
CONSCIENCE IN THE CURRICULUM, NOT OPTED OUT OF IT

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A small, but growing, number of states have legislation that protects the conscience of parents by allowing them to opt out of teaching practices and content.¹ Most notably, HB 542 in New Hampshire allows parents to opt their children out of the teaching of any material or through any pedagogical style that they find “objectionable” to their conscience, though parents are not required to provide a reason for objecting and their identities can be shielded from public record if they make such a request. Also, at the expense of the parent, the teacher or school must construct an alternative curriculum that is suitable to the parent while still meeting state requirements in the relevant subject area.

Related laws in other states include Kentucky, whose longstanding Bekner amendment and Bill of Rights Section 5 guarantee that no man shall be “compelled to send his child to any school to which he may be conscientiously opposed;”² Texas, which allows parents to opt out of any class or activity that “conflicts with a parent’s religious or moral beliefs;”³ and Missouri, which recently decided that no student shall be compelled to take part in any “academic assignments or educational presentations that violate his or her religious beliefs”—beliefs that admittedly typically come from parents.⁴

These laws should be understood within their judicial context. For while the courts have consistently upheld the right of parents to control the upbringing of their children, in part through choosing a school for them, “they do not have a fundamental right generally to direct how a public school teaches their child.”⁵ Despite this, parents have repeatedly relied on the *Yoder* and *Mozert* decisions to call for opt-out procedures in their schools, most notably beginning in the 1970s with sex education. More recently, rather than rely on judicial decisions after-the-fact, parents have become active in shaping

¹ Thank you to my graduate assistant, Amy Rector-Aranda for her help in preparing this manuscript.

² Kentucky Bill of Rights, Section 5, <http://www.lrc.ky.gov/lrcpubs/tr137.pdf>. See also James C. Carper and Thomas C. Hunt, *The Dissenting Tradition in American Education* (New York: Peter Lang, 2007), 190.

³ KJ Dell’Antonia, “When Parents Can Opt Out of School Curriculums,” *Motherlode* (blog), *New York Times*, January 17, 2012, <http://parenting.blogs.nytimes.com/2012/01/17/>.

⁴ Valerie Strauss, “The Real Wall of Separation in Public Schools,” *The Answer Sheet* (blog), *Washington Post*, September 6, 2012, <http://www.washingtonpost.com/blogs/answer-sheet/>.

⁵ *Blau v. Fort Thomas Pub. Sch. Dist.*, 401 F.3d 381 (6th Cir. 2005), 395–96.

legislation that allows them greater control over the content and delivery of the curriculum, as was the case with the New Hampshire law.

These laws challenge educational philosophers to reconsider the definition of conscience, including its understanding as an educational product and its role in shaping curriculum. In this paper, I ask: What does conscience mean within the context of school curriculum and how is conscience itself best developed? How is enacting the conscience of parents destructive to the public ends of education as well as the private consciences of their children? I will tease out the seemingly paradoxical claim that a commitment to the liberty of individual consciences is a commitment to the public good. Within this understanding, individuals are able to flourish not when they are shielded from all conflicting views, but when they are exposed to and engage with a multiplicity of views as members of a public concerned with communal wellbeing and problem solving. A conscience claim may then be seen as a call to negotiation and exchange, rather than a personal withdrawal.⁶

I will question whether the laws rightfully enable the parent to safeguard one pre-selected vision of the good life over the child's opportunity to learn about multiple and conflicting visions. I will examine the impact of classrooms being deprived of certain viewpoints due to conscience legislation, especially those that run counter to mainstream content. Finally, I will consider how this move jeopardizes future production of a deeply pluralistic public capable of interacting across differences of belief.

