RETHINKING THE BOUNDARIES AND BURDENS OF PARENTAL AUTHORITY OVER EDUCATION: A RESPONSE TO ROB REICH'S CASE STUDY OF HOMESCHOOLING

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ABSTRACT. Rob Reich's claim that fruitful discussions about the balance among state, parental, and children's educational interests would benefit by contemplating the widespread phenomenon of homeschooling is a welcome suggestion. His policy recommendations, however, place an unjustified burden on parents to show the adequacy of homeschooling arrangements instead of placing the burden on the state to clarify commonly agreed-upon outcome measures. In this essay, Perry Glanzer argues that Reich places the burden on parents by overstating the threat that the freedom given to homeschooling parents represents to the interests of liberal democratic states and children. Reich, Glanzer contends, also underestimates the state's tendency to use regulation to weaken the civil society essential for liberal democracy. To counter Reich's proposal, Glanzer offers recommendations regarding the proper limits of parental authority in education in general and in the case of homeschooling in particular.

In *Bridging Liberalism and Multiculturalism in America*, Rob Reich devotes significant attention to the boundaries of parental authority over education. The central question Reich explores is a common one: "When conflicts between the parents and the state, or cultural groups and the state, over educational authority arise, how should these be decided?"[1] Yet, in contrast to previous writers on this topic,[2] Reich spends little time on the 1972 Supreme Court case *Wisconsin v. Yoder* and the 1987 Sixth Circuit Court decision, *Mozert v. Hawkins County Board of Education*.[3] He contends that these cases "attract the energy and attention of theorists to an unfortunate and disproportionately high degree" (*BLM*, 143). Homeschooling, he argues, provides a much better arena for study, not only because of its widespread practice, but also because it "throws these questions into the sharpest relief" (*BLM*, 144).

1. Rob Reich, *Bridging Liberalism and Multiculturalism in America* (Chicago: University of Chicago Press, 2002), 142. This work will be cited as *BLM* in the text for all subsequent references.

2. For examples from the past decade and a half, see Shawn Francis Peters, *The Yoder Case: Religious Freedom, Education, and Parental Rights* (Lawrence: University Press of Kansas, 2003); John Tomasi, *Liberalism Beyond Justice: Citizens, Society, and the Boundaries of Political Theory* (Princeton, New Jersey: Princeton University Press, 2001); Stephen Macedo, *Diversity and Distrust: Civic Education in a Multicultural Democracy* (Cambridge, Massachusetts: Harvard University Press, 2000); Meira Levinson, *The Demands of Liberal Education* (Oxford: Oxford University Press, 1999); Walter Feinberg, *Common Schools, Uncommon Identities: National Unity and Cultural Difference* (New Haven, Connecticut: Yale University Press, 1998); Eamonn Callan, *Creating Citizens: Political Education and Liberal Democracy* (Oxford: Clarendon Press, 1997); Stephen Gilles, "Liberal Parentalism and Children's Educational Rights," *Capital University Law Review* 26 (1997): 9–44; Stephen Gilles, "On Educating Children: A Parentalist Manifesto," *University of Chicago Law Review* 63, no. 3 (1996): 937–1034; Will Kymlicka, *Multicultural Citizenship* (Oxford: Clarendon Press, 1995); Amy Gutmann, "Civic Education and Social Diversity," *Ethics* 105 (1995): 557–579; and William Galston, "Two Concepts of Liberalism," *Ethics* 105 (1995): 516–534.

3. *Wisconsin v. Yoder*, 406 U.S. 205 (1972); and *Mozert v. Hawkins County Board of Education*, 827 F.2d 1058 (1987).

On these points, I strongly agree with Reich. Too many scholars focus on *Yoder* and *Mozert*.[4] Fruitful discussions about the limits of parental authority would benefit by contemplating the widespread phenomenon of homeschooling instead of the odd outliers showing up in court cases. Although we can dismiss as a marketing ploy the book jacket's claim that Reich provides "one of the first sustained considerations of homeschooling in American education," his argument is certainly one of the first to make policy recommendations.[5] Consequently, his original analysis and unique proposals for regulating homeschooling deserve careful scrutiny.

Despite my agreement with Reich about the usefulness of homeschooling as a case study, I disagree with important portions of Reich's conclusions about the boundaries of parental authority in relation to homeschooling. This essay explains that disagreement and offers an alternative vision of the proper boundaries of parental and state authority over homeschooling. In the first section of this essay, I will outline Reich's basic argument. In the second section, I lay out my critique of his argument. Overall, I contend that Reich's proposal lacks the specificity required for state regulations. The failure to develop this specificity stems from his unjustifiable placement of the burden of proof on parents to show the adequacy of homeschooling arrangements instead of placing the burden on the state to clarify commonly agreed-upon outcome measures. Reich places the burden on parents because he overstates the threat that the current freedom given to homeschooling parents represents for liberal democratic states and the interests of children. He also underestimates the state's tendency to use regulation to weaken the civil society essential for liberal democracy. While explaining these critiques, I will offer a different suggestion for the proper limits of parental authority in education, particularly in the case of homeschooling.

