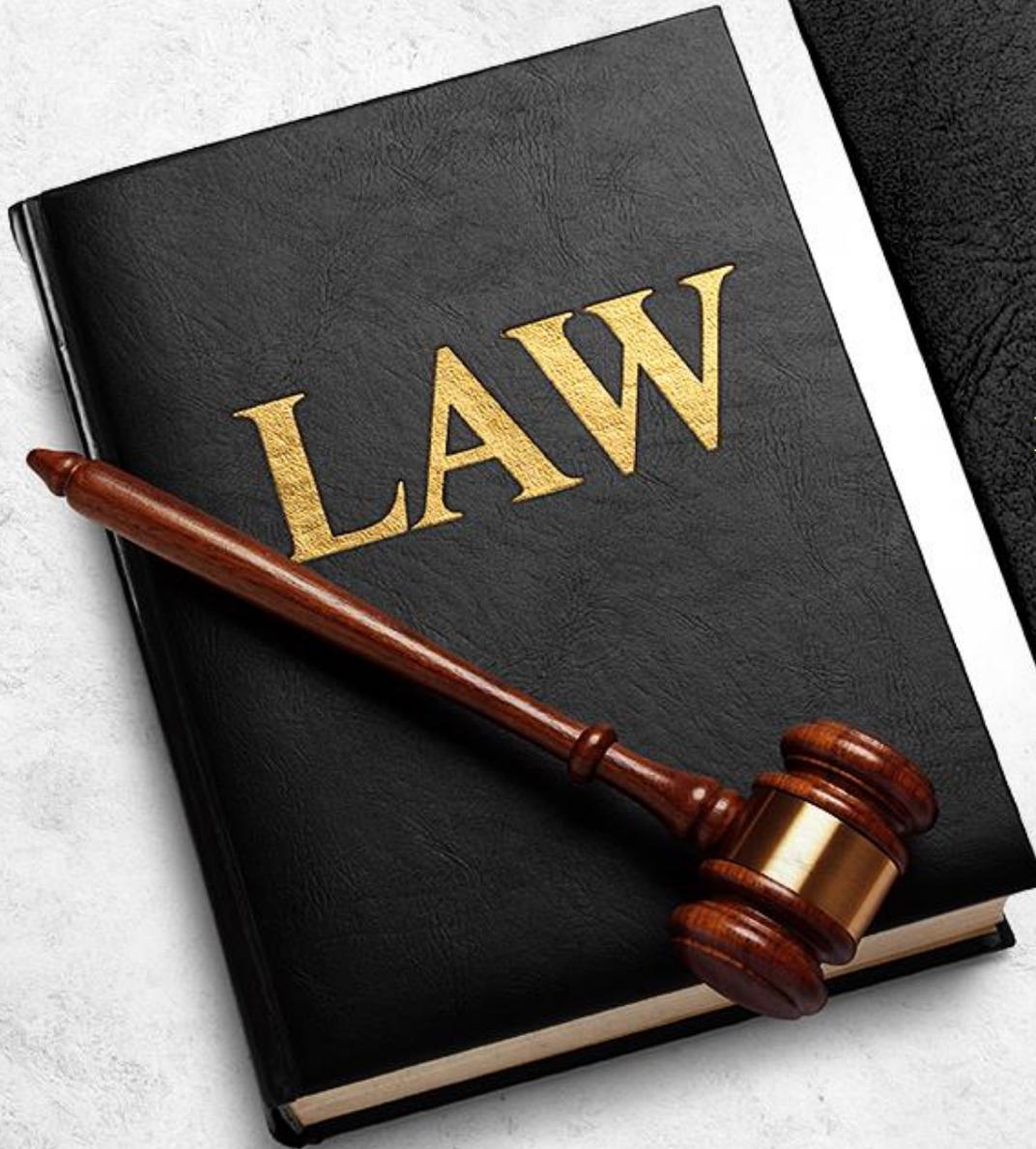


Domestic Law

Lecture 10

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Contracts Formed by Minors

- General Rule: Minors (usually younger than 18) are incapable of entering into a legally binding agreement
- A contract between a minor and an adult is voidable by the minor but not by the adult!
- **Exceptions**
 - Contracts to buy necessary items.
 - Contracts that are affirmed after age 18.
 - Contracts that are not repudiated within a reasonable period of time after the minor turns 18.
- **Minor's Employment Contracts**
 - Some states make minor's employment contracts in industries like entertainment unavoidable.
 - *See Shields v. Gross, 448 N.E.2d 108 (1983)*
 - However, if the contracts are unfair or if the contract violates child labor laws (which limit how many hours and under what conditions a child may work), it will not be enforced.



