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## JOHN PAUL II AND CHILDREN'S EDUCATION

CHRISTOPHER TOLLEFSEN\*

Like many other moral and social issues, children's education can serve as a prism through which to understand the implications of moral, political, and legal theory. Education, like the family, abortion, and embryonic research, capital punishment, euthanasia, and other issues, raises a number of questions, the answers to which are illustrative of a variety of moral, political, religious, and legal standpoints.

So, for example, a libertarian, a political liberal, and a perfectionist natural lawyer will all have something to say about the question of who should provide a child's education, what the content of that education should be, and what mechanisms for the provision of education, such as school vouchers, will or will not be morally and politically permissible. They will likewise all have something to say about the morality and politics of abortion, the nature of marriage, the legitimacy of state executions, and so on. Each issue, then, can serve as an arena of practical application for theory, illustrating both what the theory means, and what its practical consequences are.

But education is unique among all these issues in the following way: the moral, political and legal questions of education are critical, among other reasons, precisely because of their relationship to the variety of other issues of cultural controversy; and no answer to the other controversial questions—about marriage and the family, for example, or abortion—will have been adequately answered except insofar as they have also attended to some degree to the question of education. The issue of education is thus, in some respects, architectonic with respect to all the other culturally significant moral questions of the day.

This is not a new circumstance; Plato was aware of precisely this connection between education and the moral renewal of the polis he considered in the *Republic*.<sup>1</sup> Nor is it overlooked at the level of practice in the contemporary world; the push for vouchers and home schooling has been in large part a practical response to a perceived moral crisis that many believe is facili-

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1. See PLATO, *REPUBLIC* (C.D.C. Reeve trans., Hackett Publishers, 2004).

tated or even encouraged by public education. At the same time, many of those at the forefront of social progressivism see children's education as the key mechanism by which support for their various reforms must be shored up. Radical change in the social understanding of marriage, for example, could only be accomplished in the long run by making such changes educationally normative to a great extent, and the primary form of social resistance to the sexualized, commercialized, and instrumentalized emphases of contemporary culture is, arguably, home and religious schooling.

For these reasons, the past twenty years have seen something of a resurgence of the philosophy of education as an application issue for political theory.<sup>2</sup> In particular, libertarian and liberal political theorists have addressed the question of education both for its own sake, as a philosophically interesting area of application for theory, but also, apparently, because of education's unique significance in making possible a bridge from political theory to political practice. Consider, for example, just a few of liberal political theory's dominant concerns: autonomy, legitimization, and the perpetuation of liberal society.<sup>3</sup> Children's education raises difficult questions for the liberal political theorist with regard to each of these concerns. But it also provides the forum within which, practically speaking, liberalism can accomplish its social ends. So, while there is a *prima facie* tension between the inevitable coercion involved in children's education and liberalism's emphasis on autonomy, it is clear that the right kind of education could go far in developing skills and dispositions for autonomous choice understood as liberalism understands these concepts. Similarly, education can create the conditions within which the liberal state obtains the consent of the governed, or within which civic virtue is fostered.

By contrast, a libertarian theory provides a natural home for a defense of school choice and decentralized education.<sup>4</sup> A libertarian state is not to be achieved by common education focus-

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2. Within this time span this is especially true of theorists inspired by the work of John Rawls, especially two works: JOHN RAWLS, *A THEORY OF JUSTICE* (1971) and JOHN RAWLS, *POLITICAL LIBERALISM* (1993). Among the most important recent works in liberal theory of education are AMY GUTMANN, *DEMOCRATIC EDUCATION* (1987); HARRY BRIGHOUSE, *SCHOOL CHOICE AND SOCIAL JUSTICE* (2000); and STEPHEN MACEDO, *DIVERSITY AND DISTRUST: CIVIC EDUCATION IN A MULTICULTURAL SOCIETY* (2000).

3. See MEIRA LEVINSON, *THE DEMANDS OF LIBERAL EDUCATION* (Oxford University Press 1999); BRIGHOUSE, *supra* note 2; and GUTMANN, *supra* note 2.

4. See, e.g., David Hargreaves, *Diversity and Choice in School Education: A Modified Libertarian Approach*, 22 OXFORD REV. EDUC. 131, 131-41 (1996).

ing on, for example, civic virtue. Decentralization of education thus seems a plausible prerequisite for the libertarian state.

It would appear, however, that natural law perfectionism has generated less of a focused theoretical engagement with the issue of education in this time period. In part this is likely a result of the fact that it is really only within that time period that there has been a revival of natural law perfectionism itself, especially since the publication in 1980 of John Finnis's *Natural Law and Natural Rights*.<sup>5</sup> And it is true that some of the work of Robert P. George, in *Making Men Moral* in particular, should be seen as having bearing on issues of education.<sup>6</sup> But in general, natural law theory has yet to capitalize on the issue of education in the way that Rawlsian liberalism or market-based libertarianism has.

It is not to the purpose of this paper to rectify this state of affairs. My aim, rather, is to suggest what some of the key claims would be in a natural law approach to children's education by reflecting on the work of Pope John Paul II. In particular, four emphases of John Paul seem essential to any adequate approach to the ethics and politics of education. The first is his pluralistic goods-based eudaimonism with its emphasis on personal vocation. The second, and related, emphasis is his account of the nature of true freedom. The third is his ontology of the family and of children. And the fourth is his reiteration of Church teaching on the common good and the principle of subsidiarity, and his approach to related questions of authority. I shall argue that when John Paul's positions in these four areas are viewed together, a distinct picture of the normative structure of children's education—at both the moral and the political level—is limned, a picture that has implications for some of the major battles over children's education. But I shall do no more than sketch that picture and gesture at its implications in this paper. I begin by indicating two of the most general types of questions a theory—moral and political—of education must answer.

## I. CHILDREN'S EDUCATION AND RECENT POLITICAL PHILOSOPHY

Much recent moral and political philosophy that addresses children's education is concerned with a general question about the ends of education, and a particular question concerning means. The ends question is typically framed as follows: what is the end of education from the standpoint of liberalism and liberal theory? Typical answers include autonomy, creation and sus-

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5. JOHN FINNIS, *NATURAL LAW AND NATURAL RIGHTS* (1980).

6. ROBERT P. GEORGE, *MAKING MEN MORAL: CIVIL LIBERTIES AND PUBLIC MORALITY* (1993).

taining of the skills necessary for democratic self-governance, flourishing, and the expressive or *eudaimonistic* interests of parents.<sup>7</sup>

This question of ends can also be asked in some abstraction from the concerns of the state, liberal or otherwise, for it is possible to ask *simpliciter* what the ends of education, normatively understood, ought to be. Some end or ends of those provided in the answer to this question might then be judged suitable ends for the state to promote, and others not so suitable. It seems to me, contrary to the tenor of some liberal educational theory, that this question *must* be asked first. For the alternative is that the aims of education fall into two distinct spheres, call them public and private, whose justification is distinct. And if this is the case, there will be no *a priori* reason to think that the dual sets of aims are mutually consistent, and, from the state's perspective, no reason to think that private ends should be given priority over public. This is a point to which I will return later in the paper.

The question of means that has been most deeply the focus of political philosophy lately is the question of school choice. Is some mechanism of school choice, such as a voucher system, that allows parents discretion over where they send their children, and also some discretion over the content of their education, consistent with the aims of liberal education? Is it perhaps required by the aims of liberal education?<sup>8</sup>

Here liberal education theorists compete with theorists whose views of the aims of education do not emerge straightforwardly from liberal theory, or whose political theory generates additional considerations not straightforwardly reducible to considerations about the ends of education. A libertarian is likely to support school choice or something even more radical in consequence of seeing education on a consumer choice model. The libertarian might, however, have no particular answer to the question of the ends of education, for her political theory renders that question irrelevant.

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7. See LEVINSON, *supra* note 3; BRIGHOUSE, *supra* note 2 (discussing autonomy). See also GUTMANN, *supra* note 2 (discussing democratic self-governance); HARRY BRIGHOUSE, *ON EDUCATION* (2006) (discussing flourishing); CHARLES FRIED, *RIGHTS AND WRONG* (1978) (discussing the interests of parents).