REICH'S ARGUMENT

Reich begins by persuasively justifying why homeschooling serves as the ideal test case for parental authority over education. Court cases such as *Mozert* and *Yoder*, he points out, merely pertained to whether parents with particular religious views could excuse their children from the final two grades of high school (*Yoder*) or certain classroom reading (*Mozert*) in the public school system. In contrast,

4. For Reich's extensive list, see *BLM*, 250 n2.

5. For this quotation, see the back of the paperback edition. Numerous articles and books have addressed the topic in the past fifteen years. See for example Michael Apple, "The Cultural Politics of Home Schooling," *Peabody Journal of Education* 75, no. 1–2 (2000): 256–271; and Chris Lubienski, "Whither the Common Good? A Critique of Home Schooling," *Peabody Journal of Education* 75, no. 1–2 (2000): 207–232, as well as the bibliographies of the other essays in the two volumes of the *Peabody Journal of Education* (2000) devoted to homeschooling. See also Mitchell Stevens, *Kingdom of Children: Culture and Controversy in the Homeschooling Movement* (Princeton, New Jersey: Princeton University Press, 2001).

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homeschooling allows parents, especially conservative religious parents such as those in *Yoder* and *Mozert*, to retain control over their children's whole educational environment.

In addition, as states have liberalized homeschooling laws during the past few decades, homeschooling has suddenly become a growing phenomenon. As a result, whereas estimates placed the number of homeshoolers in the 1970s at around 10,000, by the turn of the millennium, studies and scholars estimated that anywhere from 1 to 2 million children were being homeschooled (*BLM*, 251n9). Reich notes that even using a conservative estimate of 1.3 million American homeschoolers means that almost twice as many children are homeschooled as attend conservative Christian schools (737,000 in 1998) (*BLM*, 145). In most cases these homeschoolers are subject to minimal requirements, or the requirements are not enforced.

Consequently, Reich asks, "From the perspective of the liberal state, is this a problem?" (*BLM*, 148). He answers this question by contemplating the boundaries of parental control over educational provision. To determine these boundaries, Reich does not look to the U.S. Constitution and its case law. Instead, he undertakes a theoretical exploration of the varied interests of parents, the state, and children.

Parents

Reich claims that the interests of parents emerge from two sources: "the *self-regarding* interests of the parents themselves" and "the *other-regarding* claim that since children are dependent for their well-being on others, parents are best situated to promote their welfare" (*BLM*, 149). Reich describes the first claim as one in which the children are linked to the parents' conception of life, meaning, or the good life. The other-regarding claim is based on the common belief that parents are in the best position to provide for the "general welfare" or "best interests" of their children. Yet, he points out that the terms "general welfare" and "best interests" are contested phrases that depend upon a particular view of the good life. One could address this problem by suggesting that adults are responsible for more clearly defined basic developmental needs (such as shelter, food, protection, nurture, affection, and love). Yet, Reich observes that this does not give parents "any corresponding interest over educational provision" (*BLM*, 151). He concludes that we must either abandon the "best interests" standard or recognize that other parties, such as the state and the child, must have a role in defining these interests.

The State

The state, Reich maintains, has two interests: "first, that children receive a civic education; and second, that children develop into adults capable of independent functioning" (*BLM*, 154). Reich acknowledges that there is widespread disagreement over what these two phrases encompass. Regarding civic education, he merely maintains that it is widely acknowledged that the state has an interest in civic education, however defined. Reich spends much more time unpacking what he means by "adults capable of independent functioning." He claims that it

involves two goals. The first is developing specific "baseline competencies," which include "things like the need to acquire reading skills and basic mathematical literacy so that as adults they can do things as mundane as read street signs and as important as fill out a job application" (*BLM*, 153).

The second goal involves what Reich refers to as "minimalist autonomy." Minimalist autonomy is central to Reich's argument not only for his views about homeschooling but also for his overall vision of education. In an early part of his book he elaborates extensively on this concept. Reich defines minimalist autonomy as "a person's ability to reflect independently and critically upon basic commitments, values, desires, and beliefs, be they chosen or unchosen, and to enjoy a range of meaningful life options from which to choose, upon which to act, and around which to orient and pursue one's life projects" (*BLM*, 92). The two parts of this definition are equally important.

First, Reich contends that to be autonomous is to be able to separate oneself from one's particular social and institutional environment. Reich distinguishes this minimalist understanding from a Kantian version that defines autonomy more as self-creation or authorship. Instead, he believes his concept of minimalist autonomy as "sovereignty or self-determination" is much more realistic (*BLM*, 98). He cites as one example: "It is possible for my proselytizing parents to compel me to devote myself to God. But we would not say that the person who unhesitatingly and unthinkingly followed the exhortations of others was autonomous" (*BLM*, 102). Reich wants to note here, however, that he does not mean to exclude certain kinds of lives (for instance, a follower of the Catholic tradition). Instead, he suggests, "What matters for minimalist autonomy is that the decision to lead a life of any sort — liberal or traditionalist, agnostic or devoted, cosmopolitan or parochial — be reached without compulsion from others and always be potentially subject to review, or critical scrutiny, should the person conclude that such a life is no longer worth living" (*BLM*, 102).

