

LIBERTARIANISM, AUTONOMY, AND CHILDREN

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LIBERTARIANS hold that we have such duties as: not to directly and significantly harm others or their property, to keep agreements, to refrain from lying and certain other sorts of deception, and to compensate those whom we wrong. They also hold that we have a duty not to interfere with the liberty of others as long as they are fulfilling these duties. This duty of non-interference, they have thought, has protected the privacy of the home, and hence *parental autonomy*, for it insures that others have no authority over or responsibility for (except in extreme circumstances) how parents raise or treat their children. (Why parental autonomy has been held to be protected by this duty of non-interference should be clear enough: for if (as is surely plausible) the main effect of that duty is to secure for adults the liberty (within limits) to live their private lives as they choose, then, on the natural assumption that the matter of how to raise one's children falls within the domain of the private lives of adults, intervention by others, and in particular by the state, for the purpose of ensuring that children get raised in one way rather than another, would be impermissible.)

More specifically to our purposes now, libertarians have supposed that the duty of non-interference leaves intact parents' prerogative to decide if, and in what way, their children are to be educated. That this is crucial both to the *degree* and to the *point* of parental autonomy is clear enough. For it goes both to the matter of keeping out of the private home those who would provide education for children (if such is the wish of the parents), and to the matter of parents' entitlement to instill in their children the values that they (the parents) wish their children to have.

Libertarians, however, have not had very much specific to say about the moral status of children. Are children *owned* by their parents? Do they have all the rights and duties that normal adults have? Or is their status somewhere in between these extremes? Given that libertarians haven't said, there are different possible ways of extending traditional libertarian theory so as to cover children. It is our aim here to argue that under the most plausible extension of libertarianism—an extension intended precisely to

clarify the moral status of children—libertarians will have to give up most of their commitment to parental autonomy.¹

Our argument will fall into two main parts. First, we will argue (in sections 1 and 2) for what we take to be the most natural libertarian treatment of the moral status of children. Specifically, we will argue that libertarians should, given their own views about what grounds the moral standing of adults, accord a moral significance to *potential autonomy*. Thus, since (most) children are potentially autonomous, at least part of their moral status will be autonomy-related. This part of the argument will perforce be speculative: as we have said, libertarians have been notably silent about children (see note 1)—what we have to go on is what libertarians have said about adults. The second part of the argument (section 3) will involve showing that if libertarians accept this extension of their view, then they will have to recognize that interference with the *development* of autonomy by children is impermissible, and perhaps that others have *duties* to aid in that development. In recognizing these facts, libertarians, we will show, will indeed have to give up a good part of their commitment to parental autonomy. It will of course be open to libertarians to reject our extension at that point. As we hope will come clear as we proceed, however, any alternative treatment of children will be less consistent with libertarian doctrine than the one we put forward.

It is worth noting before we move to the argument, however, that our results may well have a significance for many who do not embrace libertarianism. For it is surely true that a wide range of contemporary moral theories—certainly most liberal theories—give prominence to respecting the autonomy of individuals. As noted, respecting this autonomy involves allowing individuals, within certain limits, to live their lives as they choose. Now, as we have also noted, it is natural to suppose, and it has indeed been traditionally supposed, that how one raises one's children falls within these limits. Thus, such theories have often supported parental autonomy. Once, however, the status of children as developing autonomous agents is adequately recognized, the authority of parents for their children (if our argument is correct) is less than such theories have supposed, and the responsibility for other people's children is greater than has been supposed. Thus, though we shall, in what follows, restrict our attention to libertarianism, a view which takes the exercise of autonomy very seriously indeed, we think it plausible that if our argument holds for libertarianism, some variant will hold for other autonomy-based theories.

I. THE MORAL STANDING OF CHILDREN

What status can children be said to have within libertarian theory? Let us start by considering young children (say, less than four years old). Libertarians certainly have supposed that parents may, without outside interfer-

ence, decide how and what their young children are to be fed, what sort of surroundings they are to have, etc.; and yet, they do not suppose that one is entitled to decide on the behalf of *normal adults* what they are to eat or what sort of surroundings they are to have.

Given these facts, we can say right off that young children do not, on the libertarian view, have the same moral status—or, as we shall say, the *moral standing*—that normal adults have. Under normal libertarianism adults have *full moral standing*, whereas young children have something less than full moral standing.

The relevant logical possibilities are just two: either young children have no standing at all,² or they have partial standing. It is not, however, even remotely plausible to think that young children have no moral standing. No libertarian holds, for example, that it is permissible to torture one's baby for fun (as it would be if young children had no standing). We shall therefore assume that for libertarians, young children have partial moral standing.

What about older children? Well, since young children have partial moral standing, older children presumably have at least partial moral standing. Up until section 3.3, we will work under the supposition that they have only partial moral standing. In section 3.3, we will follow some libertarians (child liberationists, for example) and suppose that older children have full moral standing, just as adults do. As we will see, the parental autonomy that libertarians have traditionally upheld will be threatened under either supposition.

II. EXTENDING LIBERTARIANISM: GROUNDING PARTIAL STANDING

To say that a being has *partial moral standing* is to say that, for reasons independent of the effects on others, some kinds of acts are not permissibly committed against it. Thus, libertarians must agree that some kinds of acts are not permissibly committed against children. Since, however, (we are assuming for now that) the standing of (all) children is only partial, it is presumably the case that some kinds of acts that cannot permissibly be performed against beings with full moral standing may be performed against children.