DEFINING CONSCIENCE

Conscience is commonly understood to be an internal personal conviction held by an individual and often wielded against, or in spite of, the outside world. It is an "inward domain," which John Stuart Mill believes contains "liberty of thought and feeling; absolute freedom of opinion and sentiment of all subjects, practical or speculative, scientific, moral, or theological."⁷ Freedom of conscience is protected in America as central not only to our tradition of rugged individualism and the pursuit of happiness, but to the very definition of a person him or herself, as one who is distinct from others and holds his or her own views independently.⁸ Conscience, however, should not be so understood.⁹ Framing it as such and reinforcing it through

⁶ Paul Strohm, *Conscience: A Very Short Introduction*, (Oxford: Oxford University Press), 88.

⁷ John Stuart Mill from *On Liberty* (1859), quoted in Paul Strohm, *Conscience: A Very Short Introduction*, (Oxford: Oxford University Press, 2011), 56.

⁸ Roger Williams, who substantially influenced the views of settlers and early American religion, viewed conscience as the man himself. See Martha Nussbaum, *Liberty of Conscience* (New York: Basic Books, 2008), 52.

⁹ As pointed out to me by a reviewer, Josh Corngold wisely recognizes the potential problems of conflating two distinct concepts in ways that reduce the negative aspects of a concept or highlight the positive aspects of another interpretation. It is possible that

laws impacting our schools affirms not only a problematic understanding of the concept, but also invites serious problems to public life and education.

Beginning with its linguistic roots, conscience is better understood in a collective and relational sense as shared knowledge:¹⁰ “The word is the direct descendant and the exact cognate of the Latin *conscientia*, which is the word for knowledge, *scientia*, to which is added the prefix *with*. Thus it means to know along with others.”¹¹ Conscience, as normed and “reflexive judgment about things that matter”¹² is something we develop through interactions with others, hold alongside others, and engage in ways that impact others. It is not merely an internal construct and is certainly not one that we develop or enact only within a sealed off, private realm, as suggested by more common interpretations of the concept.

Rather as Robert Vischer rightly argues, “Conscience, by its very nature, directs our gaze outward, to sources of formation, to communities of discernment, and to venues for expression.”¹³ It is false to believe the conscience is narrowly internal. Our conscience does not generate and process ideas solely on its own or without external influence. Instead, conscience pushes us to engage with the world around us, to reflect on our position within it, and to construct ways to disseminate our views effectively within it.

Conscience is shaped by membership in one’s community or family, and through the acquisition of norms as one learns about its history, beliefs, and practices.¹⁴ This is not to say that conscience is merely conformity to cultural norms or beliefs. Rather, conscience entails processing, questioning, and challenging those received norms and beliefs while constructing and testing out alternatives alongside others.

Membership in a significant group is key to conscience, and it is the group that often becomes the benefactor and object of conscience, for “it would have to be membership of a sort that makes reflexive judgment possible, a membership in the light of which one can critically judge one’s own performance and that of others.”¹⁵ It is our communities and our memberships

some of my work here verges on this in terms of defining conscience, though I do my best to show otherwise. See Josh Corngold, “Egregiously Conflated Concepts,” in *Philosophy of Education 2005*, ed. Kenneth R. Howe (Urbana, IL: University of Illinois Press, 2005).

¹⁰ Thomas Hobbes argued for this relational understanding of conscience in his *Leviathan* (1651).

¹¹ Richard G. Stevens, “Conscience and Politics,” *Teaching Political Science* 11, no. 4 (1984): 171.

¹² Thomas F. Green, *Voices: The Educational Formation of Conscience*. (Notre Dame, IN: University of Notre Dame Press, 1999), 21.

¹³ Robert Vischer, *Conscience and the Common Good* (New York: Cambridge University Press, 2009), 4.

¹⁴ Green, *Voices*, 24 and 69.