Second, Reich notes that possessing the ability to perform "critical and independent second-order reflection on first-order commitments, values, desires and beliefs" does not fully constitute minimalist autonomy. Autonomy does not merely mean being knowledgeable about different views of the good life. It must involve "sustained intellectual engagement with diverse values and beliefs" and the possibility of choosing other life options (*BLM*, 161–162).

Reich further argues that the state must not only respect autonomy but "treat autonomy as a value to be pursued and supported." In fact, "nurturing the capacity for and exercise of autonomy must come *before* we respect it" (*BLM*, 108, emphasis in original). The logical conclusion is that the state must make the development of autonomy in children a fundamental educational aim. Moreover, Reich provocatively claims, "The state should violate respect for autonomy in efforts to foster its exercise" (*BLM*, 108). In other words, the state interest in minimalist autonomy should always trump parental authority. When a parent fails to fulfill this interest, the state should intervene.

The Interests of the Child

Reich also points out that children have an *independent* interest in education because it will help them become adults capable of independent functioning. Acquiring the baseline competencies to aid this independent functioning is rather uncontroversial and usually sought by all parties (children, the state, and adults).

Acquiring minimalist autonomy is something that the state or certain parents may resist, however. Yet, it is important, according to Reich, because it is one of the conditions necessary for "legitimate consent and stability in a liberal society." In addition, it is necessary in order "to lead a good and flourishing life in liberal society" because it allows a child to gain self-respect and escape servility (*BLM*, 156). Since formation of minimalist autonomy requires a certain kind of education, the state will need to ensure that a child receives the requisite education.

Boundaries to the Different Interests

Reich concludes that all three groups have interests, and "a theory of educational authority that claimed only the interests of one party mattered could potentially establish a kind of parental despotism, state authoritarianism, or child despotism" (*BLM*, 158). The key questions are these: Where do we draw the lines between parental authority and the dual interests of the children and the state? What should be the limits of these various interests?

Reich claims that neither the state nor parents should be allowed to resist an education that promotes minimalist autonomy in children, nor should they provide an education that makes children servile. However, Reich largely focuses on the boundaries of parental authority. He writes with regard to parents:

> By my account, parental authority must end when its exercise compromises the development of their children into adults capable of independent functioning or when it disables or retards the development of minimalist autonomy in children. This marks the outer boundary of parental authority over education… If parental authority over education does not foster the self-sufficiency and independence of children, the state must step in and ensure such outcomes. (*BLM*, 160)

When it comes to homeschooling, the state, Reich claims, should ensure the development of self-sufficiency in homeschooling children not by outlawing homeschooling but by regulating it to ensure that the state's and child's interests are met.

Reich gives four specific suggestions. First, the state should require registration with local educational authorities so it can keep information about homeschoolers. Second, according to Reich, "the burden of proof that homeschools will satisfy the state's and child's interest in education must rest with the parents who express the desire to homeschool." Thus, "Parents must demonstrate to relevant educational officials that their particular homeschooling arrangements are up to determined educational standards" (*BLM*, 169). Third, "the state must ensure that the school environment provides exposure to and engagement with values and beliefs other than those of a child's parents, [and] the state should require parents to use multicultural curricula that provide such exposure and engagement"

(*BLM*, 169). To satisfy this requirement, parents "could submit their curriculum for review to local school officials, they could choose curricular materials from a state-approved list, or they could allow their children to enroll in some public school classes, or community-college courses, in which intellectual engagement with cultural diversity is a central task" (*BLM*, 169–170). Finally, Reich claims that the state should require homeschoolers to take annual standardized tests: "If children repeatedly fail to make academic progress relative to their peers in public or private schools, the state should intervene and compel school attendance" (*BLM*, 170).

Reich admits in the end that he is not merely interested in regulating a freedom in order to ensure that it is not abused. He also hopes that such regulation will persuade parents not to exercise their freedom and, as his conclusion indicates: "In fact, finding ways to draw homeschooling families back to the public school system seems to me a necessary complement to the passage of effective regulations" (*BLM*, 172).

Shifting the Burdens and Boundaries: A Response to Reich

Before I begin my critique of Reich's argument, I should make it clear that I accept important parts of it. Both Reich and I agree that parents, children, and liberal democratic states have educational interests. We also agree that there must be limits on those interests and that boundaries must be drawn between them. My disagreements with Reich center upon two issues: his argument to place the burden of proof on parents instead of the state and the resulting deficiencies when this burden is misplaced.

Who Bears the Burden of Proof?

