

Liberty of Conscience and Mass Schooling

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## Abstract

Public education in the United States has seen many changes over the years. Some of those changes came in response to what are now recognized as clear problems with religious liberty in the common education system adopted in the mid 1800's. This dissertation reviews past and current ideas related to religious liberty and the larger issue of liberty of conscience (Nussbaum, 2008) in education and pursues a research question by considering past and current issues. Does a system of general, mass education necessarily infringe upon students' liberty of conscience? This question is pursued following a Deweyan framework of philosophy of education wherein a "felt difficulty" is identified, information is gathered to apply to the difficulty, and possible solutions to problems identified (Dewey, 1938).

I begin with a discussion of liberty of conscience and a discussion of some of the conflicts included in a system of mass education. This establishes the structure of the difficulty, or problem. The history of the public education system in the United States is reviewed with a focus on the common education system adapted in the 1830's along with relevant issues related to religious intolerance. Improvements in the respect for religious diversity applied to that system over time and improvements proposed but not yet fully implemented are discussed. Ideas from religious intolerance literature is introduced to add insight and expose the larger issue of liberty of conscience including how those ideas can be applied to educational systems. The process of religious intolerance (Corrigan & Neal, 2010) is developed into an architecture of religious intolerance that can assist with identifying this type of intolerance in educational settings.

I argue that while many of the strongest issues of religious intolerance in public education have been resolved, many problems still remain. I will also argue that the intolerance is not limited to religious intolerance but include intolerance for ideas stemming from many different epistemic foundations. This will lead to a consideration of an idea I have labeled as epistemic intolerance. These arguments support an answer to the research question, which is that a system of general, mass education does necessarily infringe on students' liberty of conscience if one or more cultural majorities centrally control that system of education.

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## **Chapter I**

### **Liberty of Conscience and Mass Schooling**

Open discussion of education is not an easy task. It all too often degenerates into controversy, in part due to the abundance of diverse opinions. Additionally, educational systems can perpetuate social realities that effectively exclude additional opinions from engaging in a discussion. Such circumstances create the possibility that ongoing forms of cultural intolerance—including infringements upon liberty of conscience—will be perpetuated through education systems in the United States. When this happens, there is a polarization of ideas related to education. As new ideas appear, or old ideas are revisited, the contending parties seem compelled to move the ideas to one of two sides.

One current disagreement falls out along the fault line between religion and secularism. Early in the history of U.S. public education, the contending parties were largely driven by a set of loosely agreed upon religious ideas opposed to other groupings of religious ideas. Over time this dynamic has changed to a division between religiously based knowledge in opposition to other constructs of knowledge. There really is not a singular concept of religious education, or of secular education, but the various ideas held by different religious and non-religious cultural groups are largely ignored as the contending parties strive to keep a clear distinction between two groups that are much more diverse than the arguments are willing to acknowledge. Rather than clear non-religious and religious distinctions, each group has a variety of cultural values expressed in a variety of educational ideas or values. These diverse ideas and values lead to a great number of legitimate disagreements.

In the preface to his book, *Experience and Education* (1938), John Dewey clearly stated what he thought philosophers of education should do when confronted with such disagreements:

“All social movements involve conflicts which are reflected intellectually in controversies. It would not be a sign of health if such an important social interest as education were not also an arena of struggles, practical and theoretical. But for theory, at least for the theory that forms a philosophy of education, the practical conflicts and the controversies that are conducted upon the level of these conflicts only set a problem. It is the business of an intelligent theory of education to ascertain the causes for the conflicts that exist and then, instead of taking one side or the other, to indicate a plan of operations proceeding from a level deeper and more inclusive than is represented by the practices and ideas of the contending parties...It means the necessity of the introduction of a new order of conceptions leading to new modes of practice.” (p. 5)

In this dissertation I intend to take up Dewey’s challenge by considering the possibility of ongoing cultural intolerance—specifically religious intolerance—as an infringement upon some individuals’ liberty of conscience perpetrated through education systems in the United States. I will endeavor to show how and where such violations of liberty of conscience occur and propose an alternative “plan of operations” that might minimize such violations and mitigate the ensuing controversies.

### **Education’s Dilemma: Social Identity and Individual Flourishing**

To a degree, the potential for violations of liberty of conscience are inherent in the dilemma arising from education’s most fundamental complementary, yet sometimes

contradictory, aims: the inculcation of social identity and the promotion of individual flourishing. For instance, John Dewey describes education as “the process by which social groups maintain their continuous existence” (1916, p. 308). Thus, each diverse community’s desire to replicate their cultural system should be considered in any consideration of cultural diversity and liberty of conscience. If authentic diversity is to exist, access to tools, including formal schooling, consistent with the values and goals of the cultural community needs to be present. On the other hand, Dewey (1916) also argues that the fundamental aim of education is individual growth for the sake of further growth. This inherent tension is exacerbated in the polarized debate described above, which limits the ability of diverse ideas to gain footing. However, these ideas are finding some space for discussion in education policy debates.

For instance, the desire of individuals and minority groups to pursue varied educational goals has become apparent in school choice arguments. School choice is about a complex set of choices exercised by parents, students, and educators. There are many questions related to what options should be available and what impact allowing those options will have on the traditional public schools and other social systems in a given community. Very few proponents of various school choice options, however, would go so far as to say all choices are acceptable. Currently, arguments focus on different forms of government provided, or at least, government funded and sanctioned options as well as which options should or should not be allowed in a given state or local community. Those who choose to send their child to private schools are in a separate category, and though not publicly funded, are commonly regulated to ensure acceptable standards for the larger community.

Cultural differences, including religious differences, play an important role in these debates. Historically, Christian influence on early public schools included general acceptance of prayer and Bible study in public schools. This has changed over the years, but there is a strong movement to return to these practices in many parts of the country. Recently the Florida legislature passed a law impacting prayer in public schools (Haughney, 2012, p.1). Religious proponents claimed this law is only a step to restore their right to religious expression. Opponents expressed concern over returning to the days when religious ideas and expressions were forced on students who did not share those religious beliefs. While this issue has been dealt with in many different ways across the country, allowing opportunities for students to engage in Christian practices, while not providing undue pressure to other students to participate, is an approach used by some schools. Other schools have chosen to stay with the safest possible interpretation of many of the court rulings and not engage with the issue in any way.

The conflict between differing Christian practices—Protestant vs. Catholic for example—is finding more and more company as other cultural groups seek for their own recognition in the public arena. The Muslim community, for instance, is a group that illustrates religious and other cultural differences in education. While serving as the charter school director for the Florida Department of Education, I had occasion to witness the growth of Arabic-focused charter schools in the context of post-911 perceptions of Muslim and Arabic communities. Over 120 Arabic oriented, or Muslim friendly, charter schools have been started by one organization in the United States (Rolland, 2011, p. 1). Some see this as an opportunity for a minority culture to establish itself in a diverse

society. Others see it as an opportunity to teach a theocratic ideology to a younger generation contrary to ideals of liberty and democracy.

The dissenters of these new Arabic -oriented schools focus on the departures from “normal” values and goals associated with traditional public schools. However, many loosely Christian groups have created charter schools incorporating values and goals consistent with, but not explicitly connected to, Christian principles. The same pattern has been followed with other minority, immigrant, and cultural groups throughout the country. Most of the Arabic -oriented charter schools are not pursuing deviations from the norm any more extreme than other charter schools in various Christian communities, yet none of these other groups had received anything close to the scrutiny applied to the Arabic associated groups. This shows how new forms of diversity strain some of the compromises worked out over time. While Christian students may be allowed a space to gather for prayer before school, it may be problematic for the same opportunity to be granted to a growing number of cultural groups.

The attention applied to specific minority cultural groups because of current events is critical to any discussion of goals and values in education. Values and goals of various religious perspectives often conflict with the desires of those who wish to free their children from those social constructs. Immigrants, in particular, struggle with the desire to keep a unique cultural identity and the reality of limited space for different cultural identities within the public school system. Right now the greatest controversy may be associated with Muslim groups, but in the past serious conflict has affected views of Catholic, Jehovah’s Witness, Mormon, various native, and immigrant populations.

Such cultural differences over the content and aims of education inevitably raise equally controversial disputes over the financing of schools, thus direct or indirect government funding of non-governmental schools is another area of conflict and discussion. Money raised through government action for educational ventures not associated with the traditional public school system is a matter that rightly requires serious thought and discussion. Advocates for vouchers, for instance, argue for the importance of considering the desires of parents and students, while opponents argue the funds are being taken from the government public school system and may do damage to the established goals of the traditional public schools. While this discussion is similar in certain respects to the charter school and public school choice conversations, there is a distinction regarding goals not established through governmental process, yet supported by government funding. Government funding of private education options and public goals associated with education are important considerations when pursuing a discussion of cultural diversity and educational systems.

**Emerging Alternatives and New Modes of Practice.** Even as inherent tensions between social and individual aims of education manifest themselves in new iterations of long-standing disputes, new educational methods and systems are creating space for new approaches to resolving them. Any discussion of diversity in education should include discussion of contemporary education policy options and new technologies being applied to existing and new educational goals.

Technological innovation, for instance, is changing the conversation about how class size relates to student learning. The newest wave of interest involves MOOCs, or massive online courses. Learning activities are constructed to allow a student access to

information without the proximity traditionally found in the interaction between teacher and student. These new techniques raise questions about other traditional education norms, and the structure of schooling is taking on new meaning as learning activities in different disciplines are created by various parties and constructed by students in a variety of combinations. Open Source materials and courses offer an interesting contribution to the publisher-dominated world of content and curricula. Traditional content standards can be at odds with much of the open source community. Developed from a variety of perspectives, these materials are widely accessible, while at the same time not being widely accepted.

Virtual schools create another set of interesting perspectives. Online technologies of teaching and learning normally use fewer resources than more traditional student interaction with teachers. Yet virtual schools change social experiences for students and raise concerns regarding possible negative impacts. Proponents see an opportunity to develop new innovations allowing students better learning experiences and exposure to greater options, especially in small communities with limited course offerings. However, excitement for changes from traditional approaches is not shared universally, and debates around virtual education are far from settled.

The emergence of new organizational and technological approaches to education has opened education to new influences from private interests, thus challenging the history of using exclusively public funds to develop and operate educational programs.. The traditional role of private publishers is still strong, but new technologies and materials are being developed by private interests and being marketed to states, school

districts, and charter schools. Others are beginning to be made available in the open source community.

The upfront costs of developing interesting approaches and applying emerging technologies to education can be born by private companies and/or governments. Originally, governments led the emergence of virtual schools, magnet schools, open source materials, and MOOCs. More recently, private interests have entered into the arena. Development costs can be supplied by investors and recouped over time through fees paid from government sources. After those initial investments are recouped, controversies of reinvestment and profit begin to come forward.

Along with new program development is the move to privatize various operations of public schools and in some cases, the entire operation of public schools to private companies. Proponents of privatization see value in the business concepts that can be applied to educational systems and argue increased quality will follow open competition for contracts to operate these types of schools. Those who support traditional structures question the wisdom of turning over democratic control of public school operation to a private company. They are also wary of the profit motive and question the assumptions, and results, of privatization efforts.

**Challenging the Status Quo in Public Education.** This process of hashing out differences over educational aims and arguing for new options inevitably leads to strong criticisms of the traditional approach to education. These criticisms vary from attempts to show the superiority of new approaches to outright attacks on various aspects of public education. As these new approaches to education compete for space, the traditional system is the object of a great deal of negative scrutiny. At the same time, the traditional

system is still the mainstay of education for most students in the United States. Criticisms, rightly or wrongly applied, have consequences for the support experienced by these programs. For instance, parents may discontinue efforts to be involved because they begin to believe that public schools are just not cutting it. The negative perceptions of public education may discourage good teaching candidates from pursuing education as a career option. Finding effective school board members may be difficult for the same reason. Political processes required for funding local or general initiatives are dependent upon public perceptions. Even criticisms that may be warranted can produce powerful unintended consequences. Therefore, criticism alone is not enough. Philosophers of education must, as Dewey argued, explore new “conceptions leading to new modes of practice” (1938, p. 5).

In sum, religion, school choice, and innovative technologies may not be seen as interconnected, but each has a role to play when discussing liberty of conscience and mass schooling. Each represents some type of option for education, and each combination of these types represents additional options. Options are at the heart of decisions regarding general or individual educational offerings. When these options exist, choices need to be made. These choices range from broad social goals to unique individual desires.

From the common school era to the present, there has always been some level of social instruction included among the goals of public education. Goals of socialization, whether considered as necessary or otherwise, inevitably come into conflict with individual and diverse cultural values and goals. Not everyone agrees with the need to facilitate individual or minority goals and values. Facilitating these diverse values and

goals needs to be given consideration, however, if the idea of liberty of conscience in education is to be respected.

### **Liberty of Conscience**

There are clear differences among the educational disputes described above, but there is an essential connection in that all of these issues arise out of the inherent tension between individual and social goals for education and manifest themselves to one degree or another as disputes over liberty of conscience. Liberty is a powerful concept and can mean many different things to many different people. Liberty of conscience, however, is a narrower concept but still hard to define. For the purposes of this work, therefore, I will strive to work within the concept as described by Martha Nussbaum in her work *Liberty of Conscience*.

Nussbaum's conception of liberty of conscience includes a simple, yet vital, component: the lack of coercion and "the rejection of a state orthodoxy, of words and acts that subordinate" (Nussbaum, 2008, p. 22). Coercion is connected to the possibility of subordination as a result of that coercion. Directly tied to this idea is the importance of equality under the law (Nussbaum, p. 12). If one type of idea or expression is given some type of official status, it creates an inequality for the other ideas and expressions.

Nussbaum identifies several other necessary considerations related to liberty of conscience. First, liberty can rightly be limited to preserve public order and to protect the rights of others (Nussbaum, 2008, p. 19). Second, it is not sufficient for freedom to exist in some way; freedom must be equal. "We want not just enough freedom, but a freedom that is itself equal, and that is compatible with the citizens being fully equal and being equally respected by the society in which they live" (Nussbaum, p. 19). Her view extends

this respect, not only to those cultural practices with which we are familiar and comfortable, but also to those that we may hate (Nussbaum, p. 19). It requires that the “government should guarantee” a protected space for the pursuit of what the individual chooses to value (Nussbaum, p. 19).

An important consideration is the protection of minority ideas and practice from the majority (Nussbaum, 2008. p. 20). This includes “the removal or prevention of hierarchies” (Nussbaum, p. 20). She goes on to explain that, “Sometimes making minorities fully equal requires treating them differently, giving them dispensations from laws and customs set up by the majority” (Nussbaum, 2008, p. 20). Her conception of this idea also includes the provision of “accommodation” in areas of conflict between the majority and individual liberty of conscience (Nussbaum, 2008, p. 21). She does not, however, see these ideas as absolute and acknowledges a need for deliberation and consideration of “public order and safety” (Nussbaum, 2008, p. 21).

The closely related and conflicting concepts of “neutrality” and “establishment” are also important to her ideas. The idea of neutrality requires “that the state does not take a stand on these matters, or takes a stand that is studiously neutral, favoring or disfavoring no particular conception, not even religion over non-religion” (Nussbaum, 2008, p. 20). This means that government should not take action that would favor any religious idea since that favor may lead to unequal standing and result in a de facto establishment over time (Nussbaum, p. 20).

The concept of liberty of conscience applied as an analytical framework to educational systems could have an impact on several areas of education debate. A great many ideas are accepted or rejected by various states or local school boards depending on

the majority in that area. For example, gay and lesbian rights, sexual education, evolution, and other ideas, theories, and cultural norms are hotly contested. Decisions about including or excluding these ideas are made in a way that requires winners and losers in the process. Not each of these ideas can be fully investigated and understood from the variety of cultural perspectives needed to allow each student the ability to choose her own perspective from a fully informed standpoint. Debates usually center on what should be taught to all students, and the political majority usually makes the decision consistent with their cultural goals.

This can lead minority groups to pursue other educational options. They may start a charter school or pull their children from public school to teach them at home. They may choose a virtual school more closely aligned with their goals and values. If they have enough money, they may send their child to a private school, or seek public support for their private school tuition through a voucher or tuition tax credit system.

**Liberty of conscience, religious liberty and religious intolerance.** Liberty of conscience is central to the issues of religious liberty and education that I will explore in this dissertation. Nussbaum's framing of the concept of liberty includes the idea that the recognition of specifically religious liberty came as a result of the recognition of a broader individual liberty of conscience (Nussbaum, 2008, p. 57). This is important to emphasize so the concept of liberty of conscience is not conflated with the narrower concept religious liberty, which will be the primary focus of my discussion.

Religious liberty is an important subset of liberty of conscience; therefore, while I will largely focus my analysis on questions of religious liberty, my argument will be applicable to the broader issue of infringements upon liberty of conscience in education

as well. The important issue is the freedom of individuals, including those associated through minority social groups, to pursue their own versions of the good life. This includes the opportunity to choose unique values and goals that will contribute to that life.

While liberty of conscience encompasses more than just religious liberty, religious liberty will be used as an example of the larger issue in this work. It allows for a narrowed focus and examples relevant to education in the United States. Early education efforts in the colonies were inseparable from religion; they were religious efforts. As educational systems developed, conflict between different religious parties became an important historic factor in the development of public education. As mandated by the courts, overt religious instruction and practice in public education was curtailed over time. This has created a new, less religiously oriented discussion about what should or should not be taught in public schools (Kunzman, 2006; Feinberg, 2006).

While denominational disputes may have subsided, there are still clear contests between varying epistemologies and theories of morality contesting for recognition and validation through governmental educational systems. The discussion of religious issues throughout the development of public education systems in the United States can help illustrate similarities with other cultural issues involved with the broader discussion of diversity and centralization in education administration. This discussion can provide a useful framework for addressing other issues related to liberty of conscience and educational systems from a variety of cultural perspectives.

Just understanding what liberty of conscience is and that religious intolerance is inconsistent with that liberty may not be sufficient. All too often critics who challenge the supposed religious neutrality of public education are assumed to have a monolithic

perspective by those suspicious of religious influences on public education: “They” want to impose “their” religious beliefs on “us.” Lest my argument become pigeonholed in this fashion and thus dismissed before it is heard, it may be useful to clarify what I do not intend to communicate when I use the term, “religious intolerance.” There are religionists who argue that not allowing them to require all children in their community to learn from one version of *The Holy Bible* and pray in a certain way in public schools is somehow intolerant of their faith. I do not believe that to be religious intolerance, or a violation of liberty of conscience, and have no intention of arguing that point in this work.

John Dewey describes education as “the process by which social groups maintain their continuous existence” (1916, p. 308). Therefore, each diverse community’s desire to replicate their cultural system should be considered in any consideration of cultural diversity and liberty of conscience. If authentic diversity is to exist, access to tools, including formal schooling, consistent with the values and goals of the cultural community needs to be present. This idea will be fully developed later in this paper, but recognizing a clear distinction between the desire to require everyone else to learn as “we” do and the desire to pursue the unique values and goals “we” hold as a group is important to consider early in this work.

I also do not see the recognition of liberty of conscience in a social group as an opportunity for those cultural groups to influence children in unlimited ways. Social conventions should protect a child’s right to individual liberty of conscience, and a cultural group’s opportunity to control a child’s development does have necessary limits. This and other limitations will be discussed below. Hopefully, it will suffice here to state explicitly that, while I will argue that legitimate concerns about liberty of conscience lie

behind many of the educational disputes discussed above and that we should explore options that mitigate those concerns, I am *not* arguing for the “right” of any religious community to impose its views on public schools nor am I arguing for the unrestricted right of such groups to impose their views on their younger members. I do not intend to replace one infringement of liberty of conscience with another infringement of liberty of conscience. Rather, I am seeking a plan of operations that will better protect liberty of conscience for all.

### **Personal Felt Difficulties and Public Interest**

In *How We Think* (1910) John Dewey locates the beginning of thought in the experience of a “felt difficulty,” a sense of unease or doubt or confusion that elicits a search for its resolution. Where the consequences of the problem and its resolution are purely personal, it is a private matter, but where the consequences “affect the welfare of many others”....they “acquire a public capacity” (Dewey 1927, p. 13). Such is the evolution of the problem I propose to address in this dissertation.

As a member of a religious community, I began asking questions about education and religion in high school. I remember wondering why I had to leave my high school and go to a building next door to participate in released-time religious instruction. My faith’s doctrine regarding education seemed to encourage an inclusive approach to education wherein religion, math, language, literature, and other subjects would all be studied together. I didn’t understand why my community would require me to separate out religion from other subjects, not only from one class to another, but from one building to another, nor why I had to be “released” from the normal process. I also wondered why I needed to parade across the parking lot and up a hill to the seminary

building when other subjects could be taught in the school. There was a little social ridicule by other students, but the majority of my school participated in the same daily ritual, so the harm was not directly apparent to me, but I did wonder about students in a high school who would be subject to critical examination as they left the socially acceptable space and joined others of the minority in their temporary religious exile.

I began to study the history of my religion in greater detail while in college. I had begun to teach at a small religiously based private school and saw some interesting distinctions between how religion was addressed in public schooling and how we were allowed to handle it in a private setting. Through my study I discovered the efforts my faith community had put forward to develop educational systems and how government efforts regarding common schooling had dramatically impacted those efforts (Monnett, 2000).

Graduate school allowed me a better opportunity to study the issues. I was able to look at the issue from the perspective of academics outside of my faith community who had pursued similar questions. This study was the genesis of my desire to pursue this issue academically. I will provide greater detail regarding my faith's experience with educational systems later in this work, but it is important to understand my interest in this subject is not just academic. My interest is highly personal and professional in that my current work involves building religiously oriented educational systems.

My experience has also provided me with examples of the polarized nature of religious ideas in the academic world. One first-hand experience came while completing my master's degree. I had the opportunity to present some of my ideas at a conference in Missouri. Early in my presentation, I admitted my own cultural, religiously based, views

and found the audience quickly disengaged from what I was saying. I first noticed this from the dismissive expression on their faces and body language, but it was later confirmed by the questions they asked when I had completed my formal presentation. Each question was built on an assumption that I was trying to further contemporary Christian arguments for prayer and Bible study in public schools. This was frustrating for me, as the evidence I had provided in my presentation and my own arguments had shown the opposite to be true.

I also had the opportunity of discussing my ideas with an audience of Christian academics in Texas. There my ideas encountered a different, but just as dismissive, set of assumptions. My support of social space for minority cultures allowed for this audience to dismiss my arguments as anti-Christian humanism or multiculturalism. In one session I was even accused of supporting private religious schools devoted to raising Muslim terrorists. Those perceptions of my work were also inaccurate.

I relate the two personal experiences above to help illustrate for the reader an unusual conversation that could be mistakenly dismissed. It may be that a reader could quickly perceive my arguments to be on one side or another of various polarized debates. I will strive, however, to follow the admonition of Habermas (2008) who encourages us to “construe social and cultural secularization as a twofold learning process that compels the traditions of the Enlightenment and religious teachings to reflect on each other’s limits” (p. 102). I will strive to present my views in such a way that those unfamiliar with my religious traditions can understand the ideas. I will also ask the readers to allow space for the religiously based ideas of diverse cultural groups.

These ideas will come from many different “camps” and are not easily expressed or understood in the context of the currently polarized debate. Lest my argument be pigeon-holed, as it was in both of the above examples, before I even have a chance to begin, I ask that the ideas presented here be considered as a complete whole unencumbered by preconceived notions of religious or non-religious education. Once the ideas are considered in totality, it will be up to the readers to decide if further discussion is warranted.

### **Research Questions**

In order to resolve the “felt difficulties” described above and, more importantly, their public implications and consequences, this work will address the following questions:

1. Does general, mass education necessarily infringe upon students’ liberty of conscience?
2. If general, mass schooling does not “necessarily” infringe on liberty of conscience, then does it sometimes infringe, and if so, how?
3. Finally, can mass schooling be reconceived in a way that eliminates or minimizes these infringements? If so, how?

The goal is not to “prove” an absolute answer to these questions, as may be attempted in scientific research or analytic philosophy but to explore various philosophical approaches to these questions and add insights not yet fully considered. This added insight might allow for new views to be considered as we seek to refine and resolve the problem. This philosophical reflection on the questions may, as Dewey (1916) believed it could, also lead to useful approaches to reconstructing educational systems in the future that are less

likely to be beset by unnecessary and illegitimate infringements on students' liberty of conscience.

## Chapter II

### A Note on Methods

#### Methods in Education Research

Most research in education today is empirical, but this is not an empirical dissertation. It is intended as a contribution to an area of educational inquiry traditionally called “foundations of education,” a field which typically deploys theoretical perspectives and methods from the humanities and social sciences to understand educational policy and practice. In this instance, philosophy and history will be my primary and secondary tools for analyzing the problem described in Chapter 1.

For most of the 20<sup>th</sup> century educational researchers have been obsessed with the legitimacy of their field of study as a topic worthy of university study. They have most commonly sought that legitimacy by adopting and adapting the methods that proved so successful in the natural sciences: careful observation, hypothesis testing, quantification and statistical analysis of data, experimentation, etc. (Condliffe-Lageman 2000). In this fashion education researchers sought knowledge about education that was securely grounded in empirical reality. “It seemed obvious that to be labeled as ‘knowledge,’ an item had to be securely established, and it seemed equally obvious that this was to be done by showing that the item (the belief or knowledge claim) had a secure foundation” (Philips and Burbules, 2000, pp. 5-6).

Historically, such foundationalist epistemologies are divided into two basic branches. The first is rationalism and was led by thinkers such as Descartes (1630-1657). The rationalist holds that our ability to think rationally is the surest way in which to establish the truthfulness of a proposition. Descartes and other rationalists distrusted the

use of senses in establishing foundational knowledge because the senses could be fooled by illusion or could be mistaken in other ways. Much philosophical research in education prior to the 20<sup>th</sup> century, as well as some approaches to analytic philosophy into the mid-20<sup>th</sup> century shared this quest for rationally secured foundations for knowledge claims.

Another branch of foundationalist epistemology centers on the idea of experience as an important consideration in discovering foundational knowledge. This is a dramatic difference from the work of Descartes and is prevalent in the work of John Locke (1690-1695). Locke did not dismiss rational thought as unimportant but did see experience as essential to provide the understanding necessary for rational thought (2000, p. 7). Locke's sense empiricism gave rise to additional epistemologies considered to be in the empiricist camp. One is positivism and includes the idea that foundational ideas should only be accepted if verifiable through scientific processes. Auguste Comte is seen as a prominent supporter of this idea. Though positivism is no longer widely accepted as a philosophy of science, the basic tenets of empiricism underlie most approaches to scientific inquiry, including most educational inquiry. This is particularly evident in the work of behaviorists like B.F. Skinner, whose psychological theories influenced educational research into the 1960's and 1970's (Lagemann, 2000).

Over time problems with foundationalist approaches to knowledge emerged (Philips & Burbules, 2000, pp. 14-25). These problems produced new approaches to knowledge, and although the philosophical community did not agree on any one best approach, they did find one general area of agreement. "...They were united in believing that human knowledge is not based on unchallengeable, rock-solid foundations – it is conjectural" (p. 26).

This change in approaches to knowledge has led away from the desire to identify the Truth or absolute reality in a given question. The current course of many philosophers, especially philosophers of education, is to identify truth from a certain perspective or within a certain framework of analysis. It has also led to inquiries that are much less interested in the truth, but are rather interested in why ideas are considered truth and what that means to individuals and social systems, including education.

**The anti-foundationalist turn.** Pragmatism led the way away from the quest for foundations. It offered a philosophic framework in which ideas regardless of the source can be discussed on equal footing. Pragmatism, as a philosophical movement, does not hold all sources or types of knowledge as equal, but it does allow for the value of an idea to be established through its usefulness in accomplishing a certain objective rather than by justifying itself through a complicated analytic or scientific lineage. Any idea can be measured by its usefulness in doing what the idea was intended to do or by the value of the end result.

What makes pragmatism so important to this research is that disagreement about origins is irrelevant to the dialogue. What the knowledge does is much more important than where it came from. This provides an entry point to the discussion for every idea. Once an idea has entered, it must stand or fall on its merits. It cannot appeal to science, God, or any other external authority for validation.

“Pragmatism ... does not erect Science as an idol to fill the place once held by God. It views science as one genre of literature – or, put the other way around, literature and the arts as inquiries, on the same footing as scientific inquiries. Thus

it sees ethics as neither more “relative” or “subjective” than scientific theory, nor as needing to be made ‘scientific.’” (Rorty, 1982, p. xliii)

Richard Rorty describes pragmatism using these three characterizations. First, “it is simply anti-essentialism applied to notions like ‘truth,’ knowledge,’ ‘language,’ ‘morality,’ and similar objects of philosophical theorizing” (1982, p. 162). His argument is not that such things do not exist in reality, but that our ability to describe or label such things is limited. He offers James’ concern that the reason we have developed systems of labeling is to create a framework for criticizing external ideas and “to point the direction of progress toward the discovery of more truths” (p. 162). If external ideas are improperly limited we restrict the future discovery of “truth” to the scope of knowledge already classified as legitimate.

Rorty continues with his second characterization of pragmatism. “There is no epistemic difference between truth about what ought to be and the truth about what is, nor any metaphysical difference between facts and values, nor any methodological difference between morality and science” (Rorty, 1982, p. 163). He goes on to criticize scientists for their appeal to “methods” and the “morally wise” for their appeal to knowledge of “the Good.” The point of inquiry is not to use established rules to identify absolute truth, but to continually seek new information from a variety of sources to add to understanding and enrich perspective. Then conclusions can be drawn from all areas of knowledge and speculative limitations are dramatically reduced.

His final characterization of the doctrine of pragmatism states: “There are no constraints on inquiry save conversational ones—no wholesale constraints derived from the nature of objects, or of the mind, or of language, but only those retail constraints

provided by the remarks of our fellow inquirers” (Rorty, 1982, p. 165). Here we see an application of what Lyotard refers to as “language games” (Lyotard, 1979, p. 3). Rorty doesn’t want the rules of these various games to interfere with the possibility of learning from diverse perspectives. This requires that participants in the conversation not dismiss an idea outright because it does not conform to the rules of their game. This is a difficult task for almost everyone as we rarely seek to understand the rules governing our own perspectives.

The pragmatist’s idea that knowledge did not rest upon the secure foundations of Truth but was, rather, the useful byproduct of the search for answers to particular problems posed by particular communities of inquiry finds support in Thomas Kuhn’s seminal analysis of the history of science in *The Structure of Scientific Revolutions* (1996). His work explains some of the basic problems with accepting scientific knowledge as superior to other forms of knowledge. While he agrees most approaches to knowledge are also flawed, he provides clear and articulate examples of how those flaws are not only abundant in the scientific approaches to knowledge but have been systematically ignored.

Preliminary questions in Kuhn’s thesis get to the heart of the dilemma. “On what aspects of nature do scientists ordinarily report? What determines their choice? And, since most scientific observation consumes much time, equipment, and money, what motivates the scientist to pursue that choice to a conclusion” (1996, p. 25). Kuhn argues the origin and direction of scientific research does have an impact on the type of knowledge created from the resulting enterprises.

The term “paradigm” is used by Kuhn to express “...universally recognized scientific achievements that for a time provide model problems and solutions to a community of practitioners” (1996, p. 10). These paradigms construct the body of scientific knowledge and further disseminate that knowledge through instruments such as textbooks. Educational institutions represent this knowledge as factual in much the same way as religions represent doctrines as truth. Even if a paradigm is “proven” to be false from a scientific point of view, the texts and systems still perpetuate these “falsehoods” until the scientific and educational communities are able to implement the change. Then the new knowledge is just as established and unquestioned as the old, and the old knowledge is dismissed without reference to the past “failure.”

Another problem arises because the established paradigm needs more answers to develop and justify the paradigm, which creates leading questions. These new questions guide future research and limit the possible discoveries to those that are in harmony with the established paradigm (Kuhn, 1996, p. 27). While this additional research may eventually change the established paradigm, the knowledge that attempts to adjust or challenge the established paradigm is strongly resisted (p. 151). Funding for research is channeled to those projects most acceptable within the framework of the established paradigm. Academic journals and institutions favor knowledge creating projects in line with the established paradigm and those who see the need to challenge the ideas are discouraged.

While developing this idea Kuhn quotes Max Planck, “a new scientific truth does not triumph by convincing its opponents and making them see the light, but rather because its opponents eventually die, and a new generation grows up that is familiar with

it” (1996, p. 151). Scientific knowledge, while represented by educational systems as being true, is not necessarily or may never actually be in fact true.

The difficulty of adapting, competing paradigms of scientific knowledge, and the idea that much of past scientific knowledge has been shown to be inaccurate according to its own validation rules is important to this discussion.

Scientists—according to these views—are no less human, and no less biased and lacking in objectivity than anyone else; they work within frameworks that are just that: frameworks. And, these critics suggest, none of these frames or paradigms, considered as a whole unit, is more justified from the outside than any other.

