



Can group rights justify the denial of education to children? The Amish in the United States as a case study

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For Pramila and Bhikhu Parekh

Abstract

Multiculturalism gives preference to group rights over individual rights. This may challenge democratic values. This paper focuses on the Amish denial of education from their adolescents. Criticizing *Wisconsin v. Yoder* (*Wisconsin v. Yoder* 406 U.S. 205 (1972)), the paper analyses the power of the Amish community over its members. The main questions are: Is it reasonable to deny the Amish adolescents' standard American education? What are the limits of state interference in norms of illiberal communities who invoke separatism as a mechanism of cultural and religious preservation?

Keywords Amish · Education · Open future · State interference · *Wisconsin v. Yoder*

Introduction

Timothy Sauder left his Old Order Mennonite community and his family because he wanted to go to college and pursue a career in science. He could not be both an Old Order Mennonite and a college graduate because his community does not support higher education. Sauder used to dig televisions out of dumpsters to learn about the outside world. Finally, he was able to enroll, without a high school diploma, at the University of Pittsburgh-Greensburg and was later transferred to Columbia University (Waxman 2012).

The Old Order Mennonite is a conservative branch of Christianity. People of the Order are Anabaptists who formed a wide variety of Christian churches in Europe and North America. The term 'Anabaptist' means "rebaptiser" because the Order rejected the idea of infant baptism. As infants do not have the knowledge of good

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and evil, they cannot have sin. The Order believes that baptism is valid only when candidates willingly confess their faith in Christ. Therefore, baptism should be conducted later in life, when people are capable of making a reasoned choice and decide their destiny (Kraybill et al. 2013; Nolt 2016).

In the seventeenth century, the Amish split off from the Mennonite. The Amish movement was founded in Switzerland by Jacob Ammann as a reform group. Named after their leader Ammann, the Amish were among the early German settlers in Pennsylvania. During the eighteenth Century, the Amish who suffered persecution in Europe immigrated to the United States and Canada as both countries promised them religious freedom. Nowadays, there are a number of different groups of Amish people. The most prevalent orders are the Old Order Amish, which is the most common; the New Order Amish, Swartzengruber and Andy Weaver (Kraybill et al. 2013; Nolt 2016). Old Order Amish live in 31 states, 4 Canadian provinces, and 2 South American countries (Amish State Guide 2018). In the United States, the large Amish congregations are in Pennsylvania (81,500), Ohio (78,000), Indiana (59,000), Wisconsin (22,000), and New York (21,000) (Amish Population 2020). In Canada, their number is much smaller (around 6000), and in Bolivia and Argentina the Amish number a couple of hundred people (Amish Population 2020). Though practice varies, today Amish and Mennonites share values of non-resistance, adult baptism, and in some cases plain form of dress (Amish America 2010a).

The Amish believe that they must be separate from worldly sinful practices to receive salvation. They created small and distinctive communities that resist the modern way of life and maintain simple and austere living. They refrain from using electricity and use gas lamps instead. They strive to retain the customs and small-scale technologies that were common in rural society in the nineteenth Century. The Amish live independently, forsake self-interest and submit to the authority of the church with humility (Nolt 2016; Choy 2016; Clark 2011).

The Amish are a church, a spiritual union, and an agricultural community that see spiritual worth in the universe in its natural form. Before 1950, most Amish children attended public schools. The Amish were comfortable with small rural schools and, indeed, some Amish fathers served on the boards of such public schools. Later, these schools were consolidated into large districts nationwide and the Amish lost control over the nurture of their children' education. Moreover, they considered formal study beyond the eighth grade unnecessary for their farming lifestyle (Amish Studies 2021).

The concept of multiculturalism is pertinent to the discussion. Multiculturalism means the coexistence within the same political society of a number of sizeable cultural groups wishing to maintain their distinct identity (Raz 1998, p. 197). Multiculturalism is closely associated with "the politics of difference," "identity politics," and "the politics of recognition (Shachar 2001; Gutmann 1992, 2003; Young 1990; Fraser and Honneth 2003). In the name of religion, the Amish wish to be recognized as a distinct minority group with different interests and needs which require exemption from the American education system. This essay focuses on the Amish denial of education from their youth.

The importance of the education system cannot be underestimated. Schools play a formative role in shaping career choices, future professions, income level, ability

to establish a family, place of residence, social circle, and social status. The issue of state intervention in Amish affairs relates to the question whether a dominant culture has a right to interfere in the business of an illiberal cultural minority when its practices and norms are harmful to members of that same minority culture. While recognizing that government should not impose substantial burdens on minority cultures without compelling state interests, it is argued that State intervention to provide the Amish young proper education is justified as it is aimed to sustain and promote basic human rights. State interference does not reduce freedom but provides background conditions needed to secure freedom. While there is a *prima facie* parental right to raise children according to the parents' values, parents are not *solely* responsible. The State is required to balance competing interests: perpetuating the Amish community against children's self-development and right to an open future. The liberal state is obligated to protect the best interests of vulnerable populations, including children. Hence, it should be concerned when parents pre-empt their children's future options and restrict the scope for their children's personal development.

Research about the Amish raises grave concerns regarding the well-being of young adolescents. The young Amish population is challenged with manifestations of abuse similar to what the young of other illiberal, religious, isolated groups experience. There are worrying similarities between what the young Amish endure and the experiences of the young in the Orthodox Jews communities in Israel, USA, or Britain, and in the Fundamentalist Church of Jesus Christ of Latter-Day Saints (FLDS Church) in Utah.¹ My research on Amish education and what happens to Amish people when they leave their community and start a new chapter in American society brought me, quite unexpectedly, to consider child abuse. One by one, the stories of Amish women who left the community revealed a repeated pattern of violence and abuse. The image of the Amish as a peaceful community that is protective of its youth was shaken. It is argued that lack of external involvement, a culture that fails to establish reasonable and moral sexual boundaries, religious legitimacy of gender inequality, the Amish reluctance to wash their dirty linen in public, the community values of forgiveness and repentance, the economic structure where families are very much dependent on men's labor and therefore the community is reluctant to inflict on perpetrators significant penalties, lack of sex education, the fact that Amish teachers tend to be young, inexperienced women of the same community, the lack of mental health and safety provisions at schools, and the Amish isolation from the larger society that allows them self-governance and cultural autonomy in which the norm is to punish the victim rather than the abuser, have all contributed to this troubling phenomenon of violence and abuse of young Amish.

¹ One referee commented that the Israeli ultra-orthodox (*haredim*) make up over 15% of the population and wield considerable power. They have the same pathologies addressed here and cause very considerable aggregate social harm.