My fundamental problem with Reich's argument concerns the unusual way he decides who should bear the burden of proof in demonstrating that a child's or state's interests are being met in a homeschooling situation. Reich claims, "the burden of proof that homeschools will satisfy the state's and child's interest in education must rest with the parents" (*BLM*, 169). Reich does not offer any empirical evidence for this placement, such as studies proving that homeschooling parents fail to do a proper job of meeting a child's baseline competencies and minimalist autonomy. In fact, to Reich's credit, he notes that in many cases homeschooling can help develop both characteristics and that in some cases it may do so better than public schools.[6]

Then on what grounds does Reich justify placing the burden on homeschooling parents instead of the state? He argues,

> Parents must demonstrate to relevant education officials that their particular homeschooling arrangements are up to educational standard… [I]f the homeschooling arrangements were presumed to be satisfactory unless the state were to show otherwise, the state would have to resort to difficult and intrusive means to make such a case. (*BLM*, 169)

6. For a review of the research relevant to this point, see Richard G. Medlin, "Home Schooling and the Question of Socialization," *Peabody Journal of Education*, 75, no. 1–2 (2000): 107–123.

Reich's bias in favor of the state is not surprising since he speaks for the state when asking his initial question: "From the perspective of the liberal state, is [unregulated homeschooling] a problem?" (*BLM*, 148). As multiculturalists remind us, the position from which we speak matters for our arguments and actions.

The problem is that by using Reich's logic, the state could still justify numerous and invasive regulations in defense of state or children's interests, including requiring yearly or monthly reports from all parents about how well they are meeting their children's basic needs (such as providing food, water, shelter, love, and the like). After all, "if [parental] arrangements were presumed to be satisfactory unless the state were to show otherwise, the state would have to resort to difficult and intrusive means to" prove otherwise. Of course, current child welfare laws do not use such logic to ensure that parents meet these interests of the children (which are also in the interests of the state). Laws regarding child welfare require that the government provide a reason for its intervention.[7] Parents are innocent until proven guilty. The state bears the burden of proof to demonstrate the inadequacy of parental arrangements.

In contrast to Reich's unusual proposal, I suggest we use the same approach to homeschooling as we do for other child welfare issues. The state should only regulate real and not imaginary or vague threats to its own interests or the children's well-being. Threats to parental freedom do not always come from power-hungry politicians. They often stem from loving neighbors who are concerned for our good and the good of our children. The problem is that neighbors do not always agree on what it means to love or to live the good life. Americans can more likely agree that, if we as a community are going to intervene in our neighbor's freedom out of love and concern for our neighbor's children and our community, we need to bear the burden of proof for showing that our neighbor is not meeting commonly agreed upon goods. Further, we need commonly agreed upon tests to determine the failure to meet these goods. If I claim that my neighbor is abusing his or her child, I must show proof. If I claim that my neighbor is educationally depriving his or her children, I should also bring proof. The proof should then be subject to communally agreed upon tests that could convince a jury of peers. Regarding homeschooling, the burden of proof should rest on whichever governing body in a community is primarily in charge of education (for example, states in the United States, provinces in Canada, and so on). Those bodies must prove why it is necessary to regulate a particular homeschooling situation or homeschooling in general. Homeschooling parents certainly should not be considered guilty or incompetent until proven innocent.

If the state bears the burden of proof, those acting or speaking for the state, such as Reich, must do one of the following: (1) provide clear standards and measures that demonstrate most homeschoolers are not meeting the educational

7. Sarah H. Ramsey and Douglas E. Abrams, *Children and the Law in a Nutshell* (St. Paul, Minnesota: Thomson/West, 2003). Well-known children's rights advocates also take this position. See, for example, Joseph Goldstein, Albert J. Sonja Goldstein, and Anna Freud, *The Best Interests of the Child: The Least Detrimental Alternative* (New York: The Free Press, 1996).

interests of children in general and the educational interests of the state in particular, (2) show that a particular state-mandated method or curriculum will best meet these interests, or (3) show that the state public schools will better meet those interests. When it comes to baseline competencies, Reich would be able to accomplish the first point, but even he admits that he will not be able to demonstrate the latter two. The deepest problem is that Reich cannot do any of these things when it comes to minimalist autonomy.

WHAT REICH DOES NOT PROVE ABOUT MINIMALIST AUTONOMY

First, Reich fails to prove that the definition of minimalist autonomy provides an adequate basis for state regulation. Reich's definition of minimalist autonomy mentioned previously is quite clear. The problem is that it is not quite clear to whom it might apply. In the one specific case he cites, the homeschooled child actually asserts her autonomy in rebellion against her parents (*BLM*, 104). Reich never uses actual examples of homeschooled children who might lack minimalist autonomy under his definition. For instance, when Reich argues that "some parents or cultural groups" may resist an education encouraging minimalist autonomy "because they do not wish for their children to become autonomous," he never specifies particular examples (*BLM*, 156). Yet, Reich claims to agree with Bertrand Russell's statement that "the question of home versus school is difficult to argue in the abstract" (*BLM*, 253). In general, one can only guess about the specific groups or parents that garner Reich's concern.