Philosopher Paul Feyerabend even argued that the modern scientific worldview is no more externally validated than medieval witchcraft, and the prophet of postmodernism, Jean-Francois Lyotard, held that we should be ‘incredulous’ about the story that is told to justify science as a knowledge-making frame (its justificatory ‘metanarrative,’ as he termed it). (Phillips & Burbules, 2000, p. 1)

Over the past two or three decades philosophical perspectives generally labeled “post-structuralist” have further questioned the elusive search for secure foundations (Phillips & Burbules, 2000). Its predecessor, structuralism originated in the late nineteenth century and had its beginning in linguistic theory. It spread through the social sciences and into philosophic works. The idea was to study the various elements and expressions of a system to understand their foundations. The search for foundations was not an attempt to find absolute truth, but an attempt to identify embedded causes.

The structural method . . . does not ask about the validity of claims regarding education, but instead attempts to discover their historical and structural

foundations. It investigates why such claims are being and have been made and what implications they entail. This is achieved through an analysis of the ‘deep-structures’, the history of discourses, the myths, prejudices and ideologies, which are all to be found hidden inside of the investigated claim. (Ruitenberg, 2010, p. 89)

As movements like post-modernism, post-foundationalist, post-analytic philosophy, and other “post” projects gained in popularity the term was also attached to structuralism. Post-structuralism pursues many of the same type of projects, but seems to be further removed from foundationalist concepts and purely analytic processes.

My critique of public education in the United States can be considered a post-structuralist approach to the subject. Phillips and Burbules describe it as, “committed to a critique of dominant institutions and modes of speaking, thinking, and writing—which means it is often set against what is most familiar and comfortable for us, asking us to see the danger or the harm even in what we take to be ‘good’” (2000, p. 4). Public education is seen by many as the heart of our democracy and the great equalizer of the people. My research question challenges some of those ideas.

I will be asking the reader to consider governmental influences and power struggles that guide the adoption of educational policy and drive educational programs in this country. As Phillips and Burbules put it, I will “approach [my] work with an eye toward understanding and critiquing dynamics of power and knowledge; government direction and control of pedagogical and research processes; and constraints on human freedom, creativity, and diversity” (2000, p. 6).

Science has been of great benefit to the growth of knowledge and society. I am not arguing scientific knowledge is false or should be replaced by some other knowledge creating enterprise. I do, however, agree with some of the common criticism provided by Lyotard (1979), Kuhn (1996), and Bourdieu (1998). Knowledge created or discovered through scientific process is not absolute truth and should not be represented as such. The weaknesses of scientific knowledge creation enterprises should be as clearly acknowledged as is now more likely in philosophy, literature, and religion—to name only a few. Bias in the scientific realm should also be acknowledged and the problems associated with such bias should be minimized in research and the academic community's efforts in knowledge creation and perpetuation through educational systems.

The impact of science on the establishment of foundational goals and values in education is another important to the questions raised by works such as Kuhn's. The very nature of scientific knowledge approaches the reality of an object or function in the natural or observable world. While this seems a very useful purpose for science, the scientific process is not as useful for evaluating the merits of moral concepts or framing paradigms of the good life. Science is one aspect of knowledge to be considered as a part of the discussion, but it is not immediately more valid to a moral or academic discourse by virtue of being generated from a scientific framework.

I see science as a useful tool. It is a careful and systematic approach to knowledge creation—or if preferred, discovery—that can allow for a great deal of trust. That trust, however, needs to be placed in the limited scope of what science has actually shown to be accurate, not in biased interpretations and fallacious applications to moral systems. Put simply, I see science as a useful tool in evaluating what should be or what has been

taught once educational goals are established, but as much less useful in establishing the values driving those goals. This is an essential point when considering the method for this work. My purpose is to question established systems and goals in education. Philosophic methods are better suited for this type of discussion.

### **Methods in Philosophy of Education**

There are really no well-established, or “valid,” methods of philosophical inquiry (Ruitenbergh, 2010, p. 4). The idea of needing to have recognized methods of philosophical inquiry is more in line with scientific processes or the old analytical approaches and may not gain a lot of traction in mainstream philosophy or philosophy of education any time soon. Nevertheless, the vast majority of research conducted in education today is empirical and thus assumes, to one degree or another, a “scientific” orientation. It is necessary, therefore, to be clear how and why this dissertation is not a scientific inquiry as well as how, and why, philosophical inquiry, which is its “method,” is necessary for the topic it addresses.

Katrina Holma (2010) has described the broad approach to philosophy of education as “... an academic discipline specialized in analyzing and understanding the wider process of the constructing of theories, questioning their hidden background premises, and revealing and examining the values affecting ... human practices” (Ruitenbergh, 2010, p. 10). Rather than working within an established framework of knowledge, such as science, philosophy of education can explore new forms of knowledge or question existing forms.

While there is no one correct method for doing philosophical inquiry in education, I have nevertheless chosen a distinctively Deweyan approach to philosophy of education

because I share Dewey's view that philosophy of education should have relevance for the world of educational practice. "Unless a philosophy is to remain symbolic—or verbal—or a sentimental indulgence for a few, or else mere arbitrary dogma, its auditing of past experience and its program of values must take effect in conduct" (Dewey, 1916, p. 328). Dewey's pragmatic conception of philosophy of education embodies both pragmatic and post-structural elements, some of which are described above, particularly the idea that knowledge and truth are not fixed but rather but rather the byproducts of human beings engaged in the "continuous reconstruction or reorganization of experience...to increase its recognized meaning or social content" (Dewey, 1916, p. 322). According to Dewey then:

It is of assistance to connect philosophy with thinking in its distinction from knowledge. Knowledge, grounded knowledge, is science; it represents objects which have been settled, ordered, disposed of rationally. Thinking on the other hand is prospective in reference. It is occasioned by an *unsettlement* and it aims at overcoming a disturbance. Philosophy is thinking what the known demands of us—what responsive attitude it exacts. It is an idea of what is possible, not a record of accomplished fact. Hence it is hypothetical, like all thinking. It presents an assignment of something to be done—something to be tried. Its value lies not in furnishing solutions (which can be achieved only in action) but in defining difficulties and suggesting methods for dealing with them. Philosophy might almost be described as thinking which has become conscious of itself. (p. 326)

Thus philosophical inquiry, in education or any other area, starts with: a) an *unsettlement*, a "felt difficulty" that calls forth b) systematic reflection and analysis that clarifies the difficulties or elements of the problem and ends in c) "something to be tried"

(Dewey, 1916, p. 326). This is the “method” I will follow in this dissertation. At its heart is my “*unsettlement*,” my personal and cultural experience with educational systems, and similar experiences gathered from other individuals and groups I have come to know through historical research and professional experience. Dewey would categorize this as conflict “where institutionalism clashes with individuality ...a stimulus to discover some more comprehensive point of view from which the divergencies may be brought together, and consistency or continuity of experience recovered” (p. 326).

The research question I will be exploring, as Dewey describes, is one I have experienced personally. My difficulty was felt while participating in public educational systems while simultaneously pursuing my chosen religious development. As I studied the tenants of my faith involving education, I participated in an educational system clearly at odds with my faith. I was allowed, along with others of my faith, to leave campus once a day for religiously based instruction, but the physical and ideological separations seemed artificial to me. I was asked to put on a different face and interact with various forms of knowledge at different times, and in different places throughout the week. My interaction with religious knowledge was voluntary, but a larger political majority mandated my interactions with the forms of knowledge provided through public education.

I have also felt this difficulty through historical and contemporary observations. My own faith community’s efforts to establish educational systems consistent with our religious faith were dramatically altered by external interference. I have found that this is not a unique situation and will describe the added insight of observed difficulties in the subsequent chapters as I explore historical examples provided by other researchers.

With the problem clarified, I will gather information to apply towards a solution to the problem, including various positions of historians, philosophers, and theorists to add insight helpful to the question. I will focus on problems of religious freedom throughout the history of U.S. education as a case study for issues of liberty of conscience. Approaches to the problem offered by these historians and philosophers of education will be reviewed. Added insights gathered from theorists in the area of religious intolerance will be applied to this question and hopefully those insights can add value to the discussion of the problem. As stated previously, I do not plan to find “the” correct answer. My desire is to introduce new ideas to the conversation and provide useful considerations for other academics, researchers, and policy makers who may wish to continue the process.

To complete the framework, as described by Dewey, I will explore possible solutions to the problem. This is at the heart of philosophy of education. Simply identifying new ideas is insufficient. The new ideas should be applied to practice in ways that may prove to be useful. This is a key difference between traditional practices of philosophers and those espoused by philosophers of education.

The Deweyan approach to philosophy of education I am adopting here eschews the temptation to take one side or the other in highly polarized, and in many cases, false, dichotomies.

It is the business of an intelligent theory of education to ascertain the causes for the conflicts that exist and then, instead of taking one side or the other, to indicate a plan of operations proceeding from a level of deeper and more inclusive than is

represented by the practices and ideas of the contending parties (Dewey, 1938, p. 5).

Finding this more inclusive plan of operations demands the sort of dialogue between polarized positions envisioned by Jurgen Habermas in *Between Naturalism and Religion* (2008). Habermas sees an opportunity for discussing knowledge from a variety of sources, including science and religion, in a way that can benefit each of the separate communities involved and society as a larger, inclusive unit. This empowers the necessary, though not necessarily sufficient conditions for what Kunzman calls “Ethical Dialogue” (2006, p. 6). Kunzman points out that individuals must be open to other ethical perspectives before true dialogue can take place.

After working through his concept of political liberalism based on a “form of Kantian republicanism,” Habermas describes the movement from mainly religious thinking prior to the Enlightenment and the secularization that followed (2008, p. 102). As mentioned previously, he challenges us to “construe social and cultural secularization as a twofold learning process that compels the traditions of the Enlightenment and religious teachings to reflect on each other’s limits” (p. 102). He encourages the various communities of thought to consider the knowledge from each community with an open mind. This requires each party to resist applying their validation rules to the knowledge of other parties. This does not mean that all parties treat all knowledge as equally correct, but that they consider the ideas and consequences of those ideas before discounting knowledge external to their system.

If religious knowledge has been constructed over time from social and individual experience (Muller, 1873; Durkheim, 1912) that knowledge is useful. If science has

ignored other possible sources to pursue only empirical knowledge, the knowledge they discover is also useful. Habermas allows for the possibility that useful information can come from many different sources and that each group should try to understand what other groups have to offer (2008, p. 111).

The conception of tolerance of pluralistic liberal societies not only requires believers to recognize that they must reasonably reckon with the persistence of disagreement in their dealings with nonbelievers and members of other faiths. The same recognition is also required of unbelievers in their dealings with believers in a liberal political culture (Habermas, 2008, 112).

The need for a forum of diverse ideas is a central concept for my thesis. I agree with Habermas when he states, "... the liberal state has an interest in the free expression of religious organizations. It must not discourage religious persons and communities from also expressing themselves as such in the political arena" (2008, p. 131). There are areas of knowledge that may prove of benefit to a broad segment of society, which are first applied in a minority group with different ideas about knowledge. The opportunity for these minority groups to exist is vital if a significant number of ideas are to be allowed the opportunity to be tried and, if proven useful, applied to a greater segment of the community. Without diversity of knowledge systems, ideas would follow one basic pathway and greatly limit the possible outcomes. It would also require a centrally controlled limiting of acceptable ideas and require a dramatic departure from the concept of liberty of conscience.

The fusing of citizenship and national culture leads to a "monochrome" interpretation of civil rights that is insensitive to cultural differences. The political

priority accorded an ethically tinged common good over the effective guarantee of equal ethical liberties inevitably leads to discrimination against different ways of life in pluralistic societies and to helplessness in the face of a “clash of civilizations” at the international level (Habermas, 2008, p. 273).

Habermas has been criticized for believing this process of open discourse would lead to a “universal consensus” (Lyotard, 1979, p. 65). In my opinion, this is a questionable interpretation considering the high value Habermas places on pluralism and diversity of thought. He does, however, see the need for civic unity; “...Liberal political orders remain dependent upon solidarity among their citizens, a solidarity whose sources could dry up as a result of an ‘uncontrolled’ secularization of society as a whole” (Habermas, 2008, p. 102). Secularization is not the only enemy of solidarity. A singular religious society would produce the same undesirable outcome. Habermas is promoting civic unity in terms of allowable dialogue and reasonable rules for open correspondence of ideas. His argument is not dependent upon general consensus as a result of that correspondence. The limited possibility does exist, but it is not necessary for his project or mine.

This idea of open discourse will, at some level, be of concern to everyone. It requires that we abandon loyalties to epistemologies, political ideologies, religious theologies, or any other form of “us against them” thinking. I want to be clear on this point. I am not saying we need to give up our practice of or conformity to these ways of thinking. I am, however, saying that we must give up our dependence on these ideas for legitimizing our perspectives in public discourse. We need to find a way to talk to each other that legitimizes the “other” and requires our ideas to stand on their own merits.

## **Religious Liberty and Education**

Many historians, philosophers, and religious intolerance scholars have also sought solution to religious liberty issues and education. My desire is to build on these works by adding some of the unique considerations of religious intolerance literature to the work of philosophers of education. I have already reviewed the work of Martha Nussbaum (2008) and her framing of liberty of conscience. My focus on religious liberty within the U.S. public education system fits well within her larger framework and will provide a narrowed focus for discussion as we move forward.

Reviewing the leading scholarly works will allow me to move beyond my personal interest in this issue and gain a larger understanding of the issues involved. It will also provide an opportunity to see if there are already answers to the research question and if so, allow me the opportunity to describe what may be limitations to the answers. First, in Chapter 3 I will be reviewing applicable history of U.S. education. This will allow for the historical context of the discussions and provide some initial examples of religious intolerance in U.S. mass education systems that have been identified in the past. Understanding the history of the U.S. system will also allow for some post-structural analysis of the systems used to establish past and present educational policy and practice.

The history of education will also be useful when considering the cycles of religious intolerance introduced in Chapter 4. That chapter will focus on the history of both acts of religious intolerance and the religious intolerance literature. There are two main purposes in sharing this information, first, to establish key concepts and patterns of

religious intolerance. Second, to understand how acts of religious intolerance may be difficult to recognize within a contemporary context.

Following this introduction to religious intolerance, I will move on to reviewing leading works on issues of religious freedom and the larger field of liberty of conscience within education in Chapter 5. Each author's work will be discussed in isolation and then key concepts will be identified from their writing and through analysis of questions that may not have been considered in full by the authors. Chapter 6 will include an examination of those questions and how the authors have proposed solving those problems. Including a discussion of the solutions that have worked as well as solutions that have not worked as well and may be inconsistent with liberty of conscience.

## Chapter 3

### **Religious Intolerance and the Quest to Insure Liberty of Conscience in the History of U.S. Education**

Anyone equipped with even a cursory knowledge of American history is well aware of the fact that religious intolerance and the parallel struggle to guarantee liberty of conscience have been major themes in our history from the time of the first European settlements in North America to the present. We are by now all familiar with the somewhat mythologized story of Puritan settlers seeking religious freedom in the new world, of the Founding Fathers' effort to protect liberty of conscience in the First Amendment, and of the long history of political and legal struggles that have attempted to work out its meaning in different times and circumstances ever since (Fraser, 1999; Nussbaum, 2008). Though this history is well known, it is nevertheless worth reviewing briefly here as it presents important implications for my first research question: Is it reasonable to believe that two issues that have been such perennial concerns in American history are no longer a problem? If the answer is no, then this chapter offers evidence for an affirmative answer to my first research question.

#### **Religious Intolerance and the Search for Liberty of Conscience in the Colonial Era**

Educational systems brought to the colonies originated from the European model of religious education. The cultural values and resulting goals of education were at the same time religious and political as the concept of separation of church and state was yet to take hold. However, the Reformation had brought about a shift in social religious practice. Many people were beginning to question the wisdom of uniform religious

practices sponsored by the state. Luther and other reformers argued that individuals should be free to practice, or not to practice, religion as they choose (Nord, 1995, p. 21).

The Reformation also brought forward the conflict between authoritative interpretations of sacred text as opposed to individual interpretations. Central to this issue was the accessibility of sacred text to the individual and the ability of the individual to read that text. Many reformers saw the authoritative interpretation as a system of control that violated the freedom of the individual and allowed tyrants, both religious and political, to control the masses. These ideas gave birth to the very concept of liberty of conscience (Nussbaum, 2008).

Reformers settled many of the most educationally influential American colonies, such as Massachusetts, with strong religious beliefs about schooling. The ability to read was not just an academic exercise but was a functional part of their religion, foundational to their concept of freedom (Fraser, 1999). It may be difficult for us now to see the connection between being able to read *The Holy Bible* and political freedom, but to many of the colonists the issue was very real. This belief continued into the establishment of the United States and the creation of the public school system.

Colonial America was a diverse land but the diversity was not usually local. The local communities, and most colonies, were culturally and religiously united with the diversity being present from one colony to another or one community to another. Schools were established to raise up the next generation of faithful, “whether it was the Congregationalism of Puritan Massachusetts or the Anglicanism of Virginia or the Dutch Reformed tradition of the New Netherlands” (Fraser, 1999, p. 9).

Most colonies had some form of established religion. James Fraser wrote, “The European colonial settlers generally believed that the schools should teach the faith of the established church, but they argued passionately and violently over which religion should be established” (1999, p. 2). There was, however, another aspect of social cohesion developing in the colonies.

Lord Baltimore did establish religious tolerance in his Maryland colony as a means of protecting his own beleaguered fellow English Catholics. William Penn and his Quakers were far more tolerant than the Presbyterians who shared the land of Pennsylvania with them. And Roger Williams and the Baptists who founded Rhode Island actually spoke as if they believed in religious freedom for all....

(p. 15)

The growing tolerance for other religions was going to prove vital in the political cohesion necessary to establish a new nation. The various belief systems that brought these diverse groups together were all going to need a place at the table if the new nation was going to succeed. The religious diversity also brought more and more pressure to bear on those colonies, which then became states, with governmentally established religions.

### **Ensuring Liberty of Conscience in an Independent United States**

The founding of the United States of America was followed quickly by the adoption of the Bill of Rights. The first half of the first of these amendments deal with religion, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...” This is broken into two clauses. The first is known as the “establishment clause” and restricts the ability of Congress to pass laws that

would establish or assist with the establishment of one religion over another. The second is known as the “free exercise” clause, which restricts Congress from passing laws that infringe upon the ability of citizens to exercise their chosen religious practices. These two clauses stemmed from the cultural movement toward allowing diversity of religious practice and helped establish the modern view of liberty of conscience.

These restrictions on governmental actions were not applicable to the states. Decisions regarding religion within each of the states were left to those states. The states were also left to their own plans for education. Religious bases of public schools within the United States were diverse, but the diversity continued to be from state to state rather than within each state (Fraser, 1999, pp. 17-24). Some states continued state support for an established religion, such as Massachusetts, including financial assistance to the church’s educational programs. Religion was not only a part of schooling, but was the foundation of knowledge being taught.

Conflict was inevitable. There was support for government funding of education in order to provide the general population with the academic skills necessary to perpetuate a free country. But, government support of schools clearly intended to further religious aims was in conflict with the idea of religious liberty. If a government finances one religion over another, then that government is in effect assisting with the establishment of that religion. The initial solution to this dilemma was to find a religious foundation that was acceptable to all—or at least the majority. This foundation arrived at was a general form of Protestantism (Fraser, 1999, pp. 17-24).

Many Protestants saw this as not only acceptable but necessary. To them the doctrines of the Bible (as interpreted by Protestants) were essential to the maintenance of

a free society. They did not want to return to the days of tyrannical rule by kings or priests that restricted access to the “Word of God” in order to control the lives of the common people. Many saw forcing children, even children of other faiths, to be educated according to Protestant ideas as necessary to the perpetuation of a free society (DeFattore, 2004, pp. 20-31).

### **From State Establishment of Religion to State Establishment of Education**

As the concept of liberty of conscience and cultural diversity was gaining in acceptance there was also a growing movement to normalize culture. The development of a common culture was seen by many as necessary to the social cohesion of the new country. Horace Mann and many others saw the solution in a universal or “common” school system (Nord, 1995, p. 71). These schools were to share a common curriculum and pedagogy, but more important still, the schools were to teach all children alike. The main focus was on economic class and only included Caucasian students during the early years, but it also included social norming of different ethnic groups. “Schools were expected to not only save the republic, develop character, uplift morals, and train the mind, but also help address racial problems that remained unresolved in the larger society” (Reese, 2005, p. 44).

Religion was a central part of the common school movement. William Reese argues “Horace Mann abandoned the religion of his youth, Puritan Calvinism, and became a Unitarian, a largely upper-class faith that emphasized God’s love, human reason, and the possibilities of universal salvation. The classroom became his pulpit” (Reese, 2005, p. 17). The religion of the common school was closely tied to, if not an

outgrowth of Mann's Unitarian faith (Reese, 2005, p. 28). His faith allowed for, and even encouraged diversity in religious thought.

Not all religions support the Unitarian idea of tolerance. Many believe in absolute salvation or damnation. Evil, or any course of action but that which they believe to be contrary to the will of God, is not to be tolerated—at the least shunned and at the most destroyed. Many who followed more restrictive belief systems found his quest for a generic Christianity for the education all citizens a dangerous proposition. James Fraser points out, “Mann began his work in 1836, three years after Massachusetts became one of the last states in the union to end its own religious establishment.” He finds it ironic that “...New England was not only the last bastion of a state religious establishment in the United States, it was also the national seedbed of schools” (1999, pp. 24-25). I do not see this as ironic but rather informative. The reasoning behind a state established religion and the reasoning behind a state established common school system with clearly religious goals seem to be one and the same. Both involve a preferred status for specific religious values and educational goals.

### **Catholic Liberty of Conscience and the Resistance to the Common School**

Catholics had been present in Maryland from the colonial period but they had been small in number, even in Maryland, with almost no Catholics in the other colonies (Fraser, 1999, p. 49). The authoritative foundations of knowledge held by Catholics easily came into conflict with surrounding Protestant ideas as Catholic populations spread. By 1806 there were many Catholics, especially in the urban centers. New York had a number of Catholics who wanted their share of the public funds for education (p. 51). “...The New York City Common Council chose not to establish any schools of its own

but rather to pass its share of the state subsidy on to local charity schools. In this context Catholics applied for, and received, their share.” (p. 52)

The Free School Society gained control of a single system in 1825 and changed their name to the Public School society, “with the goal of attracting all citizens, not just the poor, to their set of common schools” (p. 53). They did this to stop the competition of the Catholics but also an even bigger threat, The Bethel Baptist Church (p. 53).

As the nation grew, so did the religious diversity. It was no longer just the Catholics and their allegiance to the Pope that posed a threat but other denominations that could also be considered Protestant but were not in harmony with the generic Christianity constructed for the public school system. The conflict, however, remained most pronounced between Catholics and Protestant groups.

Many Protestants believe the Bible should be read without official commentary because each person should come to his or her own understanding of the text. Many Catholics believe in an authoritative interpretation of the Bible, and to read the Bible without that interpretation is to risk being misled or creating confusion within the church. Both groups have important reasons for their views, and the views are hard to integrate into a common educational system (DeFattore, 2004, p. 21).

There was a strong feeling that public schools were necessary to “Americanize [Catholic] children by inculcating Protestant Principles that would make them patriotic Americans rather than lackeys of the pope” (DeFattore, 2004, p. 22). The feelings of fear for Catholics in this time could be compared to the feelings of fear of communists during the Cold War. It was not a simple matter of religious difference. Many Protestants saw this as a battle for the heart and soul of the United States as an independent nation.

Protestant belief in the importance of individual access to the doctrines of the Bible is key to understanding the Protestant desire to have the doctrines of the Bible studied in school. They believed the individual's access to the Bible was required to preserve the liberty they had gained once authoritative control over religious ideas was overcome through direct access to the Bible and to God (DeFattore, 2004, p. 23). A battle between those desiring a generally acceptable form of Protestantism and the Catholics raged on from the 1840s through the early 1900s and is still with us in various forms today (Moore, 1997, p. 1587).

**Violence as a response to diverse interests.** The conflict between diverse cultures and systems for education became intense and led to violence in many areas. This violence took many forms. There were internal wounds to students offended by religious or irreligious activities, but the easiest to understand are those wounds created by physical violence. One stark example is provided by Joan DeFattore when she cites, "... an 1844 dispute between Catholics and Protestants in which more than twenty people were killed, including an unlucky bystander whose head was shot off by a stray cannonball" (2004, p. 4).

Disagreement over Protestant and Catholic versions of the Ten Commandments led to a conflict between a Boston school and Catholic students. The Chairman of Eliot School noticed "that Catholic boys were remaining silent during the weekly group recitation of the Commandments" (DeFattore, 2004, pp. 47-48). Some teachers even allowed them to recite the Catholic or Douay Version. Dyer ordered the boys to recite the Protestant version once a week but one boy, Thomas Wall, refused. The local priest encouraged the other boys to follow his example at the next recitation. "He and

approximately two-thirds of his schoolmates refused to participate until the vice-principal, McLaurin Cooke, caned Thomas so severely that he complied” (DeFattore, 2004, p. 48). The beating consisted of being struck in the hands with a rattan stick approximately three feet long and three-eighths of an inch wide.

Another incident in Shirley, Massachusetts, had a similar story line. “...A teacher named Leonard Spalding severely beat John and Mary Hehir for refusing to read the [King James Bible]” (DeFattore, 2004, p. 49). When their parents complained to the school committee, Spalding beat them again. Their mother then tried to discuss the matter with him, and in her presence he beat both of them once more.

Both of these cases were resolved in the court system with the school’s abuse of these students sanctioned by the law. The first case went to trial where it was found that Thomas, “was punished for insubordination, and a determination to stand out against the lawful commands of the school. Every blow given was for a continued resistance and a new offence” (DeFattore, 2004, p. 49). The latter case never made it to trial as the grand jury refused to indict the teacher.

The control of the Protestant majority over educational values and goals was growing, as was the legislative and judicial support. It seems the idea of tolerance for different religious values and goals expressed through diverse educational offerings was less important than building a common culture through a more uniform public system of education.

**Funding options.** Government funding of Catholic schools in New York was short lived and isolated. The public financial support of minority faith educational programs never became the norm. The continued fight for funding of New York Catholic

schools was lead by Bishop Huges and reached a boiling point in 1840. A public debate was held to argue the points of each side. The Protestants argued their curriculum was religiously neutral (DeFattore, 2004, p. 20). If each child was free to interpret the Bible for him or herself, the school was not requiring any particular interpretation to be followed. This, however, was just the point that concerned the Catholics. If individuals were allowed to interpret the Bible then the authoritative structure necessary for preservation of pure doctrine would be replaced by confusion and error. Bishop Huges went further by pointing out clear anti-Catholic materials being used in the public schools. His opponents found it difficult to refute his charges but the Common Council still found “the [Public School Society] schools were nonsectarian and the Catholic schools sectarian. It also recommended removing some of the more blatantly anti-Catholic books in the hope that some immigrant children might then attend the public schools” (DeFattore, 2004, p. 26).

This decision signaled a significant change in the argument to justify common, public schools. It was becoming more evident that arguments for a clearly Protestant system were not working as well as they had in the past, and there seemed to be two options. The majority could allow the Catholics to create their own public system balancing shared interests with Catholic values and at the same time keep their Protestant values in the current public schools, or they could restructure the system to exclude materials and instruction most offensive to Catholics and/or other minorities. A leading Presbyterian minister argued that “infidelity” was preferable to Catholicism and if that the schools must choose between no religion and allowing for Catholicism, he would

choose no religion. Of course his definition of no religion still allowed for most of the religious instruction conducted by the public schools of the time (DeFattore, 2004, p. 23).

Bishop Huges then led an effort to restore proportional support for Catholic schools through the election process. His supporters were many but they failed to influence the election to the degree they had hoped. They did not gain a majority but were able to frighten the opposition to the point that they knew some action was necessary. The debate raged in Albany until “in the end, the state legislature passed a compromise bill that established local school boards as well as a citywide board of education while prohibiting the allocation of state funds to schools in which “any religious sectarian doctrine or tenet shall be taught, inculcated, or practiced” (DeFattore, 2004, p. 26). The solution in New York was to establish the definition by majority rule. “This emphasis on majority rule was also reflected in the committee’s definition of the term ‘sectarian’ to denote any belief system that “departs from, or holds tenets different from the established or prevailing religion of a state or Kingdom”” (DeFattore, 2004, p. 30).

The desire of the Catholic families to not be forced to participate in a system dominated by Protestant beliefs and clearly intended to alter their children’s belief system fueled the creation of the largest private school system in the nation. This may have been a workable solution, but there was still a problem. Funding both educational programs placed the Catholics at an economic disadvantage. Further cultural disadvantage came from the disfavored status of Catholic ideas that were not accepted by the “official” educational system.

### **Other Fronts in the Struggle for Religious Liberty**

While Catholics represented perhaps the largest and most vocal resistance to the barely concealed religious intolerance embedded in the emerging common schools system, they were not the only group in American history to be forced to pay for an educational system they could not or chose not to use. Blacks in the South following Reconstruction had a similar problem (Anderson, 1988, pp. 8-32). The issue is not identical, but in essence, one group was denied access because of their race and the other because of their religion. The most distinct difference is that Catholics were invited to participate in hopes their children would be converted. Those who denied education for African Americans were not attempting integration.

**Freed slaves.** Religion was a major influence in the movement for education among the freed slaves (Anderson, 1988, pp. 8-17). Schools began to open all over the South, and many of these schools were designed and operated by freed slaves who had participated in education as a student or teacher at peril to their lives. Most of these schools were also operated by or closely associated with the community churches. Missionaries came from the North and found that in many areas much of their help was not needed or well received (Anderson, 1988, p. 12). Newly free African Americans were hungry for learning. There are similarities between their reaction and the response of colonists freed from tyranny in the homelands. Both groups expressed the desire to read their own Bibles and make up their own minds as to the doctrines of their faith. Both also chose the church as the implementing institution (Fraser, 1999, pp. 67-73).

Reconstruction and the return of oppression for African Americans brought a change in civic policy. Public schools were created but limited to white students although supported by funds raised through general taxation. The majority, white opinion was that

the black religiously founded schools were not desirable, and that African Americans should only be educated in basic skills. Their desire to pursue liberal arts and religion were seen as a waste of time by some and as a threat to maintain social order by others (Anderson, 1988, p. 53).

Once the South began to implement public education, African Americans were paying for the public education system but excluded from participating. If they desired to be educated, they had to find their own additional funds. Many of these families chose the option of a Sabbath school. This allowed for the work hours necessary to provide for the family and provided the basic instruction they desired for the children.

**Native Americans.** Education has long been a tool of altering the culture of native groups. The federal government in 1891, however, initiated a large-scale effort. The Civilization Fund Act allowed the U.S. government to fund Christian missionary efforts of many stripes to operate boarding schools to teach their varying Christian faiths to Native American children who had been removed from their families (Urban & Wagner, 2004. pp. 163-171). The purpose of these schools was clear and disturbing. It was to “transform the Indians from savagery to civilization” (p. 167). This unapologetic compulsion, and outright cultural violence, was supported well into the twentieth century (p. 214). The changes implemented in the early 1900’s was not to correct the violent goals, but to spread out the expected time frame to accomplishing the desired goals with some recognition of the most severe forms of harm being done in the boarding schools (pp. 214-215).

**LDS education.** Early in the development of this uniquely American religious sect, education became an important focus. Within two years of the establishment of the

church, a scriptural text was adopted with specific instructions and doctrines regarding education for members of the church (Church, 1981, p. 165). Early educational efforts focused on adults at the School of the Prophets in Kirtland, Ohio. This was followed by efforts in and around Independence, Missouri and more formal education for adults and children in Nauvoo, Illinois. In each instance the LDS people were driven from their communities, sometimes with great violence (Monnett, 2000). Once they had fled to the Great Salt Lake Valley, they were able to establish their own schools in much the same way as early colonial religious groups.

Missionaries from the East soon arrived to help save the Mormons from their corrupt leaders and sexual deviancies (Monnett, 2000). When the U.S. government passed laws against polygamy, the federal officers sent to confiscate church property included the church schools (p. 77). As territorial schools were implemented, a large LDS majority elected the territorial superintendent. As anti-polygamy laws became more and more abusive, the Edmonds Tucker Act required the U.S. government appoint a new superintendent. The U.S. government also required: “(1) the ‘power to prohibit the use in any district school of any book of a sectarian character or otherwise unsuitable, and (2) the distribution of escheated money by the Secretary of the Interior to strengthen the district schools” (p. 87). This allowed the monies confiscated by the government from the church to be used to directly support government schools..

**Anti-Semitism.** While the majority Protestants and well-organized Catholics were arguing over common education, Jews were not given much of a place at the table. Early common school and parochial school curricula were hostile to Jews – some remaining in parochial schools into the 1980’s (Dinnerstein, 1994, pp. 99-100). They did

not have the luxury of lobbying for a share of government funding; they were left in the shadows of the common school system. If we recognize the push for Protestant control of the common schools as a reaction to growing Catholic political influence, it is easy to see why such a small number of Jews were not influential enough to be the direct target of common schooling, regardless, the Jews had the same disadvantages in relation to the common schools along with the negative representations shared by Protestant and Catholic groups alike (Dinnerstein, 1994).