Amish education

In the early 1970s, the Amish wanted to withdraw their children from the state educational system before the age of 16, arguing that formal education beyond the eighth grade places the Amish children in an environment hostile to their beliefs, but also because it takes them away from their community, physically, and emotionally, during the crucial and formative adolescence period of life (*Wisconsin v. Yoder* 1972). At the age of six, Amish children start first grade by attending a schoolhouse that includes grades one through eight. There are usually 30–35 children in a schoolhouse, many are siblings and cousins. Amish children do not study science because it includes ideas contrary to their conception of the good such as evolution which is contrary to the Bible (Meyers 1994; Johnson-Weiner 2007). Amish education does not include computers because they reject modern technology nor does Amish education seek to create artists, scientists, musicians, or actors (Exploring-Amish-Country n/d). The curriculum is limited to reading, spelling, grammar, penmanship, arithmetic, art, health, history (particularly Amish history), German, and some geography (Dewalt 2006, pp. 7, 188; Kraybill et al. 2013). Until age 13, many Amish children attend one-room schools.² Believing that education leads to “pride” and to a sense that one is better than those who have lesser education, the Amish require children to drop out after 8th grade and begin working (McConnell and Hurst 2006; Devil’s Background 2002). The Amish educate for a life of “goodness” rather than a life of intellect; “wisdom, rather than technical knowledge; community welfare, rather than competition; and separation from, rather than integration with, contemporary worldly society” (*Wisconsin v. Yoder* 1972). Amish education emphasizes the virtues of hard work, community life, group effort (individuality is not encouraged and individual merit is rarely singled out for awards of any kind), simplicity, sublimation of personal desire, surrender to God’s will, humility, kindness, responsibility, and caring (Dewalt 2006, pp. 7–8, 113, 190, 194). School is usually within walking distance from home (Exploring-Amish-Country n/d). The timetable for lessons is constructed in such a way so as to allow children to help with seasonal farm work and take part in communal religious practices and ceremonies (Barry 2001, p. 207). When the Amish complete eighth grade, they join their parents at work, learning the required skills for contributing to the community economy. They learn the necessary skills to run a household, farm, or small business (Dewalt 2006, pp. 7, 115, 190).

An independent school system isolates the children from the influences of the wider society. Undoubtedly, this severely limits the extent to which the children learn about the outside world. Heterogeneous school mixing teaches students about diversity, pluralism, the right to be different, equality, respect for people qua people. In contrast, the Amish schools are comprised only of Amish people. Students are not exposed to other people from the rich mix of American society. The Amish students are denied an opportunity to meet students of different backgrounds, with different systems of belief. They are handicapped in their knowledge of their surroundings.

² One referee notes that in the Holmes Settlement, though most Amish families send children to Amish private schools, there are some public schools made up of nearly all Amish children.

Furthermore, the limited curriculum put the Amish at disadvantage if they were to pursue life outside the community. The curriculum inculcates Amish values and conception of the good and ensures that the significant other peer group is Amish. The large classes of children of different ages make teaching a tough assignment as children between the ages of 6 and 13 have different learning capacities and needs.³ By insisting on educating the young in one classroom within the community, the Amish prioritize the group over the individual. They deny children certain opportunities while providing them with a cohesive community. The Amish defend this by arguing that freedom of religion protects a group's freedom to live in accordance with its doctrine, even if this limits the individual freedom of children. Hurst and McConnell (2010, p. 68) who closely studied the Amish way of life speak of three "terrains of tension" in the Amish communities: conflicts between cultural values and an individual's material interests; control over individual behavior by the community's structure versus control by the individual as an agent; and the security provided by the community versus the freedom desired by the individual.

The Amish insistence on a particular education curriculum for its children is understandable and, at the same time, challenging. The rationale is sensible from the Amish point of view as the community wishes to retain and perpetuate its culture. Amish theology is inward looking, distancing themselves from the materialistic and the so-called "corrupt world" (Choy 2016). Does denial of opportunities provide a sufficient ground for state interference?

Wisconsin v. Yoder

The United States Supreme Court, in *Wisconsin v. Yoder* (1972), dealt with the Amish refusal to send their children to public schools after the eighth grade. It revolved around the question whether it is reasonable to deny the Amish adolescents' standard American education. Wisconsin challenged the Amish way of life, insisting that the Amish integrate into American community to better serve the best interests of the young. The defendants, members of the Amish faith, refused to send their children, aged 14 and 15, to continue their education at public schools. The defendants were convicted for violating Wisconsin's compulsory school attendance law requiring children to attend school until the age of 16.

The Amish do not have schools of higher learning. After the eighth grade, the children are taken out of school and go to work (Hostetler 1993, p. 16). The Amish argued that forcing their children to study in American schools placed them in an environment hostile to their way of life. The Wisconsin Circuit Court affirmed the Amish convictions. The Wisconsin Supreme Court, sustaining the defendants' claims that their First Amendment right to free exercise of religion had been violated, reversed the convictions (*State v. Yoder* 1971). Then the case reached the

³ For discussion on a typical teacher day in the Amish community, see Dewalt (2006, pp. 130–134).

United States Supreme Court, which accepted the Amish claim in a six to one decision, with the majority opinion written by Chief Justice Warren Earl Burger.⁴

The State of Wisconsin argued that some degree of education is necessary to prepare citizens to participate effectively and intelligently in the open political system “if we are to preserve freedom and independence” (*Wisconsin v. Yoder* 1972, at 221). Furthermore, the State maintained that “education prepares individuals to be self-reliant and self-sufficient participants in society” (*Wisconsin v. Yoder* 1972; see also Shapiro 2002). The Supreme Court accepted these propositions yet sided with the idea that the Amish have group rights to decide their own education system, notwithstanding American law.

The Supreme Court upheld the principles of State non-interference in religious matters and of parental school choice. The Court assigned more importance to children’s integration into the Amish community than to their integration into the wider society. It acknowledged that the State has the power to impose reasonable regulations for the control and duration of basic education. Yet this paramount responsibility to provide universal education is not totally free from a balancing process when it impinges on fundamental rights and interests, such as those specifically protected by the Free Exercise Clause of the First Amendment, and the traditional interest of parents with respect to the religious upbringing of their children (*Wisconsin v. Yoder* 1972). Furthermore, the Court was of the opinion that the values and programs of the modern secondary school were in sharp conflict with the Amish mode of life. The mission of Amish education is to teach the skills that are needed to lead Amish life while developing the ability to function independently and do business with the outside world. Enforcing state education would constitute the kind of objective danger to the free exercise of religion that the First Amendment was designed to prevent. It presented the Amish with the impossible choice of either abandoning belief and be assimilated into society at large, or be forced to migrate to some other and more tolerant region. Both choices were deemed unreasonable, unjust, and coercive (*Wisconsin v. Yoder* 1972, at 218). It should be added that acculturation, the cultural modification of the group by adapting to or borrowing traits from the wider American culture, is also not appealing to the Amish at large.

Undoubtedly, continuity is important to the Amish. In coming to analyze the Court decision, it is first noted that the Amish wish to perpetuate their unique tradition and way of living by resisting the pressures of the external world. For them, the need for continuity justifies paternalistic coercion. Education of the young is the key to this. Amish education complements and reinforces church beliefs and values. It promotes community life rather than autonomy and self-expression. Excellence is secondary (Dewalt 2006). Amish education is the responsibility of the parents, the school, and the entire community acting under the influence of the church.

Second, the United Nations Convention on the Rights of the Child (1990) contends that “the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully

⁴ Powell and Rehnquist, JJ., did not participate.

assume its responsibilities within the community.” Article 3 of the Convention (1990) emphasizes that “the best interests of the child shall be a primary consideration.” Article 5 holds that “States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention” (United Nations Convention on the Rights of the Child 1990). Indeed, generally speaking, we should keep the integrity of the family and safeguard its privacy against state intrusion. There should be very compelling reasons to allow such interference.

Third, the United States is the only country in the world that has not ratified the convention because some critics argued that it would undermine parents’ rights and “give our children unrestricted access to abortion, pornography, gangs and the occult” (Drake and Corrarino 2015). It was argued that the United Nations Convention on the Rights of the Child is “incompatible with the Constitution, the laws, and the traditions of the United States,” that it would “undermine presumptions of freedom and independence for U.S. families,” and that it would “interfere with U.S. principles of sovereignty, independence, and self-government that preclude the necessity or propriety of adopting international law to govern domestic matters.”⁵ Parent-rights groups fear that the treaty might undermine parents’ authority, particularly when religious and sex education are concerned (S.C. 2013).