8. See, e.g., MACEDO, *supra* note 2; BRIGHOUSE, *supra* note 2; WILLIAM GALSTON, *LIBERAL PLURALISM: THE IMPLICATIONS OF VALUE PLURALISM FOR POLITICAL THEORY* (2002) (discussing Liberal theorist's interest in incorporating a school choice scheme into the means by which education is distributed). See also David J. Ferrero, *Fresh Perspectives on School Choice*, 38 J. PHIL. EDUC. 287, 287-96 (2004) (reviewing of some of the issues involved in the school choice debate from within different liberal camps).

Others will base their justifications for school choice on an understanding of parents' rights, or of equity concerns for the children of the poor who are stuck in failing schools. The former does, in some ways, emerge from a consideration of the ends of education. Charles Fried, one of the earliest and best known contemporary defenders of this view, has argued that it is parents' rights to pursue a life plan, consistent with their vision of human flourishing, that gives them the further right to determine the nature of their children's education.<sup>9</sup> While this view does not determine a substantive conception of the ends of education—it does not, that is, dictate that autonomy, for example, is the favored or primary end of education—it does dictate a formal end: the ends of education are in the first case those necessary for the parents to raise their children in ways consonant with their life plans.

Whether, and for what reasons, the natural law perfectionist, or the Catholic inspired by John Paul II's teaching, should support school choice remains to be seen. That answer will, however, depend first upon how natural law or Catholic theorists understand the ends of education; and also how they see other overlapping concerns like Fried's emphasis on parental rights, concerns with equity for the poor, and, as I shall argue, the principle of subsidiarity, as affecting the question of means.

It is worth pointing out one further aspect of concern for the means of education that frequently goes unmentioned but that is increasingly important at the level of practice. Many parents with thick moral or religious commitments, often with large families and single incomes, have turned to home schooling as their primary means of education provision. Yet few liberal theorists have much to say on the subject (an exception is Robert Reich).<sup>10</sup>

This is perhaps because the implication of much liberal political and education theory would seem to be in stark opposition to home schooling. Theorists who emphasize autonomy, for example, such as Meira Levinson or Harry Brighouse, or civic virtue and participation, such as Stephen Macedo and Amy Gutmann, or the strictly temporal interests of children, such as James Dwyer,<sup>11</sup> are all committed to the view that choice schemes, when permissible, must be heavily regulated by the state to ensure that

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9. FRIED, *supra* note 7.

10. ROBERT REICH, BRIDGING LIBERALISM AND MULTICULTURALISM IN AMERICAN EDUCATION (2002).

11. See LEVINSON, *supra* note 3; BRIGHOUSE, *supra* note 2; MACEDO, *supra* note 2; GUTMANN, *supra* note 2; JAMES G. DWYER, RELIGIOUS SCHOOLS V. CHILDREN'S RIGHTS (1998).

the resulting schools do not tip in the direction of illiberal or thickly constituted communities. Home schooling appears at least practically to be beyond the reach of much state regulation and control, and many home schoolers believe this to be true in principle as well. Liberal political theorists might well be afraid that a view that has as its consequence the conclusion that home schooling should be eliminated or heavily supervised would be seen as *reductio* by many.<sup>12</sup>

Be that as it may, it is clear that an adequate understanding of education must have something to say first about ends, and second, about means, including in particular, the nature and extent of public and private education, the role of vouchers and choice, and the decision to home school. In the following sections, I address the four claims of John Paul II identified above, with a view to reconstructing some further claims about education.

## II. JOHN PAUL II ON EUDAIMONISM, GOODS, AND PERSONAL VOCATION

By John Paul II's eudaimonism, I mean his continual focus on the happiness of human beings as foundational for an understanding of ethics. By his emphasis on goods, I mean the rootedness of that happiness in human and divine goods, rather than, for example, free standing divine commands or prescriptions of pure reason. And by his focus on personal vocation I mean his broadening of the language of vocation, continuous with the broadening that occurred in Vatican II, to include not just the generic vocations of the religious or married life, but the particular path to which each individual is called by God.

John Paul's discussion of the Decalogue early in *Veritatis Splendor* brings out his eudaimonistic focus, and the rootedness of well being in the Good and goods. The questions about morality the young man of the Gospel asks Christ are not "so much about rules to be followed, but about the full meaning of life."<sup>13</sup> They are, the Pope says, questions about the good. But "[t]o ask about the good, in fact, ultimately means to turn

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12. What else could be the implication of Levinson's claim, in *The Demands of Liberal Education*, that "the liberal ideal of autonomy not merely permits but *requires* the intrusion of the state into the child's life, specifically in the form of compulsory liberal schooling"? Yet "home schooling" does not even appear in the index of her book. See LEVINSON, *supra* note 3, at 58.

13. POPE JOHN PAUL II, VERITATIS SPLENDOR: THE SPLENDOR OF TRUTH para. 7 (1993) [hereinafter VERITATIS SPLENDOR].

towards God, the fullness of goodness."<sup>14</sup> The goodness that perfects and fulfills us is rooted in the goodness of God.

Thus, the Pope concludes, "[a]cknowledging the Lord as God is the very core, the very heart of the Law, from which the particular precepts flow, and towards which they are ordered."<sup>15</sup> Yet the good is to be found also in the goods that God has created for us, goods that the Pope called "goods of the person":

The different Commandments of the Decalogue are really only so many reflections of the one commandment about the good of the person, at the level of the many different goods which characterize his identity as a spiritual and bodily being in relationship with God, with his neighbor, and with the material world.<sup>16</sup>

The Commandments, and the moral law more generally, safeguard this good of the person by protecting his "goods" such as human life, the communion of persons in marriage, and the truth.<sup>17</sup> To act contrary to any of these goods is to damage, or even destroy, human persons, and to act both in a way perfective of persons and pleasing to God requires promoting and fostering the promotion of these goods in persons.

Yet, contrary to stereotypical portrayals of the natural law, John Paul II did not believe that one size of the good life fits all; rather, each individual person is called by God to a particular relationship with Him, a particular friendship to be pursued by living in accordance with a unique plan. This plan encompasses the whole of a person's life; it is oriented towards genuine goods, including the flourishing of others, and towards God, in a way that is suitable for who that person is, with his or her particular gifts and talents. The Pope writes, in his *Apostolic Letter on the Occasion of the International Youth Year*:

Before the inner gaze of the developing personality of the young man or woman, there is gradually and successively revealed that specific and in a sense unique and unrepeatable potentiality of a concrete humanity, in which there is as it were inscribed the whole plan of future life. Life presents itself as the carrying-out of that plan: as "self-fulfillment."<sup>18</sup>

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14. *Id.* at para. 9.

15. *Id.* at para. 11.

16. *Id.*

17. *Id.*

18. POPE JOHN PAUL II, *DILECTI AMICI: APOSTOLIC LETTER ON THE OCCASION OF THE INTERNATIONAL YOUTH YEAR* para. 3 (1985) [hereinafter *DILECTI AMICI*].



But John Paul goes on to clarify the nature of the ultimate *source* of the plan:

A human being is a creature and at the same time an adopted child of God in Christ: he is a child of God. Hence during youth a person puts the question, "What must I do?" not only to himself and to other people from whom he can expect an answer, especially his parents and teachers, but he puts it also to God, as his Creator and Father. He puts it in the context of this particular interior sphere in which he has learned to be in a close relationship with God, above all in prayer. He therefore asks God: "What must I do?", what is your plan for my life? Your creative, fatherly plan? What is your will? I wish to do it . . . .

. . . .

. . . . In this context the "plan" takes on the meaning of a "life vocation", as something which is entrusted by God to an individual as a task.<sup>19</sup>

As Germain Grisez, who has articulated and often anticipated the Pope's teaching on personal vocation, points out, this approach to personal vocation as individualized and all-encompassing has particular consequences for thinking about education: "Thus, every effort at self-development through education should be undertaken and carried out as part of one's vocation. Aptitudes and abilities should be appreciated as God's gifts, and their cultivation should be regarded as a responsibility to him."<sup>20</sup> In a real sense, then, education is *for* vocation.