### **End of state establishment**

The Post Civil War era signaled the application of the First Amendment to state laws regarding education. The Fourteenth Amendment extended the protection of the rights identified in the Constitution to the states. Later interpretation would make this applicable to religion in public education. The trend would continue toward exclusion of religion for public education as the movement from strong Protestant influences in public education to a less Protestant approach and finally to an approach that attempted to be religiously neutral (DeFattore, 2004; Reese, 2005).

But before neutrality would become the dominant approach, there would be resurgence of the Protestant influence.

In an age of recurrent Protestant revivalism, child-centered reformers actually deepened the wider evangelical faith among countless educators and citizens that schools could improve and perhaps perfect society.”...”A religious aura frequently surrounded those who lobbied for kindergartens or manual training or who wrote extensively on behalf of the new education. (Reese, 2005, p. 98)

At the same time immigration was increasing the diversity of society and intensifying the conflict over religion and education.

...More and more immigrants were coming to these shores who were not Protestant (as in the case of Irish and German Catholics or later in the century Russian and other European Jews and Italian and eastern European Catholics) or neither white nor Protestant (in the case of the Chinese and later Japanese and other Asians). (Fraser, 1999, p. 105)

Also, new lands were acquired with a majority of Roman Catholic Hispanic citizens that wanted another method of instruction. The effort to apply protections of the First Amendment to the states was codified into a legislative proposal referred to as the Blaine Amendment. It was introduced in 1876 and "...would have applied the religion clauses of the First Amendment to the states and would in addition have prohibited tax support of any school or institution under the control of any religious or antireligious sect, organization, or denomination" (Moore, 1997, p. 1590). The goal was to stop the growing tide of Catholic influence on society. As the Catholic population increased, so too was their political power.

The Catholics launched another effort to obtain public funding for their schools during the "Cincinnati Bible War" started in 1869 (Fraser, 1999, p. 110). The Catholic system was educating approximately 12,000 while the entire public system had only 19,000 children. The school board agreed to take over Catholic schools and pay the staff but, "Bible reading and hymn singing would be banned in all schools" (p. 111). The church would then lease the schools back for religious instruction. The school board lost the ensuing court battle but "in a dissent in one of the court cases, Judge Alphonso Taft,

father of the future president, agreed with the school board. To him, reading the Bible in school clearly violated Ohio's Bill of Rights. He saw it as offensive to Jews, Mormons, Buddhists, atheists, and free thinkers of many stripes" (Fraser, 1999, p. 111).

### **The Legal and Legislative Battle for Liberty of Conscience**

When diverse social groups were establishing the values and goals for a variety of educational systems, the federal and state legal systems had little to do with educational operations. The stage was set for federal involvement through approval of the Fourteenth Amendment and the resulting application of the First Amendment to states, thus impacting religion and state supported schools. The combination of the Fourteenth Amendment and the growth of state government operation of educational systems made legislation and court rulings very important.

The Scopes Monkey Trial was a sign of things to come. In 1925, Dayton, Tennessee, high school biology teacher John Thomas Scopes was teaching evolution contrary to state law prohibiting the practice. The case was initially decided against Thomas but overturned by the Tennessee high court and helped to establish the principle that the state could not pass a law requiring material to be excluded from instruction because it did not agree with religious opinion. The issue was not just one of religion verses non-religion. Many religionists saw evolution in one form or another as a divine principle (Fraser, 1999, p. 125).

In 1935 "William and Lillian Gobitis were expelled from the public schools of Minersville, Pennsylvania, for refusing to pledge allegiance to the flag" (Fraser, 1999, p. 134). Both students were Jehovah's Witnesses. Lower courts were split on the issue and the case was finally decided in favor of the school district in the United States Supreme

Court. The decision was reached in 1940. Following the ruling there was mob violence against homes and meeting places of Jehovah's Witnesses.

...Three justices of the Supreme Court itself used another case, *Jones v. City of Opelika* (1942) to signal their change of heart when they wrote, "Since we joined in the opinion in the *Gobitis* case, we think this an appropriate occasion to state that we now believe that it was also wrongly decided." (Fraser, 1999, p. 136)

The legal doctrine was finally changed in *West Virginia State Board of Education v. Barnette* in 1943. This ruling would go a long way to allow students the opportunity to attend public school without having to participate in practices that violated their religious beliefs.

Direct application of the First Amendment to state law was applied in *Engel v. Vitale* (1962). The New York State Board of Regents desired to craft a prayer for schools that "was devoid of sectarian doctrine and entirely inoffensive" (DeFattore, 2004, 69). The Regents Prayer was approved and local schools could adopt the prayer if they wished. Many did and the debate began to rage.

...The Regents' Prayer was not, as its advocates suggested, dogma-free. Rather, the beliefs it promoted were so widely shared that they did not appear to be doctrinal but were simply taken for granted, as the KJB [(King James Bible)] had once been. Its assertions that there is one God, that God created the universe, and that God responds to petitionary prayer were not what the Regents deemed "formal religion," any more than the KJB was what earlier school authorities had considered sectarian. (DeFattore, 2004, p. 70)

The decision ended the practice of legally sanctioned, school organized group prayer. The realization that any prayer was offensive to someone's religious beliefs had finally been formalized in a ruling of the highest court in the land.

One year later, the tide continued to turn when the case of *Abington School District v. Schempp* (1963) spelled the end for Bible reading as a part of moral instruction in public schools. One of the cases heard together in *Abington School District v. Schempp* by the Supreme Court was a case from Maryland, *Murray v. Curlett* (1963). The lower court found that, "public schools may and should advance religion because failing to do so would establish atheism" (DeFattore, 2004, p. 84). The court went on to question how a person could have their religious liberty violated when they don't have a religion.

Their argument assumes there is only religious liberty for those who profess a religious faith and not for those who do not believe. The irrational nature of the argument is interesting when considered in the reverse context of attempting to justify religiously neutral schools. If instruction does not include religious ideals, is it really religiously neutral or could it be considered by those with strong religious beliefs as a violation of their religious beliefs to be instructed in what they consider to be secular. The larger context of liberty of conscience will allow for further exploration of these ideas later in this work.

President Johnson called for \$3 billion in new spending for public education in 1965. "Johnson also wisely made sure that everyone got a piece of the action" (Fraser, 1999, p. 151). The funding made services available to public and private, including religious, school students alike. Libraries and tutoring were a major part of the legislation along with the creation of the Regional Educational Laboratories for the creation and

dissemination of curricula for all schools. This legislation was approved and led to *Board of Education v. Allen* in 1968 (Fraser, 1999, p. 152). The ruling allowed for services purchase by public funds to follow the child if the benefit was to the child and not the religious institution. In 1970 and 1971 the court went further and created the Lemon Test in *Lemon v. Kurtzman*. “First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion; finally the statute must not foster an excessive government entanglement with religion” (Fraser, 1999, p. 153). The issues of religion and education were not solved with this test. The debate rages on.

Those who thought that the issues of religion in the schools had been solved some time after the battles over evolution in the 1920s, or after the Supreme Court’s decisions in the 1960s banning formalized prayer and Bible reading, have clearly turned out to be mistaken. (Fraser, 1999, p. 1)

His observation has held constant. Each year we hear from religious groups claiming their religious liberty is being violated and from minority cultural groups claiming public schools have violated their right to not be influenced by religious ideas in a public school. The recent appeal for prayer in Florida public schools mentioned earlier is one example of many, as is the example of minority oriented charter schools. Florida alone has charter schools with connections to various sects of Christianity, Islam, Judaism, and others. Idaho and Utah have the same charter school issues related to LDS culture and values. There are also efforts closely associated to the early goals of common schools apparent in the discussion of Common Core, government influences and direct selection of curriculum, as well as standardized assessments and sharing of student data.

## **Conclusion**

This brief overview of the history of the U.S. and American education clearly demonstrates that religious intolerance and the struggle to protect liberty of conscience have been and remain prominent themes in our national educational narrative. Though the issues continue to become more and more complex as the diversity of religious belief evolves and grows with a multicultural society. The struggle between the social goals of the majority and the conflicts those goals may have with religious beliefs of various religious groups are a very real part of the educational landscape today and for the foreseeable future. In what follows, I will draw on this history, as well as the scholarly literature on religious intolerance, in order to describe the architecture and processes of religious intolerance that is perhaps the most common form of infringement on liberty of conscience in U.S. schools before turning to a review of recent literature in philosophy and philosophy of education to ask whether its treatment of the question of religious intolerance has been adequate to the scope of the problem.

## Chapter 4

### **The Architecture and Processes of Religious Intolerance**

Ideas from the scholarly study of religious intolerance can aid in understanding the history of education in the United States and investigating the persistence of religious intolerance in contemporary public education. In this chapter I will examine some of the most prominent literature in this area in order to more clearly identify some of the most salient rhetorical architecture by which religious intolerance advances its agenda while masquerading as something other than what it is: an infringement upon liberty of conscience. Once this is accomplished, I will be in a better position to review current arguments in philosophy of education intended to mitigate, if not eliminate, threats to liberty of conscience in contemporary public education.

Scholars in religious intolerance have identified a simple cycle of intolerance that is applicable to this work. Central to the cycle of intolerance are the ideas of delegitimizing and annihilating. It is easiest to understand the stark examples of religious violence wherein whole groups of people are made to appear worthy of less than human treatment, thus permitting unbelievable acts of violence attempting or leading to extermination. These ideas can also be seen in more subtle forms of religious intolerance. In both cases there is something that moves the intolerant actors to destroy the other. Exploring how this has happened in the past and how this same process may be impacting educational systems in the United States is central to this work.

## **Intolerance In Extremis**

The glaring examples of religious intolerance in America are those captured by writers such as Bartolome De Las Casas and Alfred A. Cave. Their stark descriptions of genocide bring to mind the darkest forms of intolerance—those carried out through violence, and that most gruesome form which ends with the annihilation of a society. While contemporary examples in the United States do not rise to this level of depravity, these stark examples of religious intolerance do merit consideration. One basic rationale for consideration of these examples is the need to be able to recognize the human potential for intolerance and justification of intolerant actions based on the cultural norms of the oppressors. The motivations and techniques used to perpetrate religious, and other forms of cultural intolerance can be seen in all shades from the most depraved to the most innocent. It is also important to begin identifying forms and cycles of religious intolerance. Once identified, these forms and cycles can help us recognize more subtle forms of intolerance that may exist in mass systems of public education.

De Las Casas provides narrative of the atrocities committed in South and Central America. His account has been criticized by academics for high estimates of total killed and his horrifically detailed descriptions of acts that may have been embellished for emotional effect (2003, pp. xlii-xlv). There is no doubt, however, of the overall effect of conquest on the native peoples of South and Central America, and the impact his writings had on future policies coming from Europe. His blunt and detailed accounts of horrific acts provided the basis for this change, and are worthy of our time.

While his work for the church and the context of his time explain his agreement with Aristotelian arguments that claimed the inherent inferiority of the native people, he

was insistent that the indigenous peoples were “noble” in their own respects and deserved basic human decency (De Las Casas, 2003, pp. xxxiii-xiix). He did not agree with practices of enslavement or mass killing; he rather saw an opportunity to convert fellow children of God. He does not focus his work on explaining the excuses made by murdering militants, but from his writing it is clear the process of delegitimizing, or dehumanizing, the indigenous peoples was a very real precursor to the horrific exploits he describes.

The most prevalent examples of delegitimization are those showing the dehumanization of the other. His descriptions of violence include those showing how the violent actor perceives the natives as animals to be used as beasts of burden and slaughtered indiscriminately. This description directly compares the treatment of the natives with sheep. It also draws on the desire of Las Casas’ desire to describe them as lambs of God.

They would enter into the villages and spare not children, or old people, or pregnant women, or women with suckling babes, but would open the woman’s belly and hack the babe to pieces, as though they were butchering lambs shut up in their pen. (De Las Casas, 2003, p. 9)

Las Casas also described situations that demonstrate the effects of dehumanizing others in a way that seems to make horrific treatment of the other a reasonable response. In one example a hunter, failing to find game to feed his dogs, turns to a native child as a reasonable substitute (De Las Casas, 2003, pp. 49-50). Another example explained how “Indians” were shackled together, given heavy loads to carry, and treated even worse than beasts of burden (p. 67). Since the natives were seen as less than human, the Spanish

could excuse their incredible acts of violence leading to an incredible depopulation and subjection of the natives (p. 9).

His account provides a clear example of the abhorrent cycle mentioned above. Painting others as less than human for various reasons delegitimized the people. First among these is the fact that the indigenous people did not share their value structure. They were not Christians (or that they were not equal Christians for those who converted). Along with the value structure was the consideration of their theory of knowledge. European epistemologies were derived from a very different foundation and people with a different structure for knowledge were easily delegitimized.

The same themes of delegitimization and annihilation are apparent in Alfred A. Cave's work (1996). His focus on the Pequot War is more directly tied to identifying the methods of delegitimization involved. He saw the Puritan view of their favored status with God as a key factor. "The founders of Puritan New England ... assumed that as Christians they enjoyed a measure of divine favor denied to godless savages" (1996, p. 15).

Prior to the war most of the Puritan views showed a respect for values and social customs of the Pequots (Cave, 1996, p. 39). These views changed just before and during the war. Cave provides examples of the transition of Puritan views of the indigenous peoples from a fairly benign foreign culture to part of Gog and Magog (p. 15), "hirelings of Satan" (p. 75), and Amelikites. All of these delegitimizing labels came from the Puritan cultural tradition and were validated through their religious epistemology. The worst of the three was the label of Amelikites. This gave Biblical sanction to the wholesale slaughter of the Pequots. "...Utterly destroy all that they have, and spare them

not; but slay both man and woman, infant and suckling, ox and sheep, camel and ass (1 Samuel, 15:3).

Corrigan and Neal (2010) provide some additional context for the label of Amelikites and the impact this type of thinking had on religious intolerance, especially in the United States. The Amelikites shared a kinship with the Biblical Israelites, but turning from the “true” path made the Amelikites worse than gentiles. They had the truth and then turned from it. This makes the status of Amelikites worse than that of heathens who never knew the truth.

They were Amalekites—seeming kin, but not truly kin—whose influence posed such a danger to the fledging Protestant churches that extreme measures were required to ensure that through their plottings of evil they did not subvert the purified Christian church (Cave, 1996, p. 19).

Theories of Native Americans being decedents of the lost tribes of Israel were prevalent in colonial America (Cave, 1996, pp. 20-21). This facilitated applying the Amalekite label. As the ancient Amelikites, the Native Americans had turned from the truth and existed in a state worse than the heathen. This label was applied many times throughout American history to minority groups seeking a path different from the majority Protestant faiths.

This transition from respected savage to satanic blight to be annihilated was the product of what Cave called “Puritan mythmaking” (Cave, 1996, p. 68). This mythmaking called upon the Puritan’s cultural knowledge and epistemology to, as Cave stated, “[justify] preemptive slaughter and dispossession” (p. 177). The Puritans moved

forward with the zeal of their convictions and with their Native American allies, set about the destruction of the Pequots through hard to believable acts of violence.

The commanders at the engagement wrote detailed descriptions of the deliberate slaughter of Pequot noncombatants, many of them burned alive when their homes were put to the torch by English troops. They related that they spared neither women nor children but ordered their men to shoot or impale those survivors who escaped the flames. (Cave, 1996, p. 2)

While the physical violence documented by Cave is less severe than that described by Las Casas, there is clear evidence of the same pattern. The objects of the intolerance are delegitimized and destruction is justified using rational stemming from the dominant epistemology.

David Chidester provides another account of religious and cultural intolerance in his work entitled *Savage Systems* (1996). This account traces the roots of comparative religion and intolerance in Southern Africa. He documents the repeated cycle of delegitimizing, destroying, and then legitimization as colonial aspirations dictated.

The focus of his work is the description of how comparative religion was used to implement cycles of delegitimization and violence as needed to subjugate various groups in Southern Africa. He traces the public comments regarding the religiosity or lack thereof with the need for military action to advance colonial goals. When military action was needed, the natives were found to not have a religion. When subjugation was achieved and peaceful coexistence desired, the same native cultures were found to have religion. “The discovery of local religious systems in southern Africa can be precisely correlated with the establishment of local control over Africans” (Cave, 1996, p. 3).

As an example, Chidester discusses how the Xhosa religion was denied as long as they resisted colonial control. “After their national destruction in 1857, the Xhosa suddenly had a religion, proving that even unbelievers could acquire a religion under colonial subjugation” (Cave, 1996, p. 74). This same process was followed in conflicts with Khoikhoi, Hottentot, Zulu, and others.

The key tool used for delegitimizing the other, as described by Chidester, was the use of comparative religion. First used by Richard Hooker who, “used the plural English term religions specifically to distinguish between Protestants and Roman Catholics...” (Cave, 1996, p. 85). The use of comparative religion was further developed in studies of aboriginal societies in Australia. Comparison was a useful tool for establishing what true knowledge or religion was and then exposing social practices that lacked the qualifications of a “real” religious foundation.

This method of comparison led to a more intellectual rationalization of the treatment of minorities when contemporary authors:

...Coupled the lack of religion with the absence of other defining human features, such as the institution of marriage, a system of law, or any formal political organization. In many cases, the diagnosis of an alien society without religion was delivered bluntly in the assertion that such people were brutes or beasts. As animals by comparison to Europeans, therefore, indigenous people who lacked religion also lacked any recognizable human right or entitlement to the land in which they lived. (Cave, 1996, p. 14)

Once members of the social group are dehumanized by comparison to animals, the moral laws applicable to humans can be ignored and the morals applicable to animals can be

applied to a given situation. As Chidester put it, "...observers insisted that aboriginals had "nothing whatever of the character of religion, or of religious observance, to distinguish them from the beasts that perish" (1996, p. 12).

After the conventions of comparative religion were given their foundations in Australia, they were further developed in Southern Africa. Chidester observes that as expressed in Southern Africa, "frontier comparative religion was a human science that advanced regional domination" (1996, p. 3).

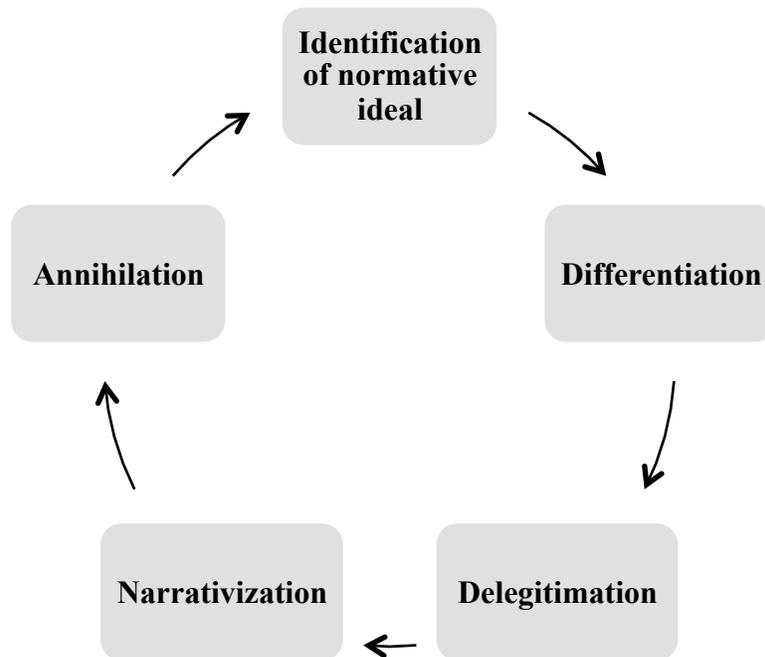
### **Architecture of Religious Intolerance**

At first look these old examples of intolerance may seem disconnected from a useful conversation about mass education systems today. We may see the atrocities of the past and tell ourselves, "These things just don't happen anymore." It may be true that those specific things do not happen anymore, but there may still be similar cycles and even similar results, although, brought about by different actions. There may be delegitimization of theories of knowledge that are not acceptable to the dominant majority. This could justify the exclusion of those theories of knowledge from educational systems and the very destruction of the ideas and values espoused by those holding the delegitimized epistemology. This could have a dramatic impact on minority cultures, and could even lead to the destruction of specific cultures, or at least unwelcomed and substantial cultural alterations.

The specific type and severity of the acts described is not the important consideration for this work. The social acceptability of the acts, however, is very important. An important question to ask is, "why were those clearly deplorable acts seen as socially acceptable?" I believe the historical evidence recounted in the scholarly

literature on religious intolerance shows an architecture of strategies—or a strategic architecture—which helps to explain why the acts described in the history of the United States educational systems were seen as socially acceptable at the time they were committed. We can then ask ourselves if similar, less egregious, tactics may operate in current mass systems of education and may lead to comparable outcomes. While not as severe, maybe there are tactics of intolerance that could lead to some form of violence, symbolic or literal, against specific cultural forms of knowledge or even new more subtle forms of cultural annihilation.

I believe the scholarly literature on religious intolerance suggests at least five rhetorical strategies, each of which is advanced by a variety of supportive tactics that, together, constitute what I am calling the strategic architecture of religious intolerance.



**Step 1: Establishment of a Normative Ideal.** The group in control, be they the majority or a powerful minority, establishes the acceptable norm. This is clearly driven by their values and goals, which are driven by their theory of knowledge. The examples

cited above show the norms being established by powerful European minorities, driven by religious values and goals, originating from various Christian epistemologies. The goals are cultural and can take almost any form be it economic, moral, or any other form that can be painted in the best possible light. If it is tied into a high level value such as salvation or charity, it carries a great deal of weight. Supported by the highest possible values of the dominating cultural group, these norms can then be used as the focus of comparison in the next step, differentiation.

Before we move on to differentiation, however, it is worth pointing out that establishing a normative ideal is perhaps the most important step in the consideration of mass schooling and possible religious intolerance. The foundations of knowledge, value systems, and goals of the dominant culture are key considerations of a “common” school system, or a system designed to support a common culture. We see this clearly in the Protestant control of the early common school goals. The question for this work is if the system of public education we have today demonstrates the same process of establishing a normative ideal, but from a different foundation of knowledge and resulting value system.

**Step 2: Differentiation.** With the normative ideal identified, the process of differentiating the desired from that, which is not desired, can begin. De Las Casas describes how the natives were not seen as Christian, even when they converted. Alfred Cave explained how the Pequots were seen as even worse than non-Christians because they were assumed to have been decedents of the lost tribes of Israel. This set them apart as not only faithless, but as those who had turned from the faith. For Chidester the concept of comparative religion was used to show the differences of the natives, and to

do so as it suited the purposes of the dominating class. Further, he saw the use of comparative religion in Southern Africa as nothing more than a military strategy used to deny the humanity of the native as part of an effort to enforce domination on the region (1996, p. 44).

Here we may also wish to consider the role of motive. It seems that how the differences are perceived as tolerable or not may have to do with the motives of those who dominate. Chidester's example of how the natives were differentiated by lack of religious faith when it suited the purposes of the dominate, but were quickly found to have religion when there was a desire to have peace and minimize any differences. In the end, it may not matter if the motives are calculated for political or economic control, or if they are seeking to help the poor misguided African native, freed slave, Native American "savage", lackey of the pope, or oppressed Mormon. Either motivation leads to differentiation, and then on to delegitimization.

**Step 3: Delegitimization.** Chidester's work provided an example of the full process to this point. The dominant religious point of view was recognized as the norm. The lack of religion, or other "civilized" cultural norms, was established through comparison; then the natives could be categorized as something less than desirable.

In isolating a primitive religious mentality, which was attributed to "savages" all over the colonized world, imperial comparative religion brought its analysis home by asserting that the same mentality was shared by animals, children, women, rural peasants, the urban working class, the deaf and dumb, criminals, and the insane in Europe. By developing a universal discourse about otherness, therefore, imperial comparative religion established a discursive regime of sameness that

served the interests of global control over “primitives” at home and abroad.

(Chidester, 1996, p. 4)

Chidester also introduces a new analysis helpful as we consider methods of delegitimization. He draws attention to the use of differing economic values as a rational basis for describing the other as lacking true religion, or even lacking humanity.

Drawing upon earlier representations of indigenous people as animals with no rights to life or land, or as children out of touch with the real world because they could not evaluate objects, European comparativists added a third implication to the denial of religion by asserting that people who had no religion lacked industry.

(1996, p. 15)

This economic justification has an impact on educational systems. If the dominant culture values economic “progress” they can use the lack of this value in others to delegitimize them, their values, their goals, and their theories of knowledge.

**Step 4: Narrativization.** This could also be termed a call to action. The norm is established, the deviations from the norm have been identified, and the deviations have then been delegitimized by virtue of their distance from the norm. How does this process move from differentiation to annihilation? Somehow justification for horrific acts of violence against the other were identified. This points back to the last step. If the differences established are able to paint the other in an abhorrent light, a story can be constructed to justify removing the difference. The Amalekite label is a good example. This paints the other as not only lacking in faith, but as rebelling against what they know to be true. This can then be tied to deeply held foundational beliefs and a narrative from the Bible. This then justifies the same action to be taken in this case that was taken in the

Bible. The process of narrativization lends itself to not only labeling the other and providing justification for violence, but also sets forth the process by which forms of violence have been, and will be, conducted. It allows for members of the majority to see the violence as inevitable and even natural.

Another differentiation that is identified by De Las Casa and Chidester is that of equating the other to animals. Foundational knowledge and legal frameworks had justified certain acts of violence against animals. Once the label of animal is applied to another human, that human can then be treated as an animal. The examples above demonstrate how a narrative can be used to equate the other to an animal and then justify acts against that group of people as if it is not worse than acts against an animal.

Another narrative we see in Chidester's work and saw in the last chapter while discussing Native American education efforts is the narrative that originates in the label "lazy savage". When the dominant culture places a high value on economic productivity, it can label a minority value system and then describe why such a system cannot be allowed to continue. This can draw on the Biblical admonition to "earn bread by the sweat of your brow" or as a system that is not worth replicating, because it does not produce, or is not economic "lazy savages".

**Step 5: Annihilation.** Chidester describes violence from a political and military perspective, and how the delegitimizing influences described above can accomplish political objectives. While reviewing the goals of the colonials, Chidester quotes a work of comparative religion written by Sir George Grey.

The advance of "Christian civilization," Grey promised, would "sweep away ancient races, antique laws and customs moulder into oblivion. The strongholds of

murder and superstition are cleansed, and the Gospel is preached amongst ignorant and savage men. The ruder languages disappear successively, and the tongue of England alone is heard around.” (1996, p. 10)

This quote provides a good example of the perceived superiority that follows the delegitimizing of the other along with the narrative that moves the powerful cultural group to impose dominance. When the dominator sees the “other” as existing in a state of evil or ignorance, it can even be seen as charitable to pursue this type of domination. It becomes “education” or “civilization” or “development” in the view of the dominator. While seeking to understand intent may be interesting, again, it is not really important to the pattern.

The violence against the native peoples was described as “genocidal warfare” that only stopped after the native groups submitted to colonial authority. It was following their submission that they were then recognized as having had a religion (Chidester, 1996, p. 23). This only changed if the group rejected colonial authority. Then, the narrative was reversed and again they were Godless savages (p. 43). Chidester, De Las Casas, and Cave all provide clear example of how this pattern can lead to cultural annihilation. With De Las Casas and Cave it was cultural annihilation through physical destruction. With Chidester it was cultural annihilation through physical destruction or cultural submission. If the culture would give up the abnormal qualities of concern to the dominant culture—in short, consent to their civilization or education--they would be allowed to live. If, however, the undesirable qualities returned, they would require re-education, or again be at risk of physical destruction. Either way the abnormal cultural attributes would be removed. While they may be allowed to continue living, the destruction of their unique

culture was assured. Further into this work we will consider if this idea of forced alteration of a dominated culture through educational systems fits this same process and presents the same problems regarding their liberty of conscience.

### **Religious Intolerance and Education: Analogous Structures?**

The examples above provide examples of how majority, or dominant, cultural groups can ensure values and customs they value are accepted and passed along in society. Their tool of enforcement was physical violence or the threat of physical violence. This is a structure of intolerance. Some of the examples were more subtle manipulations of the dominated cultural group through political systems, such as official recognition of a minority religion if they would change to fit the norm (Cave, 1996, p. 74). This structure of intolerance accepts some aspect of the other as long as the element of concern is removed. It lacks the violent destruction of the dominated culture present in other examples, but requires the culture to be altered through manipulation and force. This makes the change non authentic and is also a clear violation of liberty of conscience. As we consider the possibility of general, mass systems of education possibly violating liberty of conscience; we should consider this second structure of intolerance. If a majority cultural group identifies cultural values to be created or perpetuated through educational systems of their choosing, this could result in the same non authentic cultural changes to minority cultural groups.

To be sure, there is a major difference between the annihilation of cultures and modern education, just as there is a difference between the surgeon, who uses a sharp instrument on the body of another to save a life, and the thief who uses the sharp instrument on the body of another to take his wallet. They may use similar instruments

but there are important differences. One, of course, is intent—the surgeon’s intent is to help, the thief’s is not—but this is not the most important difference. More important are the matters of choice and consent: Where there is no choice, there can be no consent; where there is no consent, there is no choice. Without these two criteria, even the surgeon’s actions are considered a crime. Without these two criteria, a general system of mass education could become another structure of intolerance.

### **Religious Intolerance: Historical Artifact or Perennial Problem?**

Recent writing on religious intolerance in America provides additional context for past work on religious intolerance. Corrigan and Neal make sure their work is not intended to paint the United States as a largely intolerant society. In fact, they state clearly their belief that, “Indeed, the story of religion in the United States is one of unparalleled diversity and the protection of religious rights” (2010, p. 3). Regardless of this belief, they want to ensure our view of the past is informed as fully and accurately as possible.

Failure to see and thus grapple with the persistent reality of religious intolerance in the United States is dangerous... In this case, it creates an inability to recognize how religious intolerance is disseminated and replicated. As a result, nothing is done to prevent its proliferation. (Corrigan & Neal, 2010, p. 8)

I am interested in their work for precisely the same reason. The role educational systems play in “[disseminating] and [replicating]” intolerance is key to the purpose of this work (Corrigan & Neal, 2010, p. 8). Without a clear knowledge of the role education plays in the processes and methods involved in the practice of intolerance, the possibility of proposing useful solutions to such intolerance is greatly diminished.

Their recognition of the good that has been done in the United States in the arena of religious and other forms of cultural tolerance, including public education, is important to consider. Without the good that has been done in this area, it would be difficult to recognize the bad. The educational systems in the United States have done much to further the related causes of liberty of conscience, cultural diversity, and religious liberty. My purpose in this work is to review the negative in order to gain a better understanding of the concerns that may still exist and may need to be resolved. It is, however, important to acknowledge the good that has been done, but reviewing the details of that work is not my purpose.

Corrigan and Neil provide some additional clarity to the process I have been pursuing in the reviews of other religious intolerance literature. Beyond just observing the cycle of delegitimization and violence, they seek to explain them.

Key to their view of religious intolerance is the fear of the dominant group or groups. “They fear the loss of what they know, and to protect themselves, they define those who are different as ‘deviant’ or ‘dangerous,’ as someone or something that threatens their existence and therefore must be controlled or destroyed” (Corrigan & Neal, 2010, p. 257). They provide examples of salacious accusations leveled by dominant players against those whom they seek to delegitimize (p. 258). This includes accusations of depraved sexual deviance by Catholic nuns and priests, and Mormon men; as well as ill-gotten economic gains by Jewish conspirators. These accusations do not need any basis in truth; they only need to be dangerous enough to feed concern among the dominant class.

The purveyors of religious intolerance accuse Mormons, Catholics, and Jews alike of abusing and oppressing “pure” white women. They are the supposed victims, sexually, economically, and politically. The intolerant, then, define differences in gender and sexuality as an evil contagion that not only makes the minority group dangerous, but also threatens to infect and contaminate society. (Corrigan & Neal, 2010, p. 258)

These accusations work through three of the steps previously described. It allows the dominant group to differentiate, delegitimize, and narrativize the “other” very quickly. As these accusations take hold among the dominant class, it provides clarity between the norm and the undesirable cultural elements held by the weaker cultural group. This then leads to delegitimization. One of the most common manifestations they describe is a simple move from salacious accusation to dehumanization. “The perpetrators of religious intolerance ask: What kind of person could act this way? Their reply: None. ‘Real’ religion does not act in such ways, and ‘real’ people do not do such things” (Corrigan & Neal, 2010, p. 261). Very quickly the dominant have established differentiation, delegitimization, established a narrative justifying acts of violence (p. 262).

Historically my cultural community was attacked in this way. The historic attacks on LDS culture were heavily dependent upon the sexual deviancy arguments described by Corrigan and Neal (p. 258). But there are also modern examples of this as the Mormon groups who have continued the practice of polygamy are further delegitimized, not only by society at large, but by other “mainstream” Mormons who chose to give up the practice. There are several television shows, like *Big Love*, that explore the deviant behavior and use the fascination as a form of entertainment. This issue is not only a

delegitimizing influence for Mormons, but also groups such as Muslims who choose to practice polygamy.

