



Parental Rights and Education in Central & Eastern Europe

Anthony O'Hear

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Image: Teachers and students protest against the Hungarian government in Budapest, 2023

About the Danube Institute

The Danube Institute, established in 2013 by the Batthyány Lajos Foundation in Budapest, serves as a hub for the exchange of ideas and individuals within Central Europe and between Central Europe, other parts of Europe, and the English-speaking world. Rooted in a commitment to respectful conservatism in cultural, religious, and social life, the Institute also upholds the broad classical liberal tradition in economics and a realistic Atlanticism in national security policy. These guiding principles are complemented by a dedication to exploring the interplay between democracy and patriotism, emphasizing the nation-state as the cornerstone of democratic governance and international cooperation.

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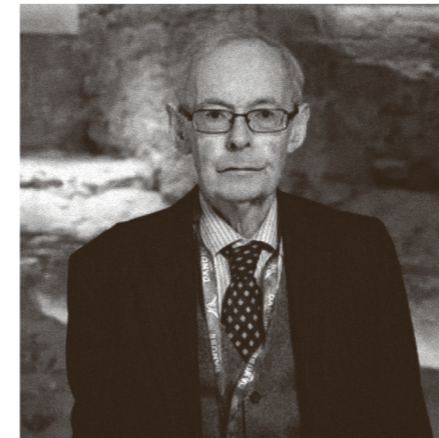
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Image: A sunset view over the Danube River, Budapest. (Skelanard, CC BY-SA 4.0, via Wikimedia Commons)

About the Author



Anthony O'Hear is Professor of Philosophy at the University of Buckingham and was the Head of the Department of Education. For 25 years, between 1994 and 2019 he was Director of the Royal Institute of Philosophy and editor of its journal *Philosophy*. During his time at the Institute, its activities have increased remarkably: he initiated many programs that are still active today, placing great emphasis on education and public awareness. He was advisor to several UK governments on education policy. He was appointed OBE by Queen Elizabeth II in the New Year's Honours List in 2018. His most recent books are 'In Defence of Liberal Education: Philosophy and Controversies' (University of Buckingham Press, 2023), 'The Prism of Truth: Reflections on Myth' (Wipf and Stock, 2024) and 'Popper, Philosophy and Faith' (Cambridge University Press, 2025)

Abstract

The United Nations Declaration of Human Rights gives parents the 'right to choose the kind of education that is given to their children.' The paper cites examples from the UK and elsewhere to explain how and why, in practice, the state often has its say in how children are to be educated. This provides a context for a discussion of parental rights in relation to education of children across five countries in Central & Eastern Europe - Hungary, Poland, Romania, the Czech Republic and Slovakia. The paper also considers the possibility of home-schooling in these countries, while using the UK and Germany as a basis for comparison. Drawing on the author's own experience as a policy advisor in England, the paper then considers the theory and the practice of parental rights in a liberal state. The paper then considers the importance of the family as the foundation of civil society - and discusses the very different approaches of the state to parental rights in Scotland and the Netherlands. The paper concludes by identifying the questions that should be asked by observers who are concerned at the reduction in parental rights in many countries.

Parental Rights in Theory and Practice

Parental Rights in Theory

The United Nations' Declaration of Human Rights was promulgated in 1948 to widespread international agreement. Its Article 26 states, unequivocally it seems, that 'parents have the right to choose the kind of education that shall be given to their children'. Two years earlier in Britain the landmark Education Act of 1944 declared that pupils should be 'educated in accordance with the wishes of their parents'.

Sentiments of this sort are apparently embodied in the law of many countries from the former Eastern bloc. In addition to drawing on my own experience in England, I am focusing here on five such countries, partly because they have all been transformed from totalitarian dictatorships into more or less liberal democracies since 1989. They had, therefore, a chance to re-model all their institutions in line with the tenor of the UN Declaration of Human Rights from scratch as it were. In addition in several of these countries there is a strong element of Catholicism, which is relevant to our theme, because ever since the encyclical *Rerum Novarum* of 1891 parental rights in education have been a fundamental part of Catholic Social Teaching: Section 14 of that document avers that parental authority cannot be abolished or absorbed by the state: a state setting up its own supervision over the home and the family would be acting against natural justice, which would presumably include attempts to dictate or enforce an education system on parents, whose responsibility the education of their children is.

