

DISPUTES OVER ETHICAL EDUCATION AND THE ISSUE OF ETHICAL NEUTRALITY OF THE STATE

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ABSTRACT

Thesis. We currently live in a pluralistic democratic society, marked by a wide array of professed values, lifestyles, and interpretations of the good life. This reality poses numerous challenges for the contemporary state. This study delves into strategies for navigating this diversity in the education and value formation of the upcoming generation. The central inquiry revolves around how the state should address these contrasting value preferences and determine which values to impart to pupils and students.

Concept. The concept of the state's ethical neutrality emerges as a potential response to this inquiry. This approach can be applied in contexts where societal consensus is lacking, particularly regarding cultural and ethical issues such as abortion, homosexual partnerships/marriages, euthanasia, or the legalization of soft drugs. Conversely, in domains where consensus prevails, the state should actively shape the values of the next generation.

Results and conclusion. The findings suggest that the concept of the state's ethical neutrality could serve as a valuable tool in addressing the diversity of values within society. It illustrates that in situations lacking a clear consensus, this approach is adaptable and allows for the recognition of diverse value systems among individuals and groups. Conversely, when societal consensus exists, it is crucial for the state to actively influence the formation of values among young people. In conclusion, the concept of the state's ethical neutrality offers a useful framework for addressing the challenges posed by the plurality of values in modern societies.

Keywords: ethical education, ethical neutrality of the state, cultural and ethical issues, values, tolerance

INTRODUCTION

Disputes over values and value direction are not new in Slovak society. Every democratic society is characterised by value pluralism, which offers diverse ideas about the good life, lifestyle, or value ladder. These ideas may differ negligibly or there may be an unbridgeable conflict between them. Therefore, wars can very easily break out from such distant and different ideas, which have been given the epithet cultural. Such wars take place in different states with different intensity and character. Sometimes they can even become violent, which unfortunately cannot be avoided even in democratic states. For example, in the US, there were attacks directed at pro-life centres. On the other hand, an ideological attack on the bar Tepláreň in Bratislava, where the attacker murdered two people, can serve as an example.

Culture wars are not only taking place at the political level, for example when passing laws, but also on the pages of newspapers, on television screens, and on social networks. In recent years, we have witnessed culture wars in Slovakia that primarily touched on the issues of abortion, homosexual partnerships/marriages, LGBTI+ rights and, the teaching of sex education in primary and secondary schools. The intensity of these wars is changing, but the deep, ideological-religious convictions of their actors is not. Why do some questions force us to defend our values up to imaginary barricades? Why do we apply the virtue of tolerance on some issues and forget this virtue on others? For some values, we are able to ridicule, insult, and even physically attack those from the other side. Discussions on cultural-ethical issues are rarely constructive or conducted with respect for the opponent.

The key issue here is how the state should behave when solving these issues. Especially when different values have created a wide plurality in society. Is it the task of the state to preserve and support this plurality or, on the contrary, should it try to mitigate this plurality? For example, through a certain form of hierarchisation. Should the state, for example in the name of freedom, declare that different value preferences are equal, or equally valuable, or should it indicate that certain values are still more valuable than others? Should the state actively support a particular lifestyle or, in the name of non-discrimination, support everything? These questions are connected by a central problem, which can be expressed by this question; does the state have a specific responsibility for the values that are formed as dominant in society in the time of value pluralism?

Let us narrow down the posed question to a specific social area, and that is, education. The study will deal with the role of the state in the education of pupils and students in the environment of value pluralism in modern democratic societies. This is especially about the problem of introducing some morally controversial topics into the educational process. At the same time, this raises the problem of the dispute between the right to education and the right of parents to raise children in accordance with their own religious and philosophical beliefs. As defined, for example, in § 4 of the *Zákon o rodine*,

č. 36/2005 [Family Act, No. 36/2005] (National Council of the Slovak Republic, 2005), in the collections of laws of the Slovak Republic.

