2017/09/amish-bishop-admits-to-coverin.html>. See also "Fighting sexual abuse in the Amish community," *Fox43* (May 8, 2013); David Wright, "Abuse case dismissed against Highland County Amish family," *The Times-Gazette* (November 24, 2017), <https://www.timesgazette.com/news/21744/abuse-case-dismissed-against-highland-county-amish-family>.



Amish culture and way of life. Amish men are dominant in this culture. From early on, girls are taught to be submissive to the men and boys. Most Amish do not educate their children about sex; therefore, girls can easily fall prey to sexual predators. The Amish rely on belief as the key to their living. Therefore, spiritual healing is required when sins are committed. Their emphasis on peace and consensus makes exposing violators more difficult. Cultural forces push victims into silence.⁸⁴ The Amish value nonviolence, which is expressed as pacifism, leads them to avoid reporting crimes and avoid participating in court cases against people who have wronged them.⁸⁵ The books mentioned above reveal a repeated pattern. When sexual abuse is uncovered, the community shelters the predators rather than the children. They focus on the perpetrator's repentance rather than on the victims' welfare. They are given the opportunity to repent; in severe cases they are banned from the community for six weeks, and then return as if nothing happened. This allows pedophiles to continue living among their victims. This, of course, is very traumatic for the children. The community preference to shield the perpetrators leave the victims in a state of helplessness and despair.⁸⁶

If the abusers are reformed, while the victims still experience psychological torment at least the physical danger is removed. But when the offenders continue with the abuse, the

⁸⁴ James A. Cates, *Serving the Amish*: 91.

⁸⁵ Lisa Aronson Fontes and Jeanette Harder, "Working with Amish Families on Child Abuse and Neglect."

⁸⁶ Peter Smith and Shelly Bradbury, "Mennonites, Amish face growing recognition of widespread sexual abuse in their communities," *Post-Gazette* (May 20, 2019), <https://newsinteractive.post-gazette.com/coverings/mennonite-amish-sexual-abuse-forgiveness-in-their-communities/>; Shelly Bradbury and Peter Smith, "After years of abuse, a Mennonite couple reconnects with each other and their family," *Post-Gazette* (May 22, 2019), <https://newsinteractive.post-gazette.com/coverings/mennonites-burkholders-sexual-abuse-amish-coverings/>; Stephanie Strasburg and Peter Smith, "Joanna's Journey," *Post-Gazette* (June 3, 2019), <https://newsinteractive.post-gazette.com/coverings/joanna-yoder-mennonite-child-sexual-abuse/>; Peter Smith and Shelly Bradbury, "Never alone: Mennonite and Amish sexual abuse victims find each other and find their voices," *Post-Gazette* (June 5, 2019), <https://newsinteractive.post-gazette.com/coverings/amish-mennonite-sexual-abuse-support-podcasts-advocacy-victims/>. Peter Smith published dozens of similar articles. See <https://muckrack.com/peter-smith-25/articles>



vicious cycle can linger on. This explains why such crimes can last for many years. Reporting to the police is admitting that the Amish key to life, spiritual healing, has failed; failed to the extent that they need to appeal to the worldly assistance. Thus, only in cases of repeated offences, after giving the offender a number of opportunities to repent, will the community surrender the offender to the police. But it takes long time until the Amish give up and appeal to the outside world. Meanwhile, the victims' traumas deepen and deepen.

The Amish look inside their communities for a spiritual solution, when the more appropriate solution would be to seek help from professionals who are trained to deal with psychological problems. The Amish are simply not sufficiently equipped to deal with these matters, and their isolation from mainstream society means that public services are largely out of reach, especially for children. The usual avenues for getting counsel are not available to them. They do not have access to emergency help and do not know where to turn. The social apparatus that exists in American schools that could potentially stop abuse and assist victims: police, teachers who receive training as to how to deal with abuse, mental health counselors, psychologists and social workers – these professionals do not exist in the Amish communities. In society at large, abuses are first noticed and reported by school teachers but this is not the case in the Amish parochial schools. Hence, while sexual abuse is not unique to the Amish, it is easier for Amish abusers to continue their abuse. Even if people in the community know of abuse, they will usually not intervene on behalf of the children, because they do not want to be seen as meddling in other families' everyday lives, and they do not know how to deal with abuse. As aforesaid, sometimes the Amish would blame the victims for the abuser's crime or for laundering the dirty cloths outside the community. This leaves those Amish children who are being abused with few or no advocates, just when they need them the most.⁸⁷