Thus in Hungary, Article 67 of the Constitution and Public Education Act gives parents the right to choose the education of their children and their school. In Poland, Article 70 of the Constitution gives parents the right to choose non-public schools for their children and set up such schools. Article 53/1 accords parents the right to ensure their children a moral and religious education and teaching in accordance with their convictions.

Article 32 para 4 of the Czech Republic's Charter of Fundamental Rights and Freedoms states that the care of their children and their education are the rights of parents. In Romania Article 29 of the Constitution states that parents have the right to ensure the education of their children while minors in accordance with their own convictions. Chapter 42 of the Slovak Constitution accords national and ethnic minorities the right to establish and maintain educational and cultural institutions. It is clear that since the collapse of the Soviet bloc in 1989, these newly liberated countries have certainly nodded in the direction of the United Nations' Article 26.

Parental Rights in Practice

No doubt similar provisions can be found in the legal framework of many other countries, as we have just seen in relation to Britain. But the question raised by all such resounding sentiments is: what do they mean in practice? How extensive in actual practice are the rights so liberally endowed in theory? Are they restricted by countervailing laws and provisions within each country? And is there a common thread to such restrictions?

The bare fact that what is called or claimed as a 'right' is restricted either by statute or in practice need not in itself be undesirable or objectionable. Indeed at times it may be necessary to restrict one right in order to secure another right. Thus my rights to liberty and property do not give me the right to enter someone's home or take someone else's property. My right to property should not allow me to own a monopoly to some basic commodity such as water or air or pasture in such a way as to enable me to oppress and exploit members of the general public. In the case of education, there are rights of children to an education which enables them to function in the society in which they live, which might be compromised if their parents deny them access to literacy and numeracy on some religious principle.



2016 National Union of Teachers Strike, London United Kingdom (Shutterstock)

This last question actually becomes highly relevant in the United States where there are heated arguments over the education of Amish and Mormon children. Some, including many professional educators and state officials, would see children educated as Amish or Mormon parents might wish as being deprived of some significant knowledge and skills the objectors see essential to anyone's flourishing in the wider society. And many, perhaps most, people in the West would strongly object to Muslim girls being taken out of secondary education during early adolescence, as some Islamic parents might insist their religious principles require (especially if the reason for this was to facilitate an arranged marriage).

Such cases are by no means unknown in Britain, where, despite widespread objections in the larger society, state authorities can be strangely reluctant to act. Whether these parental principles and wishes are justifiable or not does not affect the point that they are the wishes of these parents. So, if the state is going even for the best of reasons to force the education it sees fit on these children, despite what is said in the declaration of human rights and often in the law of the country to boot, it is not actually allowing these parents to educate their children in accordance with their wishes or what they might choose.

It is, then, not surprising that when we look a little further into the matter, we find that parents' educational rights in many countries are restricted and not in minor ways. In England, all schools, state and independent are subject to inspection by one of two officially licensed inspectorates. If the inspectors disapprove of what is being taught, including on religious, ethical and LGBT matters, a school can be threatened with closure, even if it is theoretically independent, and the parents who pay the fees are content with what the school is doing. If the school does not conform, the wishes of these parents will be over-ridden and after consecutive negative inspections the school may lose its registration or be forced to be taken over by an approved management.

Of course, it does not normally come to that: the school mends its ways, along the lines the inspectors think appropriate, and the head goes off to Hong Kong, as actually happened with the academically excellent Kingham Hill School in 2022. This excellence was actually recognized by the same inspecting body which failed it twice on LGBT matters.

The second time was because some pupils were held by the inspectors still to 'lack self-esteem' with regard to their sexuality and were not fully valued with regard to their sexual identity, even though according to the inspectors there was no discrimination against them and the school had already implemented or was in process of implementing their earlier demands. (One is left wondering just how the inspectors elicited the observations about pupil self esteem and sense of being valued.)

Kingham Hill's academic improvement was very much due to the inspiration of the head in question over a number of years, but that counted for nothing when the school was failed because of what the inspectors felt about what they saw in the school and chose to call a particular biblical interpretation of sexuality, something which is not to my knowledge actually illegal, not in England, yet, anyway.¹

Kingham Hill is just one case, but what happened there will have resonated through the whole system of education, including the independent sector (which teaches about 7% of children in England). Other schools will have taken pre-emptive steps to ensure it does not happen to them, even if this means going against their actual beliefs and principles, and possibly against the wishes of the parents who may be paying their fees.

