

Clearing Conscience

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In “Curriculum and the Conscience of Parents,” Sarah Stitzlein describes a new law that is part of a disturbing larger trend of ceding control of the curriculum in public schools to individual parents and parent groups. This trend poses a challenge to philosophers of education because, while the potential dangers to democracy and public discourse are significant, there remains a *prima facie* right of parents to shelter their children from educational content or situations to which they do not assent. As with many issues in applied and educational ethics, the question of parental conscience is fundamentally about finding the appropriate balance between competing rights.

I agree with Stitzlein that in the case of the New Hampshire law and others of its ilk, the balance has been skewed perilously far toward parental autonomy and against the interests of public education. Stitzlein enumerates five distinct harms resulting from such a bill, to which perhaps even more could be added. Because I think the risks she forecasts are very real, I will use this reply to suggest an alternative way of critiquing HB 542 by reconsidering the use of “conscience” to frame the debate. While Stitzlein’s proposed understanding of conscience facilitates a critique of the problems in the so-called “Parental Conscience Act,” I think that another, perhaps more forceful critique can be leveraged by rejecting altogether the claim that this is fundamentally a matter of conscience.

Stitzlein discusses several understandings of the term “conscience,” arguing that the individual, private conception of conscience at play in the parents’ objection to New Hampshire curriculum misses its fundamentally social nature. She explains: “There are three ways in which most people employ the term: as a faculty of moral reasoning, an affective response to moral matters, and a need to follow what one believes is morally right.” Citing Robert Vischer and Martha Nussbaum, Stitzlein amplifies these definitions by claiming that conscience is relational and can never develop in a vacuum. Arguably, the parents’ grounds for objecting to the New Hampshire curriculum fail because they have interpreted conscience as their narrow purview, a domain that is immune to public justification. Indeed, to me the most troubling aspect of the bill is that it “does not require parents to provide any justification at all for their claim that school material is objectionable.”

In other challenges to school curriculum on supposedly conscientious grounds, this clause can mean the difference between success and failure. In a 2012 case that came to the Supreme Court of Canada known as *Drummondville* (*S.L. vs Commission scolaire des Chênes*), the appellants “requested that the school board exempt their children from the course [Ethics and Religious Culture],” an introduction to various religions and ethical systems that replaced the earlier Christian programs in Quebec schools.¹ The judges dismissed the case because the appellants provided no public evidence that their own religious practice was jeopardized by exposure to information

about others' religious practices. As the judges explained, "an infringement of this right cannot be established without *objective proof* of an interference with the observance of that practice. It is not enough for a person to say that his or her rights have been infringed. The person must prove the infringement on a balance of probabilities."²

While this example reinforces the view that some standard of objective verification must be appealed to in cases of parental opposition to curriculum, it does not necessarily convince me that conscience is relational. Stitzlein suggests that parental conscience is always susceptible to public discourse: "As opposed to avoiding curriculum through opting out or selecting alternatives, parents should challenge the curriculum by engaging in the political process, including speaking out at school board meetings ... " This is a recommendation that parents in New Hampshire would do well to heed, but it also seems to dissolve the possibility that parental conscience could ever be exercised legitimately by opting out. If the appropriate evidence were in place, unlike in HB 542 and *Drummondville*, we might think it would be legitimate for parents to simply withdraw their children from the curriculum, at least initially, before sparking more public discussion. Perhaps some notion of private conscience needs to be retained in order to ensure that the balance does not tip permanently toward the side of public curriculum. What might this conscience look like?

I will try to answer this by drawing a distinction between "conscience" and "substantive view of the good life." In both the arguments presented by the New Hampshire parents and in some of Stitzlein's analysis these terms appear to be used interchangeably.

For example, toward the end of her essay, Stitzlein claims: "simply stating that *conscience* is something of equal value for all people will not overcome the influence of parents who teach their children that their way is the only *good and right way to live*, which presumes that the *conscience* of others is of less worth."³

Being exposed to others who think that there may be a different "good and right way to live" does not strike me as an instance of offence to "conscience." Indeed, none of the three definitions of conscience mentioned earlier is synonymous with this. The one that may come closest — "a need to follow what one believes is morally right" — may provide an impetus to advocate for a certain way of living, but cannot be reduced to it. I would suggest that conscience is more than a particular set of values: it is a response to a particular type of affront to one's values. I am reminded of "conscientious objectors" to war and whistleblowers. These individuals not only encounter an opinion that is different from or incompatible with their own values, but furthermore, they are placed in a dilemma of having to choose between actively endorsing values that are repugnant to them or following their "conscience" — sometimes at a great cost. I see no such paradox confronting students in a secular public school system, much less their parents.

In limited cases, there may be a fine line between disagreeing with someone's values and feeling that someone's values are an affront to one's own conscience.

Protestors at abortion clinics may well feel that the very existence of abortion and abortion providers spark their conscience in a way that cannot be ignored, even though they are not personally required to undergo abortion. This confluence of disagreement and conscience, however, is not present in the educational situations in question.

Consider the event that incited the legal process resulting in HB 542, the reading of Barbara Ehrenreich's book, *Nickel and Dimed*. This impressive work is an undercover study of the real-life conditions of the working class and chronically poor in America. While I can appreciate that Ehrenreich's work has politically contentious implications, I strain to understand how including such a meticulously researched book on a curriculum, presumably amidst other materials, constitutes an offence to parents' "conscience" on any plausible definition of the word.

Similarly, in the Canadian *Drummondville* case, the appellants claimed that the Ethics and Religious Culture course infringed their "freedom of *conscience* and religion," two rights that are protected, somewhat confusingly, in the same clause in the Canadian Charter of Rights and Freedoms. Once again, it is difficult to see how the course constituted any assault to either the parents' conscience *or* their freedom of religion. Exposure to different views about the good life should be fundamental to any education, especially public education. It is a category mistake, I think, to assume that exposure to such pluralism in itself entails some kind of assault on parental or student conscience, which must then be weighed against the value of public education and liberalism in general.

This is not to say that nothing that happens in schools can be a matter of conscience. By re-labelling the parents' complaints in these cases as something other than conscience, we leave space for genuine infringements upon students' or parents' conscience. These cases would have a different structure — forcing students to adopt particular moral or religious postures, for instance, perhaps through compulsory prayer. In Canada some concern has even been raised that left-wing political ideologies are pervading curriculum, presenting volatile public issues as settled facts and coercing (for example) children of oil tycoons into protesting the oil industry.⁴ Whether or not this constitutes an infringement of conscience, it is different from what spurred HB 542 and *Drummondville*. Simply presenting alternative accounts of the good life provides a platform for constructive disagreement and healthy reflection — the cornerstones of democratic education.

The difference between Stitzlein's analysis and my own is subtle. We agree that HB542 grants parents too much control over curriculum, specifically by enabling them to reject any perspectives that are inconsistent with their own views. Yet while Stitzlein grants them the language of "conscience" and challenges their definition of the term, I think "offending conscience" has to mean more than disagreeing, even disagreeing about matters of great importance. It must include the threat of being forcibly implicated in something morally repugnant, such as being required to carry out military actions that one feels are unjust. On this reading, the protests of parents in New Hampshire and elsewhere were never about conscience at all.

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1. S.L. v. Commission scolaire des Chênes, 2012 SCC 7, 1 S.C.R. 235, 3.
 2. *Ibid.*, (emphasis added).
 3. Emphasis added.
 4. Cynthia Reynolds, "Why Are Schools Brainwashing Our Children?," *Maclean's* 125, no. 43 (2012): 20–23.