¹⁵ *Ibid.*, 69.

within them that shape not only the content of our beliefs, but also encourage us to exercise them for the good or improvement of the community to which we belong. Or, in the words of philosopher of education Thomas Green, “Conscience is private only in the odd and impoverished sense in which pain is private, but conscience, nonetheless, is shaped only within some membership and for the sake of life within the membership so formed.”¹⁶

In this regard, conscience is a concern of education insofar as schools are tasked with improving individuals’ judgment of societal norms in preparation for their functioning as citizens within that society. While not reducible to civic engagement or interchangeable with political dissent, which entails an intentional, inquiry-based action that extends beyond the realm of knowledge construction and use via conscience, conscience is a faculty for engaging with others in one’s community.¹⁷ It should be used to build, exchange, and challenge collective knowledge.

Admittedly there may be profound moments of incommensurability between ourselves and others. Indeed parents may find the content being taught in schools utterly opposed to their worldviews or moral beliefs. Some may even want to protect their children from the pressures of conforming to beliefs so counter to those of their family through the process of assimilation and group think often fueled in our schools. Sometimes these responses are seen as too exceptional, as if the parents hold strange views that should not be accommodated by the schools, and in some cases, they may be. But in others, such a response may be a deeply felt and rationally justified reaction to incorrect or unjust content, content perhaps suggested by a school board or teacher who may actually be the one holding the extreme or wrongheaded view. This situation is perhaps akin to some parents in Texas who strongly reacted to the state’s reworking of the history standards just a few years ago, including changes that some saw as racist or harming the historical account of America. Some wanted to remove their children from the public schools so as to avoid such teachings.

In the case of public schooling, conscience can help to guide our moral stands, aid us in constructing knowledge together, and give us a sense of which content is best suited for the curriculum, at times overcoming differences and in other times providing justification for them. Conscience claims, then, should be calls to negotiation and exchange, rather than bases for personal withdrawal.¹⁸ This view of conscience encourages even strongly opposed parents to keep their children in the classroom, learning about views different from their family, but also developing the skills to defend and alter those views in light of new material introduced. It encourages parents and children to actually engage more deeply with the counterviews they already hold while

¹⁶ Ibid., 70.

¹⁷ See my *Teaching for Dissent: Citizenship Education and Political Activism* (Boulder, CO: Paradigm Publishers, 2012).

¹⁸ On this point, see Strohm, *Conscience*, 88.

being exposed to those held more dominantly in the public school, thereby providing richer fodder for intellectual development and cultural understanding. Finally, such interactions can expand and diversify the conversations that form conscience in schools, preventing them from perpetuating problematic group think in homogeneous ways. However, what we see happening in HB 542 is that conscience is used to preclude interaction and the learning process, including learning the norms of one's community and honing the necessary skills to judge them.

Using HB 542 to petition objections based on parental conscience places children in a tenuous position within our attempts to balance the private and public natures of both education and conscience. While HB 542 conforms to the respect-conscience principle described by Martha Nussbaum, which protects the conscience of individuals operating in public domains,¹⁹ removing students from the classroom may prevent them from receiving a full and thorough education, and may undermine the goal of a rich and inclusive public. Further, its enactment treats conscience as solely a private matter that should be protected, rather than a public interest that should be nurtured, thereby not only confirming a faulty view of conscience, but also jeopardizing its development for the sake of both the personal and public good, as I will detail in the next section.

PUBLIC EDUCATION AND THE PUBLIC ASPECTS OF CONSCIENCE

Certainly public schools fulfill important private needs, such as learning trades and skills that enable one to lead an economically viable life. But public schools bear the much larger burden of fulfilling the public interest, which includes cultivating citizens who can work together to solve social problems and construct mutually beneficial ways of communal life. These public interests, which bring together shared ways of living in political, cultural, and economic systems, are often grouped together into the notion of a public good. Though not always successful, the public school works to determine and enact this public good.²⁰ In much the same way that conscience is formed through the process of normation within a community, and then later provides the skills of judgment needed to critique and improve that community, public schools enculturate children into accepted public ways of living, while keeping those ways open to debate and scrutiny as children learn about them.

Philosophers of education Chris Higgins and Kathleen Knight Abowitz argue that the “public” of public schools is best seen as a verb—an action that entails creating common worlds, often arising from mutually-beneficial problem solving or a bringing together of different viewpoints

¹⁹ Nussbaum, *Liberty of Conscience*, 22.