There is also in England a national curriculum. Although independent and some state schools are derogated from this, inspectors are likely to show an inquisitorial if not actually hostile interest if a school departs too far from the national curriculum, again even if parents object to the school being forced into line in this way.

This may become particularly problematic if the national curriculum is being used to embed contested political values, on such matters as equality and climate policy, as actually happened with the English national curriculum from 1997 under the then Labour government. (To avoid confusion, it should be noted that since devolution in the United Kingdom, the British government in Westminster controls education only in England, which is why on occasion in this paper England rather than Britain is referred to.)

Parental Rights in Central & Eastern Europe

Hungary

In Hungary there are national core and framework curricula which provide a regulatory matrix which schools and teachers must follow. Key competences and values are laid down, which individual courses must follow. Expanding on the latter Article XVI of Hungary's Fundamental Law (from 2010) insists that upbringing must be in 'accordance with the values based on the constitutional identity and Christian culture of our country'.

Further, Hungary will protect the right of each child to a self-identity 'corresponding to their sex at birth'. We will return to these points later. Here we will simply further note that schools have to carry out a self-assessment every five years, under a national system of evaluation. Although denominational schools are permitted and funded by the state in Hungary, with some exemptions they have to follow the national curriculum and use prescribed textbooks.

Following this will involve reflecting the common values defined in the curriculum, along the lines already mentioned. The attitude is very much that the national curriculum is national because it promotes national values. There are a very few *élite* schools in Hungary, but, apart from international schools, foreign institutions are not allowed to set up schools in Hungary.

In 2021 Hungary banned the use in schools of materials promoting homosexuality and sexual transitioning. Home-schooling is technically permitted in Hungary, but the conditions under which it is allowed are stringent, as we will see shortly.

Poland

In Poland there is a national curriculum. As with Hungary, there has been a stress on developing a sense of national identity, and before the change of government in 2023 there were moves within the Ministry of Education to make state schools teach Catholic sexual morality.

There are core curricula for both primary and secondary schools in both state and independent sectors. School inspections come directly under the Ministry of Education and regional administrative bodies known as kuratoria.

Czech Republic

The Czech Republic has a number of non-state schools, in which around 4% of elementary school pupils are educated, rather more in the post-elementary stage (after the age of 15). But these schools are funded wholly or partially by the state, with which they have to be registered. There is also a Framework Educational Programme for all registered schools, including independent ones, within which school curricula in all subjects must be drawn up. All Czech schools, state and non-state, have to be inspected by the Czech School Inspectorate every six years. Home schooling is tightly regulated, and there has to be a qualified teacher involved as well as approval from a state run Pedagogical Advice Bureau. There is, though, considerable freedom on religious education, which can be voluntary, even in church schools, and can be replaced by a course in secular ethics.

Romania

In Romania there is a framework curriculum. Romanian schools may choose a small proportion of what is taught, though this flexibility appears to be used only rarely. Because of the large Hungarian population in Romania, particularly in Transylvania, some Romanian public schools teach in Hungarian with Hungarian textbooks, and their pupils take their exams in Hungarian (apart from in the Romanian language exam). Independent schools following Freinet, Montessori, Jena Plan, Step by Step, Waldorf and curative pedagogies are allowed, but less than 2% attend private schools, which are state funded and have to follow the national curriculum. In practice this means that pedagogical methods may be different for the 2%, but the content of what is taught is according to the national norm.

Slovakia

Slovakia's constitution guarantees national and ethnic minorities the right to establish and maintain educational institutions, something not provided for in Romania's constitution. Indeed, there are Hungarian language schools in Slovakia, but it is developing a state educational programme for primary and lower secondary education. As stipulated in its Education Act of 2003, there are some funded non-state schools in Slovakia, but international schools aside, in contrast to the Czech Republic, there are no fully independent schools in Slovakia. All schools in Slovakia have to follow a national curriculum, which is currently being re-developed under guidance from 300 experts. Schools in Slovakia are subject to regular evaluation and inspection by the state school inspectorate. Home schooling is permitted in Slovakia, but under stringent conditions, very similar to those in the Czech Republic.