⁸⁷ "Michigan Amishman Gets 15-25 Years For Sexual Assault," *Amish America* (October 18, 2018), <http://amishamerica.com/michigan-amishman-gets-15-25-years-for-sexual-assault/>



In January 2020, *Cosmopolitan* published a long report of an investigative journalist who spent a year researching sexual abuse among the Amish. The reporter, Sarah McClure, uncovered 52 cases, which include rape and incest, across seven American states over the past two decades. She argues that the full picture is much darker and disturbing. Whenever she spoke with abused women, they told her about dozens of other cousins and friends and family members who were victimized. Based on these conversations, McClure thinks there are a lot more victims in Amish country who never complained.⁸⁸

McClure substantiated my research findings. Many of the perpetrators are family members who abuse family hierarchy that subordinates women to men to exploit daughters and sisters. The Amish community supports and shelters abusers, not the abused. Victims who sought to escape their lot and stop the abuse are subjected to threats. Sometimes, they are shamed or shunned and are left with no place to go. Even if they have left the community, their entire lives are turned upside-down because they are not familiar with the outside world and do not receive the required support. It is extremely difficult for a young girl to go against her own family, father and brothers, without any support. Sometimes, the abusers are not sent away to allow breathing space for the abused; rather the victims are sent away. They are sent to special Amish or Mennonite mental health facilities, where they are drugged and become “zombies.”⁸⁹ They are prescribed olanzapine, an antipsychotic medication that treats mental illnesses like schizophrenia, aiming to make them calm, “submissive” and positive.⁹⁰ The complainants said that sexual abuse in their communities is an open secret spanning generations. The abuse is so widespread and accepted to the extent that one abuser

⁸⁸ Sarah McClure, “The Amish Keep to Themselves. And They’re Hiding a Horrifying Secret,” *Cosmopolitan* (January 14, 2020), https://www.cosmopolitan.com/lifestyle/amp30284631/amish-sexual-abuse-incest-meatoo/?twitter_impression=true&utm_campaign=todays_worldview&utm_medium=Email&utm_source=Newsletter&wpsrc=nl_todayworld&wpmm=1

⁸⁹ Ibid.

⁹⁰ Ibid.



said, in his defence, that he had sex with two of his daughters, insisting “he made love to them at least three times each but didn’t hurt them.”⁹¹ Victims who wish this nightmare to stop and dare to complain to the outside world, something that the Amish consider “un-Christian,” do not even know the names of body parts. They are so young, so innocent and they are lacking sex education that explains the functioning of organs and equips young people with an understanding of what is right, what is wrong in family and communal affairs, and what are the moral boundaries of interference in private matters. The evidence suggests that in the Amish culture, women lack essential mechanisms of care and support to protect themselves against abuse.

QUALIFIED EXIT RIGHT

The Amish do provide their adolescents with the opportunity to change and revise their conception of the good, but this opportunity is limited. In their late teens or early twenties, the Amish should accept baptism and the strict regulations of their order, known as the *Ordnung*. The *Ordnung* is based on Biblical principles that were accepted and approved by the Amish since the 16th century as well as on the specific Amish community regulations that differentiate the community from the outside world.⁹² Prior to this acceptance, some Amish communities give their adolescents an opportunity to taste the outside life.⁹³ At the age of sixteen, they experience a period of *Rumspringa*, “running around,” enjoying room to roam. Since the youth have not yet been baptized, they are not subject to the church's rules about permitted and forbidden behaviors. During this period, which lasts between several months to several years, youngsters can drive cars, use modern technology, wear western clothes,

⁹¹ Ibid.

⁹² Mark W. Dewalt, *Amish Education in the United States and Canada*: 20.