Parenthood

Furthermore, parents are the default decision-makers for their children. In many communities throughout the world, parents are responsible for the welfare of their children. Parents inculcate values. They provide guidance and moral compass. They outline prospects for their children. They set standards and expectations. They instruct what is right and what is wrong. John Stuart Mill (1948) regarded education as a condition for people to exercise civil liberties and assigned responsibility for children’s education to parents and state. The parent owes it to society to endeavor to make the child a good and valuable member. Mill wrote that to raise a child without a fair prospect of being able to provide food for its body and also instruction and training for its mind is “a moral crime” both against the unfortunate child and against society at large (Mill 1869, 1948). Children have a claim against

⁵ S.Res.99—A resolution expressing the sense of the Senate that the primary safeguard for the well-being and protection of children is the family, and that the primary safeguards for the legal rights of children in the United States are the Constitutions of the United States and the several States, and that, because the use of international treaties to govern policy in the United States on families and children is contrary to principles of self-government and federalism, and that, because the United Nations Convention on the Rights of the Child undermines traditional principles of law in the United States regarding parents and children, the President should not transmit the Convention to the Senate for its advice and consent. 112th Congress (2011–2012), *Congress.gov*, <https://www.congress.gov/bill/112th-congress/senate-resolution/99>. See also Lauria (2015).

their parents to provide them with education, “appliances and means” that “will enable them to start with a fair chance of achieving by their own exertions a successful life” (Mill 1869, 1948). If the parent does not fulfill this obligation the state ought to ensure that it is fulfilled.

John Stuart Mill said that democratic governments must provide proper facilities for education designed for the benefit of society as a whole, but it must not control all educational institutions: “The case is one to which the reasons of the non-interference principle do not necessarily or universally extend” (Mill 1869, Bk. V, 575; see also Ruderman and Godwin 2002; Cohen-Almagor 2012). Nevertheless, the State must step in when children do not receive education adequate for their growth and self-development. Education meant for Mill the cultivation of the intellect, of moral powers, and of aesthetics. A good government cultivates moral education; moral education makes human beings moral, thinking people who do not merely act as machines and, in the long run, makes people claim control over their own actions and inspires them to intensely seek the truth (Mill 1948, pp. 202–208).⁶

The Amish, like many other religious communities, assert their parental responsibility in educating their young (Horwath et al., 2008). Weighing the best interests of their children, and the best interests of their community, they adopted what they consider a reasonable golden mean. One may ask: Is the liberal way of life better than the Amish? Many would answer in the negative, highlighting the benefits of living in a coherent, supportive community, with a strong cultural backbone, rich heritage, and a familiar way of life. There is something reassuring in having a sustained routine, and strong family and community life in which roles, duties, and privileges are clear. Undoubtedly, children need to be loved and cared for in a culturally coherent environment. There is a *prima facie* parental right to raise children according to the parents’ own values (Callan 1997; Jacobs and Shah Arora 2018; see also Fried 1979). Therefore, one may argue, the Amish parents are entitled to restrict their children’s education.

But are parents *solely* responsible? Surely not. The same Supreme Court spoke in *Pierce* about subjecting parental rights to state regulations, offering a compromise between the rights of parents to choose education for their children and the state interests in sustaining public welfare (*Pierce v. Society of Sisters* 1925). In a unanimous decision, the Court upheld parents’ right to make educational decisions on behalf of their children while acknowledging the states’ right to regulate education, even in non-public schools. The Court held that parental rights are subject to the power of the state “reasonably to regulate all schools, to inspect, supervise and examine them, their teachers and pupils;... that certain studies plainly essential to good citizenship must be taught, and that nothing be taught which is manifestly inimical to the public welfare” (*Pierce v. Society of Sisters* 1925). Some may argue that education is a far too important issue to be left only in the hands of parents. Liberalism invokes the personal autonomy argument against leaving the decision solely

⁶ Mill (1859) wrote: “The very corner-stone of an education intended to form great minds, must be the recognition of the principle, that the object is to call forth the greatest possible quantity of intellectual power, and to inspire the intensest love of truth.”

in the hands of the parents. And certainly, the Amish youth should have a voice in the dispute. John Rawls (1971, p. 516) maintained that “The moral education is education for autonomy.” The Rawlsian Principle of Equal Liberty holds that the State must provide education and training for the less well-off (Rawls 1971, p. 302).

The notion of autonomy involves one’s ability to reflect upon beliefs and actions, and the ability to form an idea regarding them, so as to decide the way in which to lead a life. For by deciding between conflicting trends, agents consolidate their opinions more fully and review the ranking of values for themselves with a clear frame of mind. It is important that children should have a real opportunity to become autonomous. This requires mandating autonomy-facilitating education (Brighouse 2003, p. 111). Amish adults are entitled to restrict their *own* self-development if so they choose in the spirit of maintaining tradition and culture. But are they also entitled to limit the self-development of their children?

Value of education

Amy Gutmann is arguably the most influential liberal thinker who probed the place of education in our life. Gutmann believes that parental influence should be limited by the state to achieve autonomy. Choice needs to be vindicated by its contribution to deliberative democracy essential for developing the necessary tools for taking part in public, democratic life. Gutmann (1987, p. 46) endorses democratic education based on the contributions of the state, parents, and educators to enable integration of the good insights of all. Such education will guarantee that future citizens are able to meaningfully share in self-consciously shaping the structure of their society. Rob Reich’s (2002) leading goal in his liberal theory of multicultural education is the cultivation of individual autonomy in children. Similarly, Rawls’ (2005, p. 199) political liberalism requires that children’s education include knowledge of their constitutional and civic rights to ensure that they will fully incorporate into society.

Furthermore, the inculcation of deliberative character should be the main purpose of primary education because, Gutmann (1987, p. 51) explains, “Children must learn not just to behave in accordance with authority but to think critically about authority if they are to live up to the democratic ideal of sharing political sovereignty as citizens.” The government should have authority to impose common standards and to cultivate a common democratic culture upholding the principles of non-repression and non-discrimination without which “despotism over the mind” might take place (Gutmann 1987; see also Macedo 2000). The United States Supreme Court forfeited these ideals once it gave precedence to Amish group rights at the expense of individual rights, allowing the Amish to be exempted from the required level of education.

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

This kind of governmental interference is justifiable as it opens for individuals more paths for liberty in the long run.

In support, Almond and Verba (1965, pp. 105, 317–318, 502) found in their comprehensive comparative research that higher education opens the minds of individuals to the secondary structures of their society, to dimensions of historical depth, and to wider perspectives of the world scene. People learn how to gather information, better understand the working of the mass media and the formal structure of politics, as well as the importance of governmental and political institutions.

While the Amish way of life may be appealing to most Amish people, it might not be appealing to all. Some of the Amish may wish to opt out. The concern I have is whether the independent Amish education system, designed to protect and promote the Amish community, not only restricts freedom of religion but also the options that the Amish have if they wish to opt out. The Supreme Court reflected on Thomas Jefferson who believed that some degree of education is necessary to prepare citizens to participate effectively and intelligently in the American open political system in order to preserve freedom and independence. The Court acknowledged that education prepares individuals to be self-reliant and self-sufficient participants in society. However, the Court said that the evidence “persuasively” showed that an additional one or two years of formal high school for Amish children in place of their long-established program of informal vocational education “would do little to serve those interests” (*Wisconsin v. Yoder* 1972, p. 222). It is one thing to say that compulsory education for a year or two beyond the eighth grade may be necessary when its goal is the preparation for life in modern society; it is quite another if the goal of education be viewed as the “preparation of the child for life in the separated agrarian community that is the keystone of the Amish faith” (*Wisconsin v. Yoder* 1972). Thus, here the Court had in mind the Amish adolescents who wish to remain in the community. It did not consider those who might wish to opt out, and the options presented to them if and when they leave the community.

