



Parents' right to their children's education from the perspective of the political common good

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Documento del grupo de investigación PROSOPON¹

Barcelona, Abril 2010

I. Political common good

I.1. Its nature and value

The value of political life depends on the value of political common good, first cause of existence of the political society and of the legitimacy of the mandate of its governing bodies. This is a kind of good that cannot be achieved by individuals, or even by families acting on their own. Indeed, the order of human goods requires the consociated action of families, trade unions, Universities, and of course, individuals (since it is the individuals who radically act) according to an end that is not within reach of each of the parts acting by themselves. In this sense, then, it can be said that political common good is complete: it is not only the end of a trade union, but of that union and of all the unions; it is not the end of that University, but also of all other Universities and of all other groups apart from Universities; likewise, it is not the end of only one family, but of that family and of all families present, and of all the families that will inhabit the country in future (for the common good can be participated into the future: it is transmissible). On the other hand – and closely related to what has been said – political common good does not cater for only one perfectible human potentiality (whether physical, emotional or cognitive) but for all the worldly dimensions of the person that are meant to be actualized. It is a good that boosts – and at the same time protects – infra-political, individual and social goods. And this is so because the political society is capable of pursuing, as “an effective unity of action and decision (*Wirkungseinheit*)” – in Herman Heller’s terms², - an order of ends that lies outside the reach of those isolated groups³. It can, therefore, be properly stated, according to a clever ruling by the Argentine Supreme Court, that common good “belongs to everyone

¹ Comunicación en el Congreso Internacional “¿Una Sociedad Despersonalizada? Propuestas Educativas”, de la Universitat Abat Oliba CEU (Barcelona, 13-15 de abril de 2010).

² Herman Heller (1983). Tübingen: Staatslehre, p. 259.

³ If in a very strict sense (that related to the individuals themselves), the thesis of individualism is false, in its wider sense (related to families or economic groups), it cannot explain political reality and the goods that conform it either. The mission of the University is an example: something as valuable as academic life – which implies the efficient effort aiming at the pursuit of truth, research and higher education – could not be reached by isolated families. Academic life needs the nutritional soil of political life. In spite of that, academic management is not exclusively a concern of State organs: political common good is not equal to State action, neither in its nature nor in its properties.



because it belongs to the whole”⁴. Such is the *state of completion* of political common good⁵.

I.2. Education and common good

Both in its object and its end, education is an integral part of the summit of common good. As a human good, this is made up of material and spiritual goods. But it is the spiritual goods that require, explain and justify political society. Men would actually not constitute such society if they had no spiritual potentialities that needed to be actualized. The common good is not *per prius* a supplier of material goods, nor is it a security guardian. Consequently, man’s two major spiritual dimensions, i.e., knowledge and character education, are a part of the summit of political common good, and in turn constitute the content or object of education. By “character education” we mean morality at the natural level, as well as the smoothing of men’s way towards God – though, needless to say, the society directly and formally in charge of achieving the supernatural common good is the Church.

II. Aporia

A query arises, then. If the contents of education, i.e. citizens’ knowledge and virtue, are at the chore of political common good, should it not be the governing bodies of the political community the ones primarily invested with the right to provide it in its entirety?

This question has a negative answer.

III. The political community

III.1. The part and the whole

As brilliantly demonstrated by Julio Meinvielle⁶, although there is a part to whole relationship between the citizen and the State, the political community does not constitute a continuous whole (as would be the case with a substance), in which each operation of the part must be attributed to the whole: in the case of the substantial human composite, it is not the eye that sees, but Pedro. On the contrary, the political community is a *practical whole of order*, whose form is not that of a substance (as the rational soul is the substantial form of the human composite), but the teleological order that relates the parts. Then, there will be operations carried out by the parts that will not be attributed to the whole (going for a walk with the children is not, in itself, a formally political action). Now that whole of order, in the specific case of the State, is a society of societies, so that the individual (the radical subject of human acts, since “*actiones sunt suppositorum*”) will carry out certain actions as the family man, others as the company employee, others as a member of the University, others as a club member. But the operational and causal autonomy of each social group that makes up the *polis* does not deny the subordination of the end of each infra-political group to the end of the polis, towards which it is ordered and of which it participates. What happens is that the order of the part to the whole does *not* take place according to an instrumental relationship, in which the action of the part does not exist but as an action of

⁴ C.S.J.N., Fallos (300,836) –nb: the words for “everyone” and “whole” are homonyms in Spanish: “es de todos porque es del todo”-.