As already indicated, the issue of the state's role in the educational process cannot be separated from the examination of the very nature of the state. Value pluralism has caused that the modern democratic state is taking the form of an ethically/value-neutral state. Of course, this form is not uniform in individual states, while there is still a dispute over what character this form should have. The very concept of ethical neutrality of the state is also questioned, stating that something like ethical neutrality is *de facto* impossible. And even if it were possible, it would not be beneficial for society, but rather harmful. Therefore, we will first address the question of the ethical neutrality of the state and then move on to the problem of education.

ETHICAL NEUTRALITY OF THE STATE

At the beginning, it is necessary to distinguish the ethical neutrality of the state from the religious-ideological neutrality. These are two different things. Religious and ideological neutrality is a necessary condition for the state to be called democratic. It is stipulated in the first article of the *Ústava Slovenskej republiky* [Constitution of the Slovak Republic]: "The Slovak Republic is a sovereign, democratic and constitutional state. It is not tied to any ideology or religion" (SVK. Const, art. 1). Not being tied to any ideology or religion means that the state refuses to seek the truth in religious and worldview disputes. It leaves the search for *Truth* to its citizens, thereby ensuring their freedom. It has to do with the basic human right to freedom of conscience. Every individual has the right to form his own deep religious/ideological/moral beliefs and follow them as long as he does not harm others.

The Polish philosopher Jacob Leib Talmon writes interestingly about it in his work *The Origins of Totalitarian Democracy*. Totalitarian democracy is an institution in which exists the only and complete *Truth*. The state determines in advance the perfect order of things, to which the state must necessarily arrive (Talmon, 1998). Such a state expects recognition from its citizens, while opposition is often considered as immoral, as it does not pursue a single correct ethical goal. As an example, we can cite the constitution of the Czechoslovak Socialist Republic, which enshrined in Article Four the leading role of the Communist Party. Communist ideology thus became the only *Truth* to be followed. As an example of religious *Truth*, we can mention states that apply Islamic law sharia. Here, religious norms become state norms. The religious and ideological neutrality of the state is an asset to Western civilisation and enables the existence of a freedom within an establishment.

How can ethical neutrality be defined? Peter Korený states that: "In order to guarantee equal freedom for all, the legal state must maintain neutrality in relation to the different value beliefs and lifestyles of members of a pluralistic society" (Korený, 2011, p. 35).

An ethically neutral state is a state that is neutral in: “relation to diverse ideas about a good life, i.e., in relation to everything that makes the members of a modern pluralistic society significantly different from any other” (Korený, 2011, p. 35). Modern democratic states are characterised by a wide variety, a great plurality. As we mentioned, there is a variety of opinions, value beliefs and lifestyles. A liberal state cannot prescribe a specific idea of a good life to its citizens. This is precisely why ethical neutrality in certain areas is so important for free citizens.

Here we run into some problems that relate to the ethical neutrality of the state. The German legal philosopher and former judge of the Constitutional Court, Ernst-Wolfgang Böckenförde, in his study *The Rise of the State as a Process of Secularisation*, offers the following idea: “The liberal, secularised state draws its life from preconditions it cannot itself guarantee” (Böckenförde, 2006, p. 21). This interesting idea expresses the author’s belief that the state does not only need a legal order for its existence, but also something else, which it unfortunately cannot guarantee. Here we could recall the well-known thesis of the first Czechoslovak president, Tomáš Garrigue Masaryk, that states are sustained only by those ideals from which they were born. In other words, states need a certain moral order personified by specific ideals and values for their existence. Shortly after the founding of the United States of America, Alexis de Tocqueville also drew attention to this in his work *Democracy in America*: “...the manners of the people may be considered as one of the general causes to which the maintenance of a democratic republic in the United States is attributable” (de Tocqueville, 1835, chapter XVII., para. 9). Likewise, the American philosopher Michael Novak also states in many of his works that a free establishment, a free society cannot exist without the moral-cultural sphere. Freedom, democratic order, and thus the democratic state, require virtues and institutions that will keep them alive. Novak (1991) states:

Note that among the three components of freedom, important as they are, I do not place the greatest emphasis on the political and economic component, but on the moral-cultural component, which is crucial to ensuring the success of the previous two. And note that within the moral-cultural component I place a lot of emphasis on customs and institutions. ...Institutions that properly, continuously, and reliably guarantee these customs must be firmly established. (para. 15)

Here we face a serious problem.