The State of Wisconsin raised the issue of dissenters, arguing that the Amish education system was fostering ignorance and insisting that it is the role of the State to protect the children from such a policy. The State has a right to free children from ignorance. The Supreme Court accepted that the State has a duty to protect children from ignorance but maintained that “this argument does not square with the facts disclosed in the record” (*Wisconsin v. Yoder* 1972; for further discussion, see Hostetler 1984). The State argued that Amish children who leave their church would not be able to make their way in the world without the education available in the one or two additional years required by the State. The Supreme Court dismissed this argument as “highly speculative” (*Wisconsin v. Yoder* 1972, p. 224). The Court found no evidence of the loss of Amish adherents by attrition, nor any showing that upon leaving the Amish community the dissenters would become burdens on society because of educational short-comings. The Court said “not only do the Amish accept the necessity for formal schooling through the eighth-grade level, but continue to provide what has been characterized by the undisputed testimony of expert educators as an ‘ideal’ vocational education for their children in the adolescent years” (*Wisconsin v. Yoder* 1972, p. 224). But this ‘ideal’ education was for those

who wished to remain in the Amish community, not for those who wished to leave it.

The Supreme Court raised another important issue relating to the question of traditional concepts of parental control over the religious upbringing and education of children, on the one hand, and to State intrusion into family decisions in the area of religious training, on the other. The Court understood that if it were to interfere, this would give rise to questions relating to religious freedom (*Wisconsin v. Yoder* 1972, p. 231). The Court felt that this interference is not merely about education but rather about the religious future of the Amish children and this, the Court thought, was well outside the remit of reasonable interference. Weighing one against the other the State's interest in requiring two more years of compulsory education in the ninth and tenth grades versus the importance of the "concededly sincere Amish religious practice to the survival of that sect" (*Wisconsin v. Yoder* 1972, p. 238) the Court was convinced that the latter outweighed the importance of the former.

Furthermore, courts "are not school boards or legislatures, and are ill-equipped to determine the 'necessity' of discrete aspects of a State's program of compulsory education" (*Wisconsin v. Yoder* 1972, p. 235). The Court ruling was made with great circumspection in performing the sensitive and most delicate task of weighing the State's legitimate social concern when faced with religious claims for exemption from generally applicable educational requirements.

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

In previous decisions, the U.S. Supreme Court has repeatedly affirmed the state's duty and legal power to protect children (*Prince v. Massachusetts* 1944; *Ginsberg v. New York* 1968; *Parham v. J.R.* 1979. For further discussion, see Green 2015). Not this time. Reflecting on *Yoder*, Kymlicka and I argued that the Court never really even addressed that question systematically, since it defined freedom of religion in a non-liberal, group-based way. We were not saying that group-imposed restrictions on education are necessarily inconsistent with individual freedom of choice, but that for a liberal interpretation of freedom of religion, this is what needs to be examined. The demands of the group must be consistent with the real and ongoing capacity for choice by individuals (Kymlicka and Cohen-Almagor 2000. For further discussion, see Modood 2013. For a contrasting view, see Kukathas 2003).

Hence, my concern is with the test the Court invoked to assess the Amish situation. Of course, one could argue that the Amish should be exempt from the usual liberal conception of freedom of religion, on the grounds that they do not fall under the jurisdiction of the Bill of Rights. But that was *not* the argument that the Amish made, nor was it the basis for the Court's decision. So long as the Amish appeal to the right of freedom guaranteed in the constitution, the liberal state should interpret that as one which protects and defends the capacity of individuals to form and revise

their religious beliefs (see Arneson and Shapiro 1996; Burt 1996; Davis 1997; Peters 2003).⁷

Quality of education

The Court maintained (*Wisconsin v. Yoder* 1972, p. 224): “There is nothing in this record to suggest that the Amish qualities of reliability, self-reliance, and dedication to work would fail to find ready markets in today’s society.” The Court also cited a study that indicated that Amish children in the eighth grade achieved comparably to non-Amish children in the basic skills (*Wisconsin v. Yoder* 1972, p. 226). This finding has been contested. The Amish teach very little science, history, social studies, art, and music. Almost three quarters of each day is spent on reading, spelling, and arithmetic (Fischel 2012).⁸ Some Amish communities teach very little English (Megyn Kelly TODAY 2018). Amish education is based on the same textbooks for many years. Saloma Miller Furlong as a teacher taught from the same textbooks that she studied as a child (Furlong 2014, p. 197). The Amish curriculum is not comparable to that of an average American school.

If children arrive from school and tell their parents that today they learnt Creationism in Biology class, parents might become concerned. It is one thing to study Creationism as theology and quite another to learn it in a science class. If children report that their science teacher taught them that one school of thought thinks the earth is flat, some parents might see this as a sign of openness, that the teacher entertains all schools of thought and plurality of ideas; other parents, however, might perceive this as a sign for narrow-mindedness, that the teacher abuses authority to advance and promote a certain agenda that has been refuted a long time ago. Some parents might even ask to see the headmaster and complain about the level and quality of education their children receive at school. After all, so they may claim, they do not send their children to school to learn outdated ideas that science has disputed time and again. Conversely, the Amish are unlikely to complain. Some of the Amish children were taught to think that the earth is flat and that if they go too far they might fall (Megyn Kelly TODAY 2018; Sutton 2018). Furthermore, Amish educators are not qualified teachers. Often their education does not extend beyond the eighth grade (Cates 2014, p. 63). Many of the teachers are young, unmarried Amish women. Commonly they teach for 3 to 5 years and then get married and establish families. Community pressure is such that couples are expected to marry young and immediately start a family. Teacher turnover is a constant in the Amish community (Dewalt 2006, pp. 117, 195). Amish parents who wish their children to have quality education, and Amish who may wish to lead their lives outside the community can

⁷ Also, see generally Gray (2000) where it is explained that liberalism is the project of seeking terms of peaceful coexistence between different regimes and ways of life. Gray supports creating institutions and systems in which people who disagree can coexist, cooperate, and compete *within certain boundaries*. Elsewhere I argued for introducing boundaries to liberty and tolerance. Cohen-Almagor (1994).

⁸ A similar phenomenon takes place among the Jewish Ultra-Orthodox communities.

make a case that children leaving in the eighth grade have not been taught by certified teachers and, therefore, their chances to enjoy fulfilling career has been gravely hampered.

Protective community?

The Amish offer a very constricted framework of life. Life is simple, expected, with a well-known routine comprised of limited education, steady job, family, and community. At least, one may think, the Amish offer its members a safe and protective life. They present themselves as a sheltered, self-sustained community. However, this presentation is somewhat misleading.

In school, children study with staff and children they know. This closeness should have provided them with a sense of belonging and of a protective community. This, indeed, was the assumption in *Wisconsin v. Yoder* (1972, pp. 210–211). The Justices believed that Wisconsin's mandatory attendance statute was unnecessary for the protection of children as they would live their entire lives in sheltered communities.