The crucial question that we want to consider now is this: what can ground, for libertarians, the partial moral standing of children? Utilitarians, for example, are able to avail themselves of a rationale which most of us would find appealing, *viz.*, that children can suffer, can feel pleasure and pain, etc.. Libertarians appear to be unable to say any such thing. For traditionally, the only way in which they have grounded moral standing is, somehow or other, in *autonomy*.³ The problem that children pose for libertarians is precisely that they are not autonomous.

It might be thought, though, that we are too quick in rejecting, on libertarian's behalf, something like utilitarian considerations. After all, it is at least plausible to think that libertarians hold the torturing of *animals*

to be impermissible; and libertarians clearly cannot say *here* that the ground of impermissibility has anything to do with autonomy. Much more plausibly, they will agree that the relevant moral feature of animals is their *sentience*. Given this, it might seem open to libertarians to say that sentience also grounds the (partial) standing of children—even though it is autonomy that grounds the *full* standing of adults. Under this proposal, libertarians would be able to find and ground some impermissibilities regarding children. They thus could consistently uphold the partial standing of children while sidestepping the complication that children are not autonomous.

Now, we do not deny that sentience could play a *partial* role in the libertarian story about children. But it cannot play the full role. For if it did, there would be nothing wrong, according to that story, with the painless killing of a child. But that, surely, is wrong, and is held by libertarians to be so.

So, the problem remains. How can libertarians ground such impermissibilities, i.e., that part of the moral standing of children that is sentience-unrelated? We have just agreed: in considerations of autonomy. But, to repeat, the difficulty is that children are not yet (fully) autonomous.

There are just two possibilities. (a) Though children are not autonomous, they are *potentially* autonomous. What grounds those impermissibilities that sentience alone cannot ground is the potential that children have for becoming fully autonomous. (b) Though children are not fully autonomous, they are (varyingly) *partially* autonomous—and as they approach full autonomy, their moral standing approaches full standing: it is the degree of their actual autonomy that grounds the relevant sentience-unrelated impermissibilities.

Alternative (b), that is, grounding the partial standing of children in their partial autonomy, might seem on first glance to be the more attractive alternative for libertarians. For, it is surely a sensible extension of libertarianism that would recognize *some* impermissibilities where it finds some degree of autonomy, given that it finds the full range of impermissibilities where it finds full autonomy. Along the same lines, it would be sensible for libertarians to claim that the number of such impermissible interferences increases as the children develop and mature—as the degree of their autonomy increases. And that is just what (b) seems to allow for (in a way that (a) seems not to).⁴

But even if (b) thus provides some autonomy-related grounding of impermissibilities regarding the not yet fully autonomous, we claim that libertarians cannot plausibly hold that it grounds all such impermissibilities. To see this, consider two children, one who has reached some level of partial autonomy, and the other who has reached that *same* level of autonomy, but who is *not* potentially more autonomous than that—i.e., who has reached her full developmental potential (e.g., a mentally retarded teenager). The question here is whether or not libertarians can plausibly

hold that both children have the *same* moral standing. Equivalently, given that considerations of sentience weigh equally regarding these children, the question is: Can libertarians say that exactly the same class of autonomy-related impermissibilities applies to both children?

If it is *just* their degree of actual autonomy that grounds the relevant autonomy-related impermissibilities, then indeed those (and only those) impermissibilities regarding the one obtain regarding the other. But it is surely permissible to treat a mentally retarded teenager with the mental skills of a six year old differently than a normal six year old. It may, to take a simple example, be permissible to prevent the teenager, but not the 6 year old, from roaming freely within shouting distance while at a public park. The rationale might be that such roaming helps develop the abilities of the normal six year old and is therefore worth the dangers it presents, but offers no such developmental possibilities to the teenager, and therefore is not worth the risk. It may also be permissible to prevent the 6 year old—but not the teenager—from doing certain things. It may, for example, be permissible to prevent the former, but not the latter, from watching more than a certain amount of television.

Given the plausibility of these claims, we shall proceed on the assumption that libertarians will wish to draw some distinction between the normal 6 year old and the retarded teenager. Now, the first point to be made here is that the distinction rests precisely on the fact that one of the children is *potentially more autonomous* while the other is not. Thus, we may infer that potential autonomy should be thought of by libertarians as having moral significance, that is, as constituting at least one of the grounds of moral standing.⁵

The second point is that if potential autonomy is a ground of moral standing, then typically at least it will be wrong to thwart the development, of that autonomy. To see this, consider the following case. A parent decides to ensure that his normal (i.e., potentially autonomous) child does not develop into an autonomous being. He plans to give the child a drug that will cause significant brain damage in her; but he also plans to ensure that the child will lead a pleasurable life (say, by giving her morphine on an ongoing basis). Could libertarians *who have conceded that potential autonomy matters* claim nevertheless that such thwarting of the development of autonomy is permissible?

We think not. Indeed, it would be extremely difficult to see what someone could mean in conceding that potential autonomy matters, if they *also* said that that potential could be destroyed whenever it appealed to someone to do so.⁶ Rather, it is highly plausible that the mattering of potential autonomy cashes out, at least in part in its being *protectable*. And, equally plausibly, to protect *potential* autonomy is to ensure that at least in some circumstances the development of autonomy that such potential promises is not interfered with.

We shall take it then that thwarting the development of autonomy would

be held by libertarians typically to be impermissible.⁷ More generally, we take it that the most natural extension of libertarianism intended to treat children will acknowledge the following principle:

INT (Interference): it is at least typically impermissible for anyone (including parents) to interfere with the development of potential autonomy.