If we accept that the state needs a certain order of values, it is problematic that this order cannot, as Böckenförde said, be guaranteed by the state itself in the interests of ethical neutrality. The state thus becomes dependent on something over which, according to supporters of ethical neutrality, it should have no influence. Isn’t it risky for the existence of the democratic order? What if, even with the help of the passivity of the state, values disrupting the democratic order begin to be asserted in society? Should the democratic state remain inactive? As an example, we can mention disputes

over the state intervention in discussions about vaccination against the COVID-19 virus or disputes over shutting down websites in connection with the war in Ukraine. These examples point out to several problems that democratic states face. These problems are faced by authoritarian states. (They have no problem imposing a citywide quarantine or significantly restricting freedom of speech. An example of such steps can be China.) We will mention two. The first problem is the spread of misinformation and thus the strengthening of a population group that is dissatisfied with the existing regime and calls for change. Various alternative websites or groups on social networks are full of calls for regime change and calls for a stronger state to bring order to society. We know from experience that the call for a stronger state and the establishment of order can lead to the violation of freedom and democratic establishment.

In this context, we can mention the contemporary Hungary. The second problem relates to the very ethical neutrality of the state. An illustrative example is the debate on vaccination against the COVID-19 virus. On the one hand, there is the value of freedom of speech, on the other, the spread of misinformation, which can negatively affect the functioning of society. What should the state give priority to? Guarantee freedom of speech even for those who question vaccinations that can save human lives? Or punish the spread of such misinformation. In both cases, the state is no longer ethically neutral and, its attitude makes it clear which values it considers more important and which intends to promote.

We came to the problem of whether the ethical neutrality of the state is even possible. Can the state be value neutral? Roman Joch, the director of the Czech Civic Institute, and think tank and current director of the Institute for Work and Family Research, states:

...the value neutrality of the state is a myth. It is a myth of modern left-liberals that the state can be value neutral. The state affirms certain values as correct and negates others as unjust to everything it does or does not do. By insisting on freedom of speech, the state is not value-neutral, but proclaims that freedom of speech is a good thing. By punishing murder, the state asserts that murder is evil, and the protection of innocent life is good.

By permitting abortion, the state is not value-neutral on the issue of abortion, but positively holds an opinion that unborn children are not fully human beings (just as the American state in the South before the US Civil War by tolerating black slavery was not value-neutral on the issue but asserted that the black man is not a fully human being). When the state insists that no one can be forced into marriage against his will, it is not value-neutral, but stands on the side of a person's freedom to choose their life partner. ...Whether the state does or does not do anything, it is never value neutral. (Joch, 2007, para. 21)

These words can also be interpreted that only one concept of political justice can be applied on the territory of the state. It represents specific values that the state chooses and then enforces and protects them.

Is this criticism of Joch justified? Does ethical neutrality really make it impossible for the state to stand behind certain values? It is necessary to distinguish the ethical

neutrality of the state in certain areas on the one hand and the promotion of common values on the other. If such a thing as constitutional patriotism exists in society, tied to the values enshrined in the constitution, for example, it is natural that the state will enforce these values. This does not rule out that in areas where there is no agreement, the state will try to maintain the given neutrality.

But Joch is right that neutrality is not possible in some areas. A good example is the regulation of abortion. These are either allowed or forbidden. Either way, the state is not neutral. Attempts at some kind of *modus vivendi*, for example in the form of a 12-week period, are not ethical neutrality.

We thus encounter two objections to the ethical neutrality of the state. The first is aimed at weakening the state, the second points towards the actual impossibility of ethical neutrality. We will then focus on both in the field of education.