Beyond the specific types of intolerance described in the United States, Corrigan and Neal tie in the acts of intolerance throughout America and Southern Africa by describing the importance of collective memory and cultural identity. “We should remember that the history of Europe—was carried in collective and individual memory to the New World” (Corrigan & Neal, 2010, p. 4). The ideas, motivations, and susceptibilities of prejudice existed among the colonists and revolutionaries of the early United States, and yet contradicting ideas of tolerance were taking root in the New World at the same time. Several colonies in the new world were built with people from different faiths striving to live together peaceably (p. 7). This struggle is seen throughout the history of education in the United States and still at work in education and many other social systems.

Another important aspect of their work is their understanding of violence. Violence is not limited to acts of physical violence. They see violence as a “continuum or process” (Corrigan & Neal, 2010, p. 14). Their purpose is to use this broader idea of violence to help explain “the ways hateful ideas, words, and acts are related to violent practices” (p. 14). The act of destroying what is undesirable in the other does not require the total destruction of the other, but only the destruction of that which is undesirable. This can lead to violence against any group of people or individual seen as undesirable by the larger society. This violence can take the form of delegitimization, which allows for destruction of that difference, immediately, or over time. This is a more subtle form of cultural annihilation. The dominant majority could delegitimize the theories of

knowledge of minority groups and exclude them from the approved mass systems of public education; thus altering and in essence annihilating, those cultures over time.

Education is important when considering the destruction of that which is undesirable over time. The undesirable attributes can be delegitimized, excluded from educational goals, and removed from the social conscience without any act of physical violence.

The development of a “common”, general, system of mass schooling in the United States is closely related to if not driven by the contests between the dominate religious culture and various minority cultures. It seems that a closer examination of the relationship between culture intolerance and the development of an educational system designed to delegitimize minority religions and place them in a subordinate social order. It could also be that a system was designed to not only delegitimize the minority cultural groups, but to also do away with them over time. The historic reality of the design of common schooling by the Protestant majority to pursue their shared goals as the expense of minority cultural groups suggests this could be a problem. The cycle of religious intolerance described above would also suggest considering this possibility is warranted.

## Chapter 5

### **Accommodation of Religious Diversity in Contemporary Philosophy of Education**

Education has been a topic of interest in philosophy since at least the time of Socrates; however, as a distinct professional specialization it is largely a 20<sup>th</sup> century phenomenon (Johnson, 1995). In that time political philosophers and philosophers of education have wrestled with the challenge of protecting liberty of conscience while simultaneously acknowledging the social systems needed to promote the values and dispositions necessary for the functioning of liberal democracy in a religiously and culturally diverse society. In this chapter I will review the perspectives of several of the most influential philosophers of education starting with the two most influential thinkers in the area of liberal democracy—John Dewey and John Rawls. I will begin with a critical review of John Dewey, using it as a case study for considering the processes of religious intolerance in the previous chapter. Even though I will criticize areas of John Dewey's work, he and each of the other authors have made significant progress in identifying and protecting liberty of conscience. His work was pursued in a time of strong Protestant religious influence on common schools and should be considered in that context.

I will then discuss contemporary philosophers and historians who explore questions related to liberty of conscience and religion in public education. Each proposes possibilities for a more tolerant public school system and further develops considerations raised by Dewey and Rawls. This will be followed by a brief review of other author who have sought answers to religious questions in education and add insight to that aspect of

the discussion. Each has acknowledged, to one degree or another, the progress achieved along with the need for additional solutions. Their proposals will be discussed here, but their work, along with those more focused on the broader issue of liberty of conscience, have moved the dialogue in the right direction. The discussion that follows would not be possible without their important work.

Despite all of the positive changes applied to our systems of public education, many problems still exist. These may remain in part because of the structural problems inherent in the system. Our current educational system was originally constructed to provide favored status to the Protestant majority, and with all the progress that has been made, much of the system remains as it was designed.

### **Common Schools and Common Faith**

I have already discussed two aspects of John Dewey's work. First, the very structure of this work is a framework for pursuing philosophy of education provided by Dewey (1938). Second, his definition of education, "the process by which social groups maintain their continuous existence" is very helpful when considering the interplay between education and culture in a pluralist society because it recognizes the need for education in the process of cultural reproduction (Dewey, 1916, p. 308). John Dewey argued for a radical approach to education. He challenged citizens, educators, and policy makers to continually improve all aspects of education through social experimentation, democratic dialogue, and scientific discovery. He argued that a system built on the foundations of reason and democratic discourse would be a strong agent for positive social change. He argues that progressive societies "...endeavor to shape the experiences of the young so that instead of reproducing current habits, better habits shall be formed

and thus the future adult society be an improvement on their own” (1916, p. 76). This progressive society requires the revisiting of former goals built upon the values of the past and present. The values should be reassessed according to an ongoing democratic discourse and tested in the laboratory of educational practice (p. 316).

The values held in esteem by society shape educational goals, and the goals drive the curriculum, methods, and systems of education. The reformation of society requires that the values, goals, and methods be subject to the evaluation and reconstruction process proposed by Dewey (1920, p.107). Each should be opened up to the process of democratic discourse and when this discussion leads to a well-reasoned hypothesis, the hypothesis should be tested and the results examined in the same process of democratic discourse. As new generations exhibit the attributes grown from newly shaped values, these attributes should also be assessed through a democratic dialogue.

Dewey’s proposal to utilize a progressive process to inform and reform education as a means to ongoing social reconstruction requires the allowance for changing moral values at the foundation of culture. These changes are based on the evidence gained through social experience and shaped by reason and democratic dialogue into creative or reconstructive ideas. These ideas are tested and reshaped over time as public discourse guides society to a better future. Central to this process is the construction of educational policy and goals. The means of creating or recreating educational policy is extremely important when considering practical implementation of Dewey’s concept (Dewey, 1920).

Democratic government utilizes the will of the majority to establish educational policy. This policy can control methods of delivery, content, and almost every other aspect of the educational system. It establishes the goals based on the values held by the

majority in control at any given time. This control can shift in one election if the majority changes. The change is normally the result of some shift in the public perception (at the local, state, or national level) and is usually driven by political arguments lacking the informed, rational dialogue supported by Dewey (Cuban & Tyack, 1997). James Tooley put it this way, “American democracy works by allocating decision-making right to elected officials, where ‘winners’ have the right to make binding policies, and ‘losers’ are obligated to accept these policies, however much they oppose them” (1994, p. 259). He goes on to restate Chubb and Moe’s argument that the aim of democratic government control is to control schools by placing, “higher-order values on schools, and thus to limit their autonomy” (Chubb and Moe, 1990, p.38). While the theoretical appeal of Dewey’s “democratic discourse” is admirable, the practical operation of our current public school system is more akin to majority political control of a common school system.

Another of Dewey’s perspectives is an argument for the ability of an educator to test multiple aims in the classroom. “...The more general ends we have, the better. One statement will emphasize what another slurs over. What a plurality of hypotheses does for the scientific investigator, a plurality of stated aims may do for the instructor” (1916, p. 106). The same principle can be applied to aims of an educational system. Multiple aims could be implemented and analyzed over time allowing for an ongoing process of testing and reconstructing these multiple aims. This is some conflict between the idea of pursuing multiple aims in a variety of educational systems and Dewey’s concept of a general system of public education (Dewey, 1934). Without diverse systems it seems violation of liberty of conscience would be required as one system, based on one set of values, supporting one set of goals, was pursued at the expense of the minority cultures

that are denied the tools of social reproduction and/or reconstruction. I will discuss this further following the reviews of other philosophers of education. Once his ideas of philosophy of education and social reconstruction through education were established (Dewey, 1916 & 1920), he moved on to find a new epistemic foundation for constructing values and goals in education (Dewey, 1934).

Dewey began *A Common Faith* (1937) with a criticism of why religious foundations were not sufficient. He categorized foundations as religious if their theory of knowledge includes “the necessity for a Supernatural Being and for an immortality that is beyond the power of nature” (p. 1). As opposed to those who “think the advance of culture and science has completely discredited the supernatural and with it all religions that were allied with belief in it” (p. 1). He disagrees with elements of both (pp. 2-3). His project is to form a new foundation of religious experience, one that allows for religious belief but “separates it from the supernatural and the things that have grown up about it” (p. 2). He reasons that the great variety of religious systems is evidence of continued religious changes in the past and so it is reasonable to expect changes in the future. He desires these changes to be structured by scientific processes and sound reason (pp. 4-14).

His newly constructed religious experience, essentially faith in science, will be in conflict with the old and he does not see mending the old as a possible solution. His solution requires its dissolution. “The opposition between religious values as I conceive them and religions is not to be bridged. Just because the release of these values is so important, their identification with the creeds and cults of religions must be dissolved” (Dewey, 1937, p. 28). Here we see some interesting correlations to the process of religious intolerance. He has identified the desired norm as his new form of religious

faith. He has differentiated the old religious systems and started the process of delegitimization by arguing that those religions that claim supernatural authority are flawed in their foundations and must be replaced. He is confident of his new project and sees it clearly as the “one sure road of access to truth” (p.32). He identifies this road as “the road of patient, cooperative inquiry operating by means of observation, experiment, record and controlled reflection” (p. 32). He is critical of traditional religious faiths because of their history of constraining such thought and promoting unscientific worldviews. (pp. 21-87). He concludes his argument by clearly projecting the intent of this project: “Such a faith has always been implicitly the common faith of mankind. It remains to make it explicit and militant” (p. 87).

He does argue for choice between religions (Dewey, 1937, p. 8), but assumes the superiority of this new project will make the need for all of these old options unnecessary (p. 28). It is here that we can use his proposal as a case study for applying his aim of unification through a new faith in science with the process of religious intolerance and the development of an educational system. He acknowledges diverse cultures built on varying yet similar epistemic foundations. The foundations yield varied value systems and a variety of diverse educational goals. For liberty of conscience to be respected each cultural group, and individual within each group, must be able to pursue cultural reproduction through education without external manipulation, force, or governmental delegitimization. If Dewey’s new faith were to be implemented without favored status being granted by governmental entities, then it would be one of many cultural options. The desire, however, to use the common school system to implement “a common faith” intended as a “militant” (p. 87) effort to ensure other creeds are “dissolved” (p. 28) is

clearly inconsistent with liberty of conscience and a model of the religious intolerance process described in the previous chapter. While it could be argued that Dewey's system was not ever implemented, it does bear strong resemblance to our current system of public education. Regardless of the status of implementation, the theories put forward by Dewey have been influential to other philosophers of education and provide both a good case study for religious intolerance and a starting point for discussing other philosophers.

### **Overlapping Consensus**

John Rawls (1985) has developed a framework that could be useful in considering variations of the public school system respecting a multicultural society while still maintaining a unified political system. John Rawls' *Theory of Justice* (1971) is widely considered one of the most important works of political philosophy in the 20<sup>th</sup> century. His attempt to articulate a conception of "justice as fairness" clearly includes the problem of liberty of conscience in democratic society. *Theory of Justice*, however, drew some criticism for not adequately accounting for the diversity of groups that constitute modern American society, a challenge Rawls took up in *Political Liberalism* (1993). Together, they articulate a conception of justice that acknowledges the need for multiple cultural groups to live harmoniously in a civil, or as he puts it, "well ordered" society (Rawls, 1985, p. 9). His theory addresses more than just the right of individuals to think and believe as they wish, but to act on a standing equal with others. Among the "competing claims of liberty and equality" he sees the necessity of addressing equality in order that the pursuit of liberty be useful (Rawls, 1985, p. 2). Equality is central to Rawls' ideas. Individuals need the economic and other resources needed for "equal" participation in

social and political institutions. To facilitate this equality, he sees the need for socially agreed upon values to guide some limited, general concepts of education (1985, p. 156).

He sees the need for a general moral education that builds two agreed upon “moral powers”. The first is a “capacity for a sense of justice” which deals with how individuals understand apply and act in the political arena (Rawls, 1985, pp. 18-19). The other “is a capacity for a conception of the good” (Rawls, 1985, p. 19). It is the capacity for an individual to construct his own values and goals consistent with his version of the good life, or as Rawls puts it. “... An ordered family of final ends and aims which specifies a person’s conception of what is of value in human life or, alternatively, of what is regarded as a fully worthwhile life” (Rawls, 1985, p. 19).

This concept of choosing priorities and setting goals to further those values does allow for individual distinctions, but within a framework requiring a limited set of generally accepted values or ideas. It requires that the students’ previous avenues for establishing varied frameworks must adjust toward and come into agreement with this limited, but generally applied, framework of a well-ordered society. “The elements of such a conception are normally set within, and interpreted by certain comprehensive religious, philosophical, or moral doctrines in the light of which the various ends and aims are ordered and understood” (Rawls, 1985, p. 19)..

He recognizes liberty of conscience as one of the highest order liberties (Rawls, 1985, p. 145) that should only be violated if required to protect another of the highest order liberties such as freedom of speech, or freedom of association (Rawls, 1985, p. 111). He has given higher priority to this group of liberties because, “...they are necessary if the other basic liberties are to be properly guaranteed” (Rawls, 1985, p. 113). His theory

also provides protections to those in minority groups including religious groups. “When politically weaker groups and minorities are denied the franchise and excluded from political office and party politics, they are likely to have their basic rights and liberties restricted if not denied” (Rawls, 1985, p.143). He specifically mentions the liberty of conscience of minority religious groups, as a liberty that should be protected in this way (Rawls, 1985, p. 115).

As with other philosophers, he sees reasonable limits to liberties, even those with the highest priority. While liberty of conscience may be limited to protect another high order liberty, it may not be limited “...for a greater public good understood as a greater net sum of social and economic advantages for society as a whole” (Rawls, 1985, p. 111). He sees a possibility for finding a balance of the highest order liberties as a part of his idea of a well-ordered society. “No basic liberty is absolute, since these liberties may conflict in particular cases and their claims must be adjusted to fit into one coherent scheme of liberties... it is the whole scheme of basic liberties which has priority...” (Rawls, 1985, p. 104).

He also raises an important question regarding children in a religious society.

...Various religious sects oppose the culture of the modern world and wish to lead their common life apart from its foreign influences. A problem now arises about their children’s education and the requirements the state can impose... It will ask that children’s education include such things as knowledge of their constitutional and civic rights, so that, for example, they know that liberty of conscience exists in their society and that apostasy is not a legal crime... Their education should also prepare them to be fully cooperating members of society and enable them to

be self-supporting; it should also encourage the political virtues so that they want to honor the fair terms of social cooperation in their relations with the rest of society.” (Rawls, 1985, p. 156)

While Rawls did not develop his theory into a full educational framework, this quote does provide a clear outline for education among various religious groups. In that regard, it is a strong improvement from Dewey’s common faith approach. The picture of a well-ordered society he is describing recognizes authentic cultural diversity, and could include a diversity of educational offerings. His conditions for this seem to be reasonable if liberty of conscience and other high order liberties are to be respected. Later work explored two concepts that may be useful to this work. These are both associated with a concept he calls “overlapping consensus” (Rawls, 1993, pp. 144- 150). The first is the idea of two moral powers that form the essence of free and equal persons (p. 19). He goes on to discuss “basic rights and liberties of citizenship, one of which is liberty of conscience (p. 227). These ideas may provide some guidance for proposing alternative approaches to education that minimize threats to liberty of conscience.

### **Religious Diversity and Public Schooling in Contemporary Philosophy of Education**

Since at least the 1960’s mainstream philosophy of education has been preoccupied with the challenges posed by cultural diversity and discrimination for public education. And since at least the late 1970’s, with the rising political prominence of the so-called “Religious Right,” the particular challenge of religious difference has been a recurring, though by no means overriding, theme in that discourse. In that time some of the most prominent contemporary philosophers of education have attempted to reconcile the challenges to public education posed by the Religious Right and increasing religious

diversity. In so doing, they are wrestling with a particularly salient manifestation of the broader issue of protecting liberty of conscience while defending the need for public education as an institutional pillar of modern democratic society.

One interesting perspective is offered by Nel Noddings (1984). Her desire to empower teachers with the ability to truly care about and for students is unique and useful. She believes caring is grounded in the idea that understanding of another person is required before true care can be provided. Simply doing what is thought within ones' self to be good for the other is not sufficient, it must actually be good for the perspective of the one being served (Noddings, 1984, p. 9). Noddings' overall concept is useful and provides some additional insight into considering the values, goals, and desires of a diverse population of students. For a student to be cared for, those individual values, goals, and desires need to be understood and respected. A broader view of her thoughts about caring supports liberty of conscience as discussed earlier. She details the need to serve a student, not to help him become what we think he needs to be, but to serve him "as he envisions his best self – in order to confirm him" (Noddings, 1984, p. 67). She also questions the ability of an institution to provide the needed caring. "It cannot meet the other as one-caring or as one trying to care" (Noddings, 1984, p. 103). Her work seems to support questioning the ability of a general, mass system of education being able to truly serve the needs of each individual student.

The idea of serving students in a way that respects who they really are and allows them the opportunity to choose their own path leads inevitably to the need to engage religious beliefs, and individual perceptions of value, purpose, meaning. Noddings addresses this challenge in *Educating for Intelligent Belief or Unbelief* (1993). She

encourages an open dialogue in schools regarding issues of religion, religious values, and other topics that are frequently ignored (Noddings, 1993, p. 183). She also suggests that the topics to be discussed and approaches to be taken should be informed by all religious faiths.

I am suggesting that all the religious groups in a community be represented in planning and presenting programs for the spiritual and ethical growth of the community's children, and that these programs be discussed openly and appreciatively. (Noddings, 1993, p. 184)

These ideas are important for a society in which a diversity of ideas can interact. Noddings sees the need for everyone to have some meaningful exposure to other faiths, to be "touched by the beauty of faith, and devotion manifested in the religious practices of others" (1993, p. 185). The type of exposure can strengthen liberty of conscience by allowing for a broader view of available options for individuals and social groups, and can also provide a critical lens for reviewing established ideas and practices. She acknowledges this type of exposure may lead to some individuals leaving their faith community after this type of inner reflection, but sees this as a positive. "If a particular set of beliefs is so fragile that it cannot stand intellectual examination, or so uncharitable that it cannot tolerate caring relations, then indeed it should be lost" (p. 185). While I am concerned with the idea of any social group that does not embrace her idea being unworthy of continuance, I do see the value of internal and external critical examination as a necessary support for liberty of conscience, and as catalysts to social progress.

She continues her theory of caring by discussing how schools need to change. Her solution is to move the focus from an institution, which cannot be caring (Noddings, 2003,

p. 117), to individual teachers (pp. 197-198). This is critical to her concept of caring, as it must be personal—from one individual to another. If her ideas could be carried out, it could have a dramatic positive impact to existing public school operation.

Warren Nord (1995) is perhaps the most critical of the U.S. public school system as it relates to religious intolerance. He acknowledges both the historic intolerance of the early common school system and the continued delegitimizing influences that he sees in the modern system of mass education. This perspective provided by Nord is the frank description of the depth of difference regarding education held by various cultures in our society. “We disagree profoundly about the truth, and our disagreements cut to the bone, to what we believe about human nature, history, morality, society, the universe—and reason” (Nord, 1995, p. 4). He goes on to pose a question important to those who value a pluralist society. “How, then, are we to live with our deepest differences” (p. 4)?

Though this is an undercurrent throughout the multiculturalist literature, few of the authors address it except to say that some type of unity in society is needed. Those supporting the idea of a common school system usually claim that system is needed to provide that unity. In essence, this perspective argues we live with our differences, by ignoring some of our deepest foundations (religion) which may even lead to educating away those differences. Nord wonders if there may be better ways to address those differences, possibly by giving religions their voice in public education. (1995, p. 8)

The idea of neutrality in addressing religious ideas is another topic covered by Nord. After the dominance of Protestant and Christian influences on public education, we have seen a strong move towards excluding religion to eliminate this inappropriate influence. Many have argued this approach to be neutral.

It is often believed that one way of maintaining neutrality is to say nothing. If we ignore a subject, we neither advance nor denigrate it. This is nonsense. It has surely become clear over the last few decades that history and social studies texts that ignored blacks and women were not maintaining neutrality on questions of race or gender but wearing their prejudices on their sleeves. So it is with religion. (Nord, 1995, p. 163)

He argues the removal of religion from education is not only driven by the hope of staying away from controversy, but “because within a scientific worldview religious claims cannot be taken seriously as candidates for the truth” (1995, p. 164). While Nord does not focus his work on the ideas of religious intolerance, the markers of delegitimization identified by scholars in the religious intolerance field are clear. The norm is clearly the scientific worldview. If an idea or view is labeled religious, it is immediately differentiated and delegitimized and connected to a long line of narratives restricting religious ideas to this delegitimized status. The very act of exclusion ensures some level of annihilation.

His work also acknowledges that ignoring a controversial subject is not neutral; it can actually be a form of delegitimization. Nord addresses this from the perspective of how delegitimization of religious discourse, intended or not, is leading to a reduction of religious ideas from public discourse.

Religion is intensely personal and is of overriding importance to many people.

Because it has been ignored in education, and because it has become so much a private matter, most of us have had little practice talking about it in public places. (1995, p. 5)

He covers the idea more directly by describing how limiting “legitimate” cultural options can lead to oppression—even if that oppression is not recognized because the newly reorganized reality only displays the remaining “legitimate” perspectives. “The most successful tyranny is not one that uses force to assure uniformity but the one that removes the awareness of other possibilities, that makes it seem inconceivable that other ways are viable” (Nord, 1995, p. 188).

With these expanded ideas, Nord takes a different look at the concept of indoctrination. He sees the possibility for indoctrination, not only in teaching only one set of ideas, but “when a way of thinking is ignored” (1995, p. 188). This is an important idea to consider while pursuing an answer to the research question. A school teaching religious tenants with the express purpose of converting students to the faith or retaining students in the faith is, to one degree or another, indoctrination. A school that excludes options from a student may also be indoctrinating, but from a liberty of conscience perspective this exclusionary form of indoctrination could be even less desirable. The intent of the religious school is open and much easier for a student to comprehend as she pursues her education. A system in which rational for exclusions are not understood or explained to the students could set itself up as a neutral system when in fact it is not and cannot be neutral. If delegitimized ideas are excluded from cultural reproduction through general educational systems, exclusion can also lead to the death of that idea. The cultures attached to that idea are then altered or in more severe cases annihilated.

Nord does not argue strongly for any general solution to the conflicts he describes. He does, however, discuss two ways to improve the current situation. First, he agrees with several of the other authors who encourage an open discussion of religious ideas in

context with secular subject matter, and he encourages discussion of religious and secular conflicts in the classroom (Nord, 1995, pp. 209-213). He also discusses the desire by some conservative groups for diverse educational systems and specifically mentions private school vouchers (p. 257). He also suggests that, “parents might be given their choice of public schools within a given school district or state, or their choices might be broadened to include private schools and perhaps even religious schools.” (p. 253). He does not seem to agree with those who would argue that teaching about a variety of cultures in the classroom, or encouraging students from diverse background to bring their varied perspectives into the classroom discussions are enough to address the concerns (Nord, 1995, pp. 213-230).

Another strong advocate for inclusion is James Fraser (1999). He recognizes that issues of religion and public education have not been fully resolved.

Those who thought that the issues of religion in the schools had been solved some time after the battles over evolution in the 1920s banning formalized prayer and Bible reading, have clearly turned out to be mistaken. (Fraser, 1999, p. 1)

As with the other authors, he sees the tension between excluding religion from public schools and a tolerant system of inclusion.

...The nation’s schools must be places for embracing and building tolerance and a love of diversity. Tolerance alone is not enough if it means a single dominant culture that allows certain forms of dissent as long as they stay within bounds. (Fraser, 1999, p. 4)

It is his recognition that a truly multicultural system cannot require participants to “stay within bounds” that first started my thinking about the topic of this work. He does not

argue for a foundation of knowledge that must guide choice of curriculum and instruction as others do (Reich, 2002). He sees the need for a more inclusive system. At least those comments seem to give that impression. However, as he continues he seems to alter his argument and agree that some basic foundation is needed.

For practitioners of a creed that demands absolute and unquestioning obedience to authority, the notion that there is something to learn from others – even while holding fast to one’s own faith – is anathema. If people believe they are right and every-one else is wrong, what do they have to learn from others?... No religious tradition has been without its militant fanatics. But a democratic society must reject militant fanaticism. At the same time, it must not reject strongly held beliefs. (Fraser, 1999, p. 7)

It could be that he draws the line with “militant fanaticism,” but his rejection of religious foundations may also include authoritarian faiths without violent creeds.

Fraser also provides some useful discussion of the early aims of the common school system and recognizes a flaw not just in Protestant control, but in the system that allows majority control in any form. “...The public school system’s founders’ failure to understand the need to respect the faith of a wide diversity of citizens or to actively maintain their own religious identity has never really been addressed. The results are with us still” (1999, p. 47). He ends the chapter with this statement, so it is hard to know if he sees the problem inherent in the system, as I do, or if he is acknowledging the same religious tensions already identified by other authors.

Fraser provides examples of religious tolerance in the colonies. He points out Rhode Island and Maryland as early examples of tolerance (Fraser, 1999, p. 15). He also

points out that Massachusetts, “one of the last states in the union to end its own religious establishment,” was also the place where Mann began the “new order” (p. 25). He recognizes that some of the intolerance in Massachusetts carried over into the new common system when “a board dominated by Unitarians could not avoid using the book selection process to impose their creed on others” (p. 30). He also recognizes an important design of the early common system that is often overlooked when considering the goals and implementation of such a system. “The common schools were not merely for the common people, they were to be common to all the people, rich as well as poor, for only in that way could a united nation be created out of the diverse people in the land” (Fraser, 1999, p. 39). This purpose required a process much more akin to Massachusetts’s established religion of the past and less aligned to the tolerance expressed in Rhode Island and Maryland. “The school was [made] to bring them into a common culture, one that was defined by others” (p. 39). In effect, the common school became the functional equivalent of an established church, thus helping to explain the level of intolerance, religious and non-religious that continued and continues. If all are to be taught one curriculum the norm is clearly established and other options differentiated. By making it an officially sanctioned and tax-supported option it delegitimizes the other options. It is also easy to see how the majority controlled system, with tax support, would be able to control the narrative moving forward.

Many problems identified by the other authors are also in Fraser’s work. He recognizes the problem of double taxation for parents who see religious education as part of their exercise of religion (1999, p. 56). He sees delegitimizing influences expressed, not only in the South but in the North as well, towards African Americans who desired to

utilize the community of their churches to “support their educational efforts” (p. 68). He describes in detail the problem with mission schools forced upon the Native Americans (pp. 92-99).

As a historian, Fraser does not offer a solution. His purpose is more focused on further illuminating the problem. He does, however, provide some basis from which to consider possible solutions.

Ultimately a democratic system of education must embrace all citizens, with their wide range of opinions and creeds, and make all welcome and ultimately learn from them. To do anything less is always to incite battles to ‘control, or failing that, to weaken’ the public schools of a society in which all citizens play a role, however limited, in creating the society’s larger policies. (1999, p. 137)

...The way to a better future is through an inclusive and engaging education in which schools encourage all of their citizens – students, teachers, and administrators – to listen respectfully, where power is shared, where all voices are heard and given their due rights. (p. 240)

He may not fully agree with Nord, but the possible solutions expressed by each of the previous authors, including Nord, seem to be supporting solutions to the concerns he illuminates in his work.

Another author addressed some of these concerns in 2002 by focusing on the role of the teacher. Jeffrey Milligan’s work recognizes the concerns discussed by Nord and Fraser but from a different perspective, a reconceptualization of the role of the teacher. He sees the need for religious influences to be discussed because of their importance to a diverse, democratic society. He acknowledges the importance of religion in everyday

experience and sees the need to face that reality in educational settings (Milligan, 2002, p. viii). While Nord offers possible ideas for addressing the issue by including various approaches in the curriculum of public schools, Milligan provides a specific proposal to reconceive the role of the teacher so as to mitigate religious tensions in public schools (Milligan, 2002). He sees an opportunity to allow teachers to reclaim an aspect of their historic role, that is the possibility of providing a moral critique and calling students' to pursue self-improvement and social improvement (2002). The process he proposes also seeks to respect the diverse beliefs of students and other teachers and move toward an open respect for the beliefs of students and teachers alike (2002).

The similarity to Nord's argument is evident from this observation provided by Milligan:

...If religious groups and sub-groups constitute distinct and in some cases marginalized cultures, and if, as post-analytic epistemological assumptions suggest, there are multiple, perhaps even equally valid ways of knowing rather than one correct way of knowing, then does not religion have some claim to space in public education as an aspect of marginalized culture, and alternative epistemology, as one of the voices of the Other? (2002, p. 19)

It is clear that Milligan is wary of curriculum or instruction that may differentiate or delegitimize the other. Milligan applies arguments of delegitimization put forward by feminists and multiculturalists as providing a basis for acknowledging similar forms of delegitimization when considering religious cultures and public education. The term "delegitimization" is mine; he used the phrase "marginalize and silence" (p. 8).

Milligan's proposal borrows "Cornel West's notion of *prophetic pragmatism*," and draws on literary insights into conceptions of teaching in the novel *Beloved*, by Toni Morrison (2002, p. ix). Milligan employs West's idea because its synthesis of a pragmatic, anti-foundationalist epistemology, political progressivism and religious faith suggests the possibility of a religious orientation that eschews the anti-democratic dogmatism Dewey criticized in *A Common Faith* and which strict separationists continue to fear (ix). He uses Morrison's fictional account to provide an example of how this type of prophetic leadership in a local community can be a powerful survival tool (ix).

Milligan sees the possibility for teachers to navigate areas of conflict with students in a way that respects each student's perspective but is also true to the idea of a teacher acting as a social agent for accepted general good (Milligan, 2002, pp. 24-28). If it is assumed that a common system must be used, Milligan's idea of teachers as prophetic pragmatists would be a dramatic improvement over the current use of teachers and curricula as "technicians" of conveying institutionally determined values and goals to the general public (2002, p. 189). There is great value in forming a system that allows for respect of the religious views held by students and some level of freedom for the teacher to pursue education inclusive of important religious influences and ideas.

He also sees a need for some publicly agreed upon set of values or ethics. Milligan argues that teachers derive their authority from the society they serve; therefore, they and schools require a publically agreed upon set of values or ethics. He labels this "Social Authorization" (2002, p. 25). "... The concept must recognize the teacher's responsibility to ground teaching practice in the authority of socially recognizable ethical

ideals rather than the limited roles defined by the political status quo or supernatural authority” (p. 25).

Milligan has a well-balanced approach to the framework of shared values. Rob Reich (2002) shares some of the same basic ideas of shared values, but does not seem to recognize the possibilities for religious intolerance inherent in attempts at neutrality or exclusion (Nord, 1995), and the possibilities of empowering the instructor as do both Milligan (2002) and Noddings (1993). Milligan’s re-conception of the role of the teacher would , if implemented, help to minimize religious intolerance within our current system.

Rob Reich (2002) meets many of the cultural dominance concerns identified by philosophers of education over the years very directly. His analysis is one of the most comprehensive on the issue of liberty of conscience, and many of the issues he seeks to resolve seem to be foundational assumptions for many of the other writers. Because of the depth of his arguments and the direct applicability to liberty of conscience, his ideas will need to be reviewed and discussed in detail.

Early in *Bridging Liberalism and Multiculturalism in American Education* (2002) he hits a key point. “Is there a tension between cultivating citizenship and honoring and respecting social diversity ” (Reich, 2002, p. 2)? His answer to this question is a clear yes, but the benefits are worth navigating the tensions. His concept of liberty is consistent with Nussbaum’s concept of liberty of conscience. He sees the need for a common educational system not as a conflict with that idea, but a necessary foundation.

Liberalism, especially contemporary liberal theory, emphasizes autonomy, individual rights, the freedom to develop and revise a life plan, and the need for

civic education and a common political identity to provide unity in a diverse society. (Reich, 2002, p. 3)

His solution is to use the public school system to ensure individuals, specifically children, gain an authentic opportunity to make their own decisions as to what their life plans should be.

A key concept for Reich's view is that children must not be indoctrinated in the various cultural systems, but be given the tools to choose their own way without undue influence from their parents' culture.

...Multiculturalists should take care to assure that all children are provided an education that fosters their autonomy, which in turn contributes to their participation as equal citizens in the public sphere and facilitates a capacity to form, revise, and pursue a conception of the good. (2002, p. 8)

He makes a clear argument for the need of an external influence to ensure the culture of the parents does not unduly limit the options of the child.

Children do not freely choose membership in any groups; they are born into them. Their voluntary attachment to a group will come only after a certain maturity, which, to give meaning to the word voluntary, will include an education that teaches children to be sympathetic but critical examiners of both their and others' ways of life. (Reich, 2002. p. 69)

Other authors mention this need, but Reich provides a detailed argument. He takes this argument to a logical end by arguing "...the state should permit but vigorously regulate homeschooling..." (2002, p. 9). He sees the need to allow for various forms of education, but sees an interest for the state to ensure all children learn "about values and beliefs

other than those they are likely to encounter within their homes” (2002, p. 9). The need for children to have knowledge outside of their own culture is a requirement for the ability to choose.