### III. JOHN PAUL II ON FREEDOM AND TRUTH

Few claims of the late Holy Father are as familiar as his assertion of the central importance of freedom for the human person, and his simultaneous denial that by freedom is meant a capacity for choice unbounded by law, truth, or authority. Rather, as the Pope repeated emphatically, it is the truth that sets one free. This claim is easier to see in light of the three emphases noted in the previous section.

The contemporary conception of autonomy against which the Pope was reacting posits, in its extremes, that personal choice is itself constitutive of value; it is sufficient, on this account, for what is desired to be valuable merely that it have been chosen, or, perhaps, chosen intelligently, that is, after reflection. At the

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19. *Id.* at para. 9.

20. GERMAIN GRISEZ, 2 *THE WAY OF THE LORD JESUS: CHRISTIAN MORAL PRINCIPLES* 117 (Franciscan Press 1993).

social level, it might be sufficient for worth that something has been chosen by the majority. But for John Paul, this analysis was inevitably relativistic; moreover, the emphasis on autonomy makes it impossible morally and politically to critique what has been chosen in a self-aware way. Yet no amount of choosing, whether by individuals, or, in politics, by majorities, can make that which is unfulfilling good for us. Moral and political critique is always necessary, but this can only be possible if moral and political values are objective.

Related to this "autonomistic"<sup>21</sup> understanding of freedom is an "atomistic" understanding. In *Evangelium Vitae*, the Pope decried a "notion of freedom which exalts the isolated individual in an absolute way, and gives no place to solidarity, to openness to others, and service to them."<sup>22</sup> By contrast, on John Paul's conception, freedom "possesses an inherently relational dimension."<sup>23</sup> As he wrote in one of his last works, *Memory and Identity*, "freedom is for love."<sup>24</sup>

The rejection of both the autonomistic and the atomistic conceptions stand together. Our capacity for freedom is a gift given to us by God precisely to enable us to respond, of our own accord, to God's initiatives, initiatives that include the law through which we are to be fulfilled. To reject the law, which is a law of self-giving, and to reject God, is to embrace an illusory freedom. In various contexts, John Paul reiterates this; in *Centesimus Annus*, he writes that "obedience to the truth about God and man is the first condition of freedom"<sup>25</sup> and in *Veritatis Splendor* he writes that the commandments are the "first necessary step on the journey towards freedom."<sup>26</sup>

At the same time that the Pope oriented freedom towards truth, however, he argued vigorously that freedom really is a radical capacity for self-determination on the part of human persons, one respect in which we are made in the image of God, and a source of our human dignity. As an architect of Vatican II's *Dignitatis Humanae*, John Paul was opposed to the idea that relig-

21. See Gavin T. Colvert, *Liberty and Responsibility: John Paul II, Ethics, and the Law*, in 84 JOHN PAUL II'S CONTRIBUTION TO CATHOLIC BIOETHICS 51-72 (Christopher Tollefsen ed., 2004).

22. POPE JOHN PAUL II, *EVANGELIUM VITAE: THE GOSPEL OF LIFE* para. 19 (1995) [hereinafter *EVANGELIUM VITAE*].

23. *VERITATIS SPLENDOR*, *supra* note 13, at para. 19.

24. POPE JOHN PAUL II, *MEMORY AND IDENTITY: CONVERSATIONS AT THE DAWN OF A MILLENNIUM* 40 (2005).

25. POPE JOHN PAUL II, *CENTESIMUS ANNUS: ON THE HUNDRETH ANNIVERSARY OF RERUM NOVARUM* para. 41 (1991) (italics omitted) [hereinafter *CENTESIMUS ANNUS*].

26. *VERITATIS SPLENDOR*, *supra* note 13, at para. 13.

ious truth was to be promoted through coercion, or that instruction into the faith should be tantamount to brainwashing.<sup>27</sup>

Like his eudaimonism, John Paul's conception of freedom will be crucial to any adequate understanding of education, for contemporary liberal accounts often adopt precisely the autonomy disparaged by the Pope as the goal of education. At the same time, liberal theorists often criticize education that adopts a substantive set of goods as true and normative as coercive. An account of education consistent with John Paul's thinking must steer a course between these two positions.

#### IV. JOHN PAUL AND THE ONTOLOGY OF THE FAMILY AND CHILDREN

The question of the ontology of the family—of marriage, and, when fecund, of marriage with children—and of children is central to a number of contemporary disputes, even when the disputants are not self-aware about the question itself. Questions concerning who, normatively, may participate in the good of marriage, for example, require an understanding of the nature of marriage. If marriage is merely a contract binding two or more persons together in bonds of mutual affection, and if a family is any extension of that contract to children (or pets) who become associated, in one way or another, with the contractual union, then it is difficult to see why the good of marriage should exclude any persons desirous of so contracting.

Similarly, if children are parts or property of their parents, or if they are independent proto-autonomous beings, then a particular understanding of parental rights, on the one hand, and children's rights, on the other, will follow, and will be considered determinative in questions about custody, education, or health care.

John Paul II articulated a quite different conception of marriage than the contract view, however; and his understanding of the nature of the family and of the nature and role of children within the family took on an accordingly different appearance.<sup>28</sup>

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27. See GEORGE WEIGEL, *WITNESS TO HOPE: THE BIOGRAPHY OF POPE JOHN PAUL II* 163–66 (1999).

28. John Paul's understanding of marriage is given its most extended analysis in POPE JOHN PAUL II, *THE THEOLOGY OF THE BODY: HUMAN LOVE IN THE DIVINE PLAN* (1997) [hereinafter *THEOLOGY OF THE BODY*] (see "Original Unity of Man and Woman" 25–102, and "The Sacramentality of Marriage" 304–85). For a helpful exposition, see Patrick Lee, *The Human Body and Sexuality in the Teaching of Pope John Paul II*, in JOHN PAUL II'S CONTRIBUTION TO CATHOLIC BIOETHICS, *supra* note 21, at 107–20. John Paul's analysis of the family is to be found in POPE JOHN PAUL II, *FAMILIARIS CONSORTIO: THE ROLE OF THE CHRIS-*

Further, the Pope saw the family as standing in two different sorts of relationships to the two other most important forms of society, the Church, and the state.<sup>29</sup> All these points must be briefly addressed.

Rather than a mutual contract, or even an institution designed for the regulation of sexual activity and the procreation of children, the Pope understood marriage to be a unique opportunity to which men and women are invited in order to "participate in God's own creative love."<sup>30</sup> Spouses undertake to love each other in a specially divine way, that is, totally. God Himself is a total and mutual love among and between the three divine persons, and this love extends out to the human family in God's creation. Indeed, both Church and family are described by John Paul as "living representations in human history of the eternal loving communion of the Three Persons of the Most Holy Trinity."<sup>31</sup>

Human persons are inevitably more limited than God: we cannot love everyone totally; indeed, for us, that would be a contradiction; a total self-giving love is for us exclusive, for if a spouse were to share his or her love with a third, he or she would cease to be giving his or her complete self to the other.<sup>32</sup>

This total self-giving is possible, however, "on all levels—of the body, of the character, of the heart, of the intelligence and will, of the soul."<sup>33</sup> John Paul's emphasis on bodily unity is crucial. Through sexual intercourse, spouses become one flesh, one bodily organism, in a way that cannot be accomplished through any other means. For this reason, a marriage is not consummated until the couple has become one flesh in sexual union.<sup>34</sup>

The unity of the married couple is thus unique among all forms of sociality. Husband and wife do not lose their individuality, but they enter into a social entity that is itself not a mere

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TIAN FAMILY IN THE MODERN WORLD (1981) [hereinafter *FAMILIARIS CONSORTIO*]. For helpful commentary on this document, see MICHAEL J. WREN, *POPE JOHN PAUL II AND THE FAMILY* (1983).

29. See *FAMILIARIS CONSORTIO*, *supra* note 28, at part IV (containing John Paul II's account of the relationship between family and Church). See also *FAMILIARIS CONSORTIO*, *supra* note 28, at part III (containing John Paul II's account of the relationship between family and state).