Home Schooling and Its Availability

As will be seen from this very brief survey, in all the countries we are looking at the state in various ways restricts and controls what educational opportunities are available to parents. What, though, if parents want to opt out of formal schooling altogether? Are they entitled to home-school their children? It should be observed that, in contrast to the USA where 3,000,000 or so children are currently being home-schooled, and supported by legal defence associations and providers of curricula and other educational resources, home schooling is very much the exception in Europe.

Indeed in Germany it is not allowed at all, and in 2008 there was the notorious case of the Romeike family where the home-schooling parents were arrested in front of their children, before moving to the USA where they were granted refugee status.

In England, where there is not much home-schooling, if a parent or group of parents is home-schooling six or more children in one home, they will receive a visit from the state inspectors, who can decide that various aspects of the provision are inadequate.

In contrast to Germany, though, each of our target countries, except Romania, does have legal provisions relating to home-schooling, so it is theoretically possible within limits.

These limits are severe in Slovakia, where home-schooling is permitted only for children under 11 years of age. In Poland home-schooling parents have to register with the authorities, and have to show that they are providing a curriculum equivalent to that in state provided schools.

In the Czech Republic home-schooling is subject to inspection and national examinations (to be taken twice a year). Home-schooling parents and children are tested by state-run Pedagogical-Psychological Advice Bureaux, and parents have to explain their reasons for wanting to home-school.

Home-schooling is not actually mentioned in Romanian law and it is illegal for children up to the age of 14 not to attend school. However in practice there seems to be some flexibility on this, and there have been cases of Hungarian would-be home-schoolers going to Romania for the purpose.

In Hungary itself, where home-schooling is legally and theoretically countenanced, home-schooling is very tightly controlled, especially since a re-jigging of educational law in 2019. It is subject to strict governmental approval, via the national Education Office, which can refuse without giving a reason. Even if approval is granted, pupils will have to do the same curriculum as in normal schools, along with mandatory teaching materials and approved textbooks.

This is somewhat poignant, as in the totalitarian era of Hungarian communism the famous and wonderful chess playing Polgar daughters were home schooled in wildly experimental fashion by their eccentric parents; whereas nowadays, as just noted, there are cases of Christian parents from Hungary leaving the country in order to home-school in line with their mainstream religious beliefs.

Parental Rights and the Liberal State

One may ask: *why should any of this matter?* Isn't providing a national curriculum and system of schooling an entirely reasonable and worthwhile aim, if it secures a universal decent and equal education for all, guided by what the philosopher Dewey might have referred to as 'the best and wisest' educators and administrators might come up with? And isn't the state, as a kind of beneficent neutral onlooker the best agency to organize and direct education for the good of all? To this my answer is that if one is aiming at a pluralistic and liberal society (to which we in the West are generally committed, on grounds of tolerance if nothing else), it most certainly is not.

I say this as someone who publicly opposed the English national curriculum from its very introduction back in 1989 (in the *Times Educational Supplement*, no less). I opposed the introduction of a national curriculum in Britain, even though I warmly supported the Conservative government of the time, that of Mrs Thatcher, who, no one in Eastern Europe will need reminding, was a doughty and effective campaigner against the totalitarian Evil Empire. But the national curriculum, hailed at the time with great pomp and approval from many was, in my view, a profoundly un-Conservative innovation: it was something that believers in the social value of Burkean autonomous institutions or in Michael Oakeshott's hostility to top-down rationalistic politics should resist.

If one is aiming at a pluralistic and liberal society; as we are as autonomous and self-reflective beings, and as things stand in the world to-day with competing and often benign versions of what the good life should be, that is indeed what we should be aiming at. Our ideal should be a society which, within an overarching rule of law, allows individuals within that society the freedom to pursue liberty and happiness in whatever way seems best to them.

Crucial to this vision (which is basically where we are in the West to-day) is the implication that there can be no one authority, even the state itself, which will lay down to everyone just how they should live, think and act.