VALUE-BASED STATE EDUCATION

As we have already stated, there are areas where the state is clearly not neutral, as well as areas where the state tries to maintain this neutrality. It is interesting that, for example, in the field of education, we can encounter both attitudes.

What is the role of the state in raising and educating the next generation? What should be ensured by the state in this regard? Can't it happen that the state will usurp something that should be fully in the hands of parents? These are serious problems that a modern pluralistic society faces.

If we lived in a value-homogeneous environment, the state would not have to worry about education, because there would be no dispute about values. But modern societies embrace diversity, indeed diversity is considered desirable, as John Stuart Mill (1859) states:

As it is useful that while mankind are imperfect there should be different opinions, so is it that there should be different experiments of living; that free scope should be given to varieties of character, short of injury to others; and that the worth of different modes of life should be proved practically, when any one thinks fit to try them. It is desirable, in short, that in things which do not primarily concern others, individuality should assert itself. (chapter III., para. 1)

Those different ways of life can acquire diametrically different attitudes, to which parents will lead their children as well. Everyone has the right to seek happiness. Someone will profess vegetarianism or veganism, cultivate slow fashion, minimise waste, and live in harmony with nature. Another may enjoy eating steaks and consumer lifestyle. Should the state adopt a critical attitude towards such diametrically different ways of life in upbringing and education? Even if some ideas about the good life seem bad or even perverted, we must accept them in a free pluralistic society.

However, as Zygmunt Bauman (2007) reminds us, freedom of choice goes hand in hand with countless risks of failure and loss. Many may consider these risks unbearable, because they know, or they suspect that they cannot deal with them. For most people, free choice will thus remain a fleeting phantom and a futile dream. On the margin of absolute freedom, Bauman reminds us that we are determined by our own past deeds. Some people's horizons are wider, these people have more resources and means to fulfil their life projects. They have more freedom to wish, act and achieve desired results. It can be concluded that the ratio between freedom and dependence is an indicator of the position that a person or an entire category of people occupies in society in relation to others (Lesková, 2021).

Freedom and plurality do not only bring quality, taste, and values. But also, superficiality, kitsch, bad taste, or poor quality. Sometimes we even hear about the decline of culture. This should be manifested in film, theatre, literature, music, architecture, media, but also in politics. The consumer lifestyle brought kitsch with it, which fully affected the culture. And it does not cultivate, but rather spoils. What happens if such unculture prevails in society? Isn't unculture dangerous? Uncultured people will uncritically approach not only their idea of a good life, but also their civic life. According to what will such people choose their representatives in elections?

Of course, this is not the fault of freedom and pluralism. If we want to have the freedom to create valuable things, we also allow the creation of kitsch. The ability to distinguish one from the other becomes important here. Mill (1863) writes clearly about this:

It is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied. And if the fool, or the pig, are a different opinion, it is because they only know their own side of the question. The other party to the comparison knows both sides. (chapter II., para. 7)

These are words that advise us to give priority to quality over quantity, education over superficial enjoyment, culture over unculture. The question is whether the state can help in such decision-making, where is its responsibility, where is the line between interference and non-interference? And here we return to the responsibility of the ethically neutral state in the field of upbringing and education.

The state's responsibility in relation to values occurs on two levels. On the one hand, it is about the responsibility for value education of the next generation, and on the other hand, it is about the responsibility for maintaining ethical neutrality. In the first case, the issue is that the state will enforce certain specific values, for example in subjects such as ethical education or civics. The already cited first article of the Constitution of the Slovak Republic, which states that the Slovak Republic is not bound by any ideology or religion, also states that the Slovak Republic is a democratic and legal state. Democracy and the rule of law bring with them a whole range of values to which the state subscribes. In the same way, democracy and the rule of law can be considered as values in themselves. Here, there should be an agreement on what the state will

enforce. Values such as human rights, the ideal of equality, free political and economic establishment, free elections, the division of state power, the rule of law, plurality, and tolerance, all of these should be promoted and recognised by the state. And, of course, we should lead pupils and students in schools to these values.