Amish children are protected from many child welfare risks such as parental unemployment, divorce, and homelessness. These are virtually non-existent in Amish communities. People who are vulnerable by age, health, or ability are well cared for within their tightly-knit social fabric. Children grow up in large families with strong ties to their large family. When a family experiences a hardship such as death, injury, or illness, the community will rally around them (Fontes and Harder 2019). I wanted to know what happens to those who wish to exit this way of life. Then, to what extent Amish education is, indeed, sufficient, and how successful are those who chose to leave the community and who try to establish a new chapter in the wider American society? Some of the stories of those who left the Order are truly troubling. They speak about child abuse, sexual harassment, exploitation, and cover up. James A. Cates (2014, p. 92), a psychologist who worked with the Amish, argues that all too often child abuse in the community occurs with impunity. The Amish do not like to wash their dirty laundry outside, and they are protective of those who sin. As forgiveness is an essential value of their teachings, the Amish tend to forgive those who commit crimes. They shelter the abuser and fail to provide safety and protection to their young. Saloma Miller Furlong (2014, pp. 22, 51) grew up in a home where her father resorted often to violence, confessed, and then reverted to violence. The cycle of violence continued unabated (see also Bradbury and Smith 2019a, b). Only in rare instances where excommunication does not yield the right results, the Amish turn to external law enforcement, such as in the case of Chester Mast who was excommunicated three times for the rape of his younger cousins before he was finally reported and arrested. The alleged assaults took place for 5 years, between 2004 and 2009 (Devlin 2014; Jabali-Nash 2010).

In October 2018, 53-year-old Ora F. Troyer was sentenced to one term of 15 to 25 years in prison and two terms of 10 to 15 years for sexually assaulting three girls multiple times during 2003–2018 (Waterman 2018; *Amish America* 2018). One may argue that sexual abuse crimes happen in many communities, not only in the Amish. The disturbing fact is that in this case the perpetrator got away with committing

abuse over a 15-year period. In January 2019, two Amish brothers, Alfred N. Yoder, 22, and Enos R. Yoder, 22, faced multiple sexual charges in Daviess County. They allegedly performed sexual acts on two minors on multiple occasions. The alleged crimes took place between 2014 and 2018 (Sadowski 2019).

Misty Griffin (2018) published a book about her ordeal. She describes the Amish community as a place of fear, animal cruelty, and sexual abuse. Griffin was sexually abused by the bishop. Other books written by women who left the Amish portray similar if not identical troubling stories. One may question the reliability of books by disgruntled people who left the Amish. Still, we should not ignore these repeated examples of evidence. Saloma Miller Furlong (2011, 2014) published two books about her Amish experience. She was abused by both her father and her older brother. Torah Bontrager (2018) was subjected to continued sexual abuse until she ran away. She did not find help within the Amish community. Mary Byler was raped by several different attackers (Lavoie 2006). Byler was considered the villain by the Amish because she broke with the community and brought in outside authorities (ABC News 2004). When charges are filed, Amish communities often refuse to cooperate with investigations, and witnesses are ordered not to testify. Victims find little support or opportunity for recovery and are punished for making their experiences public (ABC News 2004). In 2017, a local bishop admitted to covering up sexual abuse in his community (Robinson 2017; see also Fox43 2013; Wright 2017).

The disturbing stories about sexual abuse have common features, as a result of the Amish culture and way of life. Amish men are dominant in this culture. From early on, girls are taught to be submissive to the men and boys. Most Amish do not educate their children about sex; therefore, girls can easily fall prey to sexual predators. The Amish rely on belief as the key to their living. Therefore, spiritual healing is required when sins are committed. Their emphasis on peace and consensus makes exposing violators more difficult. Cultural forces push victims into silence (Cates 2014, p. 91). The Amish value non-violence, which is expressed as pacifism, leads them to avoid reporting crimes and avoid participating in court cases against people who have wronged them (Fontes and Harder 2019). The books mentioned above reveal a repeated pattern. When sexual abuse is uncovered, the community shelters the predators rather than the children. They focus on the perpetrator's repentance rather than on the victims' welfare. They are given the opportunity to repent; in severe cases they are banned from the community for six weeks, and then return as if nothing happened. This allows pedophiles to continue living among their victims. This, of course, is very traumatic for the children. The community preference to shield the perpetrators leave the victims in a state of helplessness and despair (Bradbury and Smith 2019a, b; Smith and Bradbury 2019a, b; Strasburg and Smith 2019).⁹

If the abusers are reformed, while the victims still experience psychological torment at least the physical danger is removed. But when the offenders continue with the abuse, the vicious cycle can linger on. This explains why such crimes can last for many years. Reporting to the police is admitting that the Amish key to life, spiritual

⁹ Peter Smith published dozens of similar articles. See <https://muckrack.com/peter-smith-25/articles>

healing, has failed; failed to the extent that they need to appeal to the worldly assistance. Thus, only in cases of repeated offences, after giving the offender a number of opportunities to repent, will the community surrender the offender to the police. But it takes long time until the Amish give up and appeal to the outside world. Meanwhile, the victims' traumas deepen and deepen.

The Amish look inside their communities for a spiritual solution, when the more appropriate solution would be to seek help from professionals who are trained to deal with psychological problems. The Amish are simply not sufficiently equipped to deal with these matters, and their isolation from mainstream society means that public services are largely out of reach, especially for children. The usual avenues for getting counsel are not available to them. They do not have access to emergency help and do not know where to turn. The social apparatus that exists in American schools that could potentially stop abuse and assist victims: police, teachers who receive training as to how to deal with abuse, mental health counselors, psychologists, and social workers—these professionals do not exist in the Amish communities. In society at large, abuses are first noticed and reported by school teachers but this is not the case in the Amish parochial schools. Hence, while sexual abuse is not unique to the Amish, it is easier for Amish abusers to continue their abuse. Even if people in the community know of abuse, they will usually not intervene on behalf of the children, because they do not want to be seen as meddling in other families' everyday lives, and they do not know how to deal with abuse. As aforesaid, sometimes the Amish would blame the victims for the abuser's crime or for laundering the dirty cloths outside the community. This leaves those Amish children who are being abused with few or no advocates, just when they need them the most (Amish America 2018).

In January 2020, *Cosmopolitan* published a long report of an investigative journalist who spent a year researching sexual abuse among the Amish. My research relied on primary and secondary sources, reading and analyzing literature that was published by Amish people and also by researchers who spent time with the Amish and who studied their way of life. *Cosmopolitan* (*Cosmo* in short) relied on in-depth reportage. I should note that *Cosmopolitan* is a well-established, popular international fashion magazine for women that has 64 editions, is published in 34 languages, and is distributed in more than 100 countries.¹⁰ The magazine's primary focus is on fashion, entertainment, sex, love, beauty, and human relationships (Britannica n/d).¹¹ It has a mixed reputation. Its factual reporting is not always accurate. Its editors sometimes promote pseudoscience; its writers do not always check their facts, and the reporters have, at times, clear biases that they do not hide (*Media Bias 2021*). Thus, one may relate to the *Cosmopolitan* stories with a pinch of salt.

The *Cosmopolitan* reporter, Sarah McClure, uncovered 52 cases, which include rape and incest, across seven American states over the past two decades. She argues that the full picture is much darker and disturbing. Whenever she spoke with abused

¹⁰ *Cosmopolitan*, <https://web.archive.org/web/20130826005506/http://www.hearst.com/magazines/cosmopolitan.php>

¹¹ See also <https://www.cosmopolitan.com/uk/#sidepanel>

women, they told her about dozens of other cousins and friends and family members who were victimized. Based on these conversations, McClure (2020) thinks there are a lot more victims in Amish country who never complained.