Of course, as already mentioned, there will be limits on what one may do in society, limits largely devoted to the protection of each individual's basic rights to life, liberty and property, but beyond a rule of law guaranteeing and protecting those rights, individuals and communities should have the right to make their own ways through life, as they see fit. Against this background of robust pluralism, if we really accept it, we will be brought to conclude that:

“a general State education is a mere contrivance for moulding people to be exactly like one another; and as the mould in which it casts them is that which pleases the predominate power in the government, whether this be a monarch, a priesthood, an aristocracy, or the majority of the existing generation, in proportion as it is efficient and successful, it establishes a despotism over the mind, leading by natural tendency to one over the body.”

The words are those of J.S. Mill from Chapter V of his *On Liberty* of 1859. Mill's talk of despotism here might remind us of de Tocqueville's talk of a certain type of democratic regime exercising a soft despotism. This will be when the state, for the best of reasons, exercises what de Tocqueville calls an immense tutelary power over its population, for the best and most benign of reasons. But the result will be that the people will be kept in a state of perpetual infantilism, from cradle to grave, as it was said as if it were a good thing when the British government attempted post-war reconstruction after 1945. But if we are not to be perpetually infantilized subjects, we will not want the state to direct our lives, from cradle to grave, keeping us all subject to its version of the best way to live, whatever that might consist of at the time.

Mill's point is that it is only through diversity and the testing of competing ideas and practices that a society becomes fully alive. Over and above that, the voices of all impacted by a policy or procedure must be heard and, within limits, attended to, rather than smoothed out or ignored by a ruling class, even a would-be beneficent one, which is the basis of Karl Popper's open society.

This is not the place to go any further into the political philosophy of Mill, de Tocqueville, Popper and the rest, save to say that the vision they and their followers adumbrate is central to any defensible view of freedom, however much that freedom may be limited in practice by political and other exigencies. Mill is remarkably clear about the implications of a coherent view of liberty for education.

The Rights of Children and the State

To return to our earlier discussion of rights, Mill is clear that children and well as parents have rights, and among the rights of the child is the right to education. This right needs to be protected by the government where parents may be neglectful, with the child in social care, and so on. So there is a paternalistic duty on the part of the state to ensure the implementation of this right, but this paternalistic duty is not equivalent to the state actually providing education or dictating its nature. In Mill's view, and in mine, no one, no matter how elevated or 'expert', has a monopoly of wisdom on anything, least of all on essentially contested matters such as education.

A free society depends on the possibility and even the actuality of different ideas and practices. When it comes to state provision, as I can well attest from my own membership of the top-level British government advisory committees on the curriculum, examinations and teacher training, dispassionate and objective policy-making on education is far from being the case.

The bodies on which I served, despite my unease with the whole situation, were prey not only to political prejudice of one sort and another (including my own, of course), but also to relentless lobbying and influence from far from neutral or representative special interest groups, to say nothing of the producer interest of the teachers or their trade union representatives.

Amazing as it may seem, in my own experience it was rare for a government minister to get exactly what he or she wanted. In any case, even if government A actually managed to implement its preferred policy, or something close to it, in the face of the endless lobbying, inevitable civil servant obstruction and apparently legally required 'consultation', when government B comes, much of the achievement of A will be reversed. This was particularly true of the English national curriculum, which despite my better judgment, I worked on for the government from 1993-7. A few years of the next government saw something very different and far more politically oriented (on such matters as equality, climate change and Europe) in place.

This process was replicated in reverse by government C, which came in in 2010 (when I was once again involved). But politicians, it seems, never learn. As recently as 2022, with the electoral writing already on its wall, the then Conservative government proposed a bill which would have put all state schools in large and highly prescriptive managerial units called academy trusts, which would themselves be directly under the control and regulation of the Secretary of State for Education. The bill failed, but such an instrument would have been a wonderful legacy to bequeath to the next government, government D, whose ideas of what the regulations should encompass would no doubt be very different. This is something which might be considered by politicians in the fledgling democracies of Eastern Europe when they consider further centralization of education.



The Family as the Foundation of Civil Society

The right of parents to choose the education of their children would not only be a bulwark against monopolistic political direction of education. It would also recognize the nature and value of that most basic human institution, namely the family. As Aristotle taught long ago, and many thinkers subsequently have echoed, where the family exists, its bonds will be stronger than those of any other institution for both biological and social reasons.