²⁰ Though I have chosen to use it here, Deron Boyles fairly convincingly troubles the term “the public good” in “The Privatized Public: Antagonism for Radical Democratic Politics in Schools?,” *Educational Theory* 61, no. 4 (2011): 434.

around common concerns.²¹ Creativity and teamwork is best developed in schools that engage children and community members with competing worldviews in dialogue. Such conversations and their overall aim of constructing the public good, however, are shortchanged when some children are removed due to parental objections. The public good thrives upon multiple voices coming together, including those that express minority views—the types of views that many parents are themselves trying to protect when they claim an objection to curriculum based on conscience. Those beliefs should be exchanged, enhanced, and challenged in the marketplace of ideas. A commitment to the liberty of conscience is a commitment to the public good, acknowledging that individuals are able to flourish not when they are shielded from all conflicting views, but when they are exposed to and engage with a multiplicity of views.²² Insofar as the public nature of schooling means actively working together to create common worlds, conscience is a key faculty for achieving that end.

Americans increasingly seem to select friends, neighborhoods, and media that are already aligned with their views or experiences.²³ Doing so produces a fragmented population with pockets of beliefs and practices. While not necessarily a bad thing, such isolation prevents people from coming together across differences, or from having their differing beliefs challenged. Distinct communities may forego the reflexive judgment of conscience that members employ to question or improve the beliefs and practices of the community, thereby risking their continued health.

It is alarming that education laws further shield such exchanges by allowing parents to remove their children from material or ideas that counter their own beliefs. This is not only potentially harmful to the individual student and a thriving public, but it also subjects the curriculum to the risk of being watered down. Class material that is seen as potentially objectionable might be weeded out preemptively so as to avoid parental complaint, thereby removing complex and controversial curricula through which children come to appreciate nuance, difference, and debate around matters of importance in society. To achieve public as a verb and to work toward the public good, schools must introduce and engage a variety of worldviews.

One important reason for exposing children to an array of worldviews is that such exposure provides children the opportunity to choose which life and beliefs seem most appealing to them. This, of course, is central to the idea of being an autonomous liberal chooser, a notion already well established in philosophy of education circles. While certainly a worthy goal on its own, it

²¹ Chris Higgins and Kathleen Knight Abowitz, “What Makes a Public School Public? A Framework for Evaluating the Civic Substance of Schooling,” *Educational Theory* 61, no. 4 (2011): 365.

²² Vischer, *Common Good*, 45.

²³ Andy Frey and Michael Wilson, “The Resegregation of Public Schools,” *Children and Schools* 31, no. 2 (2009): 79–86.

gains significance when considered in terms of conscience, where the public and private are interrelated. As the development of conscience involves becoming familiar with the practices of a community as well as their justifications and problems, it is a public endeavor that serves largely public ends and provides the individual with the know how to live comfortably within the society.

At the same time, developing conscience entails honing skills of perception and judgment about one's community and one's position within it, a private matter of reflection but one which, when acted upon, can have significant public impact. In the case of HB 542, the individual beliefs of the parent are prioritized over the child's development of individual beliefs and public critique. The law enables parents to safeguard their selected vision of the good life at the expense of the child's ability to learn about multiple and conflicting visions and, perhaps more importantly, to learn how to appraise the dominant views of one's own family or community.²⁴

Additionally, when parents opt out of curriculum via HB 542 they evade public life as represented in the democratically constructed curriculum. Moreover, by removing their child from the classroom, they miss the opportunity to strengthen their communities; for if the curricular material is truly wrong or unjust, parents should be concerned about all children being exposed to it. They should work to challenge the use of the material through the public political process, including speaking out at school board meetings, raising awareness about perceived problems, and gathering coalitions of parents with similar concerns.²⁵ Rather than jeopardize the public wellbeing by opting individuals out as a supposed matter of conscience, these approaches engage democracy, enact conscience, and protect public schools from excessive demands for individual alternatives and litigation.