His choice not to address specific particularities would not be a serious problem except for the fact that he wants to use such particularities as the basis for allowing the state to intervene over and against parental educational authority. What would be the state's test to determine when a student, child or adult, achieves minimalist autonomy? Could we devise an Iowa Basic Skills Test of Minimalist Autonomy for each grade level? Reich admits that the answer to this important question could be subjected to this kind of empirical critique:

> Under what circumstances might homeschooling environments disable or retard the development of autonomy? We might imagine that the question admits of an empirical answer. Given a definition of minimal autonomy, some test or evaluation might be concocted to measure its development. The test would then be administered to homeschooling children. If they did not achieve at some determined level, state intervention would then be justified. (*BLM*, 161)

Nonetheless, Reich admits that such a test is "highly unlikely" and agrees, "the empirical measurement of autonomy, especially in children, seems to me an exceptionally difficult and probably quixotic quest" (*BLM*, 161).

Reich is certainly correct. Yet, he does not believe that this inability raises questions about whether his version of minimalist autonomy remains too ambiguous as a state-mandated educational end. Consider the first part of the definition: the "ability to reflect independently and critically." Reich states later what this requires: "a child [should] be able to examine his own political values and beliefs, and those of others, with a critical and sympathetic eye. And…it requires that a child be able to think independently and subject his ends to critical scrutiny, enabling autonomous affirmation or autonomous revision of these ends"

(*BLM*, 161–162). One cannot help but wonder if Reich is envisioning a Stanford liberal arts education instead of primary and secondary schooling for a ''child.'' In fact, the capacities he describes (especially the ''sympathetic eye'') may not be possessed by the adults who write for *The Nation* or *The Weekly Standard*. I do not mean to belittle Reich's basic concept of minimalist autonomy or even the fact that it is a noble educational goal. It is not a goal, however, that can or should be used to guide state regulations.

The second part of Reich's definition, that a person must enjoy a range of meaningful life options, is also too broad when considered as a state-mandated end. Reich states, ''To cultivate the capacity for critical reflection, students need sustained intellectual engagement with diverse values and beliefs'' (*BLM*, 161–162). If state authorities were going to override parents' educational authority because their educational practices are retarding their children's minimalist autonomy, the state would need to answer the following questions:

- What is the extent of exposure to and intellectual engagement with different traditions, beliefs, and values that will result in the achievement of minimalist autonomy for children at various age levels?
- In what areas of life must they be able to perform critical reflection: political ideology, religion, morals, cultural habits and norms, career, choice of club activities, choice of friends, and choice of classes?
- What does it mean for children at different age levels to ''enjoy a range of meaningful life options''?

Again, it is difficult to imagine how educational regulators in any state could answer such questions when encountering specific situations.

Consider the first question. If two Orthodox Jewish parents homeschool their daughter and always encourage her to examine other views through the critical lens of Orthodox Judaism and to chose an Orthodox Jewish life as the best life, is that a problematic limitation on the development of minimalist autonomy that the state should correct? Reich appears to think so. So would Reich consider a homeschooling education largely undertaken within one religious tradition too restrictive?

In Chaim Potok's books such as *The Chosen* and *The Promise*, one finds young people primarily dealing with issues of critical thinking and autonomy within Judaism. The stories do not detail extensive encounters with other religious traditions. Yet, the diversity of views and values that the students encounter is quite broad, from atheistic, practicing Jewish scholars to Orthodox Hasidic Jews. In fact, one could argue that the stories provide examples of how students can develop minimalist autonomy within one particular religious tradition. Yet, since the options in which the characters engage are all Jewish, is that too limiting? By generalizing, Reich is able to draw a large enough picture of minimalist autonomy to include almost everyone (the Amish and Ultra-Orthodox can have minimalist autonomy) but also claim that we need to regulate against those parents,

whomever they may be, who undermine a child's minimalist autonomy or make children servile.

Second, Reich fails to prove that his mandated method for developing minimalist autonomy would work best. Despite the fact that he cannot supply a concrete outcome measure of minimalist autonomy, Reich goes on to make a case for why homeschoolers should be required to "submit their curriculum for review to local officials,…choose curricular materials from a state-approved list, or…allow their children to enroll in some public school activities or classes, or community college courses, in which intellectual engagement with cultural diversity is a central task" (*BLM*, 169–170). In other words, Reich claims to know the curriculum and methods everyone *must* use to achieve this immeasurable end. This is like stating that we want all children to be moral, that we know we cannot agree about what "moral" means, but that we still must require all children to recite and study the Ten Commandments. Perhaps this method and curriculum may on the surface appear to make children moral, but it also clearly reduces the variety of approaches one might use for reaching that end. It also enforces only one particular and contested means for reaching the end. Finally, it makes the assumption that the method and curriculum work but provides no evidence that they do.

Reich's approach overlooks the fact that there may be a variety of ways to develop minimalist autonomy. Indeed, one might argue that homeschooling parents show by example greater esteem for autonomy than do most parents who "unthinkingly and unhesitantly" follow the crowd and send their children to public schools instead of "intellectually engaging" with the diverse educational traditions available.