In particular, it is typically impermissible for *parents* to interfere with their children's development of potential autonomy.⁸

Of course, INT, or something similar to it, has been advocated by a number of writers,⁹ but it has not been explicitly endorsed by libertarians. We have just argued, however, that in order for libertarianism to be plausibly extended to deal with children, libertarians too must endorse INT. And as we shall now argue, once they endorse it they will not be able to maintain the sort of parental autonomy they have traditionally defended.

A final point, crucial for what follows below. We suppose that it is permissible for the state to prohibit impermissible acts. Of course, there are some libertarians who believe that the state is intrinsically immoral; and hence, that none of its acts are permissible. We thus restrict the discussion in what follows to those libertarians who recognize the legitimacy of a (minimal) state—one possessing the authority to prevent (and punish) impermissible acts. Since it is typically impermissible for parents to prevent the development of autonomy of their children, it is typically permissible for the state to prohibit parents from acting in ways that would prevent the children from developing autonomy. In particular, it is permissible for the state to enter the private home to do so.¹⁰

III. HOW MUCH INTERFERENCE?

So much for extending libertarianism so that it takes account of the moral standing of children. For the rest of this paper, we shall understand by "libertarianism" that extended libertarianism that recognizes INT. What we want to show in this section is that, under libertarianism, the number of permissible state intrusions into the private home turns out to be much greater than libertarians have traditionally thought.

It is by no means obvious that this should be so, even granting our assumptions. Note that the practical significance of the requirement that a child's development of autonomy not be interfered with depends critically on whether or not autonomy develops fairly naturally (i.e., without much assistance from others) in most children. If it does, then it is likely that only something like serious abuse will impede its development; and thus it is unlikely that much state interference would be needed to prevent such impedence.

What we need to see then, in order to get at the practical consequences of INT, is what features are required for full autonomy. We need, that is, to see what are the *autonomy-making features*.

3.1 Two Views About Autonomy-making Features: Minimalism and Prudentialism

What, then are the autonomy-making features?

As Gerald Dworkin has pointed out, recent writers have proposed a wide range of accounts of autonomy;¹¹ it thus will not be uncontroversial what the autonomy-making features are. For our purposes, however, a very rough and general account of the features will suffice.

Let us start with a quite uncontroversial point. A being cannot be fully autonomous unless it has the capacity both to determine what many of its (at least immediate) desires are, and to act on the basis of (some of) them. This capacity, we can also say without controversy, will include a rudimentary ability to fit means to ends. Say that a being that possesses these features is *minimally autonomous*.¹² Now, one possibility is that such features are also *sufficient* for full autonomy (where we take full autonomy to be that degree of autonomy required, under libertarianism, for full moral standing). Let us call the view that a being has full moral standing if, and only if, it is minimally autonomous, *minimalism*.

Many (including many libertarians) will think, however, that more than the possession of the features recognized by minimalism is required for full moral standing. It is here, of course, that writers will diverge. Nevertheless, a common strain is that autonomous agents are agents whose actions are their own; autonomous agents rule themselves, and hence their acts are the ones they authorize for themselves. Of course, this does not on its own tell us what the features are that are required for an autonomy more robust than minimal autonomy. But it is surely the case that at least part of what is involved in owning, indeed, authorizing, one's acts is that one is able to *reflect upon* what acts one does best (by one's own lights) to perform. And it is plausible to move from here to the idea that an autonomous agent is one who *has the capacity to reflect upon, to deliberate concerning, her present desires*.¹³

The idea here is that the autonomous agent is one who has the capacity to have *second order* desires and preferences. Now, for present purposes, this idea, even in this rough form, is all we will need. For, however the details go, it is surely plausible that if autonomy does include such a capacity, then an autonomous agent must be able to calculate the moderately long term consequences of her actions, etc., and must be able to predict, with reasonable accuracy, what her future desires will be. This is because someone who lacked this ability is hardly in a position to *reflect about* which of her present desires and preferences are those which it would be best to act in accordance with.

Being able to predict the moderately long term consequences of her actions then counts as an autonomy-making feature for those who think that autonomy is more than what minimalists take it to be. Call now the

view that the possession of more than minimal autonomy is required for full moral standing, *prudentialism*. Prudentialists disagree with the minimalist claim that beings who are merely minimally autonomous are fully autonomous. Call the autonomy that prudentialists insist is required for full moral standing, *prudential autonomy*.¹⁴

Though minimalists and prudentialists will agree over what standing to accord to a wide range of persons (e.g., newborns, and adults), they will importantly disagree over other cases. Most children aged, say, four to twelve (1) are plausibly minimally autonomous, but (2) lack at least some features (for example, some appropriate sense of the future) that figure in prudential autonomy. Minimalists will think of all of them as having full moral standing, while prudentialists will not.

Now, the development of the features sufficient for minimal autonomy (and hence which are sufficient, under minimalism, for full moral standing) is very difficult to impede. Only the most radical sorts of abuse of young children would yield their being unable to reflect upon and act on the basis of their immediate beliefs and desires (rudimentary as they might be). Accordingly, it is plausible that the number of state intrusions into private homes justified by INT, *given minimalism*, is very small. Put otherwise: in accepting INT the number of state intrusions into private homes that *minimalist libertarians* must countenance is presumably small.

However, we submit that most libertarians will incline (at first) to prudentialism—if for no other reason, then because it just seems a little odd to think of four or five year olds as having full moral standing, as they would have under minimalism. But, as we argue now, the number of intrusions into the private home that prudentialist libertarians must recognize is quite significant indeed. We will argue later that the same is true for minimalist libertarians.