Why is it important for the state to proceed in this way? There are several reasons. We mentioned the constitutional patriotism that needs to be cultivated. The latter represents common shared values that form a kind of bond between the citizens of a given state. In addition, a community is built that has a positive relationship with the given state. How important a sense of belonging is can be seen every time society gets into trouble, e.g., also due to the global pandemic. However, shared values are also important for the preservation of the state itself. We have already quoted Böckenförde and Novak. Among other things, it is possible to build civic virtues through the field of education. This is the responsibility of the generation that the state has in its hands and can therefore influence the next generation in a fundamental way. Mill (1859) states the following:

But I cannot consent to argue the point as if society had no means of bringing its weaker members up to its ordinary standard of rational conduct, except waiting till they do something irrational, and then punishing them, legally or morally, for it. Society has had absolute power over them during all the early portion of their existence: it has had the whole period of childhood and nonage in which to try whether it could make them capable of rational conduct in life. The existing generation is master both of the training and the entire circumstances of the generation to come... (chapter IV., para. 11)

Society can also intervene in an individual's life in other ways. However, here it is an ex-post intervention, and it is rather to establish justice. The state has the institute of law, which serves as a kind of jacket that tries to bind the "sinner" in us. Education, on the other hand, tries to change the "sinner's" heart.

With such education, the state loses its ethical neutrality. This is because it stands on the side of those values without which a free society could not survive, and which are crucial for it. Such values also include those that cultivate a person. It is necessary to encourage the virtues that make people better citizens. Even a liberal like Mill (1859) argued that:

Human beings owe to each other help to distinguish the better from the worse, and encouragement to choose the former and avoid the latter. They should be forever stimulating each other to increased exercise of their higher faculties, and increased direction of their feelings and aims towards wise instead of foolish, elevating instead of degrading, objects and contemplations. (chapter IV., para. 4)

Of course, such an approach presupposes a certain consensus on basic values. And here, of course, a dispute can arise, and it does.

There are controversial issues in society that do not have clear solutions. Abortions, gay marriage, legalisation of soft drugs, euthanasia and the like are cultural and ethical issues that cause controversy. How should the state proceed with education in such cases?

And here comes the second level of the state's responsibility, which is to maintain its ethical neutrality. When it comes to controversial topics that divide society and where there is no consensus, the state must proceed with caution. These are questions that touch the deep moral convictions of citizens, something that comes from the conscience and touches such a value as human dignity. These questions mostly divide society into two competing groups. If the state were to take sides in such a case, it would mostly only worsen the situation and the conflict could escalate.

So how to solve these disputed questions in school curriculum? How to proceed with ethical education, civics, or history? How should the state deal with some value issues in the school curriculum? There are two options that offer the state a solution to the problem of maintaining ethical neutrality.

The first solution is very simple in its essence. The state decides to avoid all morally controversial topics. Everything that could provoke the parents to anger and that would interfere with their moral education under certain circumstances will remain outside the school gates. If certain issues will not be discussed in schools, the state can say that it has maintained ethical neutrality. The simplicity of the first solution is intertwined with its unacceptability. In free societies that are existentially dependent on civic virtues, this would mean that pupils and students would be deprived of a whole range of discussions that could develop them. Discussions and disputes belong to schools. Schools shouldn't shy away from controversial topics because life doesn't shy away from them either. School is a place where pupils and students can learn to discuss sensitive issues politely, objectively and with respect for the opposing opinion. School is a place that should prepare for life in a pluralistic society. It is diverse in opinion, and this diversity should also be reflected in education.