30. *THEOLOGY OF THE BODY*, *supra* note 28, at 352.

31. Pope John Paul II, *Address at the Ecumenical Prayer Service*, in *THE POPE SPEAKS TO THE AMERICAN CHURCH* 163, 166 (1992).

32. See *FAMILIARIS CONSORTIO*, *supra* note 28, at para. 11 (discussing the need for exclusivity of the sexual relationship between husband and wife). See also *THEOLOGY OF THE BODY*, *supra* note 28, at 141.

33. *FAMILIARIS CONSORTIO*, *supra* note 28, at para. 19.

34. See *THEOLOGY OF THE BODY*, *supra* note 28, at 81.

aggregate of persons but a whole, similar to other organisms in its unity, teleology, and even self-directedness.<sup>35</sup> Moreover, in this unity, husband and wife participate in a good in an unmediated way; marriage is not just instrumental for some other benefit, but is itself a good of the person.<sup>36</sup> Marriage is thus, among social institutions, foundational, original, and irreplaceable; it is prior to the state, which should be thus understood as an institution in service of marriage (and the family).<sup>37</sup>

The one-flesh union of husband and wife is a consequence of a joint performance of an organic function that cannot be performed by any human being alone: reproduction. The impetus towards that performance is the desire for a total giving of self. Finally, as participating in the divine self-giving, the self-giving of spouses hopes to be fecund. Together, these claims lead to an understanding of marriage, and the marital act, as intrinsically ordained to the procreation of children (as we will see, John Paul speaks of the procreation *and* education of children). Children are the fruit of conjugal love, something the Pope sees as an especially suitable mode by which human beings come to be.<sup>38</sup>

So marriage, as the Pope says, “is the foundation of the wider community of the family.”<sup>39</sup> Here again we should see a special form of wholeness and unity amongst the variety of societies. The unity of parents is, in cooperation with God’s creative activity, directly responsible for the existence of the family, which is a kind of spill-over of spousal and divine love.<sup>40</sup> In fact, the family itself is then called to a special “family fecundity,” a life of

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35. See *id.* at 318–20. In discussing the passage in *Ephesians* (5:26–27) in which husbands are told to love their wives as Christ loved the Church, John Paul indicates both the separateness and the unity that is almost like that of an organism. He writes that the “uni-subjectivity” of marriage is based on “bi-subjectivity,” and goes on to say that “love makes the ‘I’ of the other person his own ‘I.’” This unity of the spouses is a unity of the flesh, in which the husband must “nourish” and “cherish” the other as he would his own body.

36. VERITATIS SPLENDOR, *supra* note 13, at para. 13. See also GRISEZ, *supra* note 20, at 555–69 (discussing marriage as a basic good).

37. See generally FAMILIARIS CONSORTIO, *supra* note 28, at paras. 42–48.

38. See JOSEPH CARDINAL RATZINGER, DONUM VITAE: INSTRUCTION FOR RESPECT FOR HUMAN LIFE para. 1 (1987) (offering the strongest statement of the principle that the sexual union of spouses represents the only legitimate avenue for procreation of children, by Joseph Cardinal Ratzinger, drawing on the works of John Paul, and of course, officially received and authorized by him. The document stresses that children must be received as a gift, and that they “cannot be desired or conceived as the product of an intervention of medical or biological techniques.”).

39. *Id.* at para. 14.

40. See, e.g., EVANGELIUM VITAE, *supra* note 22, at para. 42 (discussing *Genesis* 1:28).

service, both mutual and outward looking. Both the unity and the service are prior to and more basic than the unity and service of the state. This generates the Pope's strong claim that the state must serve the family, and never attempt to usurp its privileged place.<sup>41</sup>

This picture has consequences for how we should understand the "ontology of children." In the relations between spouses, and between parents and children, a duality characteristic of Catholic theology recurs. Just as God is one and three, and Christ is God and man, so the spouses are two and one, and the family is many and one. Children are not property of their parents, for the family is a society of mutual service, and not for the good of parents alone. But neither are children independent agents, existing only in association with their parents, but ontologically apart. Children are the fruit of the parental union, and thus themselves in a strong sense new parts of *that union*. As Grisez points out, this means that parental care of children, before the children have fully separated from their parents, is continuous with parents' care for themselves; and their concern for the common good within the family is a concern for "the child's good considered insofar as it also perfects the parent precisely as parent."<sup>42</sup>

In *Familiaris Consortio*, John Paul identified a fourfold mission and identity for the family; the mission *is*, in a strong sense, the identity, for what the family is identified in terms of what it ought to strive to be. Thus the Pope can say "family, *become* what you *are*."<sup>43</sup> The identity of the family is construed around four tasks: forming a community of persons, serving life, participating in the development of society, and sharing in the life and mission of the Church.<sup>44</sup> Each of these tasks is important to an understanding of education; for example, it is through education that the communion between parents and children is brought up; and it is in part because the family participates in the development of society that it so forcibly asserts its rights against society.<sup>45</sup> But the second and fourth tasks are especially important.

A right and obligation to educate children is itself an implication of the task to serve life, which the Pope calls the "fundamental task" of the family. John Paul writes:

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41. See *FAMILIARIS CONSORTIO*, *supra* note 28, at paras. 45–46.

42. *GRISEZ*, *supra* note 20, at 698.

43. *FAMILIARIS CONSORTIO*, *supra* note 28, at para. 17.

44. *Id.* at para. 3.

45. See *id.* at para. 46.

The task of giving education is rooted in the primary vocation of married couples to participate in God's creative activity: by begetting in love and for love a new person who has within himself . . . the vocation to growth and development, parents by that very fact take on the task of helping that person effectively to live a fully human life.<sup>46</sup>

The pope then quotes Vatican II's assertion that "parents must be acknowledged as the first and foremost educators of their children,"<sup>47</sup> and goes on to say that this

right . . . of parents to give education is essential, since it is connected with the transmission of human life; it is *original* and *primary* with regard to the educational role of others, on account of the uniqueness of the loving relationship between parents and children; and it is *irreplaceable and inalienable*, and therefore incapable of being entirely delegated to others or usurped by others.<sup>48</sup>

The Pope's reference to the "uniqueness of the loving relationship" as the ground for the priority and primacy of the parental right of education returns us to the ontological question regarding the family and children. From one point of view, the most salient *ontological* fact about all persons is their radical dependence on the love of God, in creating and sustaining their lives. Similarly, from one point of view, the most salient ontological fact about children is that their existence is similarly conditioned on their parents' loving and creative activity. Children form a unity, a metaphysical whole, with their parents in their parents' love, and just as it would be a violation of some individual person's rights to usurp his or her capacity for self-determination, so it is a violation of the rights of the family, of whom the parents are the head, to usurp the parents' rights to shape that family, a shaping accomplished dominantly through education.

What, then, is the content of the education that parents are called to provide? In his discussion of service to life, the Pope speaks of educating children "in the essential values of life."<sup>49</sup> Here we see again his eudaimonism and good-focused approach. In his discussion of sharing in the life of the Church, the Pope identifies the child's vocation as central: "The family must educate the children for life in such a way that each one may fully

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46. *Id.* at para. 36.

47. *Id.* (quoting SECOND VATICAN COUNCIL, GRAVISSIMUM EDUCATIONIS: DECLARATION ON CHRISTIAN EDUCATION para. 3 (1965)).

48. FAMILIARIS CONSORTIO, *supra* note 28, at para. 36 (emphasis added).

49. *Id.* at para. 37.

perform his or her role according to the vocation received from God."<sup>50</sup>

## V. JOHN PAUL, THE COMMON GOOD, AND SUBSIDIARITY

I turn finally to John Paul II's reiteration of Catholic teaching on the appropriate role of the state, the common good, and subsidiarity. No doubt because of the impact of growing up in communist Poland, the Pope was particularly sensitive to limits of the state as against individuals. This sensitivity was often expressed by the Pope in terms of the rights of individuals against the state.<sup>51</sup> He was also, however, deeply sensitive to the need for the state to assert itself insofar as this was necessary for protecting basic rights of individuals, such as the unborn, the aged, and the impoverished.<sup>52</sup>

The state, for John Paul, is an instrument, a means to satisfying various needs that could not otherwise be easily or adequately met by those realities prior to the state: individuals, families, and other societies such as the Church.<sup>53</sup> So the state fails when either it extends itself illegitimately into the affairs of these prior realities, or when it fails to protect them, or to promote their goods. Failures of the first sort are failures of subsidiarity. Failures of the second sort are broadly failures of solidarity.