He does acknowledge the historic problems with a public school system designed to build a more common culture. “...The private and charity schools of the early decades of the 1800’s would be replaced by common, publicly funded schools that would teach Christian and republican virtue...” (Reich, 2002, p. 18). Those concepts of Christian political virtue were seen as the desired civic virtues of the time. He goes further than many of the other philosophers in clearly describing the intolerance in the early common school system. These early efforts at civic education, “... often meant the desire to eliminate or, minimally, to subdue all previous ethnic ties” (Reich, 2002, p. 24). He goes on to provide a clear historic example of the intolerance shown to Native Americans when they were sent to boarding schools to “Christianize” them (p. 29). Reich’s solution is to replace the foundational goals of Christian political ideals that at the time, were “closely tied up with prevailing conceptions of good citizenship” (p. 18). He sees the application of the concept of separation of church and state to public schools as a step in the right direction (p. 18). The removal of dominant Protestant goals reduced the conflicts within the system. He does not see a time when there will be no conflict, but desires to manage the conflict in a way that promotes individual self-determination while minimizing negative impacts to cultural diversity (2002).

Conflict over cultural diversity, both inside and outside the schoolhouse, will surely never disappear, yet in comparison to previous eras, the terrain on which cultural clashes are fought is less fraught with peril and the likelihood that

ethnocultural groups will be purposefully oppressed, marginalized, or excluded by the liberal democratic state with respect to citizenship generally and educational opportunity specifically. (p. 30)

While he sees the harm done by early common schools, he also sees an overriding value. "...The formation of publicly funded common schools was justified largely in terms of the role they would play in creating citizens, not workers" (Reich, 2002, p. 5). While the Protestant civic aims were oppressive, he sees the system as a useful object for a more appropriate common, civic education.

As with most of the philosophers of education, he sees the need for a foundation of values that all cultural groups must adhere to in order to facilitate liberty of conscience. He also clearly sees the need for these values to be arrived at through the democratic political process. "Civic education must, in my opinion, be consistent with the political principles of the larger society (indeed, it may be instrumental in their realization) and show an awareness of the history of schooling" (Reich, 2002, p. 6).

He also has another view of the history of common education that is important to this work.

Seen through the lens of history, we find that while the current conflagration over multiculturalism and multicultural education may revisit in many important aspects previous debates about the place of religion, language, race, and ethnicity within the schoolhouse, the twentieth century's broader acceptance of tolerance for diversity and its greater emphasis on inclusion within civic institutions offer a comparatively less incendiary environment with reduced dangers of outright cultural oppression or denigration. (Reich, 2002, p. 17)

There has been great movement in the right direction, and today's public schools are less intolerant of many minority cultures than they were in the past. If Reich's or any of the other ideas put forward by philosophers of education interested in pursuing multicultural education in a pluralist society were given more attention by our current public school system, liberty of conscience would be on even stronger footing.

Much of what Kent Greenawalt (2005) and Robert Kunzman (2006) have to share has already been covered while reviewing the other authors, but they offer some additional insights from within the legal parameters of the current public education system. They are less concerned with philosophic foundations and more focused on finding solutions within the established framework.

Kunzman sees the tension between social interest and individual liberty as the dominant problem. He desires to find a solution but sees a clear need for a general framework to protect public interests.

Granted, we still need procedural safeguards to protect our interests: decisions that invoke the power of the state (sometimes involving coercion of dissenters are a necessary component of civic life, and the procedures used to reach those decisions should be guided by constitutional principles that protect the rights of individuals. (Kunzman, 2006, p. 74)

This view attempts to balance the public interest with individual liberty. As with the previous authors, with the possible exception of Nord (1995), he sees certain public interests as superior or even prerequisite to the idea of individual liberty of conscience. He also provides an insight to the important idea of liberty of conscience as a strong consideration. If a person's beliefs or the values of a specific culture see the need for

religion as a part of formal schooling, it becomes problematic to require that individual or group of individuals to divorce religion from their educational system (Kunzman, 2006, p. 26). His view of supremacy of the public interest over the individual creates a compromise that can work within the current public school system. This idea includes allowing individuals space within the public space. "...Those who wish to pray together may do so informally before the school day starts, or during lunch; and teachers may initiate the school day with a moment of silence" (Kunzman, 2006, p. 43). This individual space is enough, from his point of view, to protect the individual liberty of those who see the inclusion of religion in educational systems as necessary.

Greenawalt (2005) is a bit more cautious; he sees some of the same tensions, but does not seem to be as confident in the solution. Rather than a clear boundary within a public space, he sees some reason for concern. "If the minority is given what it wants, the majority, whose wishes about religion are frustrated, will not feel it is being treated equally" (Greenawalt, 2005, p. 57). This observation can easily be applied in both directions. He goes on to observe that, "...the neglect of devotional practice can implicitly downplay the significance of religion, a message that can be conveyed by silent disregards as well as by explicit statement" (p. 57). He sees the same concerns as Nord (1995), and to a lesser extent Fraser (1999), but he too has no clear solutions.

Reich (2002) on the other hand saw the tensions but thought them necessary to the support of a democratic society. Another author who seems to agree with Reich's perspective is Walter Feinberg (2006). He recognizes many of the same needs to support a pluralist society but supports a different approach to address these needs. He proposes that there should be some public regulation of even private and home education.

Thus, regardless of the merits or deficits of individual religious schools, a focus on religious education is in order precisely because, unlike public schools, these schools are not answerable to a public formed through a democratic process, and because, perhaps out of disinterest, their curriculum is largely veiled from public scrutiny and shielded from public debate. (Feinberg, 2006, p. xv)

The need Feinberg sees to support a public, democratic process also extends to public restrictions on religious ideas that may be deemed inappropriate.

It is also in order because there are certain features of some religions that appear to be in tension with the requirements of a democratic deliberation. These include claims to absolute truth and hierarchy as opposed to consensus building, an emphasis on exclusivity as opposed to openness, and the need to control belief instead of to test it against scientific standards. In addition, global economic factors are forcing many people to immigrate to the West, many of whom have not been a part of the religious consensus forged in much of Europe and the United States. (Feinberg, 2006, p. xv)

He does not argue for the dissolution of all private, religious institutions of education.

“Public schools, when working as they should, can provide the trust and understanding that can allow single-tradition religious schools to flourish at the educational margins” (Feinberg, 2006, p. 214). This allows a controlled measure of diversity, but only within a framework of shared social values. It does not allow, however, new ideas outside of the “religious consensus” he seeks to establish.

Milligan and Noddings both focus their proposals on the instructor, and the ability of individual instructors to navigate appropriate treatment of religious subjects. Again,

Greenawalt sees possibilities for this approach, but asks how instructors, or materials, can navigate this space as instruments of the state (2005, p. 68). He provides a solution, but this solution is surrounded by cautions and a difficult to navigate structure.

The obvious remedy for religion's present neglect is for schools to say more about it, while withholding judgments about religious truth. In certain limited respects, schools should undoubtedly adopt this remedy, which is consonant with the values of the religion clauses themselves. But a large measure of caution is needed. The wisdom of a proposed change can depend on how religion is now being neglected for particular subject matters, on the depth of treatment for religion that is proposed, on community acceptance of the schools' paying more attention to religion, and on teacher competence. (Greenawalt, 2005, p. 86)

## **Conclusion**

It is clear that Greenawalt's ideas are a clear example of theories of education that follow the pattern of religious intolerance. He clearly differentiates what he sees as acceptable forms of knowledge from religious forms of knowledge with an authoritarian or absolutist foundation. With the differentiation complete he then clearly admits the need to marginalize these types of religious ideas and ensure they only remain on the fringes of society (Feinberg, 2006, p. 214). This is as clear an example of delegitimization as we have seen since our discussion of Dewey's proposed "common" faith in science (Dewey, 1934).

A few authors have even addressed this issue by arguing public education is to some degree or another the American faith (Bankston & Stephens, 2009). They start by recounting Paul Goodman (1966) and his concerns over compulsory education and the

dangers of centralized education and the pursuit of conformity through educational systems. They also discuss Postman's (1996) concerns regarding the pervasive belief in the public school system has led to people to struggle even considering alternatives. Bankston and Stephens carry portions of these arguments forward and look at connections between "liberal" and conservative" arguments that they argue are both part of the "Progressivist ideology emerging from the late 19<sup>th</sup> and early 20<sup>th</sup> century" (2009, Introduction). They then point to modern efforts such as Head Start and No Child Left Behind as new manifestations of the same public faith. As we look back from their work to Dewey's desire for *A Common Faith* (1934), we need to ask how much of his vision has been realized?

While the proposals argued by each of these historians and philosophers of education have, or would, make government run public schooling less restrictive of liberty of conscience than it has been, none of them question the institution of general, mass public education itself. As we saw in Chapter 3, 19<sup>th</sup> century advocates of the common school responded to claims by religious minorities that the schools infringed on their liberty of conscience by curtailing the most egregious practices while maintaining the basic system. These 20<sup>th</sup> century advocates of the public school are doing the same: trying to mitigate the problem while maintaining the basic system. However, as I argued in Chapter 4, a propensity for intolerance of various forms is inherent in the structure of the system itself. This suggests, then, that further progress in minimizing infringements on liberty of conscience will require critical scrutiny of the very idea of mass, public education as it has existed in the U.S. since the common school era.

## Chapter 6

### Central Themes

The historians and philosophers of education discussed above have identified some key threats to liberty of conscience that arise in a general, mass system education. These include the normalization of secular knowledge and the delegitimization of various religious forms of knowledge. While ideas of teaching a variety of cultural perspectives can be helpful, the problem of what approaches are included and which are not is still present. Also, the very idea that minority cultures are included as a side note to “normal” more socially acceptable forms of knowledge can serve as a narrative on the sub status of religious cultures. Besides the delegitimizing of religious ideas, there are similar issues with minority secular ideas that have not gained majority political support and are excluded from the “normal” systems. While the proposals offered by the philosophers of education reviewed in Chapter 5 are useful to this project, it is difficult to pursue an answer to our research question without further consideration of these threats and the proposed solutions. All of these authors agree there have been problems with past systems of mass education, but there is not general agreement as to whether these problems have been solved.

The research question I have chosen to pursue asks if general, mass education necessarily infringes upon students’ liberty of conscience. At this point it is clear—as Chapter 3 has shown--that past systems of general, mass education in the United States have facilitated undue violations of liberty of conscience, and I have argued in Chapter 4 that the potential for violations of liberty of conscience are inextricably imbedded in the idea of centralized control of a uniform mass education system. As was shown in Chapter

5, a number of philosophers of education have attempted to mitigate the threats to liberty of conscience in mass education, but they do not question the idea of general, mass education itself. In this chapter I will critically examine their suggestions in order to determine whether their solutions adequately address the problem. To do this and answer the research question it is necessary to review the solutions proposed in the last chapter in light of the criteria for liberty of conscience suggested by Nussbaum (2008) in Chapter 1.

The essential criteria required for liberty of conscience are:

- Freedom of each individual to choose her own version of the good life,
- Equality and equity under the law, which requires the absence of a favored status as determined by official actions, which lead to direct or indirect legitimation, or de-legitimation of one status over another,
- Government's role as a guarantor of protected space for pursuit of liberty of conscience, and
- Reasonable limits on absolute liberty of conscience should be limited to those that are 1) necessary to preserve public order and/or 2) necessary to protect the rights of others.

### **Mitigating Threats to Liberty of Conscience: Proposed Solutions**

In what follows I have placed the threats to liberty of conscience identified by the reviewed authors into categories to allow for systematic discussion. My purpose is not just to find one solution that can answer the research question, but rather to examine each proposed solution to understand whether it adequately mitigates the threat to liberty of conscience. The problem most clearly associated with violation of liberty of conscience is that of the history of Protestant control of the public systems of education. This problem

is universally recognized by each of the authors. There seems to be general agreement that a government controlled system teaching a specific religious perspective as the truth is a violation of liberty of conscience. There is also a general agreement that requiring individuals to participate in religious ritual or practice is a violation as well.

While every author does not state this explicitly, they agree that actions taken by the government to legitimize a specific religious perspective is a violation. Anderson (1988), Reese (2005), Nord (1995), DeFattore (2004), Fraser (1999), and others support this perspective. Moreover, while not necessary for a philosophical discussion, there is also ample evidence of this perspective being applied by the courts, which is well established in the Lemon Test.

The philosophers of education reviewed in the previous chapter have analyzed violations to liberty of conscience such as indoctrination. This idea holds that exposing students to only one version of the truth from a religious perspective is denying them the opportunity to really choose. If reasonable choices are impaired by restricted experience, there is really no authentic choice to be made. Most authors recognize this problem in association with Protestant Christianity as expressed through the early common school systems. Some see it as applicable with religious epistemologies in general (Reich, 2002; Rawls, 1993), and a few see the idea as applicable to any specific epistemology (religious, naturalist, or other) if that epistemology is given favored status (Nord, 1995; Kunzman, 2006; Greenawalt, 2005; Feinberg, 2006; Fraser, 1999; Bankston & Cladas, 2009).

The concept of favored status ties the first criterion to the second: Equality under the law. These philosophers of education appear to be in general agreement that a violation seems to exist if a favored status is given to a specific religion or religious

epistemology. This also seems to support those authors who see a problem with favored status regardless of the type of knowledge involved.

These authors generally offer a number of solutions. First, there is agreement that court and legislative action to correct Protestant control of content, curricula, pedagogy, and religious practice in public schools was a necessary action. Also, there is agreement that replacing the religion involved in such practices with any other religion would also be a violation. A few authors go further and question the wisdom of replacing an officially recognized religious epistemology with any other, including secular or scientific worldviews (Fraser, 1999; Nord, 1995; Milligan, 2002; Rawls, 1993; Noddings, 1984). Another common idea is the need for an overlapping consensus (Rawls, 1993) regarding values to support liberty of conscience. There are a variety of perspectives as to what those values should be and how extensive government intervention should be to ensure those values are upheld.

Most of the authors propose some type of overlapping consensus of values and goals for education as a necessary foundation for public education. Dewey puts it most explicitly, and perhaps most objectionably, when he claims “there is one sure road of access to truth,” which is “cooperative inquiry operating by means of observation, experiment, record and controlled reflection” (1934, p. 32). In his view science, not religious views and values should be the center of this overlapping consensus that should drive the goals and values of education (p. 32).

Reich (2002), Rawls (1993), and Feinberg (2006) all see the need for some form of overlapping consensus of socially agreed upon values but vary as to what those goals and values should be or how they should be selected and enforced. Reich (2002) and

Feinberg (2006) both see the possibility for the need to regulate home or private schooling. Other authors agree with the need to have shared foundational values but provide more caution as to what those values can be and how they may impact minority cultures (Noddings, 1993; Milligan, 2002; Fraser, 1999). The far end of this spectrum comes from Nord who agrees that some commonly held values may be necessary, but those should not include any form of officially recognized form of knowledge (1995, pp. 252-253).

It is interesting how all of the authors address this topic, but there is no clarity as to what they think those values are. This may be because these civic values are arrived at through democratic interactions and are not absolutely established. If, however, the process by which these values are determined is driven by a political majority at the expense of minority cultural values, there can be delegitimization and these minority cultures can suffer. The criteria for liberty of conscience provide a general framework for what these values could be, but none of the authors seem to provide the clarity I expected to find when embarking on this topic. I have tried to label some of these shared values driving education, and will discuss each before answering the research question.

**Education for autonomy.** It seems that all of the authors recognize this idea in one way or another, but only a few specifically address the need for children to develop the ability for autonomous choice and the opportunity to exercise that ability. The key focus for these authors is that education should directly assist students with the development of autonomous choice. A key concept for this view is that children must not be indoctrinated in the various cultural systems but be given the tools to choose their own way without undue influence from the culture to which their parents belong. Reich (2002)

is a good example of this perspective. The lynchpin of his argument is that students do not choose their families or cultures, and it is the duty of the greater society to provide space for autonomous thinking until they reach an age that allows for authentic choice (2002, p. 69).

**Social interaction.** Another common idea among authors is the need for social interaction to allow for exposure to diverse ideas and cultural beliefs. Most, including Feinberg (2006) and Reich (2002), see the exposure provided through interaction in a public school as necessary. Others, like Noddings (1993) and Milligan (2002), go further and see the need for teaching about those diverse perspectives in school. The key idea is that without exposure to authentic cultural differences, students will not really be able to choose their own course, even if they gain the skills needed to make their own choices.

**Including religion in public schools.** Those who see the need for teaching about diverse cultures include religious cultures in that category. Along with Noddings (1993) and Milligan (2002), other authors see the need to include instruction about differing religious perspectives and cultures in public education. Nord argues leaving religious differences out of education actually leads to educating away those differences (1995, p. 8). Fraser (1999) considers the same perspective but from a review of historical examples wherein minority perspectives were displaced by the dominant Protestant perspective. He sees a need to balance the tension between the need to include varied perspectives as part of a tolerant system by learning from the failures of the past.

A related perspective that is fairly absent from these discussions is the concern of religious faiths such as mine. Some of us see education as an extension of our faith and the need to provide an education that does not segregate religious and secular forms of

knowledge. These beliefs lead us to desire an educational system built from the foundation of our religious faith. Many of the authors do discuss including discussions of religious ideas in education, but not the need to provide education from a religious foundation. The idea of pursuing discussion of religion in education from a secular, normative ideal (shared civic values), rather than seeing various religious foundations as acceptable their own cultural norms driving their own educational goals, is an idea that should be explored.

**Allowing religious ideas and practices.** Those authors who see a concern with excluding religious perspectives from the public schools also see a need for students to freely express and discuss their varying religious perspectives in the public schools. Kunzman joins with these authors and expresses the need for allowing individual space within the public space, "...Those who wish to pray together may do so informally before the school day starts, or during lunch; and teachers may initiate the school day with a moment of silence" (2006, p. 43). This individual space is enough, from his point of view, to protect the individual liberty of those who see the inclusion of religion in educational systems as necessary. Greenawalt (2005) agrees with this need but provides strong cautions that will be discussed below.

### **Limitations of the Proposals**

The solutions proposed by the authors address many of the tensions between religious and other forms of liberty of conscience and general, mass education. Those solutions, which have already been applied, have dramatically increased respect for liberty of conscience in public schools. Those solutions that have been proposed, but

have not yet been generally accepted, would also lead to a significant improvement in the operation of liberty of conscience. There are, however, unresolved concerns.

**Maximization of the good.** Before discussing these concerns, it may be helpful to discuss alternatives as maximizations of the good, rather than all-or-nothing solutions. It seems that liberty of conscience is not something that exists in the all-or-nothing realm, but that the best results would come from a focus on maximizing the essential elements for liberty of conscience, while minimizing the limitations. Rawls (1993) seems to address this when he acknowledges that even the highest order liberties, such as liberty of conscience, are not absolute and can be abridged when doing so protects other high order liberties. He also provides cautions for other, less worthy, violations and warns against that course of action. There may also need to be recognition that individuals express autonomous choice to varying degrees. Also, social interactions with varying cultural frameworks, epistemic foundations, and forms of social diversity will always vary based on individual experience. Providing the perfect ability to choose within a perfect knowledge of social diversity seems an untenable goal. If the idea of liberty of conscience is to be pursued, it may be wise to maximize this liberty rather than seek to ensure it is absolutely established.

**Problem of officially sanctioned values and goals.** The most generally accepted idea is that there need to be common goals for education based in some form of socially accepted civic values that are generally applied. There is a great deal of variance in what these goals should be and how those goals should be applied. However, whatever goals are chosen, there are consequences to the idea of liberty of conscience. Some authors seem to be supporting a common value system to drive educational ideas and systems,

such as Reich (2002) and Feinberg (2006). This runs the risk of pursuing the same path as the early common school system. The framework pursued by those founders was a general form of Protestantism. Those who agree with Reich (2002) and Feinberg (2006) seem to recognize the problem of a Protestant epistemic foundation but then support a different theory of knowledge as the new basis for a very similar common system based in a combination of science, and pragmatism arrived at through democratic political process. These may seem more desirable than Protestantism, but they carry many of the same problems when considering liberty of conscience. Regardless of the common system values, it is a system designed to establish a societal norm. This norm requires that it be differentiated from other values systems and forms of knowledge driving those value systems.

The work of Kuhn (1996), Rorty (1982), Bourdieu (1998), and Lyotard (1979) — all discussed previously—as well as many others, have demonstrated how the pragmatist/post-structuralist conception of knowledge as a social construct undermines any argument for favoring any specific epistemic foundation for schools. The good news is that most of the authors reviewed in the last chapter have moved beyond this approach to a more reasonable idea of respecting a broader spectrum of possible social values and goals. Their concerns are not that everyone pursues knowledge in the same way, but that enough consistency exists within the systems of education to allow for social order. It is not that every diverse form of cultural knowledge is equal in quality and usefulness, but selecting which forms of cultural knowledge will be transmitted on to the next generation is not a task for academic experts or political processes. The selection of which forms of

knowledge are to be passed on is up to individuals acting in their own cultural groups. To do otherwise would be a clear violation of liberty of conscience.

A possible weakness of the proposals is that there is very little agreement as to what the essential elements are needed to ensure social order. A historical review presents a concern regarding the origins of the argument for civil order. The Protestant view was that individual exposure to the Bible along with individual interpretation of doctrine was required for a free society. This was argued as necessary for social order, to the extent that a common school system was created to move forward those goals. In essence the contemporary claims to structure a common school system on shared civic values is the same. While it may seem contemporary efforts to ensure civil order are less domineering than those promoted during the origins of common schools, it is important to identify the values driving the desired type of civil. First, it is necessary to identify the rationale for those values and ensure they are not just supporting desired cultural norms, but required foundations for civil order. Second, if a specific value meets this first condition, we should seek to implement this value in a way that maximizes liberty of conscience.

Without clarity the goal is simply a moving target. A moving target can be used by a dominant majority to advocate for their preferred form of knowledge and the elimination of other contenders. Also, without clarity in foundational values and intent, the system cannot truly be understood and informed individual or social choice cannot take place. Here it is important to revisit a point made by Nussbaum (2008). Liberty of conscience is not just to allow others to pursue ideas we are comfortable with, but to protect ideas and values with which we strongly disagree. One example may be useful at this point. A religious group teaching that some story is an absolute truth does not do

damage to others, but any group teaching that their ideas are so important that other should be killed if they do not agree is something that would cause civil disruption and should be restricted.

If this idea is worth considering, it is important that any overlapping consensus on common values be discussed in this context. Without consideration of how common values could marginalize minority cultures, there is a strong danger of limiting liberty of conscience more than is necessary to ensure civil order. Fraser adds another important idea to this argument.

The nation's schools must be places for embracing and building tolerance and a love of diversity. Tolerance alone is not enough if it means a single dominant culture that allows certain forms of dissent as long as they stay within bounds.

(1999, p. 4)

It is his recognition that a truly pluralist system cannot require participants to “stay within bounds” that is worth discussion here. Those bounds are very similar to the discussion of foundational values argued necessary by many of the authors. He sees a systematic problem in the construct of the public schools system. “The school was to bring them into a common culture, one that was defined by others” (Fraser, 1999, p. 39). This question may prove the most important as an answer to the research question is pursued.

**The problem of the autonomous chooser.** The proposals for educating for autonomy also raise some concerns because there is little discussion about how much autonomy is necessary. This leads to a great variety in opinions as to methods for pursuing various ends and impacts on liberty of conscience. Some authors propose requiring a certain amount of this instruction to all children ensured by the state. This

would include regulation of private and home education, or as some of the founders of the common school believed, including all children in the government system. There is agreement that without the ability to choose between various options, students do not have an authentic liberty of conscience. However, there is a spectrum of possible solutions rather than an absolute condition, because even with a high level of targeted instruction, it is not possible to ensure every student will complete the process with a specific, minimum level of autonomous thinking.

Another consideration is the possible limiting influence of one system of critical thinking, that is, questioning alternate views from one authorized form of knowledge. If a unified approach to questioning is pursued by all government schools, there is a possibility for limiting the potential choices by promoting one preferred system of decision-making. If a favored epistemology were in play, it would have a serious impact on liberty of conscience.

Closely associated with autonomy is the important concept of indoctrination. If instruction in a form of knowledge eliminates the awareness of possible choices or the ability to choose a possible option, it will also affect liberty of conscience. This concern is normally associated with concerns regarding authoritative religions being imposed upon children who see no other possibilities. There are, however, other sources of indoctrination. Nord (1995) takes a different look at indoctrination. He sees the possibility for indoctrination, not only in teaching only one set of ideas, but “when a way of thinking is ignored” (Nord, 1995, p. 188). He does not believe it is enough to teach about a variety of cultures or encouraging students from diverse backgrounds to bring their varied perspectives into the classroom discussions. If a system of thinking is given

favored status, it could lead to excluding possible choices from the realm of authentic possibilities for students. This can lead to limitations on liberty of conscience in much the same way as religious indoctrination.

One other possibility is even more closely aligned to religious indoctrination. Religious indoctrination is a concern because it provides insight into only one way of thinking, or worldview. If a religious worldview is replaced by a different favored worldview we will end up with the same result, just from a different foundation of knowledge. Education toward any favored worldview may be as damaging as limiting exposure to alternate views. Again, balance seems to be in order. Being specific as to the necessary level of autonomy needed for authentic choice to exist along with acceptable limits to indoctrination seem a necessary starting point. Also, considering all possible instruments for these goals to be obtained generally, or as generally as can reasonably be accomplished, with minimal restrictions on the concept we are seeking to establish - liberty of conscience.

**The problem of social interaction.** There is general agreement regarding the need for social interaction between various cultural groups and forms of knowledge. Without a working knowledge of options, choice loses its meaning. Most of the authors see this interaction happening within a government controlled public school system. It is argued that the interactions between students at public schools provide the needed exposure to diverse cultures. Because of this interaction, students will have the needed knowledge to make their own choices regarding their own versions of the good life.

One limitation to this idea concerns those who do not attend public schools. Even those who argue for regulation of private and home education do not address this issue.

There is an assumption that the needed interaction will happen outside of the public school system in some other way. If it is true that students must attend a school with a required mix of multiple cultures, then this should be required of every public school and every student should be required to attend the public schools. If, however, it is true that other social interactions outside a public school can satisfy this same need for observing diverse cultures, it would not be necessary to regulate the composition of the public schools or require general attendance. This issue seems to be missing clarity. The first step seems to be defining how much and what type of social interaction is needed and then possible solutions could be identified and considered.

It is also important to consider what is needed for social interaction and choice to be useful. At least two elements need to be present. First, diverse ideas and cultures must exist in the public space where that interaction is to take place. Second, the students' exposures to these ideas and cultures must lead to some level of understanding in order for them to be able to exercise a meaningful choice. If some type of official sanction is given to any of the ideas or cultures, it could limit the students' ability to interact or understand. If that official sanction leads to the removal of one or more cultural options, there seems to be little chance that interaction or understanding could take place.

**The problem of inclusion.** Most authors expressed some interest in including some religious topics in public education but the approaches vary. Noddings (1993) sees usefulness to including religious ideas and topics agreed upon by the local community. Milligan (2002) sees the need to allow discussion of whatever religious topics are raised by the students. The only general agreement is that religions should be discussed in the schools. There is not clarity as to which religions should be included, which excluded,

and what normative assumptions would hold official sanction during the discussions. Noddings approach is very inclusive, but it assumes the local community can agree on what religious ideas can or cannot be included. Her suggestion, “that all the religious groups in a community be represented in planning and presenting programs” may be more of a vision to work towards than a practical solution (Noddings, 2003, p. 184). Pursuing open discussion and understanding seem consistent with dialogue and diversity, but creating a program such as this across a variety of epistemologies, value systems, cultural histories, or even conflicting perspectives may be problematic. As has happened historically, it is more likely that one majority culture, or a loosely structured group of dominate cultures, will set the values and create the goals of such a program and the same delegitimizing issues will still exist.

It is also hard to envision an educational environment in which one teacher can truly understand and appreciate each student in a diverse community. While it seems a worthwhile goal, it does not seem to be one that can be fully accomplished. The established, dominate cultural norms embedded within the values and goals of the educational organization will likely still serve as a delegitimizing influence in the community. I have seen a concern with this myself. I was often puzzled by a teacher’s representation of my faith community, as it was clear they did not understand our view. While they may have been trying to be inclusive, from my perspective, they were reinforcing delegitimizing stereotypes. It took on a very paternalistic feel.

While Noddings’ (1984) idea would be a much better support for students’ liberty of conscience than what we have seen in the past, and currently, in public school classrooms, it does have difficulties. As with the idea she expressed in *Caring* (1984), it

is highly unlikely that all teachers would be able to properly implement her way of guiding discussion of these highly charged ideas. It is also unlikely that any political system, be it state or local school district, would be able to implement such a system without conflict between various majority and minority groups. These difficulties may not be problematic enough to justify dismissing her ideas, but there is one other difficulty directly related to liberty of conscience.

It is helpful to review what has happened in the past when similar efforts were undertaken. Bishop Hughes efforts to help the public recognize the blunt reality of majority domination is one example to consider. The Protestant majority was so entrenched as reality in the mind of policy makers that they could not separate the concepts of individual interpretation of the Bible from its standing within a religious form of knowledge. They saw their approach as the true way to liberty and without access to individual interpretation of the Bible to every citizen; their concept of liberty was not possible. This was at the expense of the liberty of conscience pursued by the Catholics and other minority cultural groups. The efforts of the majority to include religious ideas led to legally sanctioned Protestant indoctrination even though the law that was being enforced did not allow “any religious sectarian doctrine or tenet” to be taught or practiced in the schools (DeFattore, 2004, p. 26).

This restriction required the state to define sectarian doctrine, what expressions of religious faith were sectarian and which were not. So another situation of conflict between the majority and minority groups was created. Religion is a hard to define concept. It can be described as a belief in God, god, Gods, some supreme power, some all-present power, or some variation of a power or connective influence. Even for those

who believe in a God there are variations on who or what God is and the added diversity through variations in constructing educational goals further frustrates the ability to reach some generalized definition or operation.

The solution in New York was to establish the definition by majority rule. “This emphasis on majority rule was also reflected in the committee’s definition of the term ‘sectarian’ to denote any belief system that ‘departs from, or holds tenets different from the established or prevailing religion of a state or Kingdom’” (DeFattore, 2004, p. 30). This type of solution acknowledges the reality of a favored worldview

It seems that there is a tendency to define what is acceptable, or deemed worthy of consideration, within the limits comfortable to the majority. Including religious ideas and practices in centrally controlled public education will always have this complication. What is chosen to be included, or excluded, will always have some form of official legitimizing or delegitimizing effect. Again, Greenawalt (2005) sees possibilities for including religious ideas, but asks how instructors, or materials, can do this as instruments of the state (2005, p. 68). He encourages finding a solution but cautions that any solution will be surrounded by cautions and difficult to navigate structure.

The obvious remedy for religion’s present neglect is for schools to say more about it, while withholding judgments about religious truth. In certain limited respects, schools should undoubtedly adopt this remedy, which is consonant with the values of the religion clauses themselves. But a large measure of caution is needed. The wisdom of a proposed change can depend on how religion is now being neglected for particular subject matters, on the depth of treatment for

religion that is proposed, on community acceptance of the schools' paying more attention to religion, and on teacher competence. (Greenawalt, 2005, p. 86)

Even if this complicated process can be navigated, the system itself seems to have already subordinated religious forms of knowledge from the norm. The very need to find a way to include these views seems to emphasize this point. If the "normal" system requires that we look at "abnormal" forms of knowledge (religious), does that not delegitimize those religious forms? It may not be possible to present diverse possibilities as legitimate cultural options in a system designed to support one common culture.

Another solution is to approach each culture from a neutral position. After the dominance of Protestant Christian influences on public education, we have seen a strong move towards excluding religion to redress the problem of Protestant dominance. Many have argued this approach to be neutral; Nord offers another perspective.

It is often believed that one way of maintaining neutrality is to say nothing. If we ignore a subject, we neither advance nor denigrate it. This is nonsense. It has surely become clear over the last few decades that history and social studies texts that ignored blacks and women were not maintaining neutrality on questions of race or gender but wearing their prejudices on their sleeves. So it is with religion. (1995, p. 163)

Milligan offers a similar observation.

...If religious groups and sub-groups constitute distinct and in some cases marginalized cultures, and if, as post-analytic epistemological assumptions suggest, there are multiple, perhaps even equally valid ways of knowing rather than one correct way of knowing, then does not religion have some claim to space

in public education as an aspect of marginalized culture, and alternative epistemology, as one of the voices of the Other? (2002, p. 19)

Nord goes on to argue that, “the most successful tyranny is not one that uses force to assure uniformity but the one that removes the awareness of other possibilities, that makes it seem inconceivable that other ways are viable” (1995, p. 188). The damage done to liberty of conscience when any cultural perspective is excluded or minimized should be a strong consideration as solutions are considered.