McClure (2020) substantiated my research findings. Many of the perpetrators are family members who abuse family hierarchy that subordinates women to men to exploit daughters and sisters. The Amish community supports and shelters abusers, not the abused. Victims who sought to escape their lot and stop the abuse are subjected to threats. Sometimes, they are shamed or shunned and are left with no place to go. Even if they have left the community, their entire lives are turned upside-down because they are not familiar with the outside world and do not receive the required support. It is extremely difficult for a young girl to go against her own family, father, and brothers, without any support. Sometimes, the abusers are not sent away to allow breathing space for the abused; rather the victims are sent away. They are sent to special Amish or Mennonite mental health facilities, where they are drugged and become “zombies” (McClure 2020). They are prescribed olanzapine, an antipsychotic medication that treats mental illnesses like schizophrenia, aiming to make them calm, “submissive” and positive (McClure 2020). The complainants said that sexual abuse in their communities is an open secret spanning generations. The abuse is so widespread and accepted to the extent that one abuser said, in his defence, that he had sex with two of his daughters, insisting “he made love to them at least three times each but didn’t hurt them” (McClure 2020). Victims who wish this nightmare to stop and dare to complain to the outside world, something that the Amish consider “un-Christian,” do not even know the names of body parts. They are so young, so innocent, and they are lacking sex education that explains the functioning of organs and equips young people with an understanding of what is right, what is wrong in family and communal affairs, and what are the moral boundaries of interference in private matters. The evidence suggests that in the Amish culture, women lack essential mechanisms of care and support to protect themselves against abuse.

Qualified exit right

The Amish do provide their adolescents with the opportunity to change and revise their conception of the good, but this opportunity is limited. In their late teens or early twenties, the Amish should accept baptism and the strict regulations of their order, known as the *Ordnung*. The *Ordnung* is based on Biblical principles that were accepted and approved by the Amish since the sixteenth century as well as on the specific Amish community regulations that differentiate the community from the outside world (Dewalt 2006, p. 20). Prior to this acceptance, some Amish communities give their adolescents an opportunity to taste the outside life.¹² At the age of sixteen, they experience a period of *Rumspringa*, “running around,” enjoying

¹² Not all Amish communities allow *Rumspringa*. See Gingerich (2014); Hurst and McConnell (2010, pp. 67–69, 80–82).

room to roam. Since the youth have not yet been baptized, they are not subject to the church's rules about permitted and forbidden behaviors. During this period, which lasts between several months to several years, youngsters can drive cars, use modern technology, wear western clothes, have sex, and socialize with non-Amish. Nearly all youth continue to live with their families. A minority of them leave home, find a job, and self-sustain themselves (Shachtman 2007; Fischel 2012). The *rum-springa* ends when the youngster agrees to be baptized into the church and take up the responsibilities attendant on being an adult member of the Amish community (Shachtman 2007; Devil's Background 2002). Indeed, the *rum-springa* rite of passage demonstrates the *prima facie* voluntary nature of joining the church.

For the Amish community this is a calculated risk. The Amish know that they are going to lose some members but as long as the loss is not very significant, this is a price the Amish are willing to pay to maintain the Amish order. Kraybill (2000, p. 186) describes *rum-springa* as a "social immunization" by which a small dose of enjoying the American way of life strengthens Amish young people for the temptations they will face in adulthood. He persuasively argues that the very fact of having a choice does make the Amish more likely to follow the *Ordnung*. Hurst and McConnell (2010, p. 68) maintain that the perception of choice, whether to join the church or not, is partly an illusion because youth have been thoroughly immersed in an Amish world since birth. They argue that the ideal culmination of the *rum-springa* period for all Amish groups is baptism into the church. Indeed, the majority of Amish youth have internalized the mechanisms of community order and control and thus opt to stay. Furthermore, as the Amish youth lack preparation for meaningful engagement with the outside world, being unqualified for many decent jobs, and ineligible to pursue higher education, and because the Amish education system does not provide them with ample tools for social integration, the majority of Amish youth find the outside world too difficult and thus they return to the community after a year or so of running around. Leaving the Amish community entails uncertainty if not a solitary and harsh way of life. A cost-benefit analysis leads most youngsters back to the community, where they accept the *Ordnung* and settle down (Mazie 2005, p. 752). Those Amish Adolescents who decide to leave the community have good reasons. Some of their stories are heart-wrenching and quite troubling (Garrett 2003; Griffin 2018; DePinho 2016; Simms 2017; Waxman 2012).¹³

Those who wish to leave have a very low starting point because Amish education does not prepare the children to live in the American larger community and does not offer them a plurality of conceptions of the good. There is only one way—the Amish way. Thus, my view on Amish education comes close to that of the dissenting Justice William Orville Douglas who was of the opinion that the matter of education is not within the dispensation of parents alone. Douglas thought "the children themselves have constitutionally protectible interests" (*Wisconsin v. Yoder* 1972, p. 243). In order to make an informed opinion, Douglas thought that the children should be entitled to be heard: "While the parents, absent dissent, normally speak for the entire

¹³ See also 10 Amazing Stories Of People Who Left The Amish Community (2017) <https://www.youtube.com/watch?v=t11ix1B3DtI>

family, the education of the child is a matter on which the child will often have decided views. He may want to be a pianist or an astronaut or an oceanographer. To do so he will have to break from the Amish tradition” (*Wisconsin v. Yoder* 1972, pp. 244–245; for further discussion, see Knudsen 1974). Interestingly, while Chief Justice Burger found “no specific evidence of the loss of Amish adherents by attrition” (*Wisconsin v. Yoder* 1972, p. 224). Justice Byron Raymond White in his concurring opinion (*Wisconsin v. Yoder* 1972, p. 240), and Justice Douglas in his dissenting opinion noted evidence that a significant number of Amish children do leave the Old Order (*Wisconsin v. Yoder* 1972, p. 245). Both Justices White and Douglas presented the important liberal consideration of agent’s autonomy.

Justice White acknowledged that while possibly most Amish children may wish to continue living the rural life of their parents, others “may wish to become nuclear physicists, ballet dancers, computer programmers, or historians” (*Wisconsin v. Yoder* 1972, p. 240) and for attaining these occupations the Amish education system would not be sufficient. The State has “a legitimate interest not only in seeking to develop the latent talents of its children but also in seeking to prepare them for the life style that they may later choose,” and to provide them with an array of options (*Wisconsin v. Yoder* 1972, p. 240). In the circumstances of this case, Justice White was unable to say that the State has demonstrated “that Amish children who leave school in the eighth grade will be intellectually stultified or unable to acquire new academic skills later” (*Wisconsin v. Yoder* 1972, p. 240). White J. concurred with the majority of the Court because he was impressed by the “sincerity of the Amish religious policy,” because the “potentially adverse impact of the state requirement is great,” and because the State’s “valid interest in education has already been largely satisfied by the eight years the children have already spent in school” (*Wisconsin v. Yoder* 1972, p. 241).

Justice Douglas thought that if the best interests of the Amish children are in mind, then the State of Wisconsin’s stand should be accepted. Unlike White J. his view not only is consistent but it also adequately representing the liberal view. Douglas J wrote (*Wisconsin v. Yoder* 1972, pp. 245–246):

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

Judged by practical results, retention rates after *rumspringa* are high. Meyers’ study of one Amish settlement from 1920 until 1969 shows that the percentage of Amish leaving their community varies from 5% during 1960–1969 to 21% during 1930–1939. The average defection across the decades was 13.8% (Meyers 1994).