It is already clear from the criticism of the first solution how it is possible to observe the ethical neutrality of the state and at the same time work with the diversity of society. The second solution thus consists in opening school gates to all sorts of disputes about values or ideas about the good life. Ethical neutrality will be respected by not proclaiming one *Truth*, but pointing to various ideas that will be freely discussed. At the same time, we will teach pupils and students that they must endure criticism of their lifestyle or values. (As an example, we can mention the open letter of professors from the three top American universities, Harvard, Princeton and Yale. They wrote to students not to succumb to conformism and think for themselves, not to be tyrannised by public opinion. The letter is a reaction to situations where students refuse to discuss with opposing views, protest against the lectures of externs, if they "feel offended" by their topic.) Moreover, they will acquire skills necessary for life in a democratic pluralistic society. They learn to discuss freely and objectively challenging value issues. Thus,

they acquire critical thinking, openness of mind, ability to lead discussions. It is critical thinking that plays an important role in the formation of value orientations, which are so essential in the personal decisions. The mentioned skills represent the basics in discovering the truth and at the same time they can be seen as a foundation against bigotry. The fact that promoting one *Truth* is not the best approach is also stated by Mill (1859): “All attempts by the State to bias the conclusions of its citizens on disputed subjects, are evil” (chapter V., para. 14).

This solution, but it should be noted that the first one as well, resolves the tension between the right of parents to raise their children in the spirit of their own value convictions and the role of schools to raise and educate the next generation. On the one hand, space will be created for free discussion of controversial issues, and on the other hand, the state will lead pupils and students to values on which there is agreement.

The teaching of sexual and partner education in schools has become the most current problem regarding this question. The problem was solved at the level of the Ministry of Education, Parliament and on the pages of newspapers, various experts gave different opinions on it, and Catholic bishops also took a stand. The way the discussion is going suggests that these topics really polarise society and evoke strong emotions. How should the state proceed with such a topic? We believe that, as with other controversial topics.

Do not offer one-sided textbooks or opinions, do not mock certain beliefs and values, and respect the right of parents to take a position on specific issues of ethical education. Education is generally a demanding activity, and as stated by Igor Lomnický (2010), the specific ethical education of a person must be “perceived from the point of view of his aspiration and, in a broader sense of value orientation beneficial not only to him, but also to the wider community of which he is a part” (p. 84). It seems that we are bound for a long-term debate in this regard.

CONCLUSION

The issue of ethical neutrality is not an academic dispute that would not affect practical life, on the contrary. This is a problem that requires not only academic research, but also societal discussion. This is because a modern pluralistic society requires the state not to interfere with the value beliefs and lifestyles of its citizens, nor with their ideas about the good life. At the same time, we must be aware that certain interventions in values are necessary if we do not want to weaken the democratic institutions themselves. This raises the question of whether, in the long term, it would not be better for the state to take one side of the dispute in the case of specific problems? The question of which side it should be is difficult to answer.

It is also related to the dispute that is taking place in Western civilisation. It is a dispute over human rights, their redefinition, enforcement, or expansion. Both sides

of the dispute use the argument that it is about human rights, precisely when it comes to cultural and ethical issues. This indicates that there are diametrically different understandings of human rights on these issues. It is also indicated by the fact that cultural and ethical issues are regulated differently in European countries. This means, on the one hand, that the state does not stand for ethical neutrality, because it took one side of the dispute, and on the other hand, it is the reason that neutrality should be maintained in the school environment on this topic. And that's because these are very sensitive issues that arouse controversy or divide society.

A problem related to this topic is also the fact that the current secularised era tries to displace religious beliefs into the private sphere. As if religious attitudes are something that cannot be argued in public, as if only neutral, secular language should be used in public. However, religious beliefs shape the value ranking of religious people. For them, it's something that can't just be locked away at home. As the Catholic priest Karol Moravčík states: "Church in a given state is made up of citizens of that state and are members of the same society. It is impossible to artificially divide the same person into a citizen and a member of the church" (Moravčík, 2009). This is also what ethical neutrality is about, it allows different beliefs the right to exist. These problems, together with the problem of state responsibility in the field of education, are still not satisfactorily resolved. We still have long discussions ahead of us in this direction.

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