**Authentic cultural replication/reconstruction problem.** Instruction *about* religious ideas and practices is very different from allowing for instruction *in* religious ideas and practices. The idea of allowing space for individual religious practice within the current public school system is well covered by authors like Kunzman (2006) and Greenawalt (2005). If we assume the current system must be used, these ideas are a valid approach to the concern, but there will need to be more discussion.

Previously I mentioned the distinction between inserting religious ideas into an educational system and building an educational system from religious foundations. The authors reviewed mainly discussed the idea from the perspective of inserting some religion into an educational system. That is, many of the authors reviewed are concerned with adding religious ideas to the current public schools system. It may be more in line with liberty of conscience to allow minority cultural groups to develop educational systems as a natural outgrowth of their religious beliefs and practices. That is, a society supporting plurality of authentic cultural groups may need to allow cultural subgroups to pursue their own chosen form of cultural reproduction through the use of unique, formal educational systems.

The history of public education provides examples of this possibility. The judgment that Native American culture was not appropriate led to the efforts to educate away those cultural elements. The Northern concerns that newly opened schools for freed slaves in the South were insufficient, or even inappropriate, led to the mandate for more traditional public education regardless of the desires of the parents and students affected by the changes. There are other examples of religious behavior being restricted from the Protestant dominated common schools and to the limited inclusion of religious views in public schools today (Anderson, 1988; Fraser, 1999; DeFattore, 2004).

Nord raises an issue similar to Milligan in the previous section.

...Just as multiculturalists and feminists have argued that these same liberties have been deployed behind conceptual masks of objectivity and universality to empower some social positions at the expense of others, conservative religious critics have argued that similar modernist concepts of rationality, education, and *teacher* have been deployed to marginalize and silence them as well. (1995, p. 8)

This is not just a concern of religious perspectives vs. naturalistic perspectives. There are also a great variety of religious perspectives and naturalist perspectives that need space in a pluralist society. Discussing all of the various perspectives, even in a small community, is difficult enough, but allowing those cultural groups who desire the opportunity to design educational systems for the dissemination and reconstruction of their cultural group as part of a general public school system is even more problematic.

I believe my personal religious views have usefulness here. My interest in religious goals in educational systems goes back long before I began graduate academic studies. My early efforts to understand our sacred writings and my own spiritual insights,

led me to believe there should be a unique LDS educational systems. As I have continued to study these issues, I have found others in my faith community who share this view.

The first I have already mentioned (Monnett, 2000). Another source is a compilation of talks from varying academic and ecclesiastical leaders of the LDS faith called *Educating Zion* (Welch & Norton, 1996). As I have worked with minority cultural groups across the United States, I have seen this desire shared by almost every group I have worked with.

There is something important in this idea. It is not just about the need to insert some discussion of various religious ideas into a system with majority approved “normal” foundations of knowledge. It is the idea of minority cultural groups truly having the freedom to replicate, or reconstruct, their religious culture through legitimate “normal” educational systems. Not that they can do so as long as they first pay into the public “normal” system, then pay for their own unique system; nor if they will alter their religious views just enough to be acceptable to the majority. Absent their desire to force others to participate in their system, or using their system to promote the destruction of others, they should have this freedom if liberty of conscience is to be respected.

**The problem of liberty of expression.** Reich (2002) has argued there is sufficient space outside of public education for the pursuit of cultural reproduction. Others argue that private and home educations are possible solutions to this problem. All of these perspectives leave room for concern. The idea that there is enough space outside of public education ignores the problem of limited time and economic resources for the pursuit of educational goals. The concern about double taxation provided previously is important in this context. Those in the higher economic classes may have access to the economic resources needed to pursue their choice of educational options without negative

consequences to their economic standing, but the economic standing of middle and lower class groups should be considered. Even if economic resources are not a problem. The very fact that official standing has been given to the public system is itself a delegitimizing influence.

The issue of time is also important. Several hours a day is already taken up by classroom time, social time, and homework after school in our modern public system. If there are conflicts between ideas pursued during public education and those of the student's cultural community, it can be difficult to find the needed time outside of time already invested in public education to pursue other ideas. Also, the exposure to those ideas before the time when the cultural community sees appropriate may be a concern. It may be difficult for students to be exposed to two opposing systems of knowledge at an early age. It is also problematic if one of those systems is given favored status by government and the larger society. To be required to keep cultural education outside of the approved "public" space will have impacts on the perception of those involved with both educational systems. Noddings recognizes the struggle religious students have with the perceived need to "compartmentalize" their spiritual and school lives (2003, p. 11). These issues of favored forms of knowledge, marginalization, and their impact on social interaction are important.

Most of the authors have provided attention to students' right to express their religion while engaged in public education. However, the liberty of conscience of the teachers should also be discussed. A legal reality of our current system requires teachers, who are agents of the state, not express their own religious faith as a part of their instruction. While this does seem to be a reasonable, legal solution to the problem of state

indoctrination, it does not seem to address the right of the teacher to teach as he sees fit, as an expression of his own liberty of conscience. Nodding's proposal provides a good example for this discussion.

Noddings (1984) focuses her plan on the liberty of the student, but every individual should have this same respect, even teachers. While students would be allowed to bring more of their full selves to the classroom, teachers would not. Her plan requires the teacher to act as an agent of the state to ensure appropriate discussion of religious issues. This idea of a neutral teacher is in sharp contrast to the ideas of education put forward by philosophers of education and religionists who believe a teacher has the responsibility to fully represent their full selves as educators. This would include issues other than religious views, such as, sexual orientation and political views. While referring to Vandenberg, Noddings is clear "...teachers must try, for the sake of their students, to maintain pedagogical neutrality" (1984, p. xv). In context with teaching about religious ideas, this means teachers must leave their individual religious attitudes, beliefs, and convictions outside of the classroom. They can only facilitate thoughtful, student deliberation on ideas. They cannot share their own ideas—they must keep their full selves separated from their instruction.

Milligan's proposal to pursue a "prophetic pragmatism" (2002, p. 190) has similar concerns. Because the teacher is acting as an agent of the state, he argues that the instructor must limit support for different ideas to those structures that are socially authorized (Milligan, 2002, p. 25). "... The concept must recognize the teacher's responsibility to ground teaching practice in the authority of socially recognizable ethical ideals rather than the limited roles defined by the political status quo or supernatural

authority” (p. 25). Milligan’s solution, while striving to give space to religious ideas, also gives favored status to non-religious worldviews as a result of the teachers being able to express and support non-religious ideas, but being unable to do the same for their own religious ideas.

This type of solution requires the teacher to dismiss her religious faith, sexual identity, and political views to practice a form of instruction authorized by the majority. Not only does it not allow an individual teacher to express his religious faith as a part of his instruction, but it may also lead to only those without this moral dilemma to seek out a teaching profession. I experienced this type of social filtering when I graduated high school and came to understand that I could never be a teacher because I could never leave those parts of myself out of my teaching, so I went to business school. This type of filtering is the direct, yet invisible, result of religious intolerance.

Freire is one philosopher with views that conflict with the neutrality approach. He argues for a specifically “nonneutrality” from educators.

...Education is a political act. Its nonneutrality demands from educators that they take it on as a political act and that they consistently live their progressive and democratic or authoritarian and reactionary past or also their spontaneous, uncritical choice, that they define themselves by being democratic or authoritarian... Permissive people are amphibious – they live in the water and on land – they are not complete; they are defined consistently neither by freedom nor by authority . . . So I have spoken of the necessity that they overcome their political indecisiveness and finally define themselves either in favor of freedom, living it authentically, or against it. (2005, p. 112)

While Freire is discussing political authenticity, the same ideas apply to the ethical, moral, and cultural views of the teacher. They also apply to the political process by which religious ideas are filtered and determined to be acceptable or unacceptable for teachers to discuss in a classroom—including their personal religious beliefs. A discussion of liberty of conscience in education should consider liberty for both students and teachers.

### **Summary - Unresolved Problems**

Each of the problems listed above is still unresolved if we consider the problem through the lens of religious intolerance and liberty of conscience. The value of exploring the issue of liberty of conscience through the lens of religious intolerance—perhaps the most common threat to liberty of conscience in American experience—is that helps to delineate the fundamental architecture of intolerance which we can then look for in other contexts, for instance, mass education. This adds clarity to each of the points raised by Nussbaum (2006):

- Freedom of each individual to choose her own version of the good life
  - This requires individuals to have authentic cultural options to choose between, and the opportunity to choose without certain options being delegitimized by the political majority.
- Equality and equity under the law, which requires the absence of a favored status as determined by official actions, which lead to direct or indirect legitimation, or de-legitimation of one status over another.
  - If a specific cultural norm is granted official status through majority control of the political process and funded in exclusion to other options, it

leads to delegitimization and the lack of tools for authentic cultural replication/reconstruction.

- Government's role as a guarantor of protected space for pursuit of liberty of conscience
  - Rather than establishing one preferred, normed, option; the government's role is to ensure minority options are provided protected space.

From the discussion of solutions provided by the author's above, we are left with this simplified explanation of the remaining problems:

- Problem of Officially Sanctioned Values and Goals
  - Common values, driving common goals, give official status to the norm delegitimizing other options.
- Problem of Autonomous Chooser
  - A common system limits available options by denying tools of cultural replication and reconstruction to minority cultures. Choice between filtered options is not true choice.
- Problem of Social Interaction
  - Interaction between allowable, normed, options is not authentic social interaction.
  - If choices are presented in a preferred, majority-controlled system, they are delegitimized before they are an available option.
- Problem of Inclusion
  - A centrally controlled common system cannot include every cultural option. Selecting which to include delegitimizes the others and those

selected for some discussion are delegitimized because they are included in a differentiated and delegitimized status.

- Authentic Cultural Replication/Reproduction Problem
  - Some religions seek to pursue unique educational goals based on their unique values – not to just add discussion of their faith in contrast to the official norm.
- Problem of Liberty of Expression
  - Teachers, not just students, should be able to express religious and other values in educational settings.

The modern, centralized, approach to public school systems clearly constitutes a “favored status,” therefore the government is not a neutral guarantor of protected space. The limits proposed—criteria these authors suggest should be part of an overlapping consensus—education for autonomy, inclusion, etc.—have not been shown to be necessary to preserve public order or to protect the rights of others. It could be argued that they have demonstrated the need for education, but have not explained why one general system of mass education is needed.

There are additional considerations including the limits to liberty of conscience and what kind of overlapping consensus could be developed respecting liberty of conscience, utilizing those reasonable limits as a guide. Even if these problems were solved, and liberty of conscience maximized, the individual will still not be totally free to choose her own version of the good life, but rather those versions deemed consisted with an appropriately limited overlapping consensus. Some options will fall outside it. It may be possible, however, to pursue mass, public education while respecting liberty of

conscience and only restricting that liberty to preserve public order or protect the rights of others.

## **Conclusion**

I described my felt difficulty in Chapter 2 and the last few chapters have described a variety of approaches to resolving that difficulty. Philosophers of education and other academics have already accomplished much of the work necessary to respect diverse expressions of liberty of conscience, but they do not go far enough in minimizing threats to liberty of conscience because they fail to entertain the degree to which general, mass education in and of itself infringes upon liberty of conscience.

The next chapter will include a philosophical argument regarding religious intolerance through general systems of mass education and apply that consideration to the research question. The remaining problems just discussed in this chapter will also be reviewed and resolved as far as is possible. The research question will be answered as well as the sub questions identified. The final chapter will review possible real world solutions that may be tried as we continue to search for solutions.

## **Chapter 7**

### **Maximizing Liberty of Conscience**

In the previous chapters I have, in keeping with the Deweyan approach to philosophy of education described in Chapter 2, described the “felt difficulty” that prompted this particular inquiry and reviewed literature in the history of education describing similar difficulties in the past. This review, along with an analysis of leading scholarly literature on religious intolerance enabled me to clarify the nature of the problem at the heart of my felt difficulty; namely, infringement of liberty of conscience—specifically religious intolerance—embedded in our current system of general, mass education. I then reviewed the efforts of contemporary philosophers of education to address this problem, concluding that those efforts did not adequately resolve my “felt difficulty. In this chapter, rather than reviewing what others have written, I will offer my own critique of mass education in light of Nussbaum’s (2008) criteria for the protection of liberty of conscience illuminated by the cycle of religious intolerance provided by Corrigan and Neal, (2010) and other authors. These insights will lead to answers to the research questions.

#### **The Architecture of Religious Intolerance**

The process of religious intolerance reviewed in Chapter 4 has much to offer a consideration of liberty of conscience and educational systems. That chapter provided a clear pattern that involved the identification of a norm, differentiation of the other from that norm, delegitimization of the other, and the construction of narratives that both justify and spell out the process of annihilation of the target culminating in the destruction of the other. Examples of religious intolerance in the public education system

have also been demonstrated; this includes the historical formation of our current system of public education and the clear domination of that early system by the Protestant majority. While improvements have been made, the structure of public education is still problematic for the exercise of liberty of conscience and, more specifically, religious liberty.

Historically the destruction of the other has often included the physical annihilation of undesirable cultural groups. The recounting of grisly murders detailed in Chapter 4 was intended to reveal the fundamental structure and procedures of religious intolerance so that we might explore the possibility that similar procedures might be at work in other, seemingly more benign social practices; namely, education. As Dewey argued, education is “the process by which social groups maintain their continuous existence” (1916, p. 308). The ability to annihilate a culture is then not limited to murdering all of the members of that culture. It could also be accomplished by denying the undesirable culture the tools of cultural reproduction.

While doing so does not require intent, that intent was clear in the work of the cultural annihilation of Native Americans. First, tools of physical annihilation were used, then a kinder form of annihilation was pursued via the use of boarding schools, as some of the violence involved in the boarding school approach were identified the educational process was purposefully changed from one of single generational change to a longer strategic approach in the early 1900’s (Urban & Wagoner, 2004). The physical murder of the other was too violent a method to eliminate the undesirable cultural elements of the other. Even the boarding school approach was found to be too violent. The long-term strategy was seen as even less violent. I ask, if this is true, if the end result is the

destruction of the undesirable cultural elements, is that truly any less violent? I find myself agreeing that it is less violent to educate out the otherness rather than to remove it by violence, but no less destructive to cultural minorities over time.

While many of the problems associated with a centralized system of mass public education have been addressed over time, the last chapter showed some remaining problems similar to those apparent in the past. Thus, a general system of mass education in a democratic society presents a real problem for minority cultural groups. If one cultural group, or coalition of cultural groups, obtains a political majority; that majority can control what forms of knowledge are acceptable and which are not. This can be done through systems of formal and informal education.

Laws regulating various types of behavior and/or knowledge that provide official validation of those that are established as norms while delegitimizing others can influence informal education. This, however, is not the focus of this work. Formal educational systems cannot only actively delegitimize a specific or general religious view, but can simply ignore that view in a way that removes it from the public consciousness over time. While this may preserve the lives of those who belong to the group, and even allow them to continue cultural practices in some way, it has the same effect over time on the culture itself. If the minority culture is not altered until the undesirable qualities are removed, it will at a minimum be moved into a delegitized social space and be much less likely to exert cultural influence and its ability to exist in a state manipulated by external forces. It also denies the minority culture of the ability to reproduce or reconstruct itself in an authentic way over time.

The history of my faith community is a useful example. One of the many cultural elements of my faith considered out of the norm was that of polygamy. Great effort was exerted to regulate the ability of our community to provide education regarding our own unique values and goals. During the time when our faith was driven from one community to another and latter had their schools confiscated by the federal government (Monnett, 2000), the church was under strong external pressure to alter this undesirable cultural element. Several different approaches were taken. Missouri issued an “Extermination Order” and did not seem to be concerned with murder as one possible solution (Winn, 1989). The effort that seemed to work, however, was the attack on the educational efforts of the church, including the takeover of public education by the federal government (Monnett, 2000). During this period several factions desiring to continue the practice broke away from the larger body of the church, and this larger body saw a change in the viewing of doctrine and practice to eliminate this undesirable cultural element. This is still a touchy subject in our faith community. The modern LDS church sees the change as an appropriate doctrinal change, but it is impossible to know if this change would have happened in a similar fashion if intolerant systems had not been applied. In the end, the desirable elements were removed from the larger church and those who continued the practice were clearly delegitimized and in small enough groups to not threaten cultural majorities.

The examples I have pursued are about religious values and goals. The authors discussed in Chapter 5 saw these same problems but did not go far enough in describing the depth of the problem. Just identifying clear violations of religious liberty and then accepting court action to illuminate one type of violation is inadequate as a solution to the

underlying problem. When Protestant control was removed from the common system of public education, the system remained. It just had a different controlling cultural norm.

The structure of religious intolerance helps us to understand the depth of the problem and thus aids in the analysis of possible solutions. At this point, based on my analysis in previous chapters, I am confident in providing an initial answer to the main research question: “Does general, mass education necessarily infringe upon students’ liberty of conscience?” The answer is not as simple as just a clear yes or no. In fact, a final answer will require several qualified answers as well as possible answers to follow-up questions. However, for now I will assert that general, mass education does necessarily infringe on students’ liberty of conscience if one or more cultural majorities centrally control that system of education.

I am confident in this determination because any system of education must include goals, or there is no reason to have a system of education. Any goal of education is based on what is valued by those who are setting the goals (Dewey, 1920). Those in control of setting the goals must, of necessity, limit the number of goals and will give priority to their goals, thus marginalizing if not eliminating goals preferred by minority groups. The structure of religious intolerance--establishing the normative ideal, differentiation, delegitimization, narrativization, and annihilation--provides additional insight into the idea of liberty of conscience (Nussbaum, 2008) and helps us arrive at this conclusion. It helps us to recognize the human nature involved in selecting educational goals that replicate cultural norms most comfortable to those in control, and it provides an understanding for why minority goals are excluded. None of this speaks to the motives of those in control. The motives could be very individual, even though the action is taken

in concert. They could include individual desire to repress or even destroy the other, but more likely, the motives are just to support that which is normal and comfortable within the dominant culture.

Most of the authors who have pursued this issue in education have sought resolution in removing religious instruction and practice from the general system of public education. While this does help with many of the problems identified, it leaves many others unresolved. We can begin to see the issue in a broader sense if we compare issues of religious intolerance with violations of the broader idea of liberty of conscience. Most authors agree that the Protestant control of public education was a violation of liberty of conscience. However, the same mechanisms that led us to these violations in the past is also present in modern systems of mass education and can be seen via an examination of the shared elements of religious intolerance and violation of liberty of conscience. Changing the dominating culture from a religious majority to a different cultural majority only changed the nature of the problem, not the structure that created the problem.

### **Necessary Conditions for Liberty of Conscience**

Previously we reviewed conditions and exceptions to liberty of conscience as provided by Martha Nussbaum (2008). These included two conditions necessary for liberty of conscience:

- Freedom of each individual to choose her own version of the good life and
- Equality and equality under the law, which requires the absence of favored status as determined by official actions, which lead to direct or indirect legitimation, or de-legitimation of one status over another.

One required role of government:

- Government's role as a guarantor of protected space for pursuit of liberty of conscience.

And two allowable restrictions on liberty of conscience:

- Those necessary to preserve public order and
- Those necessary to protect the rights of others

I will now review each of the elements of liberty of conscience in an effort to work through how each applies to the problems still remaining our system of mass education.

**Freedom to Choose.** Each individual should have the right to choose and frame her or his own conceptions of the good (Nussbaum, 2008, p. 22). Central to the ability to exercise this right is the ability to choose the type of knowledge one desires to gain through formal education. If government action limits the number of available choices, or favors one choice above another, then the state has subordinated other choices (Nussbaum, 2008, p. 22). This is a clear violation of liberty of coincidence identical in kind if not in degree to violations of religious liberty found in examples of religious intolerance.

Even in cases where choice is given to the individual but financial resources are withheld, a violation is still present. As with the examples of double taxation discussed earlier, those who are not allowed equitable resources in the pursuit of their individual choices are in effect being coerced into conforming to the dominant system. Even if the individual possesses the necessary economic resources to pursue their chosen form of knowledge, the state preference shown to one common system of instruction supports one type of knowledge are delegitimizing to the other forms.

This idea also requires the existence of authentic cultural options. If options are limited within an approved set of “normal” boundaries, or if diverse cultures have been moved far enough toward the norm to no longer be differentiated, then there are not authentic cultural options for an individual to choose between, or for other cultures to observe and choose to consider in their own processes of social reconstruction. Choice is only meaningful if there are real options to choose between.

**Favored Status.** This brings us to the other necessary condition for liberty of conscience. As with the example above regarding someone with the economic resources to pursue their desired education, a violation of liberty of conscience exists when a governmentally validated educational system constitutes a favored status over another form of knowledge or cultural goals. It is common to recognize this form of intolerance when it is applied to a dominant religious epistemology gaining control of a governmental educational system, but it is just as applicable to other forms of knowledge with non-religious epistemic foundations.

It is useful at this point to review a pragmatic approach to theories of knowledge discussed in Chapter 1 and how that can be applied to the need for no favored status. It is easy for any of us to look at knowledge, or sources of knowledge as untrue from our perspectives. To one person Noah’s Ark is true in every way. To another it is a story with truth useful when applied to the questions of life. Another person may see it as an untrue myth that is dangerous to those who believe it. These are all appropriate and protected views if liberty of conscience is going to be protected. Remember that disagreement about origins is irrelevant to the pragmatic usefulness of knowledge. What the knowledge does is much more important than where it came from. Knowledge cannot appeal to

science, God, or any other external authority for validation. Let us revisit the explanation provided by Rorty.

“Pragmatism ... does not erect Science as an idol to fill the place once held by God. It views science as one genre of literature – or, put the other way around, literature and the arts as inquiries, on the same footing as scientific inquiries. Thus it sees ethics as neither more “relative” or “subjective” than scientific theory, nor as needing to be made ‘scientific’” (Rorty, 1982, xliii).

Again, Rorty describes pragmatism using these three characterizations. First, “it is simply anti-essentialism applied to notions like ‘truth,’ knowledge,’ ‘language,’ ‘morality,’ and similar objects of philosophical theorizing” (1982, p. 162). His argument is not that such things do not exist in reality, but that our ability to describe or label such things is limited. Also, his second characterization of pragmatism should also be reviewed. “There is no epistemological difference between truth about what ought to be and the truth about what is, nor any metaphysical difference between facts and values, nor any methodological difference between morality and science” (Rorty 1982, p. 163) We can also consider his criticism of both scientists for their appeal to “methods” and the “morally wise” for their appeal to knowledge of “the Good.” Reviewing his final characterization of the doctrine of pragmatism is also useful. “There are no constraints on inquiry save conversational ones—no wholesale constraints derived from the nature of objects, or of the mind, or of language, but only those retail constraints provided by the remarks of our fellow inquirers” (Rorty, 1982, p. 165).

A cultural community desiring to elevate what they believe to be absolute truth above what some scientific communities hold as the highest, or most correct, truth is

important to consider. A governmental validation of a form of scientific knowledge is just as harmful to liberty of conscience as is a validation of a religious form of knowledge. Neither has an absolute claim on truth, nor should be allowed to differentiate and delegitimize a different form of knowledge they find untrue. Religious groups may be allowed to pursue this form of knowledge through instruction in the home and church. However, their being limited to those channels and that amount of time is a social subordination and a form of governmental delegitimization. So also is the lack of economic resources collected by the government and used to support the dominant form of knowledge, even if they choose not to participate in that system.

**Other worldviews.** A critical stage in the process of religious intolerance that constitutes an affront to liberty of conscience is delegitimization of the other. As was shown in Chapter 4 this can be accomplished using a variety of tactics, including labeling the ideas or actions of the other as untrue, useless, evil, less than human, or in any other way unworthy of legitimate consideration by society. When considering education and delegitimization, it is important to consider the importance of differing theories of knowledge, or epistemologies. When the public educational system was formed most of the contesting theories of knowledge were religious. While many epistemologies are still religious, there are many others. Rather than claiming a religious origin others claim foundations in varying fields of science, philosophy, or some other source.

For purposes of investigating violations of liberty of conscience, these differences are unimportant. One worldview seeking to dominate others through official recognition or other means of delegitimization is no different than another. A coalition of individuals from various Protestant faiths seeking to establish their views through control of public

education is no different from a liberty of conscience perspective than is a coalition of individuals holding scientific or philosophic forms of knowledge in common being given official status, or being allowed to formally delegitimizing other forms of knowledge through control of mass education.

**Protected space.** The previous two conditions for liberty of conscience are the ability for an individual to choose her own version of the good life and equality under the law, which does not allow for favored status or any form of authoritative delegitimization of the other (Nussbaum, 2008). Both of these are effectively limitations on the role of government in education. Nussbaum also provided for a necessary role of government, that is to “guarantee” a social space for cultural practices with which the majority may be uncomfortable, or even hate (Nussbaum, 2008, 19). This requires that rather than selecting common educational goals from majority held values, the government has a responsibility to protect not just the existence of minority views, but the ability of minority cultural groups to pursue the replication and/or reconstruction of their own goals structured by their own values without external manipulation.

This does not require governments to ensure other cultural groups accept or agree with minority views and goals, but does restrict governments from giving official legitimacy or favored status to one over another. This places the responsibility of government in a contradictory position from the original common school design, which has carried forward to the majority-controlled systems we have today.

**Permissible limitations.** As has been stated previously, the protection of liberty of conscience is not absolute. There are allowances for restrictions that are required to preserve public order and to protect the rights of others (Nussbaum, 2008, p. 19).

However, before these restrictions can be justified, a clear need should be established. The goal should be to minimize the restrictions and maximize liberty of conscience, or liberty of conscience is not a higher level value and becomes meaningless as lower level values take over and erode its meaning. Arguments for the original Protestant common educational system were full of rhetoric arguing for public order (Anderson, 1988; DelFattore, 2004; Monnett, 2000; Nord, 1995; Urban & Wagoner, 2004). These arguments are still with us today (Reich, 2002; Feinberg, 2006). While I agree with the concept, there is not yet a clear articulation of what is meant by public order. Arguing that Native Americans need to be changed to fit in to American society (Urban & Wagner, 2004), arguing freed slaves need outside help because their own choices are incorrect (Anderson, 1988), arguing that LDS cultural norms are dangerous to a free society (Monnett, 2000), arguing that natives are not educating themselves in a way that will protect the favored economic norm (Chidester, 1996), or to argue that Protestant ideas about reading and interpreting the Bible are essential to a free people (DelFattore, 2004) are not sufficient as justifications for preserving civil order, as each of the cited authors agree.

Even Reich (2002) recognizes most of these arguments as insufficient. He does, however, justify conflict between the current system of public education and liberty of conscience because it is required to build citizens consistent with a democratic society. “Civic education must, in my opinion, be consistent with the political principles of the larger society (indeed, it may be instrumental in their realization) and show an awareness of the history of schooling” (Reich, 2002, p. 6). If we understand “political principles” as the same as protecting civil order, then there could be consistency with liberty of

conscience. The idea that educational systems may be “instrumental” in the realization of shared political principles is, however, very concerning to the idea of liberty of conscience. It is highly unlikely that a culturally pluralist society will ever fully share political principles. This is definitely not the case now. An educational system constructed to instill and perpetuate political principles could also be a very efficient form of control for the political majority. This was the case when the Protestant majority implemented a Christian common school system to promote political principles consistent with the Protestant Christian version of political principles essential for a free society.

Reich (2002) also sees a demonstrable benefit to the common system we have had in place.

Seen through the lens of history, we find that while the current conflagration over multiculturalism and multicultural education may revisit in many important aspects previous debates about the place of religion, language, race, and ethnicity within the schoolhouse, the twentieth century’s broader acceptance of tolerance for diversity and its greater emphasis on inclusion within civic institutions offer a comparatively less incendiary environment with reduced dangers of outright cultural oppression or denigration. (Reich, 2002, p. 17)

It may be true that there is less “outright cultural oppression and denigration” but seen from the perspective of religious intolerance we have to ask a couple of questions. First, is this “lessening” a result of the kinder gentler approach to cultural annihilation that limits visible conflict while simultaneously delegitimizing other forms of knowledge and excluding them from the acceptable educational options? Second, is the “lessening” a

result of having diminished undesirable cultural elements to the point that we no longer see a conflict because the process of educating away the differences has worked?

Another author who argued for the common system is Feinberg (2006). His rationale for regulating home education and private schooling are troubling.

Thus, regardless of the merits or deficits of individual religious schools, a focus on religious education is in order precisely because, unlike public schools, these schools are not answerable to a public formed through a democratic process, and because, perhaps out of disinterest, their curriculum is largely veiled from public scrutiny and shielded from public debate. (Feinberg, 2006, p. xv)

He does not explain his rationale for why the public has an interest in ensuring these entities are “answerable” to other cultural groups in the larger society. There is not a clear justification to protect civic order, and we must ask if it is more likely this type of regulation would protect ideological, political, or epistemic order. He does provide a rationale for this stance.

It is also in order because there are certain features of some religions that appear to be in tension with the requirements of a democratic deliberation. These include claims to absolute truth and hierarchy as opposed to consensus building, an emphasis on exclusivity as opposed to openness, and the need to control belief instead of to test it against scientific standards. In addition, global economic factors are forcing many people to immigrate to the West, many of whom have not been a part of the religious consensus forged in much of Europe and the United States. (Feinberg, 2006, p. xv)

Religious and other cultural ideals at odds with “consensus building” are not necessarily threatening to civic order. Not desiring ideas to be tested “against scientific standards” is clearly a delegitimizing approach to other forms of knowledge. Even faith systems that respect “claims of absolute truth” or “hierarchy” are not necessarily a threat to civic order; in most cases they are likely not a threat. This argument is essentially identical to the argument used by Protestant majorities to implement the initial common school system to stop the Catholics from destroying the Protestant foundation of a free society (DeFattore, 2004). None of these arguments are sufficient to justify violations of liberty of conscience.

The other legitimate limitation is to protect the rights of others. I also find this to be a reasonable limitation. Liberty of conscience is itself one of those rights, and no fundamental right should be protected at the expense of another fundamental right (Rawls, 1985). Liberty of conscience itself relies on the existence of other rights and its existence may depend upon the protection of those other foundational rights (Nussbaum, 2008). Such conflict between fundamental rights is most likely to come up in consideration of the child’s right to exercise legitimate individual choice when considering educational options. This and other protections will be discussed in more detail below. The important consideration for now is that the justification for the answer to the research question must include these considerations.

### **Epistemic Intolerance**

It may be helpful to provide this type of violation to liberty of conscience with a simple description. Sometimes a foundation for similar manifestations of the same basic problem can provide a label. This issue deals with a variety of cultural ideas, values,

goals, and practices that can all be counter to a norm, differentiated, delegitimized, narrativized and finally annihilated. Many are religiously based and can be labeled religious intolerance. Many, however, are not religious in origin, but are similar in type to religious intolerance as part of one type of violation of liberty of conscience. At the heart of ideas, values, goals, and practices is a theory of knowledge that settles questions of right and wrong, truth and error, and what constitutes useful knowledge. The best descriptor I can find is epistemology. If the question is looked at in a linear way, we could say that the theory of knowledge drives cultural values, which drive cultural goals in education, which drives cultural replication and reconstruction. Hence, it could be labeled an epistemic problem. Regardless of the religiosity or lack thereof for any given epistemic foundation, the resulting values, goals, and practices are all protected by liberty of conscience, unless they meet one of the exception conditions.

When the American public education system was designed, the controlling group was Protestant Christian and the violations of students' liberty of conscience were acts of religious intolerance. These were directed at groups such as Catholics, Mormons, Seventh-Day Adventists, Jews, Native Americans, even Protestant African Americans, and many others, including atheists. At that time, the epistemic differences were mainly between religious groups.

The majority was a coalition of various Protestant faiths. The minority was made up of an even more diverse group of faiths and those holding secular foundations of knowledge. While this conflict has been seen through the lens of religious conflict, it is important to consider this conflict as one of contesting theories of knowledge, a context that should be allowed impartial dialogue protected by liberty of conscience. This should

not include protection for only those that claim to be religious. The conflict was then, and is now, at its heart an epistemic conflict. The contesting cultural groups are aligned differently. It is no longer one large coalition of Protestant Christian groups with very similar epistemic foundations controlling a religious system, but is now a large coalition of groups with both secular and religious epistemic foundations supporting a largely secular system. Other religious and even secular groups, such as select groups of Protestants, Catholics, Jews, Mormons, Muslims, as well as minority scientific and philosophical communities, are excluded from the selection of educational goals because of their non-privileged status. It is interesting to note that many of the subgroups that have joined with the majority coalition may also sacrifice some desired goals to secure something as close to their desire as possible. This too is a form of intolerance.

While the examples of intolerance I have examined are related directly to religious issues, the theory of intolerance articulated in Chapter 4 is of value when investigating educational systems beyond those with religious foundations of knowledge and extend to any epistemic foundation for cultural values, goals, and practices. In the end, it is not a religious vs. secular question. It is a question of diverse worldviews driven by diverse theories of knowledge in a pluralistic society, and how systems of education can support rather than restrict liberty of conscience in a truly pluralist society.

### **Research Questions Revisited**

This argument does not fully answer the research question. In fact, the greater usefulness of the argument may be in questioning other conclusions rather than informing a final solution. I will, however, provide a preliminary answer to the research question in this section. A more detailed answer will follow an examination of the other educational

problems discussed, along with a consideration for legitimate limitations to liberty of conscience.