⁹³ Not all Amish communities allow Rumspringa. See Emma Gingerich, *Runaway Amish Girl: The Great Escape* (Progressive Rising Phoenix Press, 2014).



have sex and socialize with non-Amish. Nearly all youth continue to live with their families. A minority of them leave home, find a job and self-sustain themselves.⁹⁴ The rumspringa ends when the youngster agrees to be baptized into the church and take up the responsibilities attendant on being an adult member of the Amish community.⁹⁵ Indeed, the rumspringa rite of passage demonstrates the *prima facie* voluntary nature of joining the church.

For the Amish community this is a calculated risk. The Amish know that they are going to lose some members but as long as the loss is not very significant, this is a price the Amish are willing to pay to maintain the Amish order. The majority of Amish youth have internalized the mechanisms of community order and control and thus opt to stay. Furthermore, as the Amish youth lack preparation for meaningful engagement with the outside world, being unqualified for many decent jobs, and ineligible to pursue higher education, and because the Amish education system does not provide them with ample tools for social integration, the majority of Amish youth find the outside world too difficult and thus they return to the community after a year or so of running around. Leaving the Amish community entails uncertainty if not a solitary and harsh way of life. A cost-benefit analysis leads most youngsters back to the community, where they accept the *Ordnung* and settle down.⁹⁶ Those Amish Adolescents who decide to leave the community have good reasons. Some of their stories are heart-wrenching and quite troubling.⁹⁷

⁹⁴ Tom Shachtman, *Rumspringa: To Be or Not To Be Amish* (NY: North Point Press, 2007); William A. Fischel, "Do Amish One-Room Schools Make the Grade? The Dubious Data of 'Wisconsin v Yoder'": 113.

⁹⁵ Tom Shachtman, *Rumspringa: To Be or Not to Be Amish* (NY: North Point Press, 2007); *Devil's Background*, A Documentary About Amish Teenage Culture (2002).

⁹⁶ Steven V. Mazie, "Consenting Adults?: Amish rumspringa and the quandary of exit in liberalism," *Perspectives on Politics*, 3(4) (2005): 752.

⁹⁷ Misty Griffin, *Tears of the Silenced* (La Vergne: Mango, 2018); Olivia B. Waxman, "Breaking Amish: One Ex-Follower's True Story of Moving to the Big Apple," *Time* (September 9, 2012), <http://entertainment.time.com/2012/09/09/breaking-amish-one-ex-followers-true-story-of-moving-to-the-big-apple/>; Laura DePinho, "Confessions of a Shunned Amish Girl," *The Odyssey* (December 14, 2016), <https://www.theodysseyonline.com/confessions-of-shunned-amish-girl>; "10 Amazing Stories Of People Who



Those who wish to leave have a very low starting point because Amish education does not prepare the children to live in the American larger community and does not offer them a plurality of conceptions of the good. There is only one way – the Amish way. Thus, my view on Amish education comes close to that of the dissenting Justice William Orville Douglas who was of the opinion that the matter of education is not within the dispensation of parents alone. Douglas thought “the children themselves have constitutionally protectible interests.”⁹⁸ In order to make an informed opinion, Douglas thought that the children should be entitled to be heard: “While the parents, absent dissent, normally speak for the entire family, the education of the child is a matter on which the child will often have decided views. He may want to be a pianist or an astronaut or an oceanographer. To do so he will have to break from the Amish tradition.”⁹⁹ Interestingly, while Chief Justice Burger found “no specific evidence of the loss of Amish adherents by attrition,”¹⁰⁰ Justice Byron Raymond White in his concurring opinion,¹⁰¹ and Justice Douglas in his dissenting opinion noted evidence that a significant number of Amish children do leave the Old Order.¹⁰² Both Justices White and Douglas presented the important liberal consideration of agent’s autonomy.

Justice White acknowledged that while possibly most Amish children may wish to continue living the rural life of their parents, others “may wish to become nuclear physicists,

Left The Amish Community,” <https://www.youtube.com/watch?v=t11ix1B3Dtl>; Ruth Irene Garrett, *Crossing Over: One Woman’s Escape from Amish Life* (San Francisco: HarperOne, 2013); Mary Simms, “Survivor Speaks Out Against Amish Rape Culture Ahead Of Sentencing,” *Huffpost* (October 4, 2017), https://www.huffingtonpost.com/entry/survivor-speaks-out-against-amish-rape-culture-ahead-us_581e7b02e4b0334571e09cfd

⁹⁸ *Wisconsin v. Yoder*, at 243.