Homeschooling parents may value minimalist autonomy in their children but believe in different ways to achieve that end. Some might believe that a child must first be initiated into a particular home, a particular language, a particular culture, a particular set of beliefs, before he or she can begin to analyze critically other cultures and beliefs. In other words, children must first understand their own identity and tradition, and the stories associated with them, before they can adequately understand and critically examine other traditions.[8] Just as I am not free to play Mozart on the piano because I never subjected myself to the training required to enjoy such a freedom, children must first endure the necessary training to enjoy the minimalist autonomy Reich describes. Stated differently, parents merely take Reich's view that "the state should violate respect for autonomy in efforts to foster its exercise" and apply it to themselves. Parents must also initially violate respect for autonomy in order to foster its later exercise.

Moreover, parents might argue that, by first understanding their own story and identity, children also gain a sense of place, confidence, and self-esteem. As certain multiculturalists note, we gain a sense of our identity through the stories

8. This line of argument is set forth in Elmer Thiessen's books, *In Defense of Religious Schools and Colleges* (Montreal: McGill-Queen's University Press, 2002) and *Teaching for Commitment: Liberal Education, Indoctrination, and Christian Nurture* (Montreal: McGill-Queen's University Press, 1993).

we are told. Parents may want to tell certain stories that they believe their children need to sustain themselves, their confidence, and their identity. For example, it is interesting to note that one characteristic of African American homeschooling families is their belief that public schools support institutionalized racism and that homeschooling allows their children to develop a secure cultural and ethnic identity.[9]

Parents who homeschool may also believe that Reich's idea of exposure to and engagement with different beliefs and values tends to be comparable to casual sex. The sort of approach Reich describes maintains that students should have intellectual intimacy with various philosophical, religious, and cultural traditions without contemplation of commitment. The examination of beliefs and values is treated in a relatively trivial manner instead of as an important and serious process in one's continuing quest for the good and truthful life. Reich would likely deny that his approach entails such a viewpoint. Yet, merely requiring a certain kind of curriculum or attending a community college course, as Reich suggests, hardly guarantees serious contemplation of different views of the good life. It certainly does not involve active engagement with a living tradition. Thus, why should Reich's controversial method and curriculum for developing minimalist autonomy be the state-mandated approach?

Reich's goal is also not something for which we test immigrants when they apply to become citizens. A look at the list of what is required for a person to become a U.S. citizen demonstrates this point. In addition to physical presence or residence requirements, future U.S. citizens are expected to display the following: an ability to read, write, and speak English; a knowledge and understanding of U.S. history and government; good moral character; attachment to the principles of the U.S. Constitution; and a favorable disposition toward the United States.[10] Interestingly, what we want future adult citizens to demonstrate is not a particular type of autonomy but evidence of certain kinds of abilities and commitments. While we might agree that the ability to demonstrate an informed commitment to good moral character, an attachment to the principles of the U.S. Constitution, and a favorable disposition toward the United States all require a degree of moral or political autonomy, the immigration service does not give tests to determine whether new immigrants have moral or political autonomy. They want evidence of commitment.

Finally, homeschooling parents may also want to protect their children from the threat of a state that seeks to foster unreflective commitment. Reich claims, "the liberal state must regulate for autonomy by ensuring that the school, through its curriculum and pedagogy, does not aim solely to replicate and reinforce the worldview of the parents or cultural groups of the children who attend the school"

9. Susan McDowell, Annette Sanchez, and Susan Jones, "Participation and Perception: Looking at Home Schooling through a Multicultural Lens," *Peabody Journal of Education* 75, no. 1–2 (2000): 124–146.

10. U.S. Citizenship and Immigration Services, *A Guide to Naturalization*, Publication M-476 (Washington, D.C.: U.S. Government Printing Office, 2007), 18.

(*BLM*, 197). It is just as easy to argue the reverse: that homeschooling parents must protect their children's "autonomy by ensuring that the [public] school, through its curriculum and pedagogy, does not aim solely to replicate and reinforce the worldview of the" state.[11] Of course, Reich downplays the threat that the regulatory state poses to children's and parents' autonomy, arguing that "within a modern setting, [John Stuart] Mill's concern [about state provision of schools] is in my view wildly exaggerated, for even state-controlled public schools exhibit enormous diversity and are in any case far from the only socializing influence on children" (*BLM*, 194).[12] Actually, it all depends upon which "modern" state-controlled system one describes. It is interesting to note that in countries where one does not find liberal democracy, and where parents and children demonstrate the least degree of minimalist autonomy, one also does not find homeschooling. In highly centralized political states, often Communist or totalitarian (for example, China, Vietnam, Cuba, Saudi Arabia, and Iran), home and private schooling is outlawed and public school attendance mandated for all. In fact, the emergence of young forms of democracy actually resulted in the emergence of homeschooling and private schooling in many countries (for example, Bulgaria, the Czech Republic, Poland, Romania, and Ukraine).[13] In illiberal states, one finds a centralized government that uses the public school system to indoctrinate the populace. Past and present Fascist regimes especially demonstrate this, as do other totalitarian or Communist governments. In these situations, the regulatory state clearly poses the biggest and most serious threat to the minimalist autonomy of parents, children, and families as a whole. It employs public education specifically to reduce autonomy. In contrast, one might argue that educational systems that allow for and encourage homeschooling, as well as diverse ways of developing autonomy, are more truly multicultural and diverse overall.