3.2 *Prudentialist Libertarianism and Children*

3.21 *The Development of Basic Skills*: Prudentialist libertarians hold that the potential for prudential autonomy is a ground for moral standing, and our earlier arguments show that prudentialist libertarians must hold that it is typically wrong to thwart the development of this autonomy, and that the state may step in when parents attempt to do so. Our present task is to determine how frequently such intervention could occur.

We have agreed that prudential autonomy consists in minimal autonomy (the capacity to determine what many of one's desires are, and an ability to act on the basis of them), and a capacity for second order desires. We have also agreed that the latter capacity implies the ability to work out the moderately long term consequences of one's acts. And this implies that the prudentially autonomous agent must have a certain range of cognitive skills. Let us call those skills that are necessary for full prudential autonomy *basic skills*.

Consider now children growing up in urban America. Clearly, they face significant difficulties in developing the ability to work out the moderately long term consequences of their acts. To cite only the most obvious factor, their environment is enormously complex. There are, for example, all manner of dangerous objects that they almost certainly will need to know how to operate (e.g., cars); and there is a vast array of items that they will have to *recognize* in order to make it safely through life (e.g., household items that are marked "poison").

This suggests that some of the skills that are *basic* for children growing up in urban America are quite sophisticated, and will require time and effort to learn. To be very specific, it is highly plausible that such children will be unable to determine the moderately long term consequences of their acts if they cannot read or write or do basic arithmetic. (Indeed, it may well soon be (though it probably is not so yet) that some moderate ability with computers and other electronic equipment will also be required.) But then, these children will fail to be prudentially autonomous if they do not learn to do these things.¹⁵

Given these plausible assumptions, we may say that under prudentialist libertarianism, no urban American parent may prevent his or her young children from learning to read or write or do at least elementary arithmetic. If, for example, a child wants to go to school, and will learn the basic skills if and only if she goes to school, then her parents may not keep her home. And if they try to keep her at home, the state may intervene on her behalf.

Of course, if the parent were to agree to teach his child the basic skills, then nothing in what we have said implies that the state may step in to take the child to school, *even if she prefers to learn the basic skills at school*. Since she does not have full moral standing, it may well be that she is not entitled to demand that she learn the basic skills at school rather than at home. Hence, it may be that the state may not intercede on her behalf in such a case.

But the main point remains. At least in certain environments in which children grow up, there is a wide range of skills and abilities that they will require as a condition of their becoming prudentially autonomous. And in those cases where the children *want* to acquire such skills, and where there is *opportunity* to acquire them (say, because, there are free schools where the skills are taught), their parents may not prevent them from doing so. In the case where the parents do attempt to prevent them, the state may intervene on the children's behalf.¹⁶

3.22 Dissenting Communities: It might be objected that there is nothing in what we have thus far argued that is incompatible with the real spirit of the libertarian commitment to family autonomy. For no libertarian, it would be held, holds that parents may stymie the development by their children of autonomy in the ways we have been imagining. Rather, the

spirit of the position is best expressed in the proposition that no-one may interfere with parents attempting to instill in their children their own (perhaps idiosyncratic) values, goals, etc.. No-one, for example, may interfere with parents trying to raise their children outside of mainstream American culture. But parents would not, in attempting to do this, be interfering with their children developing autonomy; and so, the protection of those parental acts and plans is compatible with the demands of INT.

An example will make the objection's point more vivid. Suppose that some people in a community are suspicious of high-tech high pressure lives, and prefer to live, and for their children to live, more simply, informed by a set of values, aided by a set of skills, and invested with goals, that would ill suit a person who intends to live in urban America. To be specific, suppose that this group abjures working acquaintance with the sorts of gadgets and machinery (like cars, telephones, computers, and the like), that are coming to be almost indispensable for contemporary urban American life. Suppose further that they also abjure any sort of acquaintance with urban practices that presuppose a certain degree of bad will on the part of others (for instance, the locking of doors when one leaves one's home, the teaching of vigilance in the young regarding the advances of strangers, etc.). The Amish, perhaps, are.

Now, the libertarian commitment to family autonomy, according to the objection, is a commitment to the impermissibility of state interference in this sort of case, where the goal of such interference would be, e.g., to prepare the children so that they could function in a social setting that as a matter of fact their parents judge it best for them not to inhabit. But clearly, the objection concludes, these parents, in enforcing their wishes, do not impede the development in their children of autonomy.

The answer to this is as follows: whether or not such parental plans interfere with the development of autonomy will be determined by a wide range of factors, including where the family lives, what state of urban development and expansion obtains around them, etc. (We shall focus on the matter of urban encroachment, but it should be clear that this is just a (striking) case in point. Arguments with slightly different starting points will be available.) We admit, for instance, that if the community in question (say, the Amish) is relatively isolated, so that the children *are very likely to live in the manner of their parents*, then such parental plans do (or may) not interfere with the children's development of autonomy, and hence may not permissibly be interfered with. But if the community in question is near the city (perhaps as a result of urban expansion), and if, as a result, it is likely that the children will either elect to live in the larger community, or perhaps to work there, then the skills that will be required of them, if they are to be prudentially autonomous, will be the skills that are basic for the larger community, and not necessarily those approved by their parents

and their community. In that case, if—as could easily be—the parental plan will have the result that the children will not develop skills that are basic for the community that they are likely to live in, interference with the plan will be permissible.