The study found that older siblings are more likely to defect, that the majority of those leaving were males, that Amish communities that have made the fewest concessions to modernity in agriculture and in laxity of discipline have the lowest percentage of defectors, and that Amish pupils who attended Amish schools are less likely to defect than are those who have gone to public schools (Meyers 1994). Choy (2016), who studied three Amish communities, found that 36% of New Order children, 14% of Old Order children, and 5% of Andy Weaver children leave the church. The strictest community is the last. Choy's evidence suggests that strict Amish regulations lead to low exit rates. Discipline and independent schooling are keys to keep the community together and maintain higher retention rates. Fischel (2012) found that by the end of the *rumspringa* 90% of the Amish youth accept baptism and embrace the *Ordnung*. The majority prefers to return to the familiar rather than continue to "run around" aimlessly in a foreign environment which they do not really understand. Amish youth do not know what to look for, what distinctive ways of life are available. They cannot search for something they do not know. Filmmaker Lucy Walker, who directed *Devil's Playground*, an award-winning 2002 full-length documentary film about the culture of Amish teenagers as they reach their sixteenth birthday, also found that the retention rate was 90%.

Balancing interests

Balancing should consider the interests of the child, of the parents, of the community, and of the state. The Court should consider a long-term view of children's development. The word "individuality" is not mentioned in the Court judgment. The word "autonomy" is mentioned once in the context of freedom of religious bodies, not of the child (*Wisconsin v. Yoder* 1972, p. 221). Consideration of the children's best interests was mentioned once in passing (*Wisconsin v. Yoder* 1972, p. 232) and the majority of the Court failed to recognize the Amish children as an interested party whose future will be greatly affected by the judgment. Only Justice Douglas advocated the rights of the children, insisting that children should be given an opportunity to be heard.¹⁴

The term "best interests" is tricky as many interests are involved, some of them are contradictory. They are subjective in the sense that different weights and importance are assigned to them by different stakeholders. Interests are hard to quantify

¹⁴ In *Re G* [2012], Lord Justice Munby wrote: (para. 43): "Although a parent's views and wishes as to the child's religious upbringing are of great importance, and will always be seriously regarded by the court, just as the court will always pay great attention to the wishes of a child old enough to be able to express sensible views on the subject of religion, even if not old enough to take a mature decision, they will be given effect to by the court only if and so far as and in such manner as is in accordance with the child's best interests. In matters of religion, as in all other aspects of a child's upbringing, the interests of the child are the paramount consideration." For further discussion on state intervention when balancing religion and tradition, on the one hand, and the rights of the child, on the other, see Cohen-Almagor (2021).

and to prioritize in an objective fashion. Lord Justice Munby (*Re G* [2012]) elucidated in this context:

Evaluating a child's best interests involves a welfare appraisal in the widest sense, taking into account, where appropriate, a wide range of ethical, social, moral, religious, cultural, emotional and welfare considerations. Everything that conduces to a child's welfare and happiness or relates to the child's development and present and future life as a human being, including the child's familial, educational and social environment, and the child's social, cultural, ethnic and religious community, is potentially relevant and has, where appropriate, to be taken into account. The judge must adopt a holistic approach.

Lord Justice Munby (*Re G* [2012]) maintained that a child's welfare is to be judged by the standards of reasonable persons, and while having regard to the ever-changing nature of the world: "changes in our understanding of the natural world, technological changes, changes in social standards and, perhaps most important of all, changes in social attitudes."

The goal of empowering children, helping them develop their potential is mentioned by Justice White who concurred with the decision. Justice White (*Wisconsin v. Yoder* 1972, p. 239) acknowledged that the State has an interest to expand children's knowledge, "broaden their sensibilities, kindle their imagination, foster a spirit of free inquiry, and increase their human understanding and tolerance." However, most Amish children wish to continue living the rural life of their parents, in which case their school adequately equips them for their future role. But this is a problematic argument. It might be the case that the children wish to remain in the community because their education is restrictive and does not open them windows to know and to think about matters that are outside the confines of the Amish community. It is not that the Amish education suffices for the life they choose but Amish education, to a large extent, leads them to this choice. The Amish consciously restrict their children's future. If they were to study the American curricula, maybe they would be encouraged to integrate into American life and to contribute to the wider society, not only the Amish. Thus, it is not that there is no need to insist on broader and longer education curricula because most Amish youth wish to remain in the community, but that most Amish youth are content to remain Amish because choice is restricted and the education system is designed for the purpose of perpetuating the community. Amish education does not introduce children to many conceptions of the good but only to one. It does not open their future but forecloses it, narrowing avenues to a single Amish avenue.

Bhikhu Parekh endorses the virtues of multicultural education and warns against closing of the mind by focusing on one so-called truth. Parekh rightly observes that one of the central aims of education should be to equip students with the ability to take part in a conversation between different conceptions of the good. Not only that the curricula should include different religions and cultures but it should bring them into a fruitful dialog. Thereby students are able to appreciate the complexity of truth and the irreducible diversity of interpretations. Multicultural education is an education in freedom, both in the sense of freedom from ethnocentric prejudices and biases as well as freedom to explore and learn from other cultures (Parekh 2000, pp.

229–230). Amish uncompromising education is the exact opposite. Not only is it not aimed to enrich contestation of truths but it also wishes to isolate the young from the larger American culture and society, trapping the young within the confines of one traditional belief that is not suitable for all.

Conclusion

In *The Law of Peoples*, John Rawls (2002, pp. 59–62) explained that while liberal societies are pluralistic and peaceful, are governed by reasonable people who protect basic human rights, minimal means of subsistence, security, liberty, personal property as well as formal equality and self-respect as expressed by the rules of natural justice, non-liberal societies adopt norms based on compulsion and coercion (for further discussion, see Rorty 1997; Cohen-Almagor 2006). While liberal peoples are reasonable and rational, they encourage pluralism of ideas and provide avenues to empower opposition, and their conduct, laws, and policies are guided by a sense of political justice (Rawls 2002, p. 25), authoritarian societies aggressively fight to undermine political opponents. Whereas liberal societies have no qualms to present questions with no definite answers, to challenge common truisms, to present competing ideas, to admit human infallibility and celebrate heresy, in contrast theocracy attempts to provide strict answers to all questions and concerns.

The clash between the liberal state and the Amish way of life is inevitable. The state has reasonable grounds to intervene and enforce the Wisconsin legitimate regulations designed to promote the rights of the child. The severity of children's rights violations justifies intervention. While the liberal state wishes to provide children with the tools to cultivate their talents and propensities, the Amish wish to restrict avenues and choices, putting the community well above the individual. In *Wisconsin v. Yoder* (1972), the Amish were allowed to do this at the expense of the children. Group rights enjoyed precedence over individual rights. Appreciation of multiculturalism came at the expense of liberalism. I am unable to side with the majority of the Court because the liberal state has a legitimate interest to provide children with reasonable opportunities, intrigue their imagination, make them think, equip them with knowledge and tools to explain data, and articulate their views on what they learn. The liberal state has an interest in seeking to develop the latent talents of its children and in preparing them for the lifestyle that they may later choose, or at least to provide them with an option other than the life they have led in the past. The societal concern for children's education is reasonable and legitimate. In the circumstances of this case, the Amish stifle intellectual progress and thinking and impede their ability to acquire academic skills.

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

police and legal system are reluctant to get involved in Amish child abuse cases (Yoder 2007).

The problem is that the Amish restrict the ability of their children to choose a non-Amish life AND they subject their young to excessive abuse while the young do not know where to turn for help as the community shields the abusers. Forgiveness is not a bad value. Forgiveness that entails subjecting victims to continued abuse by the same molesters is an awful policy with dire and most disturbing consequences for the victims.