The doctrine of subsidiarity holds that larger social institutions should not take over functions that could be better performed by individuals or smaller social realities.<sup>54</sup> John Paul clarified two aspects of this doctrine in his account of the failure of socialism, in *Centesimus Annus*. Socialism failed first because it viewed the individual as "simply . . . a molecule within the social organism, so that the good of the individual is completely subordinated to the functioning of the socio-economic mechanism," and second in maintaining that "the good of the individual can be realized without reference to his free choice . . ."<sup>55</sup> The state respects both these truths by allowing prior realities such as individuals the opportunity to make their own choices for their own

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50. *Id.* at para. 53.

51. *See, e.g.*, *CENTESIMUS ANNUS*, *supra* note 25, at paras. 13, 25.

52. "[C]ivil law must ensure that all members of society enjoy respect for certain fundamental rights which innately belong to the person, rights which every positive law must recognize and guarantee." *EVANGELIUM VITAE*, *supra* note 22, at para. 71.

53. *CENTESIMUS ANNUS*, *supra* note 25, at para. 11.

54. *See* POPE PIUS XI, *QUADRAGESIMO ANNO: ON RECONSTRUCTING THE SOCIAL ORDER* para. 79 (1931).

55. *CENTESIMUS ANNUS*, *supra* note 25, at para. 13.



sake, rather than making choices for them, for the sake of the whole.

Solidarity, for John Paul, was an extension of the imperative we have already seen at work in his thought to self-giving. At the social level, this imperative requires a fundamental concern that the rights of individuals be protected, and that their common good be promoted.<sup>56</sup> This common good is, in the words of Vatican II, "the entirety of those conditions of social life under which men [and women] enjoy the possibility of achieving their own perfection in a certain fullness of measure and also with some relative ease . . . ."<sup>57</sup> The state is an indispensable means by which the common good is promoted, and the rights of persons protected.

In order to promote the common good, the state must have authority; that is, its decisions must be normative for its citizens within appropriate limits. But that authority is conditioned upon the state's acting in accordance with the principles of subsidiarity and solidarity.<sup>58</sup> What the Pope writes about democracy in *Evangelium Vitae* is applicable to states generally: its value "stands or falls with the values which it embodies and promotes. . . . [V]alues such as the dignity of every human person, respect for inviolable and inalienable human rights, and the adoption of the 'common good' as the end and criterion regulating political life . . . ."<sup>59</sup>

## VI. TOWARDS A NATURAL LAW PERFECTIONIST PHILOSOPHY OF EDUCATION

These four theses, then, are deeply characteristic of the Pope's thought on moral, social and political matters. Of what consequence are they, however, for thinking about educational issues?

Some of these theses wear their implications on their sleeves. An obligation to educate is part of the obligation to care for the children a couple has co-created with God. As mentioned, John Paul describes the end of mutual self-giving in the marital act as oriented toward procreation *and* education. We saw further that a consequence of this was that education of chil-

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56. See POPE JOHN PAUL II, *SOLLICITUDO REI SOCIALIS: ON SOCIAL CONCERN* paras. 38-40 (1987).

57. SECOND VATICAN COUNCIL, *DIGNITATIS HUMANAЕ: DECLARATION ON RELIGIOUS FREEDOM* para. 6 (1965).

58. *CENTESIMUS ANNUS*, *supra* note 25, at para. 15.

59. *EVANGELIUM VITAE*, *supra* note 22, at para. 70.

dren was first and foremost an obligation and a right of families, specifically, the parents within a family.

This might seem, on the surface, to put the Pope within the camp of "parents' rights" thinkers, such as Charles Fried. According to Fried, "the right to form one's child's values, one's child's life plan and the right to lavish attention on that child are extensions of the basic right not to be interfered with in doing these things for oneself."<sup>60</sup> Fried is correct in holding that rights and duties to children are in a way extensions of rights and duties of their parents, as we have seen. But Fried's account neglects two important points. First, the parents' life plan, normatively, must include concern for the good of the child as central; that is what the vocation to parenthood is, if it is a vocation of love and self-donation to those children. There is no room in the Pope's account for the suggestion that children are in some way instrumental to parental fulfillment, where that fulfillment is conceived of as other than specifically parental.

Second, Fried's talk of parents having the right to "form" a child's life plan is somewhat misguided, given John Paul's understanding of personal vocation. Vocations are not made or chosen (although one chooses to accept one's vocation), and certainly not by someone other than the person whose vocation it is. Rather, a personal vocation is God's call to that particular person, a call that, if followed adequately, would bring to bear, and realize, all the person's gifts in a unity of commitment and action. Concern for the life plan of children is critical; but it must be a concern that each child discover, and possess the means to accept, the particular life plan towards which he or she is called.

This goes some distance towards answering the crucial question of the ends of education, and towards clearing up further, and sometimes more significant, misunderstandings than Fried's. Children's education is primarily about their own fulfillment; but that fulfillment is and can only be rooted in an orientation towards a life of service to genuine human goods, including the goods of others, and service to God. The particular form of life within which each child is called to perform these services is the child's vocation. Grisez summarizes the issue of the ends of education: "The point of education, then, is the child's human goodness and Christian holiness . . . ."<sup>61</sup>

This task cannot be accomplished without a host of subsidiary ends being met. Children must be instructed into the moral

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60. FRIED, *supra* note 7, at 152.

61. GRISEZ, *supra* note 20, at 691.

and religious life, and this must include sexual education. As a part of this education, children must be taught how to distinguish true from false claims, and genuine from illusory goods. This part of a good education is itself bound to be deeply countercultural in the consumeristic and erotically charged world in which we live. Further, children will not understand and make adequate use of the gifts they have been given unless they are allowed and encouraged to discover and cultivate those gifts. An adequate education will be attentive to much of the traditional curriculum, such as reading, writing, and arithmetic, the study of literature, history and the social sciences, both inasmuch as these skills and areas of knowledge are instrumental to the discovery of one's gifts and talents, and are in some cases constitutive of some such gifts and talents. Education will provide, to the extent possible, experience of nonacademic domains within which children might be expected to have gifts, such as music and sport. Children must also learn what it is to act in communion with others, and what it is to possess the virtue of solidarity. Finally, because children are, and will grow up to be, members of a state to the authorities of which they are rightly subject, children must learn what respect is due those authorities, and how they may be responsible citizens of their state. The ends that education serves are thus quite rich, given the premises laid down by the Pope.

Fried's account of parents' rights, while somewhat misguided, nevertheless draws attention to an important consideration. Each of these ends is in some sense somewhat formal; each requires further specification in order to generate adequate content for an educational program. But who is to provide that content? The Pope's answer is unequivocal: parents are charged with the responsibility of bringing their own understanding of these ends to bear on the formation of their children.<sup>62</sup> This clarifies two areas of confusion in contemporary philosophy of education.

The first concerns positions arguing for children's rights in opposition to Fried's account of parental rights. The second concerns an objection, mentioned earlier in this paper, to the sort of view articulated by the Pope, an objection centered on a concern for children's autonomy. I shall address both concerns together. Later, I shall address a related argument that opposes concerns of the state to parental rights.

In recent years, Fried's argument for parents' rights has been rebutted by arguments that urge more concern for both

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62. See *FAMILIARIS CONSORTIO*, *supra* note 28, at para. 40.

children's rights and interests. In some cases, those interests are asserted to be, in particular, interests in autonomy; the argument then put forth is that an education governed by the judgments of religious parents thwarts a child's interest in autonomy.

