



Advocating Freedom; Presuming Innocence

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by Michael P. Donnelly, JD, LL.M

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Advocating Freedom; Presuming Innocence

By Michael P. Donnelly, JD, LL.M

Thanks Corey, I so appreciate your energy and enthusiasm. Thanks to Cevin and my fellow panelists who have been so eloquent and please be sure to watch all the way through.

Greetings to everyone watching and all my fellow homeschoolers out there, especially my wife Patricia the homeschooling hero of our family of 7 kids –2 out of college, 1 in college, and four more to go (our youngest is 9). Pictures at [Facebook](#); friend me!

I'm guessing it wasn't planned this way, but this Harvard controversy came at an ironic time wouldn't you say? I mean, while every parent in America - really the whole world - 1.5 billion in 190 countries - is suddenly schooling at home, Prof. Bartholet says we should presume homeschooling should not be allowed.

I say we should presume that parents can be trusted and that they act in the best interests of their children. We should presume that people are innocent until proven guilty. We should presume that we the people can govern ourselves through our state legislatures not – as she recommends – through court decrees.

In my remarks today, I can respond to a sliver of Ms. Bartholet's inaccurate accusations. There are so many inaccuracies and allegations that time does not allow for me to address all of them.

It is concerning that Harvard is sponsoring a conference that is so exclusive.

I personally, and HSLDA as an organization, support freedom of speech and association and academic freedom – so we do not say that the conference should not be held. We had a saying in the Army, Corey – "I might disagree with everything you say (not you; I agree with everything - well almost everything - you say) but I'll fight to the death for your right to say it."

Indeed, the exposure of Professor Bartholet's ideas has already been helpful in sparking a debate about very important issues. In the articles and conference materials HSLDA is singled out as a "powerful" and "scary" lobbying organization that basically aids and abets child abuse.

These are troubling assertions.

First, it is malicious and false to suggest that HSLDA believes that parents have a right to “abuse” their children. Child abuse is morally wrong. It is a crime and government has a legitimate duty to protect children and to punish criminals. Our work to support homeschooling freedom and to promote child welfare reform cannot reasonably be described as parental rights absolutism or support for child abuse.

As Pat Farenga has pointed out, in 1983, when HSLDA was founded, homeschooling was not recognized by most states. Many who wanted to homeschool were too scared to try for fear of criminal prosecutions or worse that CPS agencies would take their children. HSLDA worked as part of a network of organizations, families, and individuals to change these laws and to defend families. The success of the homeschooling community is remarkable, and we are proud to serve this amazing community.

Even if you want to believe that HSLDA is “powerful” now, we were certainly nothing more than a David to the NEA Goliath in 1983. Even today, we are tiny compared to the NEA and AFT who together oppose homeschooling.

The real power in the homeschooling movement is in the people who do it.

Even though many of Ms. Bartholet’s factual assertions rely on opinion and conjecture, we are flattered to have been singled out by her as a powerful and effective lobbying association. It is our privilege to stand with the homeschooling community to oppose unnecessary, unwarranted or unreasonable constraints on their right to educate their children as they see fit.

It is true that HSLDA is a Christian organization. It is a large part of what motivates each one of us at HSLDA to serve ALL families who make the sacrifices and investments to provide their children with the best home-based education possible.

We want to serve all homeschooling families regardless of their religious beliefs or non-belief.

Our lawyers and educational consultants answer questions for tens of thousands of homeschooling families every year. We actively track hundreds of legislative proposals and yes, we lobby and lead activism to oppose laws and regulations that would infringe on the rights of parents to freely homeschool. Our educational consultants are available to help homeschooling families with questions about how to get started homeschooling from toddlers, tweens, and through high school, homeschooling children with special needs and so much more. We seek to be a resource to make homeschooling possible for any family that chooses to enjoy what, as Kerry McDonald has pointed out, homeschooling has to offer.

In the article Ms. Bartholet cites no legitimate empirical evidence for her negative claims about homeschooling and there is substantial evidence to the contrary. Vanderbilt University Dr. Joseph Murphy’s comprehensive literature review “Homeschooling in America” shows that the research indicates that homeschooling produces individuals who are at least as well-educated and well-socialized as their public or private school counterparts — a lot of research shows even better results.

An empirical study by the University of Arkansas's Dr. Albert Cheng suggests that homeschooling graduates are more politically tolerant than their public or private school counterparts. A literature review by The Heritage Foundation's Dr. Lindsey Burke found that the majority of studies point to superior academic outcomes for homeschooling.

As Kerry pointed out, national surveys show homeschooling diversifying broadly. Empirical government-collected data show that religion is not the primary motivating factor for most people who homeschool.

This just blows up one of her major arguments for a presumptive ban, which is her suspicion that all these Christian homeschoolers can't be trusted to raise democratic citizens. Ms. Bartholet wants the state through its public schools to be primarily responsible for creating democratic citizens.

But this idea has already been rejected by the US Supreme Court.

In 1922 in *Pierce v. Society of Sisters*, The United States Supreme Court invalidated an Oregon law banning private education in a landmark ruling saying that:

"The State [may not] standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations."

The initiative had been spearheaded by the Ku Klux Klan motivated by anti-Catholic animus.

In 1979 in *Parham v. JR*, the Supreme Court said that "fit parents are deemed to act in the best interests of their children". Isn't that our American tradition? That we presume people are innocent until we prove them guilty? Why should that be different in this context? Should we blame millions of innocent people even if a few bad people do bad things? I don't want to live in a country like that.

She says that the United States Constitution is "an anomaly, outdated and inadequate by the standards of the rest of the world". She invokes the Columbian constitution and the United Nations Convention on the Rights of the Child to support her argument.

Even if her opinion about the UNCRC were accurate - it isn't - the great weight of many more binding treaties is far more supportive of protecting parental rights in education.

The modern international human rights movement was started in response to what happened during World War II, and a review of virtually every major international human rights treaty recognizes that parents are endowed with the right to direct their child's education.

The Universal Declaration of Human Rights was a foundational document to these treaties. In Article 16.3 the UDHR says that families are the "fundamental group unit of society," and in

Article 26.3, that “parents have a prior right to choose the kind of education that shall be given to their children.” This was written in direct response to Hitler’s takeover of all education in order to immerse children in national socialist values.

In no way do I seek to link Professor Bartholet to Germany’s national socialism or the Ku Klux Klan - I am certain she would reject and denounce both. Her proposal for a presumptive ban on home education so that the state can educate children in accordance with state-approved values sounds too similar to the methods used by these groups to achieve their nefarious ends to escape comparison.

It is undeniable that public education is a significant function of modern government and therefore should give children the opportunity to gain an education, so these students can participate as literate and productive citizens in a republican society. However, in a republic, the only way to preserve freedom is to preserve the role and authority of parents, especially against government, as the primary decision-makers for our children. The more parents play a role in the education and lives of our kids, the better for them and society.

Prof Bartholet says we should presume that homeschooling should not be allowed.

I say we should presume that parents can be trusted and that they already act in the best interests of their children.

I’ll turn it over to Brian Conner who is the current President of the National Youth Rights Association.

Thank you all!

Michael Donnelly is Senior Counsel and Director of Global Outreach at the Homeschool Legal Defense Association, Follow his work at hsllda.org/bio/mike-donnelly and on Facebook at facebook.com/mpdonnelly2.