EDUCATING CONSCIENCE

When the relational nature of conscience is emphasized, and its role in sustaining and improving the public good is appreciated, one sees that conscience should be nurtured in schools. Through education, the norms of one's community and skills of judgment that compose conscience take shape. Conscience is developed and strengthened in moments of debate, deliberation, and exposure to new ideas. Green describes good education this way:

²⁴ For more discussion of if and when the rights of the child should trump those of the parents or the state, see James Dwyer, *Religious Schools v. Children's Rights* (Cornell University Press, 1998).

²⁵ Admittedly, HB 542 was itself the result of political action, action that was spearheaded by parents angered by their children reading *Nickel and Dimed*. But the type of political recourse they sought is problematic insofar as it promotes the type of isolation that I argue against here.

The aim is not to calm the quarrels of conscience, but to encourage their enlargement and their elaboration. The aim must be to make those quarrels more incisive, more rational, more passionate, more perceptive, more discerning, and more expansive in their scope than is likely to result from any education by chance, drawing neither upon the voice of reason nor upon the practices of custom and tradition.²⁶

Hence education for the development of conscience is a careful and intentional endeavor that may sometimes engage controversial topics and heated debate. Given that education laws like HB 542 might encourage teachers to avoid controversial topics and the debates they raise, and because parents may prevent their children from being exposed to new or contrasting ideas, the bill may actually limit the development of conscience.

Clearly, however, schools are already tasked with significant obligations that many struggle to meet: from more minor aspects of inculcating good character to more major expectations of demonstrating mastery of key subjects. Parents may rightly be skeptical that the type of rich and robust education for conscience that I describe here is actually occurring or even that it could possibly occur. Indeed, it is a lofty goal. But I would encourage such skeptical parents that, rather than first removing their child from what may be poor or missing conscience education, they inquire into the classroom process, identify ways they can support excellent teaching of debate and deliberation, locate stakeholders in the community with views similar to and different from their own to contribute their resources to the classroom conversations, and to take part in other supportive ways. If, after these efforts, teaching is still subpar or morally problematic, parents may then be better justified in removing their children from the classroom on the grounds of conscience, especially if they are able to provide alternative settings that better develop conscience, which may include community clubs, religious organizations, or other groups.

Some parents, even those who invoke HB 542, may argue that schools should merely tell children that conscience is important and all Americans are entitled to freely exercise their own. However, this approach does not go far enough, for it cannot sufficiently overcome the teaching of parents who insist that their child learn only one “right” way to live. Nor are those parents’ children likely to appreciate that the consciences of others are of equal value to their own.²⁷ Children need to see how others live, to see the humanity in it, in order to come to value the freedoms of conscience. Removing children from moments when these difficult matters play out in classrooms further prevents them from coming to respect the liberty of conscience for all people in public spaces.

²⁶ Green, *Voices*, 61.

²⁷ Rosemary C. Salomone, *Visions of Schooling: Conscience, Community, and Common Education* (New Haven: Yale University Press, 2002), 333.

CONCLUSION

HB 542 may seem to some to be an unique and atypical law, but it is aligned with legislation and Republican political platforms being introduced across the country, each aiming to protect the views of parents and to increase their choice and oversight of schools.²⁸ To critique these bills and to guard against their negative ramifications on our schools, philosophers of education can aid in defining key terms like conscience, revealing its public dimension and its role in the health of individuals and society. Moreover, we need to make a case for schools as spaces to nurture conscience and the larger public good it serves.

²⁸ One example is the Republican platform released in Texas in 2012, which states the party's opposition to the teaching of critical thinking skills that "have the purpose of challenging the student's fixed beliefs and undermining parental authority." Republican Party of Texas, "2012 State Republican Party Platform," 12, http://s3.amazonaws.com/texasgop_pre/assets/original/2012Platform_Final.pdf.