Of course, there are large questions here that we cannot answer in the detail they deserve. In effect, we are claiming that the skills that are basic for given individuals are those that it is highly likely that they will require to function tolerably well (in particular, that they will require in order to determine what the moderately long term consequences of their acts will be) in the community in which they elect to live. Presumably, to work this idea out carefully would require (1) attention to what is to count, for these purposes, as a community; (2) some account of how to determine what skills are basic for a community; and (3) some reliable method for estimating which community individuals are likely to wish to work and live in.

Nevertheless, we take it that we have said enough to give the principled answer to the present objection. Whether parents have the freedom to raise their children outside of mainstream American culture depends on what the children are likely to want to do later in life. In some cases, even where the wishes of the parents are only for the good of their children, and where the skills that the children would develop if the parents were permitted to do as they wish would not interfere with the development of their autonomy *relative to some settings*, those wishes may be interfered with. And this, we take it, is to say that traditional family autonomy may well, in certain settings, be restricted; indeed, given the objection's construal of that autonomy, it is to say that it may be rather severely restricted.

3.23 Prudentialist Libertarianism and Positive Duties: So far we have argued that to be plausible prudentialist libertarianism must allow that it is permissible for the state to intervene when parents are preventing their children from suitably developing their autonomy. In the next section we will argue that a comparable result holds for minimalist libertarians. First, however, we want to consider the case where parents are unable to provide the sort of environment necessary for the development of prudential autonomy (e.g., they are unable to pay for schooling where no public schools are available). More specifically, we want to consider whether on libertarian grounds citizens generally have a duty to ensure (e.g., through taxes) that all potentially autonomous children become autonomous.

Nothing we've said *implies* that prudentialist libertarians must accept such duties. We argue now, however, that their view is more plausible with such duties included than without them.

Libertarians claim that autonomous beings have no positive duties *to other beings of full moral standing*. As we have been at pains to urge,

however, that cannot be libertarianism's whole story, because it makes no mention of beings whose moral standing is less than full. Indeed, as we have argued, libertarians need to acknowledge (1) that individuals become autonomous gradually—that autonomous adults develop out of non-autonomous children—and only with the assistance of others, and (2) that potential autonomy is a ground for moral standing. Once they have acknowledged these points, however, prudentialist libertarians no longer can plausibly put so much emphasis on the exercise of autonomy (an emphasis reflected precisely in their insistence that autonomous beings have no positive duties to others) unless they also put emphasis on the development of autonomy. For it would surely be very odd to accord moral significance to potential autonomy without having some commitment to *assisting* in its development—if the development cannot succeed without assistance. It would be odd, then, to think that prudentialist libertarians can accord moral significance to potential autonomy without at the same time recognizing positive duties to *enable* children (or, for that matter, any potentially autonomous beings) to successfully develop into autonomous beings. And, of course, in embracing such duties, prudentialist libertarians will need to embrace the legitimacy of the state's enforcing them (for example, by collecting a tax designed to pay for the development of autonomy by children whose families are unable to assist in that development).¹⁷

We acknowledge that this last argument is rather more speculative than our earlier ones. At least, initially, it is to be expected that such positive duties will be strongly resisted by libertarians. Though we do not have the space to pursue many possibilities, we shall consider one natural line of resistance before we move on.

It is the following: even if libertarians do have to accept some positive duties in the present context, such duties could well be restricted to actual parents. Indeed, though the present argument may yield the duty of adults to aid in the development of the autonomy of their own children, it does not require that adults aid in the development of the autonomy of children not their own. Given this, it would be impermissible for the state to require adults to aid in the development of the autonomy of children not their own (for instance, by taxing them in the way just mentioned).

Now, we do not deny that such duties may fall on parents primarily, and indeed, on parents primarily for their own children. But if, as the considerations we have put forward strongly suggest, a child suffers serious *harm* in not developing into a fully autonomous being (given that with "normal" assistance she could), and given that, under libertarianism, the state may intervene to guard its citizens against serious harm, then may the state do so in the present case. And if the actual parents are not in a position to provide the assistance—the with-holding of which, to repeat, constitutes a serious harm—then may the state itself provide such assistance. And, of course, to

say this is to say that it may appropriate from others the resources required for the assistance.¹⁸

A final note: we should emphasize that nothing in this argument for some positive duties for libertarians goes against the libertarian's position that there are no positive duties binding autonomous beings to other autonomous beings. For the argument focusses crucially on beings who are not yet (but who may be in the future) fully autonomous.

3.3 *Minimalism and Parental Autonomy:* Libertarians who accept prudentialism have to accept consequences that are unpalatable to them. As we have just seen, the state may intervene when parents try to keep their children (no matter how noble the motive) from developing those increasingly sophisticated features that are necessary for prudential autonomy in an increasingly complicated world. Such interventions could well be frequent. Worse yet, perhaps, the state may even be entitled to force parents to pay for the training of other people's children.

Faced with these consequences, libertarians might very well think seriously about retreating to minimalism. Minimalists, recall, hold that all and only entities with minimal autonomy have full moral standing, where minimal-autonomy-making features are (1) the capacity to act on the basis of many of one's (at least) immediate beliefs and desires, and (2) the possession of at least a rudimentary facility for fitting means to ends.

Now, the arguments in sections 3.2 have little or no application to minimalism. That is because those arguments (i.e., those applications of INT to prudentialist libertarianism) rested centrally on the idea that some of prudentialism's autonomy-making features can develop only with assistance from others. The autonomy-making features that minimalism recognizes, on the other hand, develop quite naturally in children. Thus, the number of justifiable state intrusions into the private home designed to protect and promote that development will be very small. Adopting minimalism then, libertarians would shield the family from most of the state intrusions that prudentialist libertarians appear to have been saddled with.