James Dwyer argues, in *Religious Education v. Children's Rights*, that there is a fundamental conflict between the interests of religious parents who send their children to religious schools (or who home school) and the temporal interests of their children.<sup>63</sup> While the courts have systematically favored the rights of parents over children, Dwyer thinks this is incompatible with a recognition of children as free and equal persons, protected by the equal protection clause of the Fourteenth Amendment.<sup>64</sup> Because he thinks many children in Fundamentalist and Catholic schools are harmed by an education that promotes the spiritual welfare (as understood by the parents) of children over their temporal welfare, he sees lack of state regulation as a failure to provide equal protection to children.<sup>65</sup> Allowing parents their free exercise of religion is permissible, argues Dwyer, only insofar as it does not negatively affect the interests of others, including their children, who have no say in the matter.<sup>66</sup>

Dwyer's list of the harms incurred in religious schools is somewhat tendentious. For example, he writes: "Female students in particular appear to internalize the messages of self-abnegation and the sinfulness of sex . . . . They find themselves unable as adults to act on desires, to take control of their sexual/reproductive lives, or to leave abusive marriages."<sup>67</sup> Dwyer's idea is two-fold: in addition to the claim that children's rights should entirely trump any claim to parental rights, he believes that the content of those rights should be determined entirely by consideration of what he calls children's "temporal interests,"<sup>68</sup> that is, interests that can be determined (by the state) in absolute independence of questions of religious truth. Other harms include educational deprivation and excessive disciplinary restraint.

At least two errors stand out in Dwyer's account. First, it is clear that no adequate assessment of children's well-being can separate out a concern for spiritual well-being from temporal well-being. Temporal interests, understood in isolation from spiritual and moral interests provide not just an incomplete picture of well-being, but a deformed picture. The picture is

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63. See DWYER, *supra* note 11.

64. *Id.* at 122-28.

65. *Id.* at 22-44, 131-35.

66. *Id.* at 69-71.

67. *Id.* at 23.

68. *Id.* at 82.

deformed because it is from the standpoint of moral and spiritual interests and well-being that aspects of temporal life can be judged as beneficial or not in the first place. Dwyer's example of sexual well-being is merely one case in point; a spiritual and moral understanding of sexuality does not just supervene on a healthy sexuality considered from a temporal perspective; rather, it defines certain such understandings as healthy and others as not. But Dwyer is certainly right in thinking that the state cannot adequately provide this wider framework for understanding sexuality. Hence John Paul's strong claim that "[s]ex education, which is a basic right and duty of parents, must always be carried out under their attentive guidance, whether at home or in educational centers chosen and controlled by them."<sup>69</sup>

The second point to make returns us to the Pope's ontology of the family. While it is true that children have rights against their parents—rights that are violated, for example, by in vitro fertilization, surrogacy, or artificial insemination by donor<sup>70</sup>—it is not so easy to reduce this to a conflict of interests, as traditionally understood. Children's interests and parents' interests reciprocally define each other. When genuine interests of the children related to education, such as those defined above, are violated, by their parents, as when parents neglect their educational responsibilities or positively abuse their children, this is hardly to be construed as in the interests of parents. Rather, parents fail themselves as parents just insofar as they fail their children. To frame failures of education in terms of conflicts of rights or interests thus entirely misconstrues the normative relationship between parents and children.

There is yet another misconstrual when the objection to parental authority over education is framed in terms of children's interests in "autonomy." Meira Levinson has developed one of the most impressive accounts of the relationship between the ends of the liberal state and children's education; she recognizes precisely the connection between political theory and education: "[L]iberals must integrate a conception of education into their political theory in order to ensure that liberal educational aims can be achieved in a manner that is theoretically consonant with liberal political aims as a whole."<sup>71</sup> And she identifies the value of autonomy—the capacity to "form, . . . revise, and to pursue a conception of the good"—as a central liberal end.<sup>72</sup>

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69. FAMILIARIS CONSORTIO, *supra* note 28, at para. 37.

70. See CATECHISM OF THE CATHOLIC CHURCH para. 2378 (2d ed. 2000) (stating that "In this area, only the child possesses genuine rights . . .").

71. LEVINSON, *supra* note 3, at 4.

72. *Id.* at 19.

The liberal state, Levinson argues, is justified in overriding parental rights for the well-being of the child when necessary to advance the cause of autonomy. But this is, on Levinson's account, a virtually universal necessity, given what it takes to make autonomy possible: "Part of the way in which a community advances individuals' exercise of autonomy is by providing a wide range of (often competing) examples of how to lead a good life."<sup>73</sup> This drives one of Levinson's most radical proposals: that those governing "compulsory liberal schooling" be shielded from the influence of parents, who would be allowed little or no control over the curriculum of their children's schools.<sup>74</sup>

A further aspect of Levinson's argument bears mention. Levinson discusses the relationship between educating for autonomy and civic education—education that helps children develop the skills and virtues necessary to be good citizens—and concludes that the two educational ends largely overlap. Central to this discussion is a claim made by Amy Gutmann: that civic education requires that children be taught not just tolerance for others but respect. Levinson agrees with this, but thinks that this tolerance will emerge from education for autonomy. Her reason for this is telling:

[I]n order to be tolerant, political and other liberals generally agree, it is necessary that we possess some measure of detachment from our own personal commitments. We can accept other people's conceptions of the good as reasonable—and therefore as worthy of respect and toleration—only if we are able to see our own commitments as in some way contingent. This sense of contingency demands in turn a level of intellectual, if not emotional, detachment from our own conceptions of the good . . . .<sup>75</sup>

And this detachment is precisely what is fostered by education for autonomy.

Now, from the standpoint articulated by John Paul II, this must be seen as deeply in error. Levinson's conception of autonomy comes dangerously close to the relativistic autonomism that the Pope rejected in *Veritatis Splendor* and elsewhere. Moreover, her idea that autonomy demands a detachment from one's fundamental commitments and a sense of their contingency inevitably makes truth relatively insignificant; for if one thinks that one's commitments are held because they are true, then it will be impossible to have this sort of detachment.

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73. *Id.* at 35.

74. *Id.* at 58.

75. *Id.* at 113–14.

But from a practical point of view, what seems most dangerous is the thought that freedom requires active and respectful exposure to a variety of ways of life so as to thwart the power of parents over their children. In our contemporary world, this is hardly liberating, but rather threatens to capture children in the attractions a materialistic, consumeristic, and eroticized culture of the sort specifically singled out by John Paul as to be avoided. In a "society shaken and split by tensions and conflicts caused by the violent clash of various kinds of individualism and selfishness," what children need to learn is a "correct attitude of freedom with regard to material goods," a "sense of true justice," and a "sense of true love, understood as sincere solicitude and disinterested service with regard to others . . . ."<sup>76</sup>

The conclusion is inescapable, then, that parents who genuinely raise their children for goodness and holiness are neither acting against those children's interests, nor acting for their own selfish interests; nor are they acting against the autonomy of the children. Rather, they are fostering genuine freedom, a freedom rooted in truth, and a freedom that liberates from the constraints of sin. In doing so, parents fulfill their own parental vocation and act within their rights and in accordance with their duties.

One final point should be made in concluding this section, however. As a moral matter, parental education of their children does require attention to children's autonomy and to their good, properly understood. It is certainly possible to educate children in accordance with a false conception of the good; and it is possible to educate children both in respect of a false, and of a true conception in such a way as to render those children incapable of giving full rational assent to what is taught. John Paul's teaching on matters related to children's education are primarily normative; they are directed to those whose teaching the Pope considered true, and were aimed at outlining their responsibilities and rights. Yet at the same time, the Pope clearly believed that it was part of the vocation of parenthood and the nature of the family that parents be the primary sources of the content of their children's education. This claim is not vitiated by the possibility that parents could make errors in regards to that content; but in locating this right in the hands of parents, the Pope likewise did not intend to absolve them of all possible errors they might make about that content.

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76. FAMILIARIS CONSORTIO, *supra* note 28, at para. 37.

## VII. THE STATE AND CHILDREN'S EDUCATION

The discussion of the previous section primarily concerned education and *morality*; it assessed the rights and obligations of parents, children, and the family itself from a theologically informed moral perspective. But the discussion inevitably and repeatedly bumped up against the political question: what is the role of the state in the provision of children's education and the determination of the content of that education. In this section, I sketch an answer to this question and contrast it with what I take to be the dominant competing model among liberal theorists. Inevitably, the discussion will leave much more to be said; I hope to pursue this task in subsequent work.