⁵ S. R. Castaño (2006). *Principios políticos para una teoría de la constitución*, Buenos Aires, chapter VI, *passim*.

⁶ Actas del Ier. Congreso Nacional de Filosofía (1950). *El problema de la persona y la ciudad*, Mendoza, vol. III, p. 1898-1907; reprint in Julio Meinvielle, *Crítica a la concepción de Maritain sobre la persona humana* (1994). Buenos Aires, 2nd. edition, appendix.



the whole – since the instrument acts by some else’s virtue (that of the main cause). On the contrary – as a result of the peculiar ontological structure of the political community as an accidental reality –, the operation and end of the cause constitute real causes (that is, total causes in their order), even if they are subordinated causes. This is why a cause of this kind produces its own effect as a real main cause, and is only subordinated to the superordinate cause in as much as its field of competence is within the field of the higher cause. Thus, in the case of instrumentality, there is only one field of operations with only one efficiency and only one end. But in the case of subordination there are two fields of operations with two efficiencies and two ends, not homogeneously dissolved but hierarchically ordered. Between the family on the one hand, and the political community on the other, there is a distinction between different kinds of total causes: a particular kind in the former, a universal kind – at the worldly level – in the latter. There is subordination because the field of the family is within that of the *polis*, but that does not mean the resolution of the specific nature of the family, of its action and end in political formality. And the same applies to the company, the union and the University: they are not administrative bodies of the State, but social groups integrated into a higher society (that is, a superordinate one because of the completeness of its end). An end (it needs to be repeated nowadays) made up of human goods that can be participated in and are grounded on the teleologico-perfective demands of the nature of the persons that make up the community. That is to say, the common good is a personal good – if not it would not be a *human good* –, and may be participated in by many – if not, it would not be *common*⁷.

III.2. The principle of subsidiarity

It is in this context that the so called *principle of subsidiarity* makes strict sense. In the political society, particular ends in themselves – and even when their rectitude and need are not questionable –, do not have a cohesive nature with respect to the integrity of the whole. However, that does not turn them into a kind of burden on political life. On the contrary, the (real) individual and social goods of infra-political societies belong to the category of particular ends. Each society has its own field of competence depending on the end it tends to. Thus, every society has a governing capacity commensurate with its respective common good, which implies its capacity to achieve it and establishes its right not to be subjugated or supplanted in its function by a greater society. But it is a duty of the greater society to promote the development of the lesser one and, were this to be unable to accomplish its end by itself, to take action accordingly to that effect. That is why the political community, promoter of the perfect common good at the natural level, must preserve, boost and, given the case, take charge of the accomplishment of the common goods of the societies that make up the *polis* – family, trade union, commercial society, University, etc. –, architecturally ordering them towards the political common good, but always respecting the specific activities of those subordinate societies and the autonomy of their own ends. The political society is a society of societies, where the supremacy of the common good and the existence and full development of the intermediate bodies, and above all, of the families that make it up, harmonize and claim one another reciprocally⁸. That is because

⁷ S. R. Castaño, *Sobre la esencia y las principales propiedades del poder político en la tradición del aristotelismo clásico, pro manuscrito*, Part II, chapter III, C.

⁸ S. R. Castaño (2003) (2005). *El Estado como realidad permanente*, Buenos Aires, chapter II, appendix.



the family, just as the political community, is also *natural* – meaning universal and necessarily demanded by the human nature itself for person's perfection⁹.

IV. Natural law and children's education

The family is, precisely, based on two main principles of natural law: the union of the sexes in marital friendship and the care of the offspring ensuing thereof.

Consequently, natural law prescribes that parents should educate their children. That is, because they are entrusted with a specific and serious end, they have the right to their children's education. Now, is it an optional right, like when I say I have the right to stroll in the park on Sundays (or not to do so)? Certainly not: it is a right founded on an end whose achievement is necessary, and that therefore empowers parents with an authority whose exercise is compulsory. *It is an original, primary and inalienable duty*¹⁰.