It will afford its members a home, an inalienable sense of belonging and for the young, upbringing of a uniquely beneficial nature. The family will not be hostile to the state. Indeed it will require a state or a wider political community to preserve it from interference and worse from outsiders, but by its nature it will be more cohesive than the state, and indeed form the most fundamental sense of belonging on which states will depend. But, as a source and locus of private and intimate bonds, it will be and should remain autonomous of the state, which is why utopian and collectivist thinkers such as Plato and Marx have always been hostile to the family and have recommended its abolition.

My defence of the family has been mainly on liberal, Millian lines. But we should also emphasise the conservative, traditionalist line, that families are the most widespread and influential of all the autonomous institutions in the state, which is why dictatorial ideologues hate them. They are the most basic source of free and non-state allegiance in any society where they are allowed to flourish.

As far as education goes two points follow immediately from these points about the family. Then first is that, if, unlike Plato, we value the family and what it stands for, we should see a child's education as continuous with and developing out of the family into which he or she is born. A child's initial sense of identity and moral development will be in the family. Education should build on this rather than transforming and undermining it in order to get the child to see itself as a tool of the collective, as was attempted in the former Soviet bloc, but not only there.

There are disturbing signs even now in the Western democracies of teachers and educational institutions attempting to indoctrinate pupils in ideologies of race and sexuality often quite at odds with what many parents think and wish. In 2014 the Scottish Executive passed a bill requiring that every child should have a state appointed guardian, who would monitor each family and visit once a year to see if the child's upbringing was in conformity with what the state thought it should be. In 2024 it passed another bill saying that speech in the home could count as 'hate' crime and be prosecuted as such.

One does not need to delve into Soviet history to see where these types of legislation could lead, to children set against their parents, indoctrinated by the state and being encouraged to denounce them to the authorities. But not just in the USSR. Already in England and Scotland there are also cases of schools encouraging adolescent children to transition sexually without informing or consulting the parents. Thus the most sacred of bonds is undermined for frankly ideological purposes.

Actually the Scottish guardianship legislation of 2014, though being supported by all the parties in the Scottish executive apart from the Conservatives, as well as by a number of charities and NGOs, was struck down on 28th July, 2016 in the UK Supreme Court. (UKSC 51, Trinity Term, 2016) The five judges, in unanimously coming to their decision, referred to the United Nations Convention of the Rights of the Child and to judgements of the European Court of Human Rights. Paragraph 73 of their judgement is worth recalling:

'Individual differences are the product of the interplay between the individual person and his upbringing and environment. Different upbringings produce different people. The first thing that a totalitarian regime tries to do is to get at the children, to distance themselves from the subversive varied influences of their families, and indoctrinate them in their rulers' view of the world. Within limits, families must be left to bring up children in their own way.'

It would be hard to put the point better, to which we only need add here the point that in bringing their children up in their own way, parents will generally have a far more robust and sensitive notion of what that way requires educationally and for the good of the child than would bureaucrats and officials tasked with allotting school placements in line with governmental policy and regulation.

Whatever officials and teachers may claim, they do not obviously and always know better than a child's parents what is in a child's best interests, and they should not unthinkingly presume they do. The need for a diversity of schools, available to all parents and not just those who can pay for private schooling, becomes the more imperative by the day in the face of frankly partisan deformations of the curriculum in state schools, whether partisan of the left or the right.

But autonomous families are not just good for their members in a private way, which brings us on to our second point about recognizing the importance of the family. Different families with their own outlooks, beliefs, ambitions and tastes are also good for any state which regards freedom and pluralism as goods in themselves. Individual families, acting in their own way will be one of the most important sources of that diversity of opinion — which Mill sees as fundamental to a free society and to that experiential criticism of state policies which Popper sees as crucial to an open society.

So a free society is one which values ideological diversity, which it sees not as a hindrance to a healthy polity, but, within the limits of liberalism itself, one of its pre-conditions. Also, as we have just noted, the family is the most basic of autonomous institutions in a society which sees autonomous institutions as a crucial bulwark against an over-mighty state. In this context, valuing and facilitating parental rights on education will be an important sign of a genuinely free society. And this will mean a diversity of types of schools, available to all parents, to enable their choices and wishes to be fulfilled. Indeed, to put this point another way, a genuinely free society requires education itself to be autonomous of the state, protected from political interference and meddling, and containing within itself a range of views and practices as a sign of its own autonomy.