What is the liberal model of the state's relationship to education, its content, and its provision? I believe it looks something like this. No doubt parents have some legitimate educational ends. For example, children need to be socialized into the family, and liberals generally acknowledge that no critical reflection of any sort can go on unless children have some background standpoint from which to begin rational reflection.<sup>77</sup> But the state also has legitimate ends, which liberal theorists typically describe as "public." Those public ends are related to the needs and ends of the liberal state itself, such as the perpetuation of that state's existence and values. And, as Stephen Macedo says, "[t]here is no reason to think that liberal citizen[ship] comes about naturally . . . ." <sup>78</sup> Hence, for Macedo, "[s]uccessful constitutional institutions must do more than help order the freedom of individuals prefabricated for life in a liberal political order: they must shape the way that people use their freedom, and shape *people* to help ensure that freedom is what they want."<sup>79</sup> The public education of the young is the means by which this shaping will be accomplished. A similar view is put forth by Amy Gutmann, and a related, though ultimately more modest claim, by William Galston.<sup>80</sup>

A slightly different, but related, model frames the relation of the state to children's education in terms of children's welfare and interests, but understands that welfare and interests in terms that are intrinsically related to the ends of the state. On Levin-

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77. See LEVINSON, *supra* note 3, at 91–99.

78. Stephen Macedo, *Transformative Constitutionalism and the Case of Religion: Defending the Moderate Hegemony of Liberalism*, in CONSTITUTIONAL POLITICS: ESSAYS ON CONSTITUTION MAKING, MAINTENANCE, AND CHANGE 167, 169 (Sotirios A. Barber & Robert P. George eds., 2001).

79. *Id.* (emphasis added).

80. See generally GUTMANN, *supra* note 2; GALSTON, *supra* note 8.



son's account, children are certainly better off for being autonomous; she is a perfectionist liberal.<sup>81</sup> But autonomy is a central end of the liberal state, and it is the liberal state's job, *inter alia*, to ensure that its citizens get to enjoy as adults the ends the state exists to pursue. Likewise, for Harry Brighouse, the liberal state exists, among other reasons, to promote equal opportunity among its citizens.<sup>82</sup> But this end cannot be attained by leaving education dominantly in the hands of the parents, so it is a specially state-specific end, to be promoted through common, and heavily regulated private, schooling.

An important implication of both approaches concerns the question of means. As I indicated early in this paper, I suspect that theorists who take this "statist" approach<sup>83</sup> ignore home schooling because it is simply incompatible with their views. But they do not shy from seeing parents who home school and parents who send their children to unregulated private schools as basically opting out of the public ends of education, and hence voluntarily opting out of any support that the state could offer. For state support, including financial support, is predicated on these views, on education serving precisely those public ends. Correlatively, for those liberal theorists who advocate some form of school choice, as is becoming more common, willingness on the part of the state to provide money to a private school must go hand in hand with a willingness on the part of the school to accept considerable state regulation. Indeed, choice is seen by many as a way of domesticating otherwise illiberal religious schools. Since such regulation is unlikely to be successful where home schooling is concerned, a further, typically unspoken, implication is that home schoolers are entitled to little or nothing in terms of state support.

Brighouse identifies a "deep error in standard thinking about public schooling: the public goods argument treats children as a resource for society . . . ."<sup>84</sup> But even Brighouse's approach, as with liberal approaches generally, seems to start with the state: what needs does the state have, or what ends are special to the state, or what is the state best suited to pursue as regards children? Brighouse writes, "[T]he proper approach treats [children] as vulnerable wards whose interests must guide

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81. LEVINSON, *supra* note 3 at 14–22.

82. *Id.*

83. See generally Richard W. Garnett, *Taking Pierce Seriously: The Family, Religious Education, and Harm to Children*, 76 NOTRE DAME L. REV. 109 (2000) (discussing "liberal statism" and education).

84. BRIGHOUSE, *supra* note 3, at 45.

society's approach to them."<sup>85</sup> The appropriate standpoint is that of society or the state, adjudicating between the competing interests of children and their parents. By contrast, the model that I believe can be worked out from John Paul's work clearly begins with families, and introduces the state as necessary in respect to the same ends that families rightfully pursue.

The model itself, it must be stressed, is not intended to be historically accurate;<sup>86</sup> it is essentially normative, but it attempts to get at a normative understanding of the state and education by showing how a reasonable choice to involve the state in education might be made. At the basis of the model is the right and duty of parents to be the first and primary educating community, a position already defended. How does the state, then, become involved *at all* in the provision of education? A crucial paragraph of *Familiaris Consortio* sets out the beginnings of an answer:

The State and the Church have the obligation to give families all possible aid to enable them to perform their educational role properly. Therefore both the Church and the State must create and foster the institutions and activities that families justly demand, and the aid must be in proportion to the families' needs. However, those in society who are in charge of schools must never forget that . . . parents have been appointed by God Himself as the first and principal educators of their children and that their right is completely inalienable.<sup>87</sup>

The state becomes involved because, across a variety of situations, it is to be expected that parents will be unable to fulfill their obligation *or* because there is some reason to think that they will be *better* able to perform their role properly if the state provides some assistance.

Cases of the first sort are the most obvious: some children are unfortunate enough to have no parents, or incapacitated parents, or uncaring parents, or parents who for some other reason are unwilling or unable to provide the necessary education for children. Insofar as the state exists to promote the common good of its citizens—the conditions necessary for its citizens to

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85. *Id.*

86. It is certainly not accurate as regards the establishment of the common or public school system in the United States. That system of public education was primarily concerned to serve a need of the Protestant establishment, whose needs were themselves generally identified as the same as the state's. See Garnett, *supra* note 83, at 122–23.

87. FAMILIARIS CONSORTIO, *supra* note 28, at para. 40.

flourish—it has an obligation to provide education to such children, just as it has an obligation to provide health care.<sup>88</sup>

But more interesting, I think, is something like the following, which would justify a more extensive program of public schools. Even competent, well-meaning parents might think of themselves as, in regards to certain subjects, or at certain ages, not the best possible providers of an education for their children. They might also recognize other family needs, such as the care for the very young, as in some tension with the educational needs of older children. And as children grow, their educational needs increase, and the difficulty of providing everything that parents consider beneficial to their children likewise increases.

Under such circumstances, it seems reasonable for parents to pool their resources to provide an education that will be more adequate and more widely distributed across children from a number of families. Parents will desire, in other words, to establish schools. But because the creation of schools requires considerable social coordination, and coordination requires authority, a good deal of the responsibility for establishing, maintaining, and regulating schools will reasonably be given to the state. On the other hand, where religious institutions are able to provide the (typically less extensive) coordination and authority necessary for setting up sectarian schools, parents who desire religious schooling will typically support such initiatives.

Now this is just a model, but it is instructive, for it suggests the possibility of viewing institutional schooling as, right from the beginning, established to help parents in their mission to educate their children. It makes neither the state's needs, nor even the Church's needs the determining factor in the decision to establish institutionalized schools. However, in response to the collective decisions that different parents would make, one can see both church and common, or public, schools arising out of the collective needs of parents and their decision to coordinate the satisfaction of those needs. Schools as such, on this model, are a response to the demands of the common good and are primarily in service to the vocational demands of parenting. To reiterate, from *Familiaris Consortio*, "[t]he State and the Church have the obligation to give families all possible aid to enable them to perform their educational role properly."<sup>89</sup>

This model has implications for how we think of the educational content of schools, and for how we think of school funding. I start with the issue of funding first.

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88. Discussed in further detail *supra* Part V.

89. *FAMILIARIS CONSORTIO*, *supra* note 28, at para. 40.

On the liberal models, schools serve public ends, ends for the pursuit of which the state may, by right, demand taxes from citizens. Because the ends are public in the liberal sense, it is right for the state to demand these taxes from everyone and wrong for parents who opt out of public schooling to ask for their contribution back. As Macedo says, for parents to resent having to “pay twice”<sup>90</sup> “seems to miss the whole point of a *public* educational policy.”<sup>91</sup> And again, if public funds are used to aid private schools, this will come with a significant trade off in terms of regulations that ensure that the public ends of education are being pursued.