However, there are dimensions of education, particularly those related to scientific knowledge, that in many cases are beyond parents' capacities. These are, then, legitimately delegated to teachers. But there is a decisive dimension that does not formally refer to scientific data or conclusions, or to theoretical knowledge, but to what use those data and conclusions are going to be put to, that is, which are the human goods, what sense individual and social life makes, what is man's end. Parents' mission here is, in principle, not to be delegated, and in any case – as a right – inalienable. That is why fields such as sexual, political and religious education are within parents' competence which, particularly in these matters, must not be ignored, supplanted or subjugated by the action of public or private agents, namely by instances not having the free and specific authorization of parents to contribute, under the control of the parents themselves, to their children's education.

V. Conclusion

The common good is the end of the political community as such; but since the political community is a society of societies, then the causes of political common good will not only be the organs specifically devoted to its tutelage and promotion (i.e. the State powers) –as immediate agents-, but also the intermediate bodies of society and the families that make up the political community –as mediate agents. In educating their children, families make a primary contribution to the political common good, precisely in one of the dimensions that most clearly identifies the personal nature of that good: the actualization (*education*) of man's potentialities as a being called to the perfection of his virtues, both private and public.

Therefore, two corollaries become imperative. The first one is within the scope of (universal) principles. Those invested with the right to their children's education, those primarily responsible for the duty of safeguarding the perfection of their character and their intelligence, are the parents. More specifically, they are, by natural right, the holders of the right to choose freely teachers and schools, to associate with others to create schools, to supervise the teaching imparted at the schools, to choose sex-segregated education, to teach their own children if they consider it necessary, to reserve sexual and political

⁹ On the essence of the family see Juan Alfredo Casaubon (2005). "Filosofía de la familia", in Sergio R. Castaño-Eduardo Soto Kloss (2005) (eds.). *El derecho natural en la realidad social y jurídica*, Santiago de Chile, p. 869-903.

¹⁰ B. Reyes Oribe, *El derecho de la familia a la educación*, in <http://contemplataaliiistradere.blogspot.com>. On the rights of the family, see Eduardo Soto Kloss, "Los derechos fundamentales de la familia", in *El derecho natural en la realidad social y jurídica*, p. 919-923.



education to themselves, and to provide religious education¹¹. The reverse of this corollary expresses that political government bodies have a subsidiary function in this task, consisting of its boosting, promotion and tutelage; a tutelage whose end and measure is the objective human good. When the governing bodies of the State mean to have the right to assume all the dimensions of children's education, there is a defect "*ex auctore*" in the validity of this action, to put it in Aquinas' words¹².

Yet nowadays, a second corollary also becomes imperative, related to the negative meaning of the principle enunciating parents' right to their children's education. And this is so because today, not only do the governing bodies of the State exceed their authority by invading the parents' legitimate jurisdiction, but they do it in order to impose values that contradict the objective human good (defect *ex fine*, sometimes under the form of plain injustice). That is to say, apart from exceeding its competence, the State power no longer promotes good and prevents evil, but promotes evil and hinders good. This is where the imprescriptible and compulsory nature of the parents' function reveals all its value and sense; this is where the parents' mission may and must manifest as resistance, actually bearing their children in mind and, consequently, also the family common good, the political common good and the supernatural common good.

Bibliography

Main:

Actas del Ier. Congreso Nacional de Filosofía (1950). *El problema de la persona y la ciudad*, Mendoza.

C.S.J.N., Fallos (300,836).

Castaño, S. R. (2003) (2005). *El Estado como realidad permanente*, Buenos Aires.

(2006). *Principios políticos para una teoría de la constitución*, Buenos Aires.

Sobre la esencia y las principales propiedades del poder político en la tradición del aristotelismo clásico.

Heller, H. (1983). Tübingen: Staatslehre, p. 259.

Meinvielle, J. (1994). *Crítica a la concepción de Maritain sobre la persona humana*. Buenos Aires.

Reyes Oribe, B. *El derecho de la familia a la educación*, in <http://contemplataaliiustradere.blogspot.com>.

Saint Thomas, *Summa Theologiae*.

Complementary:

Casaubon, J. A. (2005). "Filosofía de la familia", in Sergio R. Castaño-Eduardo Soto Kloss (2005) (eds.). *El derecho natural en la realidad social y jurídica*, Santiago de Chile.

Soto Kloss, E. "Los derechos fundamentales de la familia", in *El derecho natural en la realidad social y jurídica*.

¹¹ B. Reyes Orbe, *op. cit.*

¹² Saint Thomas, *Summa Theologiae*, I-IIae., 96, 4.