In analyzing mass education through the structure of intolerance described in Chapter 4, we find a system of general, mass education that does necessarily infringe upon some students' liberty of conscience. The key to this conclusion is the selection of educational goals centrally and application of those goals generally. If the system of education is selected by political process and applied generally it will have favored status, thus delegitimizing other options. This will lead to external pressures on the delegitimized options and could even lead to their annihilation over time. Majority control of the system in a democratic society does not change the potential for violations to liberty of conscience forced upon those outside of the majority coalition, which forms the favored goals.

The other option would be to find that there are violations, but that these violations are required to preserve the foundational concept of liberty of conscience and are thus justifiable violations. If this is the case, they are not only justifiable, but also necessary as without them liberty of conscience may not be possible and identifying violations of liberty of conscience would then be irrelevant. I will explore this possibility below. I will also address the subordinate question, "can mass schooling be reconceived in a way that eliminates or minimizes these infringements". Before addressing these questions, I need to return to the other problems left unresolved in Chapter 6.

### **Unresolved Problems in Mass Education**

Chapter 6 ended with a listing of problems that remained after reviewing issues raised by other authors. These include issues of religious liberty and possible appropriate

limitations to liberty of conscience. I will now review each and attempt to find possible solutions.

**The Problem of officially sanctioned values and goals.** Common goals of education generally applied to all students is likely a violation of the liberty of conscience for at least some students. There may be a justification for this violation if specific common values and goals are necessary to ensure public order or protect the rights of others. There seems to be a rationale supporting this idea as most of the authors discussed earlier see this as necessary. As I mentioned previously, there is little specificity as to what is necessary to preserve public order or preserve individual rights. There is also little discussion of balancing those needs, whatever they are, with limited violations of liberty of conscience.

This is an area I cannot fully address here. More work is needed to study what is really needed to protect public order and individual rights. This is an area of very limited study. The only author of the group reviewed that seems to approach this issue is Nord (1995) and he only asks the question. There are, however, possible sources for a starting point. These are Rawls' "two moral powers" and "list of primary goods" (1993), as well as Nussbaum's "capabilities approach" (2006).

The two moral powers are "a capacity for a sense of justice and for a conception of the good...and the power of reason (of judgment, thought, and inference connected with these powers)" (Rawls, 1993, pp. 18-19). He argues that these moral powers are what qualify individuals as free persons. This is a useful starting point as both can be expressed regardless of differing epistemic foundations. This framework for determining

what skills or attributes are needed for a free person can be very helpful when discussing the problem of autonomous choosing.

Rawls also offers a list of primary goods (1993, p. 181) that can be helpful when considering what shared values, or in his words “overlapping consensus”, would need to be held in common to ensure public order and respect for the rights of others. These are:

- Respect for basic rights and liberties,
- Freedom of movement and free choice of occupation against a background of diverse opportunities,
- Powers and prerogatives of offices and position of responsibility in the political and economic institutions of the basic structure,
- Income and wealth, and
- Social bases of self-respect

Another useful list is Nussbaum’s list of “Central Human Capabilities” (2006) identify “entitlements” for all citizens. The list provides guidance when considering what ideas stemming from diverse form of knowledge and educational systems could do harm to liberty of conscience. Her list includes:

- Life;
- Bodily Health;
- Bodily Integrity;
- Senses, Imagination, and Thought;
- Emotions;
- Affiliation;
- Respect for Other Species; and

- Play

While both lists are helpful as starting points, and as an example of the project that needs to be completed to identify generally shared values, there is not room in this work to analyze assumptions in each approach, nor to review each for the same issues of epistemic intolerance discussed above. However, it will be important to include the discussion of how diverse educational systems can also support violations of liberty of conscience. One example would be educational systems designed by religious communities that would seek to teach ideas that lead to various forms of violence such as stoning of women for acts considered impure, or the arranged marriage of minor children. This type of education is not justified because it is disagreeable to the majority, but because it leads to violations of liberty of conscience.

I do, however, reject the idea of a general, mass education system as being necessary for generally shared values to protect public order and the rights of others. This could also be accomplished through diverse systems that are only required to share those limited and carefully selected shared values. These common elements may also be violations of liberty of conscience, but they will be minimized and allow for a maximization of liberty of conscience rather than a theoretically perfect recognition of liberty of conscience. I do not see a permanent equilibrium being established but a reasonable balance can be reached and adjusted over time through social discourse without resorting to a system of general, mass education.

For instance, it does seem that goals of teaching insurrection or violence against others would need to be restricted. This would stand in contrast to “hateful ideas, words, and acts” as also being restricted (Corrigan & Neal, 2010, p. 14). Here I see the need for a

different balance. It is true that ideas and words can also be considered a form of violence, but they are also free speech and differences of opinion in regards to what is considered “hateful” would be hard to restrict without engaging in intolerance. When a cultural group shares ideas, they do not necessarily have the effect of delegitimizing others unless they are given some kind of official status. Disagreement alone is not delegitimization. It is also true that government action to restrict opinions, ideas, or words through common education regulation would violate liberty of conscience. If it is shown that certain types of teaching do lead to violence against others, or meaningful disruption to public order, then some type of regulation may be necessary. This may be similar to restrictions to freedom of speech, such as not yelling fire in a crowded theater, or inciting others to violence.

This ties in with the responsibility of government to provide a protected space for the exercise of liberty of conscience (Nussbaum, 2008). The government protects all speech, even speech we dislike or that we find hateful. This may be the case for educational goals as well. The education policy focus should move from finding a one size fits all common schooling program (efforts like Common Core) and move towards protections for minority groups seeking to pursue their values through unique educational goals.

More research is needed to determine how this balance can be reached. The research can help policy makers to maximize liberty of conscience and minimize restrictions to that liberty. Some of the answers needed may not be understood or resolved until diverse systems of public education are implemented. This will require additional research, discussion, and adjustment over time.

**The problem of the autonomous chooser.** This is the most reasonable of the concerns regarding a diverse educational system and will require a great deal more discussion and research than I can provide in this work. I do, however, want to raise several points, consistent with liberty of conscience, that are important to consider. First, if common values and goals in education are to be used to ensure children gain the autonomous ability to choose their own versions of the good life, the results of that system should demonstrate reasonable success in achieving that goal when compared to other options. As I have discussed earlier, a common education system does violate liberty of conscience for many. If that violation is to be justified as a protection of child autonomy, it should be clear that such a system provides more autonomy than the other available options.

Second, for a choice to be useful the choice should be between authentic differences. Closely related to this is the idea that a choice is more powerful if there are authentic options from which to learn and choose. In a free society, these various cultural options can influence each other and move society forward without the need for compulsion or manipulation by a majority, political coalition. To further develop this idea I would like to return to Dewey's (1920) idea of social reconstruction. He outlined a process by which cultural values drive educational goals, systems are created to achieve those goals, and the results are then studied to drive changes that will lead to social progress over time (Dewey, 1920). This process can be helpful with a system like Dewey described in *A Common Faith* (1934), but to do so would be a violation of liberty of conscience as I have described before, but would also limit possible outcomes and the ability to learn from diverse values, goals, systems, and the educational results in a

pluralist society. An open society would allow each cultural group to learn from and progress as each cultural group pursues their own unique goals in their own unique way – or with shared goals in shared ways if that is their choice. The essential point is that more options provide more information and opportunity to exercise choice from authentic cultural options. Another option would be to pursue one common system and individuals could choose from an ever-restricting set of normed options.

Third, built into many of the arguments for this type of solution is the idea that a preferred form of knowledge will somehow be more effective at promoting individual liberty of conscience. The Protestants that formed the original common system argued that the religious knowledge they wanted to impart was essential to the protection of liberty (DeFattore, 20047). Modern authors argue for a centrally controlled, common, secular system that will teach children to think critically and choose for themselves (Reich, 2002; Feinberg, 2006). These arguments are essentially the same in that they both argue that their goals driven by their values are essential for liberty. If both are able to pursue their goals then individuals and cultural groups could make judgments as to the results in a reasonable pragmatic discourse. If one restricts the other through majority control of the politically driven common system, it is an act of epistemic intolerance and violates liberty of conscience.

Fourth, knowledge is not just an individual endeavor. Cultural knowledge goes far beyond what one individual can acquire and fully understand in one lifetime. Religious, philosophical, and scientific communities have developed complex social networks to retain, consider, and attain knowledge. Various branches of specialization can take a

lifetime to acquire and could take several lifetimes to analyze and individually verify as authentically true using one of the many secular systems of critical thinking. Holding fully informed individual choice, as the end goal, seems to be unrealistic and counter-productive to social progress. It would also be a problem to select one set of cultural knowledge as the common goal of a centrally controlled system. A diverse set of systems pursuing cultural knowledge would be an incredible source of comparison for consideration by individuals and other cultural groups in a pluralist society.

The issues of autonomous choice and indoctrination are far too complex to fully address in this work. The solution is not as simple as removing a child from her oppressive religious or “savage” community as was argued by some Protestants for Catholic, Mormon, and Native American children. Nor is it as simple as freeing children from the oppression of religious thinking in general as is argued by some humanist and scientific communities. A singular educational system stemming from one set of shared goals will result in some level of indoctrination of the students. This is true regardless of the religious or non-religious nature of the worldview. It is also true that separate educational systems for diverse cultural communities will also result in some level of indoctrination. This is true of any educational system, as children do not have the capacity to fully be able to understand the foundations of knowledge driving their educational experience nor are they fully understand all of the variables involved in the limited choices available to them in any given system.

Therefore, attempting to eliminate indoctrination may not be the best approach to education policy. Trying to do so may just result in the formation of one overarching cultural system, which has normed out divergent cultural systems that could have served

as a legitimate difference from which individuals could choose and by which other cultural groups could be influenced over time. It may be better to consider a diverse system that would allow authentic, or un-manipulated, pursuit of knowledge by a variety of communities with basic protections for individuals ensuring their ability to interact with and choose between other cultural ideas and practices.

Basic restrictions on practices such as teaching insurrection or violence against others would allow two important elements. First, it allows the existence and continued development of diverse cultural ideas and practices necessary for meaningful choice to exist. Second, it allows individual interaction with other cultures and individual choice regarding what cultural ideas and practices are carried forward, newly acquired, or altered through individual choice. This seems superior to a system in which all children are taught a similar form of knowledge and then allowed to choose between very similar, normed cultures resulting from epistemic intolerance over time. A normed system would be driven by the majority political coalition, which would continually exert undue control over the forms of knowledge, cultural values, and educational goals. A system thus structured would tend toward totalitarian, cultural control rather than a diverse, pluralist society. The idea of restricting available options for education as a means to encourage autonomous choices and freedom from indoctrination is not sufficient to justify the violations of liberty of conscience resulting from a system of general, mass education.

**The problem of social interaction.** The ideas of autonomous choice and social interaction are inseparably connected. Without social interaction with others expressing meaningful cultural differences, the idea of choosing loses meaning. For the choice to be real, the options need to be real. Moreover, there must be interactions between the

available choices. If it is argued that a general, mass educational system is needed because it allows, or requires, diverse social interaction several things need to be shown to be true. First, that interaction with diverse, cultures will happen. Second, that these diverse cultures will be truly diverse and not just variations of the normalized worldview. Third, that students will have the necessary knowledge and skills to understand the various cultural foundations, ideas, and practices in order to benefit from the interaction. And finally, that such interactions can only satisfactorily take place in schools supported by a general system of mass education.

The intolerance stemming from a general, mass educational system greatly reduces the likelihood of being able to meet these conditions. Minority cultures are delegitimized and manipulated by social pressures into changing to fit the favored forms of knowledge. This will result in a majority-controlled illumination of abnormal cultural elements over time and may result in cultural annihilation. With the norming of diverse options and the destruction of some options, choice loses its meaning. Again, a diverse system with basic protections for individual interaction and choices provides a more likely condition for success.

**The problem of inclusion.** Here we have an opportunity to consider the definition of “public schools”. The current form of public schools leads us to a definition of public schools as a form of general, mass education. More and more of public education is centrally controlled by states and even by the federal government. Large tracks of funding are collected by the federal government and returned to the states with specific operational requirements and clear goals flowing from the controlling majority in our political system. This same centralized control exists at the state level and local

school districts are required to adopt state approved curriculum, assessments, instructional training programs, and now even pressured into national standards and assessments.

Even if control over the values driving educational goals was exercised at the local school board level in a small community, the issue of intolerance would still be a real problem. My community, for instance, has a very small school district covering four small country towns. It could be argued that because the population is mostly LDS, those values and goals should be reflected in the educational system. I would argue that even if 100% of the parents and students served by those schools were LDS, having one foundation for those schools would be a violation of liberty of conscience for some students, as even within a LDS community there are varying values and goals. One governmentally supported and favored educational system has the same epistemic intolerance problems regardless of the number of students, geography, or cultural diversity.

Is there another definition of public school that would allow for greater protection for liberty of conscience in a truly populist society? I think there are several options. First, public school does not necessarily mean government school. There are many different ways for government to support public education, without government control and operation of the schools. Second, prior to the implementation of a common school system there were diverse public schools in several states. These included non-government funded as well as those that were fully or partially government funded, including the examples provided previously.

It is hard for me to understand why the implementation of a common school system was hotly contested prior to implementation, but once systems were in place to support and maintain the common schools, much of the opposition fell away. This may even be evidence of the cultural norming over time I have claimed above. Regardless, it does not seem fruitful for philosophers of education to assume the need for a general, common system of mass education is a given. From a post-structuralist perspective, it seems that our current notion of a public school system has attained the status of metanarrative and is not something to be questioned. The one author who seemed to question it (Nord, 1995) did so very cautiously and took it no further. If nothing else is useful from this work, I hope the idea of questioning the origins, assumptions, and majority-controlled operation of what we now consider public education will be a more acceptable topic for disagreement and discussion.

The options before us are not just returning to what we had prior to our current form of public education, or returning to what was available before common schools. The options are unlimited. Clear government protection for individual rights and public order along with funding of a variety of options is one possibility. There also seems to be some possibility in considering systems of education that are not funded by government. This would require none to be funded, as funding only one, or some would give a clear legitimization to those favored options and take us right back to the problem of epistemic intolerance at the heart of my felt difficulty. There could be, however, funding for students in shared categories, such as socio economic status or special needs, and not for others as long as there was equality under the law. This could be one way of addressing equity concerns, but if restrictions are applied only to those students who receive support

we are back into a violation of liberty of conscience. I will discuss options and some practical considerations in the next chapter. For now, it is important to consider that “public school” does not necessarily need to mean a government system of general, mass education.

With this broader definition of public schools, it becomes a simple matter of allowing or disallowing religious ideas, values, goals, materials, and practices in public schools. There would, however, need to be clear options for students in every community. This may have been very difficult to pursue in the past, but new technologies and instructional techniques make it practical today. In fact, it is already taking place inside the public system to some extent, but to a great extent outside of the public system. I will explore this further in the next chapter.

It is possible to pursue public education without resorting to a general, mass system of public education. The potential violations to liberty of conscience that such a system presents is not necessary for the inclusion of instruction regarding a diversity of religions or other epistemologies and cultures.

**Authentic cultural replication/reconstruction problem.** Allowing discussion of a limited number of delegitimized cultural options in a common system is not sufficient, nor is a majority controlled system attempting to be neutral sufficient. A cultural group must be allowed to pursue unique goals in education as a part of the process of cultural replication and/or reconstruction. The only limitations that should be regulated externally are those impacting liberty of conscience. Rawls (1993) and Nussbaum (2006) provide a useful starting point for considering what those regulations might be. If this opportunity if

denied, the cultural group cannot control their own destiny and their culture will be changed through external manipulation or annihilated over time.

The considerations for this issue are almost identical as those discussed just above. If a diverse system of public education allowed, religious ideas and practices could easily be represented within that system. Also, religious and other cultural communities could choose a formal educational system that is not only allowing of their unique ideas and practices, but choose, or develop, their own system. This applies not only to religious ideas, but also to political and cultural ideas across the spectrum of cultural diversity. Again, limitations enforced by government to protect individual rights and protected space for diversity would be required.

There have however been calls by some religious groups to return to the origins of the Protestant controlled common school system (Barton, 1995). This approach would be just as much a violation of liberty of conscience as is the idea of any other foundation for a common system of education. My argument for recognition of epistemic intolerance applies to religious epistemologies just as much as it does to secular, or any another form of knowledge.

**The problem of liberty of expression.** This important issue was not raised by any of the authors discussed in Chapter 5. Religious ideas and practice in public schools are normally associated with students, but the teacher should also be considered in this discussion. Protections for liberty of conscience should include students and teachers. A common system, regardless of the foundation, will exclude those who do not choose to participate in such a system and will exclude from dissemination those ideas and practices unique to those individuals. It does great harm to both the possibilities of

learning for students, and the larger problems related to the survival and unmanipulated evolution of minority ideas over time. A diverse system of public schools, wherein the teachers were not agents of the state, would allow teachers to select or develop schools consistent with their values and goals.

**Common curriculum and assessment.** This was not an item raised by the authors discussed previously, but current issues in public education make this an important consideration. It is clear that common curriculum and common assessments are consistent with the idea of a common school system. When they are established by majority control through political process, I argue they will result in epistemic intolerance. I would like to look at some arguments from Michel Foucault (1977, 1978) to illustrate this point. The first is his example of how a cultural value can be defined and changed over time. In *The History of Sexuality, Vol. I* Foucault shows how various cultural groups can control the discourse on sexuality and thus define and regulate what constitutes normal and deviant sexual expression (1978). This is of concern when looking at common curriculum. With majority control of the language and systems of learning, there is the likelihood of similar outcomes on a whole range of concerns. Without these common tools of general education, a great many diverse value systems can coexist in society and provide authentic options for individuals and cultural groups to learn from, consider, and accept or reject over time without external manipulation and intolerance stemming from official norms.

In *Discipline and Punish* (1977) Foucault tracks the development of schooling through the history of social discipline and punishment. He starts by emphasizing the importance of observation of the criminals – then students (pp. 176-177). The next

required element is a system of rewards and punishments (p. 180). This allows the manipulation of the individual to the desired outcome. All that is left is the need for assessment. “It establishes over individuals a visibility through which one differentiates them and judges them” as part of the process which allows for the “deployment of force and the establishment of truth” (p. 184). He provides a somber warning that is pertinent to our current discussion of uniform assessments. “We are entering the age of the infinite examination and of compulsory objectification” (p. 189). The form and structure of assessment that is required to assess some of the shared national standards are very concerning. They will not only serve as powerful tools of cultural norming in local districts or states, but across the country.

To emphasize this point Foucault quotes Servan (1767). Servan’s comments are applicable to the entire conversation of liberty of conscience in this work.

When you have thus formed the chain of ideas in the heads of your citizens, you will then be able to pride yourselves on guiding them and being their masters. A stupid despot may constrain his slaves with iron chains; but a true politician binds them even more strongly by the chain of their own ideas; it is at the stable point of reason that he secures the end of the chain; this link is all the stronger in that we do not know of what it is made and we believe it to be our own work; despair and time eat away the bonds of iron and steel, but they are powerless against the habitual union of ideas, they can only tighten it still more; and on the soft fibers of the brain is founded the unshakable base of the soundest Empires. (Foucault, 1977, pp. 102-103)

There may be room for shared assessments across all types of public schooling for those few select goals that are required for protecting liberty of conscience, including public order and protection of rights. Anything else is dangerous and clearly a violation of liberty of conscience.

### **Funding a Variety of Goals.**

Very few of the philosophers of education reviewed in Chapter 5 have explored issue of choice to the extent I wish to explore it. There is an opportunity to respect liberty of conscience, diversity, and pluralism in ways that cannot be supported through a centralized system of mass education. There are, however, concerns with some of the models discussed previously. If a system allowing choice between schools is operated by, or tightly controlled by, a government entity; it will still express the same type of intolerance. It is fairly simple to allow choice, but to give those choices real meaning is a much harder task.

As an example, I will relate some of what I learned from colleagues in Florida. A group of us were discussing diversity in the public school system after a charter school meeting. A charter school director was relating her experience with district magnet schools before she chose to start a charter school in the same district. Her concern was that the same board was setting policy for the magnet school as was setting policy for the other district schools, so there was no real meaningful difference. She felt having a separate governing board allowed the charter school more difference from the other district schools than she experienced in the magnet school. Others expressed a very similar concern for Florida's system of district authorized charter schools. The same governmental body that governed the other public schools was deciding if a charter was

accepted or not and what their governing policies would be. This allowed that body to restrict what type of new options were allowed and effectively limit diversity. The law did allow for an appeal of a district denial of a charter application, but the only way to win an appeal was to prove that the district did not follow due process. Showing a desire for this type of program from a large enough segment of the community was not cause for winning an appeal.

The hope was that a greater diversity of school types would be supported by a different authorizer. This had been done with some success in several states, and was a growing trend at the time. Later, it was even tried in Florida, but the legislation creating this statewide authorizing body was found to be unconstitutional. Even with a statewide authorizing entity, the same problem would exist, just at a different level. The body would still be a governmental body; it would still be controlled by the majority.

Another lesson learned from charter schools is worth considering. When charter schools were first authorized in Idaho, the schools were exempt from many of the rules and regulations governing other public schools. Once schools opened and began operation, various groups lobbied for fewer and fewer exceptions to be allowed. New regulations and rules began to appear which included charter schools explicitly to ensure all public schools were bound in the same way. This came to be known as “re-regulation” and is an example of how central political control of public schools can provide a great deal of choice, but not authentic choice between a truly diverse spectrum of options. Providing choice alone is not enough to protect liberty of conscience. To find a balance, we will have to go much further towards diversity.

### **Research Questions**

I have reviewed the problems which remained following the review of solutions posed by authors in the philosophy of education. These remaining questions do not justify acceptance of the violation of liberty of conscience latent in a general, mass system of public education as necessary because they are not required to support public order and protect rights as described by Nussbaum (2008).

I have found that general, mass education does infringe on liberty of conscience for some students at some times. And I have found that the potential for such infringement is inherently and inextricably present in the idea of centrally controlled systems of mass education. Further these infringements are not necessary to preserve public order or protect the rights of others. In the following chapter, I will discuss the possibility of public education being provided in diverse rather than general forms. I will discuss doing so in a way that maximizes rather than restricts liberty of conscience. Some restrictions will still be necessary, but should be actively limited to only those necessary to preserve public order and protect the rights of others (Nussbaum, 2008).

## **Conclusions**

The purpose of this work is not to claim all of the views I have expressed above are true, but to offer them for consideration. A great deal of the thinking on public education theory and policy has been focused on making a system of common schooling work better. It is important to go beyond improving a system that is assumed to be necessary and move the conversation into a space more accepting of diverse forms of knowledge and the systems necessary to develop and protect both diverse forms of knowledge and those individuals and social groups that choose to embrace them.

Thus far I have clarified the felt difficulty described in Chapter 1 as a problem of infringement of liberty of conscience inherent in systems of mass education. I have reflected upon a variety of efforts by contemporary philosophers of education to resolve this problem and found them inadequate to the felt difficulty as I experienced it and come to understand it. What remains, in keeping with the Deweyan approach to philosophy of education, is the presentation of a “more inclusive plan of operations” (Dewey 1938, p. 5) of “something to be tried” (Dewey 1916, p. 326). The method chosen for this thesis requires one more step. The felt difficulty has been identified; information has been gathered from theorists in a variety of academic disciplines and applied to the questions raised. This has allowed a further discussion of the problem leading to a full answer to the research question. Now I will propose something to be tried.

## Chapter 8

### Choice and Possible Options

Over the previous chapters I have developed a line of argument that leads me to the conclusion that general, mass systems of public education do violate liberty of conscience. They do not necessarily violate the liberty of conscience of all participants at all times but, by their very nature, they are designed to bring all participants into conformity with goals established by the majority or the powerful and thus educate out—annihilate, if you will—ideas, values, etc. that contradict those goals. Thus, in a highly diverse society, such a system will violate the liberty of conscience of one or more members and/or groups forced to participate in the system; therefore, mass systems of public education necessarily violate liberty of conscience. Moreover, I have not found that the legitimate restrictions on liberty of conscience identified by Nussbaum (2008)—namely protections for public order and individual rights—require as pervasive a solution as general, mass education. Finally, my critique of a single, or dominant system of government-supported mass education as a threat to liberty of conscience logically suggests the possibility of a system of diverse educational systems, that might better enable the pursuit of authentic values and goals in a truly diverse society and thus better protect liberty of conscience. In short, the protection of liberty of conscience requires real choice.

Choice seems a reasonable response. If each individual and group can choose their own program, liberty of conscience will be protected. The problem is that the choices must be authentic without external manipulation or control. At least one of the

available options should represent the values and goals of the individual or group making the choice. Choices within a band of allowable options structured to one socially acceptable norm are not sufficient. Any system controlled by the political majority with expressions of delegitimization for other forms of knowledge is not sufficient. For example, choice between government schools controlled by a political majority is not sufficient. Government agencies should not provide educational services; they should protect a public space for diverse educational options driven by individuals and groups without inappropriate external restrictions.

Magnet schools, public (government) charter schools, intra- or inter-district choice, or any form of school choice within the government system of public education will not satisfy the requirements of liberty of conscience. While each of these options is better than no choice at all, the violations of liberty of conscience are far from a balance that only violates liberty of conscience for one of the acceptable limitations. Again, the goal should be to maximize protections for liberty of conscience and minimize necessary restrictions.

The discussion of such possibilities should include both practical and theoretical considerations (Nussbaum, 2008). Possibilities involving a fundamental change to public education as I have described above, is highly controversial. It will be difficult to find practical ways to jump right into a reshaped system of public education. This chapter will focus on different considerations that should be addressed to help move public education toward a greater acceptance of diversity and a greater protection of liberty of conscience. Much of what I will discuss comes from my own professional experience, which I believe illustrates some of the possibilities and challenges a thorough, ongoing system of

choice presents. It is not meant to be an exhaustive review of possible options, but a starting point for discussion born of my professional and personal experience. Later, I will discuss recent developments that make a system of choice more viable than it may have been in the past and consider legitimate restrictions on or expectations of a system of choice intended to protect liberty of conscience.

### **A Felt Difficulty Revisited**

The concern that drove my method for this dissertation was a very personal concern. The solutions I will explore are also very personal. While this could be criticized as being driven by my personal bias, because it is, it is also very helpful in illustrating the benefits of diversity in a pluralist society. My experiences and ideas are only a few among unlimited options. They are, however, very important to me and those who may share my cultural values and goals. Also, my unique perspective and experience qualify me to offer an informed opinion on the issues that may not be readily apparent to someone who is more familiar with common educational systems.

My early concern for the conflict in my own educational experience led me to pursue a career in non-traditional systems of education. My father was a public school teacher. He too had concerns with traditional systems and found his place teaching high school dropouts at the National Guard Armory. I considered teaching but did not know of any options outside of traditional public schooling and knew enough about myself to know the traditional public system would be a bad fit. I decided instead to go into business. While at business school, I was introduced to what I thought was a unique private school system. It was designed from a religious foundation and was unlike anything I had seen in the public system. The subjects taught, the organization of the

classroom, the school schedule, teaching techniques, and just about everything else was significantly different from traditional public education. Most importantly, religious ideas and practices were welcome. This was the case for students and teachers alike.

This experience brought back my desire to be an educator, and those who operated the school thought my newly acquired business training would be useful. I was asked to work for the school part-time and handle their administration. Within a week, I was also asked to take over one of the classes as a teacher – not because of my amazing potential, but because the other teacher had to leave for financial reasons.

We held school four hours a day three days a week. The school operated as a supplement to home education and allowed a larger social experience for students who had been doing home education only. It also became a resource for parents who had students struggling in the public school system. They would bring their children to us hoping we could help with learning problems, social problems, or spiritual problems.

My ignorance of school operation, classroom management, instructional strategies, instructional design, and every other area of education was unknown to me at the time. I jumped in with a great deal of zeal and very little skill. What I find most interesting looking back was how successful the school and I were at fulfilling the purpose of the school and the desires of the parents. This is when I began to understand the value of different educational approaches for different people and how that was consistent with the ideas of freedom and liberty.

Another lesson learned from that school had to do with the economic burden placed on both families and schools. There were several families paying for multiple children to attend. Even though we kept tuition down to between \$85 and \$120 a month,

it was a great hardship for many of the families. Keeping the tuition that low also presented a great many problems to school operation. Retaining trained faculty was very difficult, and facilities were less than ideal. When I later switched to charter schools, I was amazed at the amount of money spent per child by traditional public schools and public charter schools. It was eight to ten times what we had per child with the private school where I had worked. The basic difference was conforming to normative goals, adopting state required outcomes and accountability, along with dropping anything stemming from religious beliefs and practices.

**College.** My early college education was also driven by my values and goals. I started by not studying education, even though this was my first desire, but instead studied business. I also chose a public university even though I had been accepted to two different LDS church schools. My early college experience was concurrent with my private school teaching experience and led me to transfer from the state university to a small liberal arts college to complete my undergraduate studies in business. One downside was that I lost my tuition assistance from my service in the United States Marine Corps Reserves along with the state assistance that was provided to the public university. The contrast was amazing. I enjoyed both schools, but was shocked at the dramatic difference in structure and teaching style. My state university experience was mainly choosing classes I wanted to take that met degree requirements, attending classes for lectures, and completing assignments on my own or with study groups; it also included a lot of expense, for the state and me, and sometimes useful texts.

My private college experience did not give me as many choices between classes, but a great deal of flexibility in my assignments within classes. Rather than lecture, my

professors worked with us in small groups and individually. I worked through assignments and obtained feedback one-on-one. Our texts were much less expensive, and in my opinion, of greater quality and usefulness.

The dramatic difference in this experience only deepened my questioning of the usefulness of a singular system in a free society. I saw the value in each of the institutions, but questioned why the systems using the vast majority of the resources were very similar in design and educational goals.

**Charter schools.** My work continued with religiously based private education for several years. I was then asked by a group of parents to help with a newly opened public charter school. It was a challenge, but another great opportunity to learn about other types of educational programs and gain a better appreciation for the work done in the public schools. The parents had opened that school with the promise of having a different experience and being free from much of the regulation and red tape associated with other public schools. This turned out to be partially true.

They were allowed to use their own curriculum, picked from among those approved by the state, and they were allowed to use some different approaches to helping students who were struggling to learn. They were required, however, to measure their success using the assessments and educational goals of all the other public schools. This is when I first started to realize the amazing normalizing power of mandated assessments. It is partly why I strongly question the idea that there can be any meaningful diversity if the goals for education are being centrally controlled and measured.

I was then asked by a group of parents to start a charter high school in a neighboring school district. We chose to pursue a liberal arts program modeled after the

*Paidea Proposal* (Adler, 1998). The models for both curriculum and instruction were very different from a traditional high school. One struggle we found was trying to hire teachers with the necessary knowledge and skills to work with our program. I had seen this as well in the first charter school, but for this school it was a larger problem. Our university system is designed to produce one type of teacher to teach one type of curriculum. The regulations governing teacher training are established centrally by state legislatures or state officials and are fairly consistent between state universities and private universities. There are some alternate certification programs for other models of instruction, but they are not recognized by the states and add additional time and costs to the teachers. This also adds expense to the schools.

We ran into conflict with our authorizing school district almost immediately. The superintendent came by for a spot visit and her report to the district was telling. She reported that her observations showed we did not use textbooks and the teachers did not even teach. They just sat around a table with the students and discussed things. It was difficult for her to understand what we were doing even though everything she observed was consistent with our approved charter. We were using original source materials rather than textbooks and the instructional model was not lecture and practice, but reading and discussion. Much of what she had observed was accurate if you realize she was judging what she saw with her expectations.

According to her understanding it was highly inappropriate. According to our understanding we were implementing what was intended, what had been done successfully by others. More importantly, we were doing what the charter authorized. The real problem for us was that she was also charged by the school district with

accountability for our new school. Our goal, based on our values, was to be judged by her evaluation driven by her expectations. It was not a healthy relationship and the years I was with that school were filled with controversy, arguments with the district, and arguments with the state. A great deal of money was wasted on misunderstandings, political fighting, and inappropriate expectations.

Through this process, there was also a lot of rewarding work being done. The parents were very happy with the school, and many of the students were growing in ways they had not in a traditional public school. We had success training many of the teachers, and overall, much of what we set out to do was accomplished. After our first year, a group from Utah came up and asked for permission to use our model and a similar name in Utah. We granted our permission, and they built their program. A couple of years later when I was in the process of moving to Florida, I worked for another group in Utah that was implementing another similar model.

All of us ran into one problem. What little freedom we did have for our schools was evaporating as both states adopted new regulations requiring charter schools to become more and more like the traditional public schools – reregulation. After I left the charter high school I helped start, the parent controlled governing board gave up their charter. When I asked them about it later, they explained how the state and district were requiring them to adopt state approved textbooks and had required them to drop their distance-learning program that was approved as part of the charter. The school had already dramatically altered the math program to conform to state mandated assessments, and they decided the additional changes were just too far from the original design of the school and their collective goals.