Finally, Reich fails to prove that public schools are better at developing children with minimalist autonomy. Nowhere does Reich demonstrate that the state, through its public schools, does a better job of developing minimalist autonomy in a greater number of children on average or to a greater degree than homeschooling

11. One could also argue that Reich's approach to education for minimalist autonomy raises an important question at this point: "Are women [or men] who have been forcibly re-educated, or brainwashed, or systematically conditioned from infancy to value autonomy really autonomous?" (Thiessen, *Teaching for Commitment*, 132).

12. Perhaps Reich's claim itself needs to be turned on its head: his concern about unregulated homeschooling is in my view "wildly exaggerated," for even homeschools "exhibit enormous diversity and are in any case far from the only socializing influence on children." Instead of a controlled system of centralized public education, which tends to encourage uniformity, homeschooling allows for a diversity of methods and ends that the state system does not allow. For an understanding of the diversity within the homeschooling movement, see Stevens, *Kingdom of Children*.

13. It is intriguing to glance through the countries that do allow some form of homeschooling: Australia, Brazil, Bulgaria, Canada, Chile, the Czech Republic, France, Hungary, Japan, Ireland, Kenya, Mexico, the Netherlands, New Zealand, Poland, Romania, South Africa, Switzerland, Taiwan, Ukraine, the United Kingdom, and the United States (see http://www.hslda.org/hs/international/default.asp). For a discussion of home education law in Europe, see Lesley Ann Taylor and Amanda Petrie, "Home Education Regulations in Europe and Recent U.K. Research," *Peabody Journal of Education* 75, no. 1–2 (2000): 49–70. See also Charles Glenn, *Educational Freedom in Eastern Europe* (Washington, D.C.: Cato Institute, 1995).

parents. If we reverse Reich's various claims about the limits of parental authority and apply them to the state, we come to an interesting conclusion:

- "By my account, parental [insert: state] authority [for education] must end when its exercise compromises the development of…children into adults capable of independent functioning or when it disables or retards the development of minimalist autonomy in children. This marks the outer boundary of parental [insert: state] authority over education." (*BLM*, 160)
- "If parental [insert: state] authority over education does not foster the self-sufficiency and independence of children, the state [insert: civil society and/or parents] must step in and ensure such outcomes." (*BLM*, 160)

I will discuss what this argument means for baseline competencies in the next section. In this section, I will consider what this argument might mean for minimalist autonomy.

Reich does not place any burden or test on public schools to show that they develop minimalist autonomy. Since he does not provide an outcomes test, we cannot answer the question in the only way that autonomy, like baseline competencies, can be discovered: by asking cognitive questions of children. Instead, Reich proposes that we merely identify ways of teaching autonomy by mandating particular curricula and methods. This assumes that because the state-required curriculum and training address this issue, public schools in general will do a better job of fostering minimalist autonomy than homeschoolers. If teaching young children were so easy, most teachers (and state legislators) would be delighted.

After all, one could think of many ways public schools might retard or warp the minimalist autonomy of children in such a way that they would be unable to recognize what most everyone agrees are destructive lifestyles (for example, drug or alcohol abuse, violence, sexual promiscuity resulting in early pregnancy or sexually transmitted diseases, and the like). After all, what many public schools actually do through their communal life and peer pressure is reduce a student's autonomy. Students can become servile to group interests, where they are primarily exposed to the options of hedonism and crass forms of individualist utilitarianism.[14] Textbooks may leave children with a very limited view of the various options regarding the good life.[15] Even if they do encounter other options, it is perhaps only through textbooks or other students and not in an embodied communal form.

Homeschooling parents recognize these possibilities. Richard J. Medlin summarizes the conclusions of nine studies that included interviews with actual homeschooling parents to discover their concerns about public schools:

14. James Davison Hunter, *The Death of Character: Moral Education in an Age Without Good or Evil* (New York: Basic Books, 2000).

15. See, for example, Warren Nord's evaluation of U.S. textbooks in *Religion and American Education: Rethinking a National Dilemma* (Chapel Hill: University of North Carolina Press, 1995).

> They describe conventional schools as rigid and authoritarian institutions where passive conformity is rewarded, where peer interactions are too often hostile or derisive or manipulative, and where children must contend with a dispiriting ideological and moral climate. Home schooling parents argue that this kind of environment can stifle children's individuality and harm their self-esteem. They say it can make children dependent, insecure or even antisocial. They believe it can undermine their efforts to teach their children positive values and appropriate behavior. Finally, they insist that it is unlikely to foster the kind of rewarding and supportive relationships that foster healthy personal and moral development.[16]

The initial research on homeschooling confirms some of these opinions. Medlin notes that we still need more research, but from the studies that have taken place he concludes that homeschoolers "have good self-esteem and are likely to display fewer behavior problems than do other children. They may be more socially mature and have better leadership skills than other children as well. And they appear to be functioning effectively as members of adult society."[17] In fact, it would be fascinating to study whether homeschooled children are less likely to engage in destructive habits that reduce or impinge upon a child's future autonomy. It would also be interesting to observe the degree to which homeschooled children, as opposed to children educated in public schools, are involved in civic life.