⁹⁹ *Ibid*, at 244-245. For further discussion, see Stephen T. Knudsen, “The Education of the Amish Child,” *California Law Rev.*, 62, Issue 5 (1974): 1506-1531.

¹⁰⁰ *Wisconsin v. Yoder*, at 224.

¹⁰¹ *Ibid*, at 240.

¹⁰² *Ibid*, at 245.



ballet dancers, computer programmers, or historians,”¹⁰³ and for attaining these occupations the Amish education system would not be sufficient. The State has “a legitimate interest not only in seeking to develop the latent talents of its children but also in seeking to prepare them for the life style that they may later choose,” and to provide them with an array of options.¹⁰⁴ In the circumstances of this case, Justice White was unable to say that the State has demonstrated “that Amish children who leave school in the eighth grade will be intellectually stultified or unable to acquire new academic skills later.”¹⁰⁵ White J. concurred with the majority of the Court because he was impressed by the “sincerity of the Amish religious policy,” because the “potentially adverse impact of the state requirement is great,” and because the State’s “valid interest in education has already been largely satisfied by the eight years the children have already spent in school.”¹⁰⁶

Justice Douglas thought that if the best interests of the Amish children are in mind, then the State of Wisconsin’s stand should be accepted. Unlike White J. his view not only is consistent but it also adequately representing the liberal view. Douglas J wrote:

It is the future of the student, not the future of the parents, that is imperiled by today’s decision. If a parent keeps his child out of school beyond the grade school, then the child will be forever barred from entry into the new and amazing world of diversity that we have today. The child may decide that that is the preferred course, or he may rebel. It is the student’s judgment, not his parents’, that is essential if we are to give full meaning to what we have said about the Bill of Rights and of the right of students to be masters of their own destiny. If he is harnessed to the Amish way of life by those in authority over him and if his education is

¹⁰³ *Wisconsin v. Yoder*, at 240.

¹⁰⁴ *Ibid*, at 240.

¹⁰⁵ *Ibid*, at 240.

¹⁰⁶ *Ibid*, at 241.



truncated, his entire life may be stunted and deformed. The child, therefore, should be given an opportunity to be heard before the State gives the exemption which we honor today.¹⁰⁷

Judged by practical results, retention rates after rumspringa are high. Meyers' study of one Amish settlement from 1920 until 1969 shows that the percentage of Amish leaving their community varies from 5% during 1960-1969 to 21% during 1930-1939. The average defection across the decades was 13.8%.¹⁰⁸ The study found that older siblings are more likely to defect, that the majority of those leaving were males, that Amish communities that have made the fewest concessions to modernity in agriculture and in laxity of discipline have the lowest percentage of defectors, and that Amish pupils who attended Amish schools are less likely to defect than are those who have gone to public schools.¹⁰⁹ Choy, who studied three Amish communities, found that 36% of New Order children, 14% of Old Order children, and 5% of Andy Weaver children leave the church.¹¹⁰ The strictest community is the last. Choy's evidence suggests that strict Amish regulations lead to low exit rates. Discipline and independent schooling are keys to keep the community together and maintain higher retention rates. Fischel found that by the end of the *Rumspringa* 90% of the Amish youth accept baptism and embrace the *Ordnung*.¹¹¹ The majority prefers to return to the familiar rather than continue to "run around" aimlessly in a foreign environment which they do not really understand. Amish youth do not know what to look for, what distinctive ways of life are available. They cannot search for something they do not know. Filmmaker Lucy Walker, who

¹⁰⁷ *Wisconsin v. Yoder*, at 245-246.

¹⁰⁸ Thomas J. Meyers, "The Old Order Amish: To Remain in the Faith or to Leave," *The Mennonite Quarterly Review*, 68 (1994): 378-395.

¹⁰⁹ *Ibid.*

¹¹⁰ James P. Choy, "Religion and the Family: The Case of the Amish."

¹¹¹ William A. Fischel, "Do Amish One-Room Schools Make the Grade? The Dubious Data of 'Wisconsin v Yoder'".



directed *Devil's Playground*, an award-winning 2002 full-length documentary film about the culture of Amish teenagers as they reach their sixteenth birthday, also found that the retention rate was 90%.