Difficult Cases

In defending and advocating family life and its duties and privileges, we are not denying that families and their behaviour can at times be problematic. The very intimacy which is a crucial part of a good family life can lead to child abuse. It can, but this is not the norm, which is why such abuse is regarded as the more heinous as a desecration of a sacred bond and the exploitation of those who are innocent and defenceless.

Parents can neglect children in other ways, and families can be the source of greed and even corruption in the selfish pursuit of wealth. But against this last point, for many, if not most, people, life in a family is the source of their respect for property, which is one of the mainstays of a free society.

Further, cases of abuse and neglect notwithstanding, it is the case that children brought up in stable two parent families on average do better on many counts, psychological, moral, educational and even on safety from abuse than children brought up in other ways.²

So the family as an autonomous institution should be seen as fundamental to a free and open society. The United Nations is quite correct to conclude that in such a society respect for family life should imply that while parents have a duty to see that their children are educated, in fulfilling this duty they have a corresponding right to choose the education of their children as they see fit.

But what if some parents choose an education which others disapprove of? As already mentioned, this right is not absolute. Any school that was permitted would have to act within the law, so it would not be allowed if it contravened laws on the equal treatment of women and girls, for example, or if it was inciting its pupils to a career of crime or anti-state terrorism. But what about the Amish or Mormon communities, for example? Or a religious school which advocated Islam and which introduced Islamic perspectives in its teaching? Actually in England there are Islamic schools, some within the state system, which appear to be very well conducted and whose pupils' behaviour and outcomes are exemplary.

Notable among them is the Tauheedul Islam Girls' High School in Blackburn which was inspected without advance notice by the English state inspectors in 2022 and found to be outstanding (the highest grade possible).

The Netherlands actually provides a very interesting scenario for our purposes, because following the so-called 'battle of the schools' at the beginning of the twentieth century in 1917 it was decided to allow schools from both Catholic and Protestant denominations within the state sector, and to be funded by the state.

In other words, in contrast to the other jurisdictions we have been considering, in the Netherlands education itself is to an unusual degree autonomous of the state. As pointed out by Charles L. Glenn³, at the turn of the twenty-first century there were in the Netherlands publicly funded schools of a vast number of religions and philosophies, including Catholic, five types of Protestantism, Anthroposophic, Orthodox and Reform Judaism, Rosicrucian, Hutterite, Platonism, several types of Islam and of Hinduism, Montessori, Dalton, Freinet and Jenaplan. Any group in the Netherlands is free to set up a school, and will receive state funding subject to very broad regulations.

Although the government specifies subjects which have to be studied in all schools and general attainment targets, it does not have a national curriculum. Schools have to be inspected, but this does not prevent diversity or even allow the government its own view on whether a school should be allowed to exist. To underline this last point, in 2017 there was the case of the Cornelius Haga Lyceum, an Islamic school which the authorities, politicians and inspectors, attempted to close on the grounds that it promoted radical Islamism, but this attempt was overturned in the Dutch courts.

Yet, despite an amount of tension from Islamic extremists in line with many other European countries which have far less diverse systems of education, overall the Netherlands remains a cohesive society. Mill himself was emphatic that 'all attempts by the State to bias the conclusions on disputed subjects are evil'. Other things being equal, the Netherlands looks like an interesting attempt to encapsulate Millian principles on education.

In a liberal society, in Mill's view the State should not prevent or forbid law abiding organisations which whose internal arrangements in conformity with the opinions of the majority of the ruling elite, and should indeed facilitate their existence, even through funding. Other things being equal, it is hard to see how Amish or Mormon schools or education in line with fundamentalist Christianity could be justifiably forbidden, if such schools were what some parents wanted and if they provided a satisfactory basic education, even if not what everyone might consider desirable.

Given the importance of the family for nurture and upbringing, and the significance of its autonomy in a free society, there should always be a presumption in favour of parental rights where allowing them causes no manifestly demonstrable harm to children. Of course there may be disagreements in some cases on this very matter, but the argument of this paper is that we should always be very cautious about extending state power over parents and require a very strong argument that serious harm would be done in a disputed case. Mere disagreement with social norms or deviation from the majority opinion or belief would not be enough.