In effect then, the retreat to minimalist libertarianism that we have in mind is motivated by the desire to avoid much of the *bite* of INT. Indeed, since it is so difficult to impede the development of minimalist autonomy, we will concede that minimalist libertarians do succeed in taking the bite out of INT. Even so, as we show now, minimalist libertarianism actually ends up sacrificing more of parental autonomy than does prudentialist libertarianism.

To see the problem, consider the following. Normal adults cannot, under any form of libertarianism, be forced to go to bed when they don't want to. Nor can they be forced to go to school, to church, to clean up their rooms, etc. (We assume, of course, that no agreements, or promises, or the like,

are in force.) That is because beings with full moral standing cannot (generally speaking at least) be forced to do things against their will, or be kept from doing things that they wish to do (disregarding cases where their doing what they intend would violate the rights of others).

Under minimalism, children older than (roughly) four have full moral standing. Thus, under minimalist libertarianism parents could not permissibly force their children to do such (or any) things. And, given our assumption that the state is a legitimate enforcer of people's rights and is empowered to punish violators, the state could permissibly step in when parents were attempting to coerce their children in such ways. It could do so in order to keep the parents away (as their children persisted in, e.g., staying home from school, staying up all night, smoking the cigarettes that their friends had given them, etc.), and perhaps to punish them if they resisted.

No doubt, some libertarians—child liberationists for example—will welcome this result. Their view, presumably, is that if libertarians had only thought through in the first place how they should conceive of minimally autonomous children, they would have seen that their emphasis on parental autonomy has been misplaced.

But most libertarians, we submit, will find this cure worse than the disease. Though minimalist libertarianism will no doubt be able to prevent many of the state intrusions that prudentialist libertarians have to live with, minimalist libertarians will have to live with a different, but still very significant, sort of intrusion. This is for the simple reason that children so often do not want to do the things that their parents want them to do, and do want to do things that their parents want them not to do.

It might be thought that minimalist libertarians have a way around some of these intrusions. For example, they might try to defend parents' rights to interfere into the lives of their children in cases where the children are plainly acting from ignorance.

Unfortunately, they cannot really do so. For, libertarians generally insist that *adults* be allowed to make their own choices—even when they don't fully understand the choice situation. But, for minimalists, children over the age of four are *morally just like adults*, and hence too must be allowed to act from ignorance. For a minimalist libertarian to insist that nevertheless children may be restrained is just to insist that children do not have full standing after all. But that is to abandon minimalism.

So that line of defense of minimalist libertarianism doesn't work. Consider one other. Minimalist libertarians might claim that it is not a special moral authority *per se* of parents over their children that libertarians need to protect. Rather, what they need to protect is parents' plans to raise their children as they see fit. Libertarians, minimalist libertarians might insist, have only sought to protect those plans from the imperialistic intrusions by others who have different ideas about how children should be raised.

Minimalist libertarians could plausibly go on to claim that their view actually facilitates parents raising their children roughly as they wish. For, (1) as a matter of fact, children typically choose to live with their parents, (2) living in such close proximity to their parents, they are more likely to be influenced by their parents' values, habits, etc. (especially at an early age) than they are to be influenced by outsiders, and thus (3) parents, by (non-coercive example alone) are likely to be able to have considerably more influence in how their children develop than will others. And, of course, given that this influence is non-coercive, others may not justifiably interfere with its effects—as long, at least, as the children “choose” to submit themselves to it.

Let us suppose that minimalist libertarians are actually right about this. Nevertheless, we submit that the *degree* of parental autonomy that remains is not nearly what libertarians have traditionally defended. For one thing, and as we have implicitly seen, this room for raising a child as the parents (rather than others in the community) wish extends only as far as the willingness of the child to accept the parents' advice and to follow their lead. But most libertarians have supposed that the room extends a good deal farther than that. They have wished to protect, that is to say, not only the *effect* that parents are *likely* to have on their children if only the “good intentions” of others are barred from the front door; they have wished to protect as well parents in the *implementation* of their plans regarding their children. It is this second protection that minimalist libertarians sacrifice. At the least then, we must say that they do sacrifice a significant part—perhaps what many libertarians have thought to be the main part—of traditional libertarian parental autonomy.¹⁹

IV. CONCLUSION

There is surely an initial attraction for libertarians to say that children have only partial moral standing. On the one hand, it preserves the intuition that not just anything can be done to children. On the other hand, it appears to leave room for the idea that there exists a special (and natural) authority relationship between parents and their children (a sort of relationship that can only obtain between adults on the basis of something like contract).

But we have argued that the only natural way for libertarians to ground the partial standing of children requires them to concede a moral significance to potential autonomy. And, we argued further, it follows from that concession that those beings who are thought of as having partial standing must be permitted, and perhaps even enabled, to develop into beings with full moral standing. It has been one of our main aims here to show that this legitimates state intrusions into private homes to a degree not hitherto seen by libertarians. As well, we have shown that retreating to a minimalist view of what is required for full moral standing provides libertarians no relief.