BALANCING INTERESTS

Balancing should consider the interests of the child, of the parents, of the community, and of the state. The Court should consider a long-term view of children's development. The word "individuality" is not mentioned in the Court judgment. The word "autonomy" is mentioned once in the context of freedom of religious bodies, not of the child.¹¹² Consideration of the children's best interests was mentioned once in passing¹¹³ and the majority of the Court failed to recognize the Amish children as an interested party whose future will be greatly affected by the judgment. Only Justice Douglas advocated the rights of the children, insisting that children should be given an opportunity to be heard.¹¹⁴

The term "best interests" is tricky as many interests are involved, some of them are contradictory. They are subjective in the sense that different weight and importance is assigned to them by different stakeholders. Interests are hard to quantify and to prioritize in an objective fashion. Lord Justice Munby elucidated in this context:

Evaluating a child's best interests involves a welfare appraisal in the widest sense, taking into account, where appropriate, a wide range of ethical, social,

¹¹² *Wisconsin v. Yoder*, at 221.

¹¹³ *Ibid.*, 232.

¹¹⁴ In *Re G* [2012] EWCA Civ 1233, Lord Justice Munby wrote: (para. 43): "Although a parent's views and wishes as to the child's religious upbringing are of great importance, and will always be seriously regarded by the court, just as the court will always pay great attention to the wishes of a child old enough to be able to express sensible views on the subject of religion, even if not old enough to take a mature decision, they will be given effect to by the court only if and so far as and in such manner as is in accordance with the child's best interests. In matters of religion, as in all other aspects of a child's upbringing, the interests of the child are the paramount consideration."



moral, religious, cultural, emotional and welfare considerations. Everything that conduces to a child's welfare and happiness or relates to the child's development and present and future life as a human being, including the child's familial, educational and social environment, and the child's social, cultural, ethnic and religious community, is potentially relevant and has, where appropriate, to be taken into account. The judge must adopt a holistic approach.¹¹⁵

Lord Justice Munby maintained that a child's welfare is to be judged by the standards of reasonable persons, and while having regard to the ever-changing nature of the world: “changes in our understanding of the natural world, technological changes, changes in social standards and, perhaps most important of all, changes in social attitudes.”¹¹⁶

The goal of empowering children, helping them develop their potential is mentioned by Justice White who concurred with the decision. Justice White acknowledged that the State has an interest to expand children's knowledge, “broaden their sensibilities, kindle their imagination, foster a spirit of free inquiry, and increase their human understanding and tolerance.”¹¹⁷ However, most Amish children wish to continue living the rural life of their parents, in which case their school adequately equips them for their future role. But this is a problematic argument. It might be the case that the children wish to remain in the community because their education is restrictive and does not open them windows to know and to think about matters that are outside the confines of the Amish community. It is not that the Amish education suffices for the life they choose but Amish education, to a large extent, leads them to this choice. The Amish consciously restrict their children's future. If they were to study the American curricula, maybe they would be encouraged to integrate into American life and to

¹¹⁵ *Re G* [2012] EWCA (England and Wales Court of Appeal) Civ 1233, para. 27, <https://www.familylawweek.co.uk/site.aspx?i=ed101479>

¹¹⁶ *Ibid.*, para. 33.

¹¹⁷ *Wisconsin v. Yoder*, 239.



contribute to the wider society, not only the Amish. Thus, it is not that there is no need to insist on broader and longer education curricula because most Amish youth wish to remain in the community, but that most Amish youth are content to remain Amish because choice is restricted and the education system is designed for the purpose of perpetuating the community. Amish education does not introduce children to many conceptions of the good but only to one. It does not open their future but forecloses it, narrowing avenues to a single Amish avenue.

Bhikhu Parekh endorses the virtues of multicultural education and warns against closing of the mind by focusing on one so-called truth. Parekh rightly observes that one of the central aims of education should be to equip students with the ability to take part in a conversation between different conceptions of the good. Not only that the curricula should include different religions and cultures but it should bring them into a fruitful dialogue. Thereby students are able to appreciate the complexity of truth and the irreducible diversity of interpretations. Multicultural education is an education in freedom, both in the sense of freedom from ethnocentric prejudices and biases as well as freedom to explore and learn from other cultures.¹¹⁸ Amish uncompromising education is the exact opposite. Not only is it not aimed to enrich contestation of truths but it also wishes to isolate the young from the larger American culture and society, trapping the young within the confines of one traditional belief that is not suitable for all.