Baseline Competencies and Reich's Argument

I will spend less time discussing baseline competencies, such as reading, writing, and math ability. Clearly, the greatest threat both to children and liberal democracy occurs when families or institutions such as public schools fail to instill these competencies. I doubt anyone needs empirical studies to be convinced that the men and women who populate the jails of liberal democracies suffer from their lack of baseline competencies and from unmet needs for healthy development. Fewer of them, I imagine, suffered overbearing parents who forced them into being homeschooled, tried to make them servile to a particular worldview, and thus failed to give a sufficiently broad view of the good life.

Baseline competencies and developmental needs are also the essential *measurable* building blocks of minimalist autonomy, since if a child cannot read, write, or perform the math required to balance a checkbook, his or her autonomy will be severely limited. It is easy to imagine children or adults trapped in a servile situation (working in a sweat shop, for instance) because they do not have the baseline competencies that would allow them to escape this fate. Thus, when it comes to state regulations and homeschooling, it makes much more sense to focus on clearly agreed upon baseline competencies as a standard of evaluation than the vague measure of minimalist autonomy. Citizens in a liberal democracy are also more likely to agree on standards that help determine whether a family is failing to educate its children in baseline competencies. Common standardized tests such as the Iowa Basic Skills Test are often used to measure a student's progress.[18]

16. Richard G. Medlin, "Home Schooling and the Question of Socialization," *Peabody Journal of Education* 75, no. 1–2 (2000): 109.

17. Ibid., 119.

18. A 1999 Phi Delta Kappa/Gallup Poll found that 92 percent of respondents agreed that homeschoolers should "take all the state and national assessment tests that public school students are required to take."

Should states then mandate that all homeschooling students register with the government and agree to take tests that measure their baseline competencies, as Reich suggests? If my argument is correct, this type of regulation remains to be justified by the state. Since Reich places the burden on parents, he does not provide evidence that such state intervention is necessary. In fact, he admits, ''recent studies of homeschooled children show that they often outperform their public and private school counterparts in scholastic achievement'' (*BLM*, 159).

The major reason public schools are subject to these tests is that they are responsible to taxpayers.[19] Most homeschooling families, however, do not benefit from publicly funded educational activities. Therefore, I would argue that the burden must remain with the state to justify the need for testing.

There is one circumstance in which the state would not have to justify testing homeschoolers: when homeschooled children take part in some publicly funded public school classes or activities. The need for public accountability of public funds justifies such tests. In such cases, ''if children repeatedly fail to make academic progress relative to their peers in public or private schools, the state should intervene and compel school attendance'' (*BLM*, 172). To Reich's credit, he acknowledges that vouchers allowing a similar right of exit to children in public schools are justifiable if parents find those schools failing to help children meet baseline competencies. Children deserve a right of exit from all types of educational situations — public, private, and homeschooling — whenever these baseline competencies are not effectively provided. In the case of homeschooling, however, similar to cases of abuse and neglect, only when the state has evidence that homeschooling parents are not meeting children's baseline educational competencies should it intervene in parental educational authority.

Conclusion

Reich's closing lines of his chapter on homeschooling, as many closing lines do, perhaps reveal his underlying agenda. He states, ''In fact, finding ways to draw homeschooling families back to the public school system seems to me a necessary complement to the passage of effective regulations'' (*BLM*, 172). It is quite clear that for Reich, homeschooling is not a freedom to be celebrated in liberal democracies but a freedom to be feared.

Why does Reich believe this trend merits our concern? He claims that he is not suspicious of the motives of homeschooling parents (*BLM*, 148). Yet, I sense that, like other critics of homeschooling,[20] he is disturbed by the political or religious beliefs those parents might teach their children. Fear of allowing too much ideological pluralism, sadly, sometimes comes from thinkers who preach tolerance and respect for diversity. It is one thing to encourage multiculturalism or talk about celebrating diversity, but it is another to respect diverse approaches to education.

19. I agree that private schools that accept vouchers should be required to have their students take standardized tests to show progress in baseline competencies.

20. Apple, ''The Cultural Politics of Home Schooling.''

The reality may be that the current unregulated homeschooling environment, while not a proven danger to the liberal state or the minimalist autonomy of children, is more of a danger to the worldview Reich prizes.[21] Conservative religious homeschoolers have created an effective counterculture. Yet, the homeschooling done by conservative religious parents can also be done by parents with other worldviews.

Reich should be careful that his vision for ensuring minimalist autonomy in children does not undermine the very freedom he wants to promote. Reich's proposed state regulation of homeschooling too quickly takes away through government regulation a freedom liberal democracies should respect. In the name of the liberal end of freedom, he envisions aiding the silent, sullen children. In contrast, I suggest his suggestions for using state power to limit parental freedom could enslave both parents and their children to other narrow views of freedom.

21. See, for example, Hanna Rosin, "God and Country," *New Yorker*, June 27, 2005, http://www.newyorker.com/archive/2005/06/27/050627fa_fact (on-line).