I have discussed this with founders and workers at the similar schools in Utah as well. They have run into many of the same problems. These schools, however, chose to change to fit the requirements of the state. One dropped much of the program and became a more traditional public school. The other has tried to maintain more of the original intent, but has had to adopt state approved curriculum and conform to state mandated standards and assessment. This has allowed them to stay open, but has been a significant burden on the staff and faculty, as well as a forceful strain on the intent of the schools.

**Florida Department of Education.** After my work starting charter schools in Idaho and Utah, I was asked to work for the Florida Department of Education as the Director for Charter, Virtual, and Home Education. In this new role I worked with a much greater diversity of educational approaches and cultural groups.

I had worked with many home education groups early in my career and enjoyed the opportunity to work with them again. I was a little surprised to see that Florida law required a family to get permission from their local school district in order to home school. That was significantly different from states like Idaho and Utah where families just notified the district (Utah) or let the district know if they wanted to (Idaho).

This led me to further question the possible negative consequence of a government institution controlling what parents were allowed to teach even in their homes. I did recognize some of the concerns discussed in previous chapters regarding autonomy and indoctrination, but was puzzled at how the same concerns regarding problems of autonomous choosing and indoctrination were also present in the uniform public system, but went unacknowledged. In fact, it was common to find public officials

who would claim such issues were not a problem in the common, public system because the democratic involvement of the community eliminated such concerns.

Most of the groups I worked with in all three areas of my responsibility were far different from the cultural groups I knew in Idaho and Utah. I worked with a great variety of Hispanic groups, African American, Haitian, and many others. Each of these groups had mixes of religious and non-religious educational interests. One thing I found in common with all groups was their desire for something different, *something they chose for themselves*. When I first read James Anderson book about the educational systems forced upon the freed slaves in the South following the Civil War (1988), I was shocked at the similarities with a multitude of cultural groups in Florida, who were told by their local school districts that their choice was just not right for them. I was beginning to understand what paternalism was without having ever heard of paternalism. This same desire was also shared with the home, charter, and private school participants I had worked with in Idaho and Utah.

It was interesting to see how some highly religious communities started charter schools of their own. They were not allowed by law to overtly teach religion or support religious practice, but they were able to select options, within the limited options available, that were friendly to their religious ideas. I personally worked with LDS, Muslim, Jewish, and a variety of Catholic and Protestant groups pursuing this objective. All of these groups felt their way of life was endangered by the traditional public school system. They sought to preserve their culture and pursue their goals by finding an alternate system.

**Virtual schooling.** Online technologies were just becoming useful when we opened the charter high school in Idaho. We chose to pursue offerings through campus, online, and hybrid options. We had two other facilities in the state that allowed students to get together for group activities during the week, but complete their classwork online. The technology was not nearly what it is today, but we were able to have great educational experiences with students all over the state.

One interesting lesson I learned from that effort may be helpful. We found several students who had really struggled with social interactions in traditional classrooms really opened up with online tools. They started cautiously, but over time they became active in synchronous, online conversations and eventually even participated in face-to-face activities at one of our gatherings. Several of the parents expressed their appreciation for this new way of reaching students, and I have used that experience in several of my endeavors since. It had a dramatic impact on my perception of the possibilities for online instruction and led me to consider the possibilities for high quality educational interaction without a traditional classroom.

**Graduate schooling.** During my time at the Florida Department of Education I began my graduate studies at Florida State University. By this time in my career I had developed a healthy dislike and even distrust for traditional, public systems of education. I was hesitant to go back to a public institution, but my desire to continue my education won out. I decided to take my ideas with me into my courses and test what I had come to believe. It was during this time that I began to see the connection between concerns over liberty of conscience from secular sources similar to what I had seen in religious and minority cultural communities. I also had the opportunity to study religion from a secular

perspective. It was during those studies I learned about theories of religious intolerance and began to make the connection between religious intolerance and what I have come to see as the broader issue of epistemic intolerance.

**Brigham Young University – Idaho.** My work then took me back to Idaho to assist with the development of online programs for BYU-Idaho. During my time here I have learned a great deal about how to design and implement culturally based educational offerings that can be successful anywhere in the world. Offerings of this type can also be successful with far less resources than traditional public education programs. Ideas from disciplines such as instructional design, program evaluation, open curriculum, MOOCs, modular business theory, innovative business theory, and other areas can all provide insight. This has definitely been the case for our work.

The traditional classroom is a great educational tool. Over the years educators have added technology to the classroom using tools such as chalkboards, maps, printed materials, overhead projectors, televisions, overhead video projectors, white boards, and smart boards. All of these advances in classroom technologies can easily be replaced, even improved upon using online technologies. The big question has been whether the usefulness of a classroom and the interactions in the classroom can be replaced or improved upon in technologically constructed spaces. A great deal of research is being done in this area, and I am excited to see how things work out in other applications and what research findings prove to be most influential over time. For my purposes, however, I will simply relate my professional experience.

Our interest at BYU-Idaho has not been to provide better, or even equivalent, instruction to students using online tools. Our desire has been to provide whatever level

of quality we could produce to students who would not be served otherwise. First, we were able to place many of our highest enrolling courses online. Students choosing to take those online courses allowed us to enroll more students without increasing classroom facilities. We did, however, dramatically increase the general-purpose facilities throughout campus. This was possible, in part, because of the savings on classroom space. This allowed us to serve more students than we could have served otherwise because it cost much less per student than traditional growth strategies.

Next, we were able to offer specific courses needed to complete online degrees. This allowed students who had left the university before graduation to complete a degree online. We could leverage the academic expertise of professors along with the technical expertise of instructional designers and technologists through a team process of course development. We could also train online instructors in the specific skills necessary to be effective facilitators of online courses.

The next stage of development involved creating courses to prepare students for college level work. The target population was driven by church goals for including traditionally non-college bound students in the programs designed by the church to build testimony and faith during the critical transition from a more dependent home life to more autonomous adulthood. These courses did include some essential elements that may be considered by some as secular, such as English language instruction, writing, and math, along with study skills and basic life skills. However, the design and intention of the courses is to “Get the Gospel down deep in the Hearts” (Pathway, 2014). Everything we teach, even the instructional methods are grounded in the doctrine and culture of the LDS faith.

This program, called Pathway, allows students all over the world to prepare for success in college, but this is not the main goal of the program. The main goal is to assist members of the church in their desire to work together in pursuit of understanding and application of the Gospel of Jesus Christ. This program alone is allowing students to improve their English and other skills to the extent that many of them are getting much higher paying work after only a few courses. Many see no need to continue with the online degree program following Pathway, sometimes because they already had a college degree earned in their country.

This common culture crosses state and international boundaries. Other diverse cultural and social differences are overcome, at least in part, by focusing on the common religious culture. Students from New York, Florida, Idaho (campus students), Ghana, Russia, Mexico, and other countries throughout the world are all in the same online classes teaching and learning from one another. The motivation of diverse members of the church pursuing educational goals in common is a powerful and interesting dynamic. It cannot be fully explored here, but would be an interesting topic for future research.

While not the most exciting aspect of our program, one of the most important to future success is financial structure. Church higher education programs take a great amount of funding from the church. Students pay only a portion of the actual costs. The online options we have provided are self-funding. This is important because we can now expand those options without increasing costs to the larger church community. It means the programs can grow to meet the needs of members of the church worldwide. The lower cost also allows us to offer a range of fees to students depending on basic measures of economic resources in specific areas and within specific groups. For instance, there is

a range of tuition from \$20 per credit in Ghana and Honduras, \$50 in New Zealand, and \$65 in the United States and Canada. It also allows us to offer a version of the program for English Language Learners in the United States for \$45 a credit. These rates follow the students if they matriculate into online degree programs. The rates are set with the expectation that students can find low paying work in their area with basic skills, and pay their own costs without going into debt or requiring substantial, ongoing philanthropic supports. Much of this was detailed in a book entitled *The Innovative University* (Christensen & Eyring, 2011). The importance is not found in our specific example of innovation, but in the idea that a great many cultural communities can pursue innovative projects of their own driving authentic diversity and cultural interaction like never before.

**More pre-college education.** My current assignment at BYU-Idaho is to ensure compliance with state and international laws, oversee Pathway curriculum, and begin to plan new curriculum and assessments. Our next steps may include learning activities across a variety of topics and interests to allow educational opportunities to students before they are ready for the Pathway program. This would be done in conjunction with the Youth Curriculum of the Church of Jesus Christ of Latter-Day Saints already online and a worldwide network of Self Reliance centers.

Development of learning activities and materials that can be used in different ways in different communities may prove to be useful. There are systems of technology available to support this type of diversity of need within one community pursuing a common set of goals. We are currently studying the option of developing a great many different learning activities to support the need of local church communities throughout the world where legal structures allow.

This can allow the church's academic community to work in cooperation with local church units to provide educational programs some may consider as hybrids of online and brick and mortar designs. Church facilities may be used in some areas and not in others. Church volunteers may be used in some local communities and missionaries from more economic prosperous areas of the church can go to less prosperous areas to assist with local programs. The options and possibilities are unlimited. Over time we are confident solutions to varying needs can be found. While applying new technologies and educational theories to our development, we can also refocus our efforts on pursuing our chosen goals rather than those of the larger educational community.

### **Radical Change? New Horizons and Old Constraints**

In a historical moment marked by rapid industrialization and changing relations between home and work, John Dewey wrote, in *The School and Society* (1907), "It is radical conditions which have changed. Nothing short of an equally radical change in education suffices." The current information technology revolution is facilitating social change on at least the same scale as industrialization brought about a century ago, yet we cling to a systems of public education that are little changed in basic structure from the system of Dewey's time or of Horace Mann's before him. New technologies and ideas create new possibilities, yet these are often constrained by old ideas.

For instance, there are already a great many open source educational materials and learning activities available online. Many of these can be structured by an end user, such as BYU-Idaho, and integrated into various learning management systems and student tracking systems. We, and others, can use these resources as a stepping-stone while we design our own resources, or as a final solution if consistent with the groups'

goals. As more of these resources are developed, this possibility becomes more and more useful.

My second assignment here at BYU-Idaho was to establish the course improvement, research and development, and evaluation offices for our online courses. We desired a way to systematically study new instructional designs, instructional strategies, and technologies. We wanted to measure our current approaches in order to improve our results. We also wanted to experiment with and evaluate those showing promise.

Our own systems of evaluation started by measuring the same quality metrics used by the university for all campus courses. Initial results showed online course quality significantly above other online courses that had been used by the departments previously and a little lower than classroom classes (BYU-Idaho, 2008). The other department courses were retired and the quality gap with campus classes was reduced until the online courses were almost the same, not statistically different (BYU-Idaho, 2012).

We were not happy with the metrics used for determining course quality and started working on new metrics that reflected both industry standards and our unique goals. The original metrics were largely driven by general accreditation standards and used assumptions we wanted to move away from. Mainly, we wanted to more accurately measure student learning to objectives driven by our goals. With accurate measures of student learning, we could study the effectiveness of our learning activities across geographic areas and different designs. We could also focus on our goals and not general educational standards unrelated to our purposes. We have not fully implemented the resulting evaluation plan, but have moved far enough with our Pathway courses to

provide some indications of success and future possibilities. I will present some of those below.

While we have had a great deal of success pursuing our own educational goals, there have been internal challenges originating from external pressures. I will describe some of the legal challenges below, but others are equally telling. The most pressing challenge has been overcoming a mindset shaped by various forms of secular training among professors, administrators, adjunct instructors, instructional designers, and students. Professors have largely been trained by government systems of education at the elementary, secondary, undergraduate, and graduate levels. Even those who were educated at private schools, or even at Brigham Young University in Provo, are largely impacted by forms of knowledge that exert a dramatic influence on those organizations. We see it every time we meet with professors to begin course design and development. For the most part, they are more familiar and comfortable with secular and academically departmentalized ideas in their field and rely heavily on secular publications. Most are hesitant to move forward with goals more consistent with LDS values, and even their own values. My experience with the faculty I have worked with is that after several meetings and discussions regarding what we can and cannot do, they are far more likely to steer away from secular values and goals. It was not always the case, and I cannot claim the lack of agreement with what I think LDS values to be was because of secular influences. It could very well be consistent with those faculty members' personal and religious values. Adjunct instructors are normally very hesitant to include religious ideas and values in their instruction. A fairly robust training program has been implemented to assure them it is okay to discuss religious and secular ideas together, and to share

religious values when motivating students and participating in group discussions online. The bottom line is that we will really never know what impact dominating cultural views have had on minority views such as ours, but it is also clear the influence is there.

Many of the instructional designers struggle to overcome their training as to what is “normal” and acceptable in curriculum design. My first assignment at BYU-Idaho was as an instructional designer working directly with faculty. I was not formally trained in instructional design and relied heavily on the better-trained designers. They hired me and relied on me because of my background in LDS educational ideas and values. Learning to work through those differences has led to some of my opinions on this subject.

Students coming directly from public schools struggle with what we call the BYU-Idaho Learning Model. This learning model seeks to incorporate LDS doctrine and values into the learning and teaching process. The ideas are not foreign to the students as most of them experience them in church programs and activities. The difficulty is in seeing those same ideas and practices in courses that are “normally” not religious, like math or science. It is not comfortable for them at first. I also think this is evidence of intolerance as they are used to having religious forms of knowledge delegitimized during “normal” classes during the public school experiences. Some are truly shocked and others uncomfortable to see secular and religious knowledge coexisting in the same classroom.

We are not trying to replicate anything we currently have, be it from public education or our own, or even make it better. We are trying to offer something to members of our community superior to what they already have and consistent with our unique goals. Replicating our own on campus offerings, and making our educational offerings higher quality over time are also goals, but lower level goals. My interest is not

to cite studies proving these ideas viable, but to relate my professional experience and our collective work for considerations in the conversation. Also, my intent is to relate my community's desires to build educational offerings consistent with our own values to pursue our own goals. It is an example showing how other communities may do the same. But, the methods and operations used by those other communities will likely be as diverse and innovative as are the differences in our various beliefs and interests.

I am certain there will also be a great deal of failure, as there is now. This is likely using both current general standards of success and each individual group's own definition of success. It seems that issues of failure and success should be left to each group in order that their values and goals can be respected. If it is found that minimum measures of success are required for specific protections of public order and individual rights, then those standards may need to be measured generally. It is important that alternatives to diverse systems, such as the traditional systems of public education, also be measured to those same standards and in the same way, but only to measure those items shown to be necessary for the protection of public order and to protect individual rights. All other educational goals, and system to measure those goals, need to be left up to the various communities driving diverse goals. Compliance to these few general expectations should be enforced uniformly across systems and groups. It may be possible to have one set of core minimum standards required to protect public order and the rights of others that are shared in assessments for government and privately controlled public offerings. Any punitive measures, however, should be consistent between the various private and public institutions. That core could be added to for those government entities that wisely add reasonable goals to meet their specific institutional purposes.

**External authority.** Another insight has come from my work in compliance with each of the states and countries with students we serve. Each has some form of regulation. These range from a hands-off approach, to monitoring higher education offerings, to complete restrictions on educational services not directly provided by the country's government (we are not able to serve students in those countries). I have found it interesting how various governments, claiming to be supportive of religious liberty or liberty of conscience vary dramatically. Some only recognize religion as something you do at a church building for an hour or two one day a week. The government heavily regulates any other form of instruction. Other countries have had a variety of religiously based educational systems for generations and have no concern with other offerings. It is interesting to note most of the states have a high level of allowance for higher education, but a much greater regulation of secondary and elementary education offerings. With the growth of online higher education offerings, many states are moving to greater regulation of those programs, but for now they are fairly open (with one state as an exception). There are also many counties with a greater deal of freedom in both higher and lower educational systems.

I have also found it interesting how some states provide exemptions for religiously founded programs, but not for programs based in diverse foundations of knowledge promoted by secular or philosophically based groups. It seems an arbitrary distinction when liberty of conscience should be the standard rather than religious freedom alone. For example, our university should not have some kind of special political status because we choose to teach a religious form of knowledge. If social protections need to be in place, they should be consistent between all forms of knowledge, not

different for those claiming to be religious. In another country we have had the exactly opposite problem. The government is not supportive of foreign forms of knowledge, especially those that are religious. It has made our work to serve those students very difficult and could result in our program not being allowed in that country.

**Private models.** Some smaller communities, religious or secular, may not have the structure or resources to pursue a system like we are building. There are a great many options for them to pursue if a general, mass system of public education is not desirable. Online programs like K-12, Connections Academy, and many others already in existence. Others could be developed to easily meet the need of a great many communities in much the same way we are planning for our own. Communities could select a provider based on their own goals and supplement as they see fit. They could even work with providers to develop specific offerings designed to their goals. A very similar operation has taken place in the charter school movement, which can provide insight; even though the diversity is limited within government approved, and fairly uniform, standards.

It may be interesting to note that there are a great many online and private school options for members of the LDS church besides those being provided by official affiliates of the church. These have been available for years, but lack the resources available to BYU-Idaho. It is also clear that those who are involved in those systems are greatly impacted by economic limitations and are placed in a clearly disadvantaged social space as has been discussed with issues of double taxation in previous chapters. This issue is also at work with programs at BYU-Idaho, but to a much smaller degree, as the large size of the church and philanthropic resources have reduced the disparities.

**Legitimate Limitations: What Should the Larger Society Reasonably Expect?**

A key reason for my desire to see issues of religious intolerance considered in the broader context of liberty of conscience is the understanding of the human inclination to fear or hate, that which is different. These fears and hatreds can lead to various forms of violence aimed at the marginalization or even elimination of those differences or those who are different. Such dangers are not limited to forms of religious knowledge and practice but to all forms of knowledge and the practices stemming from those various ways of thinking and living. This understanding is key to seeing the forms of delegitimization and cultural annihilation possible through general systems of mass education. These can be present in subtle ways, ways that are not easily recognized in the larger educational communities. Unless the broader problem of infringement of liberty of conscience is more widely recognized the setting of limitations could result in many of the same justifications for violations of liberty of conscience common now.

For instance, much contemporary educational discourse assumes common education is necessary to ensure economic prosperity. Therefore, each child needs to be trained in a similar way to succeed in our economy. This idea does not respect contrary social theories or individual desires stemming from diverse values. There are many ways to live that do not include producing economic resources in ways considered vital by controlling majorities. There seems to be no right of the majority to protect society from minority economic ideas and practices. Requiring common educational goals because of economic needs determined by a political majority is another way schools may be violating liberty of conscience.

Another example can be drawn from using a scientific form of knowledge as the fix for indoctrination and to ensure autonomous thinking. If one respected form of

scientific thinking is given favored status there may be violations of liberty of conscience. This is true even if the justification is it to protect children from indoctrination or to ensure they are allowed autonomous thinking. As has been described in detail previously, educating to one form of knowledge, no matter how worthy, may lead to delegitimization and maybe even the destruction of other forms of knowledge. This is not a solution for indoctrination, but rather another more pervasive form of indoctrination. Also, even if this type of approach does teach all students to be autonomous thinkers, it does great damage to the various options they may have had the opportunity to choose from once they gained the skills to do so.

Some may also argue a thorough understanding of scientific theories regarding the origins of the universe is necessary for public order or for protection of individual rights. Individuals who truly understand all of the variables and scientific arguments involved in varying theories of the origin of the universe are truly rare, and may not even exist. A larger academic community normally governs such theories. These communities make decisions as to what the prevailing theories are based on their chosen epistemic foundations. Assuming a child can truly gain this understanding and then choose from other delegitimized theories in any useful way is actually contrary to the idea of autonomous thinking.

This type of approach assumes the epistemic foundation of their ideas is the true one and should be shared generally. Requiring what one community agrees is truth generally is a violation of liberty of conscience and is not necessary to protect public order or individual rights. Another consideration should be the teaching of ways of living.

Who determines what types of living are acceptable and which are not? These determinations can also violate liberty of conscience.

Other social goals I have described previously include religious, secular, and philosophic goals leading to a large diversity of approaches to education. Each of these categories for goals (religious, secular, philosophic) includes unlimited numbers of variations within each group. Each individual and social group should have the opportunity to pursue the reproduction and reconstruction and their own version of the good life stemming from their various goals, driven by their differing values, stemming from their various forms of knowledge.

I am not arguing, however, that that right to reproduce and reconstruct a conception of the good life should be interpreted to mean that any group can do anything in the pursuit of that version of the good life. There are allowable limitations to liberty of conscience as has been discussed previously. I doubt that it would be fruitful to try to list what specific limitations should be in place, but we might agree on principled guidelines that would define what the broader society has a right to expect from groups pursuing their conception of the good life through their own educational systems. Such guidelines could help ensure that a group's exercise of liberty of conscience does not become a violation of the liberty of conscience of its members or others.

While I do not think a complete list is possible, I do think there are some areas where agreement could be reached quickly. Teaching students to do violence to others is not an exercise in liberty of conscience but an encouragement to violate liberty of conscience. It seems that a great deal of sway should be given to opinions and expressions of those options when seeking a balance of liberty of conscience and

protections of social order and individual rights. It is also likely that protections for children may be needed as the ideas of indoctrination and autonomy are not fully resolved.

I do think many of the above limitations are fair game for disagreement and further discussion. My views on the subject are by no means definitive. I do hope, however, the discussion can recognize the reality of intolerance towards others regardless of their religious, scientific, or philosophical foundations, and allow the greatest leeway possible in protecting rather than restricting liberty of conscience.

### **Some Things to be Tried**

As I explained in Chapter 2, the Deweyan (1916) approach to philosophy of education demands that the results of philosophical reflection “must take effect in conduct” (p. 328)... must culminate in “something to be tried” (p. 326). In that spirit then I believe there are four central ideas we can gather from these observations. Each provides hope that diverse systems can exist in a form which allows individual choices among sound alternatives across any geographic limitations. This is extremely important, as small communities may not be able to offer enough of a variety for the diverse interests of the families within their community. To truly respect liberty of conscience, just allowing students, parents, and educators choice between two or three options may not be sufficient. The idea of social interaction would also lead to a preference for diversity within a local geographic community, rather than encouraging families to move to communities with the desired educational option as happens now.

First, relatively new technologies and inexpensive resources make it possible for groups of common interest to succeed with creating educational systems supporting their

unique values and goals. When they choose to do so the results can be dramatic and incredibly diverse. The goal is not to have diversity for the sake of diversity, but a diversity driven by genuinely unique expressions of liberty of conscience. These can be expressed individually, within groups of voluntary association, and across various groups sharing similar goals. For all of these parties to be represented in any useful sense, there must be a great many different options for them to choose from. Also, the barriers to entry for new systems must be low enough that new systems can be created when desired.

With open source materials, reduced technology costs, and friendly regulation; the barriers to entry should be minimized and relatively small cultural communities could be successful if evaluation of their success was left to them rather than others. It is also possible that individuals not desiring to join a cultural group, and extremely small groups, could work together to create other offerings meeting the needs of almost every individual. While not perfect for everyone, it would be preferable to one common system for everyone.

Second, the technology exists to deliver these diverse offerings anywhere in the United States and almost anywhere in the world. It is reasonable to assume this level of diversity was not possible before relatively new online technologies were developed and made available to most areas. It is also likely that this type of diversity is not possible in areas of the world without connectivity options, although our research into a worldwide replicatable solution did find the available technologies through satellite connectivity. The problem we ran into was local governmental regulation of the technologies, which made this solution too problematic to pursue. Without those regulations, we could have contracted with one of several companies to provide high bandwidth coverage in any

location on earth for a reasonable fee. The technology is available; it is the understanding and regulation that will have to mature.

Third, the costs associated with these forms of instruction can be dramatically lower than traditional systems of general, mass education. This has been shown to be true through our experience at BYU-Idaho and does not seem to be limited to our situation. The innovation allowed by the diverse approaches to educational systems provide a testing ground for new ideas and new technologies that may not surface in a centrally controlled system. This is covered fairly well in *Disrupting Class* (Christensen & Eyring, 2011). It is also likely that the open source mentality will spread and could also lead to large-scale learning material and content sharing. This could have dramatic impacts on affordability.

Fourth, evaluation systems can be designed and implemented to support sound accountability for any number of diverse systems of education built on different values with different goals. This was a great challenge for us at BYU-Idaho, and we are still working through the implementation process. It is, however, possible for groups to choose their own goals and find metrics to measure success in reaching those goals. These systems must be selected free from external pressures to ensure respect for liberty of conscience. If a system of evaluation is necessary to ensure basic civil protections are in place, that system should be limited to just assessing the results needed to ensure those limited civil protections. These minimal assessments should also be generally applied throughout the public system (government schools and private) with the same possibilities for punitive outcomes regardless of school type. The political reality is that keeping an assessment system limited to just the necessary elements required to protect

liberty of conscience, is highly problematic. If required, however, I hope this discussion and other discussion of liberty of conscience will help to move these assessments away from forms of norming, differentiation, delegitimization, and narrativizing the other.

The recent movement to adopt Common Core standards and assessments can provide a negative example. If local schools are required to adopt common standards they will have to select similar materials and forms of instruction, or they will not be able to meet those standards. If common assessments are used to measure success, the same problem exists. Either way, common goals are being pursued and liberty of conscience is being violated.

### **Summary**

I began this work by relating some contemporary issues to provide context to the discussion that followed. I would like to return to some of those issues and describe how they may be seen in a fresh light if the concept of epistemic intolerance is applied. For instance, Muslim charter schools are interesting because they cannot work as a government charter school, not because a public Muslim school supported by tax dollars is a violation of liberty of conscience, but because government schools teaching from a religious epistemic foundation will inevitably lead to a violation of liberty of conscience. This is inevitable if a school is centrally controlled by a governmental entity. Even if the law allowed for this type of government school, the government oversight would leave the defining of Muslim values and goals up to a political majority expressed through a governmental entity. If, however, the charter model was more like that in Arizona, which allows private charter schools supported by tax dollars, it seems the choices could be more authentic. This is also done in other countries, England and Canada for example.

The individuals and groups involved, rather than the larger political body, could establish the goals based on their unique values. With appropriate limits this solution would be closer to a reasonable balance.

Vouchers represent an option that shares many characteristics with the idea of private charter schools. It is one possible way to allow for government funding of educational options without placing undue restrictions on the goals of the various educational programs. It is difficult to imagine a governmental body in the United States not placing a great many restrictions on voucher programs, as has been the case to this point, but the theory seems to be something worth considering.

The idea of government funding is important to any of these options. There seems to be room for theoretical discussion of systems of education without government funding, but this was not the case prior to the creation of the common school system, and seems highly unlikely in the near future. If costs get low enough for all people to have reasonable access to educational programs, it seems a reasonable conversation. I do not think we have arrived at that condition yet, but it may be a conversation for the not too distant future.

If we assume government funding, there are other questions to answer. With a great variety of educational options, does the government provide the same levels of funding to each student regardless of need? This is a question worthy of consideration with government schools, but it would need additional discussion before we started down a road that required government funding for private school options already being exercised by the wealthy. Theoretically this would move some of the available resources

from students already being served by government schools and to private options that are not currently subsidized by government funds.

Government funding would also need to be consistent for all available forms, as issues of official status and delegitimization need to be minimized or done away with if possible. It does seem, however, that funding at different levels for individuals in different economic situations will be possible. It is an area where discussion and additional research will prove useful.

Issues like that of class size become irrelevant, as a matter of public policy, if diversity is supported. However, it would still be an issue of debate within each cultural community. Rather than government bodies debating this type of issue, individuals and cultural groups would decide for themselves what to do with this and other issues consistent to their goals.

Virtual schools and MOOCS are both structures of education that can be used by diverse systems. They can also extend the availability of options across geographic areas and reduce the cost in many ways. Both are examples of the online technologies that may be required to approach a truly diverse system. And, each is a likely candidate for inclusion in a balanced system recognizing liberty of conscience with appropriate limitations.

There has been a great deal of controversy regarding the private provision of public educational materials and services. The controversies have roots in the contest between epistemic foundations, driving different cultural values and educational goals. Since the current system has clear winners and losers, and the difference between winning and losing is largely decided by political majorities at the expense of various

minority goals this needs discussion. In the arena of educational materials and services, there is a lot of money at risk for all involved. If the role in public education moves from government provision of services, dramatic changes in the relationships between private publishers, private schools, and private management companies will occur. The idea of epistemic intolerance, as it relates to liberty of conscience, does not seem to rely on the traditional and sometimes problematic relationships between government educational systems and private companies with whom they contract or to whom they provide favored status.

It does seem that basic considerations related to monopolies, price controls, and other consumer protections will be a matter of reasonable discussion. It is likely that regulations similar to other industries will be required. There may also be room for other regulation consistent with the allowable limitations on liberty of conscience.

Due consideration of a necessary condition for liberty of conscience is worth mentioning. That is the responsibility of government to provide space for the exercise of liberty of conscience. It may be that a focus on this idea may negate the need for regulations or common standards enforced by government institutions. This seems to support the idea of using a framework of protections similar to the legal protections for freedom of speech, and the restriction of freedom of speech when necessary to, preserve public order, and protect individual rights.

## **Conclusions**

Liberty of conscience requires that individuals and groups of voluntary association be allowed the opportunity to pursue ideas and values in their own chosen way. This includes establishing unique educational goals stemming from their own values

and consistent with their chosen worldview. Theories of religious intolerance can inform our understanding of liberty of conscience by helping us recognize the human tendency to be uncomfortable with or hate ideas, practices, and cultural groups who are different. This does lead to actions of delegitimization and can lead to annihilation of those differences. When educational systems are involved, that delegitimization and possible annihilation can include the political majority denying the tools of cultural replication or reconstruction, which is the purpose of education.

Theories of religious intolerance can inform the issue by helping us understand acts of religious intolerance in the history of education and consider the similarities between religious, secular, and philosophic foundations of knowledge. This helps us recognizing the problems are still present even though a great deal of progress has been made since the creation and Protestant control of the original common system.

Understanding gained by considering theories of religious intolerance can be applied more broadly to other theories of knowledge without religious foundations resulting in a broader theory of epistemic intolerance. This can be used to consider violations to liberty of conscience more inclusive than is the case when only religious issues are considered.

Considering, what I have called here epistemic intolerance in the current system of education helps us identify the violations to liberty of conscience within our current systems and assist with the creating of new, diverse systems of education more consistent with liberty of conscience. These new systems can be structured to maximize respect for liberty of conscience while allowing appropriate limitations to liberty of conscience. Recognition of epistemic intolerance will help identify when that balance has moved

from protections of liberty of conscience to restrictions not necessary for the protection of social order or individual rights. It can also help identify appropriate government protections for public space in which individuals and groups can pursue liberty of conscience.

The other views I have expressed are only observations and opinions I wish to have considered as additional research is done, and as the philosophical community discusses appropriate limitations and possible strategies for implementation of appropriate public policy.

Epistemic intolerance deserve a great deal more attention by academic researchers in the areas of philosophy of education, education theory, instructional design, assessment, evaluation, and education policy. I do not have a solutions to many of the concerns related to this issue, only a desire that all aspects of liberty of conscience be given due consideration, including the choice of values important to individuals and groups regardless of the religious or non religious nature of those values. These diverse values can then find expression through diverse systems of education chosen and evaluated by the various groups and individuals. This will allow a more authentic expression of diverse culture, and a foundation for a truly pluralist society.

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## Biographical Sketch

Steven Adams was born in Logan, Utah and raised in a small farming community near Blackfoot, Idaho. He entered the United States Marine Corps Reserves and began his active duty training soon after graduating from high school. He served as a M1A1 Tank commander, LAV TOE Variant commander, and received two meritorious promotions. During his two years of inactive ready reserve he served a mission for the Church of Jesus Christ of Latter-Day Saints in Michigan. Following his mission he entered Idaho State University and studied business with a full-tuition academic scholarship and served as a member of the Student Senate representing the college of business. He left Idaho State University to attend a small liberal arts college, George Wythe College, where he graduated with a double major in Business and Biblical Studies.

He began his career in education teaching and administrating for the Benjamin Franklin Academy, a small private school in Pocatello, Idaho. He later served as the Assistant to the Director of Operations charged with training administrators and faculty while serving as the administrator of the Salt Lake City location. He later opened a small private school in Idaho and began working with public charter schools. He directed the Blackfoot Charter Community Learning Center and then co-founded the Idaho Leadership Academy. He also helped to establish the Idaho Charter School Association and served as that organization's president. He began a consulting business and helped start or restructure several charter schools in Idaho and Utah.

Following his consulting work, he served as the Director of Charter, Virtual, and Home Education for the Florida Department of Education. During this time he completed a Master of Science degree in Foundations of Education at Florida State

University. When he started his doctorate program at Florida State University he reopened his consulting business working with charter and virtual schools in Florida.

He returned to Idaho to work with a new online initiative at Brigham Young University – Idaho. He began as an instructional designer assisting faculty teams in the design and creation of online courses. He later served as the Director of Course Improvement and led the creation of the Course Improvement, Evaluation, and Research and Development Offices. He currently serves as the Director of Curriculum and Compliance for Pathway, which serves students from 171 locations in 29 U.S. states and 18 foreign counties.