CONCLUSION

In *The Law of Peoples*, John Rawls explained that while liberal societies are pluralistic and peaceful, are governed by reasonable people who protect basic human rights, minimal means of subsistence, security, liberty, personal property as well as formal equality and self-respect

¹¹⁸ Bhikhu Parekh, *Rethinking Multiculturalism* (Houndmills: Palgrave, 2000): 229-230.



as expressed by the rules of natural justice, nonliberal societies adopt norms based on compulsion and coercion.¹¹⁹ While liberal peoples are reasonable and rational, they encourage pluralism of ideas and provide avenues to empower opposition, and their conduct, laws and policies are guided by a sense of political justice,¹²⁰ authoritarian societies aggressively fight to undermine political opponents. Whereas liberal societies have no qualms to present questions with no definite answers, to challenge common truisms, to present competing ideas, to admit human infallibility and celebrate heresy, in contrast theocracy attempts to provide strict answers to all questions and concerns.

The clash between the liberal state and the Amish way of life is inevitable. The state has reasonable grounds to intervene and enforce the Wisconsin legitimate regulations designed to promote the rights of the child. The severity of children's rights violations justifies intervention. While the liberal state wishes to provide children with the tools to cultivate their talents and propensities, the Amish wish to restrict avenues and choices, putting the community well above the individual. In *Yoder*, the Amish were allowed to do this at the expense of the children. Group rights enjoyed precedence over individual rights. Appreciation of multiculturalism came at the expense of liberalism. I am unable to side with the majority of the Court because the liberal state has a legitimate interest in providing children with reasonable opportunities, intrigue their imagination, make them think, equip them with knowledge and tools to explain data and articulate their views on what they learn. The liberal state has an interest in seeking to develop the latent talents of its children and in preparing them for the lifestyle that they may later choose, or at least to provide them with an option other than the life they have led in the past. The societal concern for children's education is reasonable and legitimate. In the circumstances of this case, the Amish stifle

¹¹⁹ John Rawls, *The Law of Peoples* (Cambridge, Mass.: Harvard University Press, 2002): 59-62. For further discussion, see Richard Rorty, "Justice as a Larger Loyalty," *Ethical Perspectives*, 4 (1997): 139-151.

¹²⁰ Rawls, *The Law of Peoples*, 25.



intellectual progress and thinking and impede their ability to acquire academic skills.

Furthermore, it appears that the Amish have set internal restrictions that enable abuse of children in the name of sustaining community coherence. At the same time, the external protections - the right of a group against the larger society - make it difficult for those who are harmed by the community to reach out and ask for help. One of the main obligations of the liberal state is to protect vulnerable third parties. If the Amish do not provide a safe environment for their children, the state must step in. An aggravating factor in the specific Amish case is that the police and legal system are reluctant to get involved in Amish child abuse cases.¹²¹

This concern of potential child abuse is a forceful argument against the suggestion of home schooling. Spinner-Halev argued that if the Amish were told that they had to send their children to schools outside their communities, the Amish might have decided to home-school their children.¹²² However, parents should not take such a decision lightly. They should carefully consider the reasons for wishing to educate their children at home, explore what their children think about the idea, verify that they have the time, resources and ability to provide adequate education, and that their home is suitable for undertaking teaching and learning. Parents should enquire what support they can receive from others – family, friends and the local community, whether they are able to provide for their children social experiences, circle of friends, access to cultural and aesthetic experiences and physical exercise, to help them develop, and how long they wish to take this considerable commitment. Faith considerations should not deprive children from receiving a suitable full-time education.¹²³ Therefore, American agencies should be very cautious in granting

¹²¹ David Yoder, *Amish Deception* (Lulu, 2007).

¹²² Jeff Spinner-Halev, *Surviving Diversity: Religion and Democratic Citizenship* (Baltimore, MD: Johns Hopkins University Press, 2000): 113.

¹²³ UK Department for Education, *Elective Home Education - Departmental guidance for parents* (April 2019): 11-12.



permissions for home-schooling.