Conclusion

Running through the ground we have been covering in this essay have been two basic principles: the right of parents and of the individual family to determine the education of the children under their care; and the right of the individual child to an education, this second right to be guaranteed by the state where parents neglect this right. As will be obvious, these two rights can pull in opposite directions; there can be a tension between them, especially if one of the rights is emphasized to the detriment of the other. In our survey of parental rights in the five Eastern European countries we have looked at, and indeed incidentally in what we have seen of Britain, it seems that parental rights have been largely pushed out in favour of the state's ideas on what constitutes a good or even a permissible education. To take the example of Hungary, and to a lesser extent of Poland, we might think that it is a good thing if a school were to emphasise a national heritage and traditional values of a religious sort. The European Union, by contrast, does not, and is currently attempting to insist that schools within its group move away from focusing on national identity. In January 2024 the European parliament decreed that they should focus on 'European and global history... to allow for more emphasis on supranational historical understanding.' The question is not whether either of these approaches is a good thing, but whether either should be forced on schools irrespective of parental choice in either case.

It may well be the case that there are parents, maybe many parents, who do not agree with the EU's supranationalism as an educational aim; and other parents who are unhappy with the encouragement of a sense of national identity in their children's schools. Should parents who disagree with these top-down instructions, from either point of view, be forced by political agencies to send their children to schools which do emphasise such things, maybe uncritically and under pressure from governments? The question is not so much the virtue or otherwise of either approach, as the right of governments to force ideological views on schools whether parents and others agree or not. One's hesitation here obviously becomes stronger when, for economic reasons, state schools are the only ones available to most parents, and even stronger still when the non-state schools which are available are forced to operate in line with state directives and inspections.

As the examples of Kingham Hill and the English inspectorate more generally and of the European Union directive show, it is not just in Eastern Europe that this happens. A Millian interpretation of parental rights would imply the availability and financial accessibility for all parents of many types of school to suit different parental choices, as we see in the Netherlands. But this does not appear to be the case in the Eastern European countries we have been considering. It has been suggested that the reason for this is that it is a kind of legacy of four decades of totalitarian control, where people took state direction of education for granted. There may be something in this, but it cannot be the whole explanation, because weighty and uniform state control of the education which is in practice available to most parents is by no means confined to jurisdictions emerging from communism. Look at England, look at Scotland, look at the EU, look at the United States.

Of course, not everyone will agree with allowing a greater diversity of available schooling to cater for different and conflicting parental choices, and with a need to counter the tendency of governments of all stripes to mould education in their interests. Some may indeed go along with increasing state direction of and interference with education as being the best way to secure the state's paternalistic duty to safeguard the rights of children or the inculcation of national values in a society.

But, I hope that at the very least, it will be recognized how attenuated parental choice is in many countries, and how in those countries the official pronouncements in favour of parental choice are being effectively undermined in the light of ever increasing state direction and control. Given this is often taken for granted in 2026, it would surely be salutary to reflect on just how attenuated parental choice has become in many places, and to consider whether this is or is not a good thing. Some may decide that education itself should be directed by the state rather than flourish as an autonomous sector of society guided in part by the choices parents make on behalf of their children. But if this is what is decided, questions will need to be asked the significance of the apparent endorsement of Article 26 of the United Nations Declaration of Human Rights in the legal system of so many countries which seem in practice to pay little attention to it.



View of the Szeged University, Hungary
(Shutterstock)

Endnotes

¹See the British Independent Schools Inspectorate reports on Kingham Hill School for October 2021 and April 2022, available on line.)

²See the report *Family Structure Still Matters*, published by the Centre for Social Justice, London, 2020 for a survey of recent evidence and copious reference to sources.

³What the United States Can Learn from Other Countries' in *What America Can Learn from School Choice in Other Countries*, ed D. Sainsbury and J. Tooley, Washington DC: Cato Institute, 2005, pp 79-88

⁴This paper was written and the research for it was conducted as part of the author's tenure of a visiting fellowship at the Danube Institute, Budapest in 2024 and 2025 and reflects the position at that time. Thanks are due to the Institute's President John O'Sullivan for making this possible, and for help and advice. Thanks are also due to the Institute's Deputy Director, Melissa O'Sullivan for facilitating the work, and also to Malna Vamos, Eric Hendriks, Ferencz Attila-Norbert, Emese Tolgyes-Busz and James Tooley for assistance with the research at that time.