Of course, if dealing with children by granting to them that potential autonomy matters has untoward consequences elsewhere in their theory, that will be a reason for libertarians to give up that treatment of children. Against this possible response we would urge this: parental autonomy is not itself a central tenet of libertarianism. Rather, libertarians have *supposed* that their view *supports* such autonomy. We have argued that they have been mistaken about this. Our suggestion has been that once they ground the standing of children in the way that is most sensible given their own view about what lies at the heart of moral value, they will see that their own view does not support (at least not nearly as directly or fully as they have supposed) parental autonomy.²⁰

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NOTES

1. In an important sense then, the main discussion of the paper will be speculative. For it will be our aim to offer on libertarianism's behalf, and in the face of its virtual silence on this issue, a treatment of children *most consistent with libertarian principles*.

Probably the three main philosophical works on contemporary libertarianism are: Nozick, *Anarchy, State, and Utopia* (Oxford: Basil Blackwell, 1974), *The Libertarian Alternative*, edited by Tibor Machan (Chicago: Nelson Hall, Co., 1974), and Jan Narveson, *The Libertarian Idea* (Philadelphia: Temple University Press, 1988). None of the authors in these works ever takes a clear position on what grounds moral standing, and what the implications are for children. The only prominent place where we have a discussion of these issues is in Lomasky, *Persons, Rights, and the Moral Community* (Oxford: Oxford University Press, 1987). This is a libertarian-leaning (but perhaps not strictly libertarian) work. In it, Lomasky claims that children (even infants) have rights because they are possible project pursuers. Obviously project pursuit and autonomy are closely related. Thus, his discussion lends support to the approach that we suggest libertarians must take.

2. If they have no standing, then it is easy to see how libertarians can defend family autonomy. For in that case, nothing would stand in the way of young children being *ownable* in just the way that carpets or automobiles are. In particular, nothing would stand in the way of young children being owned by their parents. And then, non-interference by others into the relations between parents and their young children could be secured exactly by the ownership rights that parents could have in them.

3. Indeed, it is quite clear that, for libertarians, considerations of autonomy serve to ground the right- and wrong-making features of acts, rather than the good-making features of them. (This is likely to be so for most liberal theories as well.) Thus, the argument to follow, to the conclusion that libertarians must accord *moral significance* to *potential* autonomy, actually establishes the more specific thesis that (for libertarians, and likely for most liberal theories) potential autonomy has right- rather than

good-making significance. (For simplicity, however, we will speak in the more generic terms of moral significance.)

4. For instance, it seems to be in the spirit of (b) that it would be impermissible for her parents to interfere with the plan of a seventeen year old to spend half of what she earns in a summer on a trip to Europe (supposing that she is pretty nearly fully autonomous), though permissible for them to interfere with her plan to commit half of her future earnings to a cult leader; while it would perhaps be permissible for her parents to interfere with either plan if the planner were eleven, but impermissible for them to interfere with her plan to wear blue rather than red socks.

5. It is worth emphasizing that we have not merely inferred that potential autonomy should bear such significance from the fact that libertarians accord moral significance to autonomy. Rather, we have inferred it from a consideration of a kind of case which, we have supposed, requires libertarians to draw some autonomy-based distinctions; and from the fact that the only such distinction readily available to libertarians will rest on something like the potential for developing further autonomy.

6. This is not to say that libertarians could not hold that *under some circumstances* it would be permissible to destroy potential autonomy. For instance, libertarians might argue that though it is impermissible to keep fetuses alive *and* interfere with their development of autonomy, nothing follows from this about *whether* fetuses are to be kept alive (as opposed to being painlessly killed).

7. Note that libertarians cannot secure the impermissibility of the parent's proposed behavior in the above case by adverting to considerations of sentience. The plan about morphine (supposing, of course, that the parent has the resources to ensure that the child will indeed have access to the drug, etc.) precisely ensures that the child will not suffer. Rather, libertarians will have to agree that it is the fact that the child is potentially autonomous that grounds the impermissibility of the parent's behavior.

8. Here is another argument in support of INT. We assumed earlier that, for libertarians, the moral standing of two children, one of whom is potentially autonomous and the other of whom isn't, is not the same. It followed that libertarians need to recognize some distinction concerning impermissibilities between the children. In particular, they need to recognize that there will be some impermissibilities regarding the potentially autonomous child that there will not be regarding the retarded child.

Now, we have assumed that the degree of partial autonomy of the two children is the same; thus, considerations of actual autonomy will provide no distinction in impermissibilities between them. Nor, plainly, will there be a ground for drawing that distinction on the basis of acts of theirs which are not in any way expressive of autonomy. The only category that remains, we submit, is precisely the category of acts that promise—that figure in—the development of further autonomy (in the one child and not in the other). But then, it follows that in at least some cases interfering with the development of (further) autonomy will be impermissible.

9. See, for example: Jeffrey Blustein, *Parents and Children* (New York: Oxford Press, 1982); Joel Feinberg, "The Child's Right to an Open Future," in William Aiken and Hugh LaFollette, eds., *Whose Child?* (Totowa: Littlefield & Adams, 1980); Lawrence Haworth, *Autonomy: An Essay in Philosophical Psychology* (Yale University Press, 1986); also Lomasky's *Persons, Rights, and the Moral Community*.

10. Before we leave the subject of grounding partial moral standing, let us make one more remark about the role that sentience plausibly plays within libertarian theory. Though it is tempting to say, given the general tenor of libertarian writing, that *only*

autonomy grounds impermissibilities regarding the fully autonomous, it is rather hard to see how sentience could cease to have moral significance in the lives of adult humans given that it does (as we have seen) have some significance in the child stages of those lives. Perhaps we should say that according to the full libertarian story, sentience *always* has moral value, but that considerations of full autonomy “trump” considerations of sentience.