The Amish insistence on its isolating education curriculum poses a real challenge to liberal democracy. The rationale is sensible from their perspective as they wish to retain their group. While denying their children of certain opportunities, the Amish provide them with a cohesive though not necessarily protective community. Children are able to leave the community, although this is not easy as their starting point is very low. Balancing between the different interests, I would like to suggest the following:

- ❖ The Amish should be able to teach their own history, norms and tradition.
- ❖ The Amish should protect their children against abuse and provide opportunities to curious children who want to know more about the world. Stories of Amish adolescents who were able to build a life for themselves outside the community often include curiosity as a driving element. Saloma Miller Furlong who left the Amish said that she was labelled a chatterbox, handful, stubborn and rebellious. For as long as she can remember, she was a misfit, also because she asked questions.¹²⁴ Linda Byler, who enrolled at Penn State University, said that she always has been a very curious person. She enjoyed school but what she learned seemed to her very limited. She spent a lot of her time studying with her older siblings, reading their textbooks. Once she started school, she learned about children in non-Amish schools who were learning more subjects. Byler said she “felt like I was being cheated.”¹²⁵ The Amish should have a class for children who are deemed to be different, rebellious, curious, interested in the wider world, and for children whose parents wish for their children to have opportunities which they would not have under the Amish education system.
- ❖ Some Amish do send their children to public schools. This is more common in

¹²⁴ Saloma Miller Furlong, *Bonnet Strings*: 11.

¹²⁵ Linda Byler, “Growing up Amish,” *Penn State Shenango* (n/d), <https://shenango.psu.edu/feature/growing-amish>



communities such as Holmes County, Ohio, or in northern Indiana. A few Amish homeschool their children. Yet the vast majority of Amish send their children to the local one-room schoolhouse.¹²⁶ Among the Amish, sending children to public schools is controversial as this act is deemed disloyal to the community.¹²⁷ Coercive restrictions on children's future in order to preserve familial, cultural and religious ties are highly problematic when the child is torn between different conceptions of the good. What is needed is a tolerant and supportive environment in which children would feel safe to express their evolving beliefs. The Amish should openly allow children to study in regular American schools beyond the age of 13 without scapegoating them. Providing these opportunities to the young would not destroy the Amish community. Empowering younger generations will vitalize the entire community. Coping with change is a challenge but balancing between the interests of the community and the children's best interests, the change may be positive. It can be assumed that behind a veil of ignorance, people would opt to have these choices.

A study that examined the educational implications of the 1972 Supreme Court decision on a Ohio Amish community found that the Amish have adopted diverse educational pathways, including public schools, charter schools,¹²⁸ General Education Development

¹²⁶ "Why do Amish only go to school until 8th grade?," *Amish America*, <http://amishamerica.com/why-do-amish-only-go-to-school-until-8th-grade/>; David L. McConnell and Charles E. Hurst, "No 'Rip van Winkles' Here: Amish Education since *Wisconsin v. Yoder*," *Anthropology & Education Quarterly*, 37, No. 3 (Sep., 2006): 244.

¹²⁷ David L. McConnell and Charles E. Hurst, *Ibid.*: 246.

¹²⁸ *Charter schools* are semiautonomous schools of choice. They receive government funding, use certified teachers but operate independently of the established state school system in which they are located. Many Amish people sit on such school committees. Charter schools operate with more freedom over their budgets, staffing and curricula compared to regular schools, and with less strict regulations imposed upon district schools. For information on Ohio charter schools, see <https://www.ohioschoolboards.org/sites/default/files/OSBAGuidetoCharterSchools.pdf>



(GED) programs,¹²⁹ homeschooling, and vocational courses.¹³⁰ The diverse ways in which the Amish continue to renegotiate social boundaries with their neighbors suggests the need for more attention to internal diversity within the Amish. Whatever way the Amish resort to educate their children, the State should have minimum expectations for literacy and numeracy education while bearing in mind the age, ability and aptitude of the children and any special educational need they may have. Education may not be deemed suitable if it leads to excessive social isolation and thus impedes their development. Furthermore, to prevent potential abuse and to provide children with the safe environment they need, the State should show greater involvement in the Amish community and to subject them, as it does when other schools are concerned, to inspections and some form of monitoring. As many of the Amish teachers are young, they would benefit from impartial observers who would comment on their strengths and weaknesses, and who may suggest ways to improve.