This concern of potential child abuse is a forceful argument against the suggestion of homeschooling. Spinner-Halev (2000, p. 113) argued that if the Amish were told that they had to send their children to schools outside their communities, the Amish might have decided to homeschool their children. However, parents should not take such a decision lightly. They should carefully consider the reasons for wishing to educate their children at home, explore what their children think about the idea, verify that they have the time, resources, and ability to provide adequate education, and that their home is suitable for undertaking teaching and learning. Parents should enquire what support they can receive from others—family, friends, and the local community, whether they are able to provide for their children social experiences, circle of friends, access to cultural and aesthetic experiences and physical exercise, to help them develop, and how long they wish to take this considerable commitment. Faith considerations should not deprive children from receiving a suitable full-time education (UK Department for Education 2019, pp. 11–12). Therefore, American agencies should be very cautious in granting permissions for homeschooling.

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

- The Amish should be able to teach their own history, norms and tradition.
- The Amish should protect their children against abuse and provide opportunities to curious children who want to know more about the world. Stories of Amish adolescents who were able to build a life for themselves outside the community often include curiosity as a driving element. Saloma Miller Furlong who left the Amish said that she was labeled a chatterbox, handful, stubborn, and rebellious. For as long as she can remember, she was a misfit, also because she asked questions (Furlong 2014, p. 11). Linda Byler, who enrolled at Penn State University, said that she always has been a very curious person. She enjoyed school but what she learned seemed to her very limited. She spent a lot of her time studying with her older siblings, reading their textbooks. Once she started school, she learned about children in non-Amish schools who were learning more subjects. Byler said she “felt like I was being cheated” (Byler n/d). The Amish should have a class for children who are deemed to be different, rebellious, curious, interested

in the wider world, and for children whose parents wish for their children to have opportunities which they would not have under the Amish education system.

- Some Amish do send their children to public schools. This is more common in communities such as Holmes County, Ohio, or in northern Indiana. A few Amish homeschool their children. Yet the vast majority of Amish send their children to the local one-room schoolhouse (Amish America 2010b; McConnell and Hurst 2006, p. 244). Among the Amish, sending children to public schools is controversial as this act is deemed disloyal to the community (McConnell and Hurst 2006, p. 246). Coercive restrictions on children's future in order to preserve familial, cultural, and religious ties are highly problematic when the child is torn between different conceptions of the good. What is needed is a tolerant and supportive environment in which children would feel safe to express their evolving beliefs. The Amish should openly allow children to study in regular American schools beyond the age of 13 without scapegoating them. Providing these opportunities to the young would not destroy the Amish community. Empowering younger generations will vitalize the entire community. Coping with change is a challenge but balancing between the interests of the community and the children's best interests, the change may be positive. It can be assumed that behind a Rawlsian veil of ignorance (Rawls 1971), people would opt to have these choices.

When I embarked on my research on the Amish education system I did not know about the phenomenon of child abuse in the Amish communities. The fact that such abuse exists supports my argument but I would still make the argument for State intervention in the Amish education system if no abuse was to be found. Individual growth is enabled by introducing students to diverse conceptions of the good and by promoting critical thinking that encourages students to raise questions and to challenge different points of view. Freedom of thought, freedom of speech, freedom of religion, freedom from religion, tolerance, and equality are cherished views. While the American education system is liberal in essence, within liberalism there are different strands, including classical, new, rule utilitarian, act utilitarian, and idealism. Supplementing liberalism teachers are also able to teach different theories, such as critical race, feminism, multiculturalism, socialism, conservatism, and diverse theories of justice.

A study that examined the educational implications of the 1972 Supreme Court decision on a Ohio Amish community found that the Amish have adopted diverse educational pathways, including public schools, charter schools,¹⁵ General Education Development (GED) programs,¹⁶ homeschooling, and vocational courses

¹⁵ Charter schools are semiautonomous schools of choice. They receive government funding, use certified teachers but operate independently of the established state school system in which they are located. Many Amish people sit on such school committees. Charter schools operate with more freedom over their budgets, staffing, and curricula compared to regular schools, and with less strict regulations imposed upon district schools. For information on Ohio charter schools, see <https://www.ohioschoolboards.org/sites/default/files/OSBAGuidetoCharterSchools.pdf>

¹⁶ GED is an alternative to the US High school diploma. This is a group of four subject tests which, when passed, provide certification that the student has US high school-level academic skills.

(McConnell and Hurst 2006). The diverse ways in which the Amish continue to renegotiate social boundaries with their neighbors suggests the need for more attention to internal diversity within the Amish. Whatever way the Amish resort to educate their children, the State should have minimum expectations for literacy and numeracy education while bearing in mind the age, ability, and aptitude of the children and any special educational need they may have. Education may not be deemed suitable if it leads to excessive social isolation and thus impedes their development. Furthermore, to prevent potential abuse and to provide children with the safe environment they need, the State should show greater involvement in the Amish community and to subject them, as it does when other schools are concerned, to inspections and some form of monitoring. As many of the Amish teachers are young, they would benefit from impartial observers who would comment on their strengths and weaknesses, and who may suggest ways to improve.

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

- The liberal state is required to protect vulnerable populations. At present, the American government neglects its duty of care. Abuse is more likely to happen in isolated communities because those communities do not have, or are lacking, the apparatus of prevention, deterrence, and support that are commonly offered to prevent abuse and help victims. Indeed, the Amish is not the only community where child abuse takes place. In their comments on a draft of this paper, Orit Ichilov and Allan Jacobs noted that such abuse took place in the Catholic church, in the Haredi communities, in American Prep schools, and in the Israeli kibbutzim. All are closed, discrete communities that try to keep to themselves without involving the police when faced with the challenge of sexual abuse. Experience shows that self-regulation, where the community regulates itself, is often deficient. The Amish protect the abusers, not the abused. Sexual abuse, incest, and pedophilia are not an “internal,” “personal,” “group” problem. Liberal democracy is required to step in and help children in need. Otherwise, the abuse might continue unabated for years, inflicting untold pain and suffering and destroying many lives. The Amish education system should include sex education, discussions on children rights, mental health counselors, adequate child support, monitoring and reporting mechanisms, and experienced external advisors who ensure that children are not exploited, sexually and otherwise.
- There is a clear gap between the Amish and American societies. The Amish do not know much about the American way of life, and Americans know little about the Amish. At times, when child welfare and legal professionals did intervene on behalf of abuse victims, they have harmed children through assessments, investigations, and interventions that do not consider the customs and values of the Amish way of life. Intervention should take place carefully and sensitively. Care workers and others should dress modestly, be mindful of gender issues (male professionals should not go into a house without a male family member present)

and of the language barrier, build rapport and trust with Amish families, establish community liaisons, and focus on common values such as children's safety (Fontes and Harder 2019).

- The United States should open many channels of communication with the Amish in addition to the existing ones.¹⁷ Through deliberation and search for reasonable and constructive compromises, based on mutual respect and conducted in good faith, the State should balance competing interests: perpetuating the Amish community against children's self-development and children's right to an open future (Feinberg 1980, 1992).¹⁸ The liberal state should be concerned when parents preempt their children's future options and restrict the scope for their children's personal development. The State has an interest in empowering children to become equal citizens in society, enabling their integration into the wider society if they so wish.

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Research involving human and animal rights Writing of this article did not involve research on humans or animals.

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¹⁷ One referee notes that in his/her own work studying public school educators of Amish children, s/he has found that the relationship between the public school district and families illustrates ways in which the public keeps tabs on the insular, but also how the public bends to the will of the Amish bishops in an effort to maintain a high number of children in the desks. The referee writes: "It is a complicated relationship, which if anything, supports the work that you have provided here."

¹⁸ For critique, see Millum (2014).

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