Here is how a more careful formulation might go. (1) for beings that are sentient but not autonomous, sentience grounds moral standing, and hence impermissibilities; (2) for *sentient autonomous* beings, both autonomy and sentience ground (moral standing, and hence) impermissibilities; and (3) autonomy is *lexically prior* to sentience. (3), along with the libertarian silence about children, could serve to explain why considerations of sentience are notably absent in the libertarian tradition.

Even if this is the libertarian view, however, the arguments that we put forward below will go through.

11. Gerald Dworkin, *The Theory and Practice of Autonomy* (Cambridge University Press, 1988), pp. 3-6.

12. The notion of minimal autonomy is close to Haworth's notion of Level I autonomy.

13. For instance, both Dworkin and Haworth make this move.

14. We do not mean to imply that prudentially autonomous persons are *prudent*. We imply, rather, that they possess the *resources* to be prudent if they so choose: they need not be “victims” of the moment.

15. Some will object that many illiterate people, living in urban America, are autonomous—even by prudentialist standards. It is not at all clear to us that this is so. Illiterate people in urban America are prone to all sorts of obvious hazards that literate people are not. Nor are they privy to much of the ever increasing amount of information, *the possession of which can be crucial in the development of their goals*.

Nor, indeed, is it clear that reading, writing, and the ability to do basic arithmetic are the *only* skills that are required for prudential autonomy in urban America. The case can, perhaps, even be made for rudimentary social skills. Is the person who is continually failing to achieve basic things that she wants—e.g., opening a bank account, being judged favorably by her teachers—because of basic social errors of which she is unaware, prudentially autonomous? We think it not implausible to say that she is not.

Of course, as these remarks suggest, what features are autonomy-making vary from culture to culture, and even from region to region within a culture. This is as it should be.

16. What does our argument show about children who do not want to go to school, and who will become prudentially autonomous if and only if they go to school?

We know that, under prudentialist libertarianism, a being who is potentially autonomous is such that interference in its development of autonomy is impermissible. Our question then is this: may children, under prudentialist libertarianism, prevent *themselves* from developing autonomy-making features?

Of course, there would be nothing untoward in certain apparently parallel cases. For example, if a given person has full moral standing, no one may keep him from, e.g., watching his television in his own home—except himself. (*He*, of course, may prevent himself from watching his television (say, by taking a hammer to it).)

But (non-autonomous) children have only partial moral standing. Thus, it does not follow in general that they may do to themselves what those with full moral standing may do to themselves. More particularly, since such children are not yet autonomous, there is a sense in which at least some of their acts are not fully *their own*. It is as though the children we are considering would be *absent* in their refusals to go to school. It is as though, therefore, an outside agency were *interfering* with their development of autonomy. But if that is right, the ground of *non-interference* is missing in the cases of their refusals to go to school. Indeed, it is plausible that if children may ever be forced to do anything—and it is, as we noted above, part of the *content* of their having only partial moral standing that they sometimes may be forced—then they may be forced to develop autonomy-making features, even if they want not to learn. Thus they may, given our assumptions, be forced to go to school. And if no-one else forces them, then may the state step in to do so.

Of course, our assumptions are overly strong. It is not, for example, in general true that children will learn the basic skills if and only if they go to school. Rather, as we have acknowledged, many parents can teach their children those skills. Dropping the assumption about schools then, our conclusion will be this: under prudentialist libertarianism, if a child's parents do not arrange for her to learn the basic skills, she may be forced by the state to go to school (to learn them).

Not only that. We may also affirm that parents may not attempt to *persuade* their children not to take up opportunities to learn the basic skills. For, we are not to think of the effect of such successful persuasion as the child *deciding* not to take up the opportunity (on the model of autonomous choice). The "choice," if anything, would be to fail to develop autonomy-making features. Now, in many cases it is impermissible to force children not to develop such features. But where rational deliberation is not really possible, persuasion amounts merely to a kind of forcing. Thus, such attempts at persuasion are, by libertarian lights, impermissible.

17. We should emphasize that we are not merely urging here the idea that if one holds that a certain feature is morally significant, then one is committed to valuing its production. In particular, we are *not* urging that libertarians' commitment to the moral significance of autonomy carries with it a commitment to its production (i.e., a commitment to aiding the development of autonomy). Our point, rather, is quite specific to the commitment to the moral significance of *potential autonomy*. (Slightly more generally, it is a point about what is involved in valuing a potential.)

It is also worth pointing out that the present argument applies to minimalist libertarians as well as to prudentialist libertarians. But the consequences for the former will be negligible. That is because children do develop minimalism's autonomy-related features naturally. Thus, they do not need to be enabled to do so. The positive duties we've just argued for would thus be effectively empty for minimalist libertarians.

18. One other objection should, perhaps, be mentioned. It is that our inference to positive duties from the moral significance of potential autonomy is unsound; for it is open to libertarians to hold that the development of autonomy by potentially autonomous beings is simply a *good*. Thus, though it would be a good thing to aid in the development of autonomy by potentially autonomous beings, there are no duties to do so.

But this objection, as note 3 shows, fails. For the moral significance of potential autonomy, as we indicate there, must be construed by libertarians (and, plausibly, most liberal theories) in right- rather than good-making terms.

19. In "Child Liberationism and Legitimate Interference" (in progress) we attack the second defence more directly. We argue, in effect, that the degree of parental influence that minimalism leaves intact is a good deal less than the defence would suggest.

20. We want to thank Brad Hooker, John Heil, and Gregory Kavka for comments on earlier drafts of this paper.