Amish charter schools are already monitored by the State. Charter schools are accountable for academic results and for upholding the promises made in their charters. They must demonstrate good performance in the areas of academic achievement, financial management, and organizational stability. If a charter school does not meet the set performance goals, it then loses its charter and may be closed.

- ❖ The liberal state is required to protect vulnerable populations. At present, the American government neglects its duty of care. Abuse is more likely to happen in isolated communities because those communities do not have, or are lacking, the apparatus of prevention, deterrence and support that are commonly offered to prevent abuse and help victims. Indeed, the Amish is not the only community where

¹²⁹ GED is an alternative to the US High school diploma. This is a group of four subject tests which, when passed, provide certification that the student has US high school-level academic skills.

¹³⁰ David L. McConnell and Charles E. Hurst, "No 'Rip van Winkles' Here: Amish Education since *Wisconsin v. Yoder*," *Anthropology & Education Quarterly*, 37(3) (September 2006): 236-254.



child abuse takes place. In their comments on a draft of this paper, Orit Ichilov and Allan Jacobs noted that such abuse took place in the Catholic church, in the Haredi communities, in American Prep schools and in the Israeli kibbutzim. All are closed, discrete communities that try to keep to themselves without involving the police when faced with the challenge of sexual abuse. Experience shows that self-regulation, where the community regulates itself, is often deficient. The Amish protect the abusers, not the abused. Sexual abuse, incest and pedophilia are not an “internal, “personal,” group” problem. Liberal democracy is required to step in and help children in need. Otherwise, the abuse might continue unabated for years, inflicting untold pain and suffering and destroying many lives. The Amish education system should include sex education, discussions on children rights, mental health counselors, adequate child support, monitoring and reporting mechanisms, and experienced external advisors who ensure that children are not exploited, sexually and otherwise.

- ❖ There is a clear gap between the Amish and American societies. The Amish do not know much about the American way of life, and Americans know little about the Amish. At times, when child welfare and legal professionals did intervene on behalf of abuse victims, they have harmed children through assessments, investigations, and interventions that do not consider the customs and values of the Amish way of life. Intervention should take place carefully and sensitively. Care workers and others should dress modestly, be mindful of gender issues (male professionals should not go into a house without a male family member present) and of the language barrier, build rapport and trust with Amish families, establish community liaisons, focus on common values such as children's safety.¹³¹
- ❖ The United States should open channels of communication with the Amish. Through

¹³¹ Lisa Aronson Fontes and *Jeanette Harder*, “Working with Amish Families on Child Abuse and Neglect.”



deliberation and search for reasonable and constructive compromises, based on mutual respect and conducted in good faith, the State should balance competing interests: perpetuating the Amish community against children's self-development and children's right to an open future.¹³² The liberal state should be concerned when parents pre-empt their children's future options and restrict the scope for their children's personal development. The State has an interest in empowering children to become equal citizens in society, enabling their integration into the wider society if they so wish.

Future research may include comparative analyses with other illiberal, religious groups, such as Orthodox Jews in Israel, USA or Britain, and The Fundamentalist Church of Jesus Christ of Latter-Day Saints (FLDS Church) in Utah. Such comparative research would extend the perspective-examination, examining similarities and dissimilarities between the groups.

Declarations

Conflict of interest

The author states that there is no conflict of interest.

Research involving human and animal rights

Writing of this article did not involve research on humans or animals.

¹³² Joel Feinberg, "The Child's Right to an Open Future," In William Aiken and Hugh LaFollette (eds.). *Whose Child?* (Totowa, NJ: Rowman & Littlefield, 1980): 124-153. See also, generally, Feinberg, *Freedom and Fulfilment: philosophical essays* (Princeton, NJ: Princeton University Press, 1992). For critique, see Joseph Millum, "The Foundation of the Child's Right to an Open Future," *J. of Social Philosophy*, 45(4) (2014): 522-538.



Data availability

All data and materials as well as software application support the written claims and comply with field standards. All data generated or analysed during this study are included in this published article.