But on the model I have described, which I shall call the subsidiarity model, taxes are a means by which the state helps parents to do together what they find it difficult to do separately. Given this, it does seem unfair for parents to pay twice; those who send their children to private schools or who home school are spending money for precisely the same purpose that parents who send their children to public schools are—to fulfill their parental roles as regards their children’s education. They should not, while doing so, be asked to contribute to a different scheme for the provision of education.

This might seem to imply that only parents with children in public schools should pay taxes that go to education. But this does not follow. The collective decision to pool resources for the provision of education is an intergenerational decision, a response to a rights claim, and a decision that does have genuinely public consequences and benefits. Together, and perhaps separately, these reasons justify widespread taxation for education.

The intergenerational nature of the decision matters, because while not all persons are parents charged with educating children, all adults have been children whose parents, or wards, provided them, through the state or in some other way, with their education. By paying taxes, childless adults pay back a debt incurred when a general social decision was implemented. This is a matter of justice.

The decision is a response to a rights claim because all children do have a right to an education; education is necessary for children to be able to flourish, and parents typically have the obligation to provide this education as we have seen. But in the

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90. Stephen Macedo, *Equity and School Choice: How Can We Bridge the Gap Between Ideals and Realities*, in *SCHOOL CHOICE: THE MORAL DEBATE* 51, 52 (Alan Wolfe ed., 2003).

91. *Id.* at 54 (emphasis added).

cases of failure on the part of parents to provide, then the obligation devolves to others, as a Good Samaritan-type duty. In the absence of a system of state education, these others might be neighbors or near relations. But ad hoc and one time solutions to questions concerning the obligation to educate children whose parents cannot or will not educate them are likely to be arbitrary and unfair. The decision to coordinate the provision of education by means of state aid can mitigate this unfairness by distributing the financial burdens of education clearly and fairly across society, so that everyone pays for those who would otherwise fail to receive an adequate education.

Finally, no one disputes that an adequately educated populace generally provides widespread public benefits. Civic, family, economic, and intellectual life are all more likely to flourish when the population is well educated; society at large is thus benefited by adequate education, as is the state.

It is important to note, however, that the state benefits because individuals, and their families, and the society that they constitute, benefit. What is of benefit to the state is not understood prior to, nor independently of, an understanding of what benefits the citizens of the state. Nor is education to be conceived of as a means to a state benefit, which has been thus independently understood. Rather, in benefiting children, families, societies, and society as a whole, the goods of the state are thereby promoted. In understanding the public good by which the state is benefited, a bottom-up, rather than top-down approach is taken; the two approaches are characteristic of the major difference between the statist and the subsidiarity models.

It is difficult to resist the conclusion that on the subsidiarity model, private and home schooling should be entitled to the same sort of financial assistance that public schooling is entitled to. Parents who send their children to private schools or home school are not opting out of the particular public purpose for which taxes are levied and public schools established; they really are paying twice. So the means question is settled in favor of school choice, whether implemented by a vouchers scheme or otherwise.

The model also has implications for the content of education, both private and public. These implications may be seen by looking at a similarity between the liberal view and the view I have described in this paper. Do parents who privately educate their children have obligations similar to those identified by liberal theorists? Surely they do: such parents have a moral obligation to provide some education in civic virtue, so that their children grow up to contribute adequately to the political pro-

cess and respect the rightful claims of political authority. They must also be taught, as a matter of moral obligation, to respect other persons, even when they consider the views or lifestyles of those others to be false or pernicious. And they ought to be brought up with an understanding of the responsibilities of freedom.

But this is quite far from claiming that such parents ought to teach the "respect" for the views of others that requires "detachment" and a sense of the "contingency" of one's own views. It is quite far from "favoring tolerant and ecumenical beliefs and practices, and thereby . . . reforming religion to suit the political project of liberal democracy."<sup>92</sup> It is quite far from promoting autonomy, or even a commitment to reproducing a virtuous liberal society. Some of these demands, understood independently of comprehensive or political liberalism, are no doubt reasonable moral demands on parents, as the preceding paragraph indicated. But the understanding of, say, autonomy demanded by liberalism cannot be foisted upon parents who educate at home, or through private schools, as moral or political requirement.

Moreover, and importantly, what moral demands are appropriate, as regards education for "public" or "liberal" ends, also seem not to be legitimately imposed as *political* demands. That is, given the role of the state as a help—as a cooperating agent in the attempt by parents to fulfill their vocational responsibility—and given the location within parents, following from that vocational responsibility, of the right to determine, within broad parameters, what counts as fulfilling that responsibility, it follows that the state can impose neither the *false* moral and political demands of liberal theory on such parents who educate privately, nor even the *correct* moral demands. Some parents will, in good conscience, err in their determination of what their children must be taught as regards allegiance to the state, to public authority, or as regards civic virtue. While the children of such parents will not be best served by their parents' choices, those choices ought to remain protected from state intrusion.<sup>93</sup>

This raises, however, the following difficulty, with which I shall conclude this section. Once we divide the population of children into two groups—those whose parents choose to educate them in private schools or at home, on the one hand, and those children who are educated in public schools—for whatever reason, an asymmetry threatens to arise. If the former set of children are protected from the thick concerns of liberal statecraft

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92. Macedo, *supra* note 78, at 173.

93. See generally Garnett, *supra* note 83 (stating a similar claim).

and its educational ends, can it be fair for the latter set of children to become the exclusive objects of the liberal state's concern with inculcating civic virtue in anything but a relatively minimal sense? Can such children really be now singled out for an education for autonomy in the liberal sense? Can such children, exclusively, be exposed to a wide variety of forms of life and taught mutual respect for them and their adherents?

It would seem that this asymmetry is prejudicial to parents and children unless there is widespread approval, school by school, on the part of parents, *and* very permissive opt out possibilities for dissenting parents of the sort that were denied in *Mozert v. Hawkins County Board of Education*.<sup>94</sup> The *ends* of public education, given the primarily subsidiary function of the state vis-à-vis parents, ought not to be more robustly construed when children are under the control of the state for six to ten hours a day than is reasonable for the state to enforce with respect to children who are not under its control. Otherwise, we seem to have one of the "intolerable usurpations of society and the State" against the family that John Paul II warned against in *Familiaris Consortio*.<sup>95</sup>

#### CONCLUSION

The approach I have sketched to the issue of children's education in this essay is, admittedly, merely a sketch. But I hope to have shown how attention to the thought of the late Pope John Paul II can point us in the direction of a perfectionist natural law theory of education, and how this theory should situate itself in relation to dominant liberal theories of education. Further work on such a theory is essential for reasons I sketched at the beginning of this paper. John Paul famously warned that we lived in a time of crisis, a crisis he characterized as a culture of death. That culture is one of abortion, euthanasia, consumerism, the eclipse of God, the loss of truth, and many other ills. From different perspectives, not mutually incompatible, different issues can seem to be the most important, or the cornerstone issue, in the architecture of the culture of death.

But from the perspective of the present, looking to the future, surely dual issues of education and the family have a claim to be, together, *the* central issue. For it is only through education, adequately understood from within the family, and adequately protected and fostered by the state, that upright fami-

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94. *Mozert v. Hawkins County Bd. of Educ.*, 827 F.2d 1058 (6th Cir. 1987).

95. *FAMILIARIS CONSORTIO*, *supra* note 28, at para. 46.

lies will fulfill their mission to society, a mission the Pope described in *Familiaris Consortio*:

The family has vital and organic links with society, since it is its foundation and nourishes it continually through its role of service to life: it is from the family that citizens come to birth and it is within the family that they find the first school of the social virtues that are the animating principle of the existence and development of society itself.<sup>96</sup>

It is thus by consideration of the nature of the family that we understand the nature of education; but only by means of education so understood that the family, as it is meant to, can continue to fulfill its mission, a mission central to promoting a culture of life.

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96. *Id.* at para. 42.