Troxel v. Granville

530 U.S. 57 (2000)

- **Facts**

- Tommie Granville and Brad Troxel had two daughters during their relationship, but never married.
- After the two separated, Brad lived with his parents (the daughters' paternal grandparents) and regularly brought his daughters to their home for weekend visitation.
- He committed suicide, but the Troxel grandparents continued to see the daughters on a regular basis.
- Several months later Granville informed the Troxels that she wished to limit their visitation to one short visit per month.
- The Troxels filed a petition for visitation, requesting two weekends overnight visitation per month and two weeks of visitation each summer.
- Granville asked the court to order one day per month with no overnight stay.
- The Superior Court ordered visitation of one weekend per month, one week during the summer, and four hours on each of the Troxels' birthdays.



Troxel v. Granville

530 U.S. 57 (2000)

- **Facts**

- Granville appealed, during which time she married Kelly Wynn.
- The Washington Court of Appeals remanded the case, with the Superior Court finding that the visitation was in the children's best interests.
- Nine months later, Wynn adopted the daughters.
- The Court of Appeals reversed the order, finding that under statute nonparents lacked standing unless a custody action was pending.
- The Court did not pass on Granville's constitutional challenge to the visitation statute.



Troxel v. Granville

530 U.S. 57 (2000)

- **Issue**

- Does the Washington statute allowing any person to petition for visitation rights at any time infringe on the liberty interest of parents in the care, custody, and control of their children?



Troxel v. Granville

530 U.S. 57 (2000)

- **Holding**

- The statute unconstitutionally infringes on the Due Process Clause of the Fourteenth Amendment.
- Nationwide, enactment of nonparental visitation statutes have attempted to recognize that children should have the opportunity to benefit from relationships with statutorily specified persons such as grandparents.
- The cost of this is a substantial burden on the traditional parent-child relationship.
- The liberty interest of parents in the care, custody and control of their children is perhaps the oldest fundamental liberty interests recognized by this Court.
- The Washington statute allows any person to petition the court for visitation rights at any time, and the court may grant such visitation rights whenever visitation may serve the best interest of the child.
- A parent's decision that visitation would not be in the child's best interest is accorded no deference, placing the best-interest determination solely in the hands of the judge.



Troxel v. Granville

530 U.S. 57 (2000)

- **Holding**

- No court found that Granville was an unfit parent.
- There is a presumption that fit parents act in the best interests of their children.
- So long as the parent is fit, there will normally be no reason for the State to interject into the private realm of the family to question the ability of that parent to make the best decisions concerning the rearing of that child.
- The trial court gave no special weight to Granville's determination of her daughters' best interests.
- The court instead placed the burden on her to disprove that visitation would be in the best interest of her daughters.
- The court must accord at least some special weight to the parent's own determination.
- There is no allegation that Granville sought to cut off visitation entirely.



Troxel v. Granville

530 U.S. 57 (2000)

- **Holding**

- Many other states proved that courts cannot award visitation to third parties unless a parent has denied visitation to the concerned third party.
- Based on the finding that the statute is unconstitutional, there is no reason to consider if the Due Process Clause requires all nonparental visitation statutes to include a showing of harm or potential harm to the child as a condition precedent to granting visitation.



Troxel v. Granville

530 U.S. 57 (2000)

- **Explanation**

- The Court found the statute unconstitutional because it was overbroad in that any person could petition for visitation at any time, and also the presumption that a fit parent would act in the best interests of the child was not recognized.



Limits on the Right to Raise One's Child

- The Supreme Court has ruled that the right to raise one's child as one sees fit is a *fundamental* right!
- Where the parents' moral, religious or personal beliefs conflict with what may be in the best interest of the child, a careful balancing test must take place.
- However, where a child's life or health is at risk, their well being usually outweighs parents' interest. Refusing to provide medical care on religious or moral grounds can constitute criminal neglect!



Wisconsin v. Yoder

406 U.S. 205 (1972)

- **Facts**

- Respondents Jonas Yoder, Wallace Miller, and Adin Yutzy are members of the Amish religion.
- Wisconsin's compulsory school-attendance law required them to cause their children to attend public or private school until they reach 16.
- Respondents declined to send their children to public school after completion of the eighth grade.
- Respondents were convicted of violating the law and fined \$5 each.



Wisconsin v. Yoder

406 U.S. 205 (1972)

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- **Issue**
 - Did the application of the compulsory attendance law violate respondent's rights under the First and Fourteenth Amendments to the United States Constitution?



Wisconsin v. Yoder

406 U.S. 205 (1972)

- **Holding**

- The application of the law is unconstitutional as applied to the Amish.
- The Amish object to the high school education because the values taught there are in marked variance from the Amish values and way of life.
- It places Amish children in an environment hostile to their beliefs and takes them away from their community during a crucial period in their life.
- The Amish do not object to elementary education.
- Expert Dr. Hostetler testified that the compulsory attendance could result in not only great psychological harm to Amish children but ultimately the destruction of the Old Order Amish church community.
- The State has the power to impose reasonable regulations for the control and duration of basic education.
- Previous precedent has held that this power must yield to the right of parents to provide an equivalent education in a privately operated system.



Wisconsin v. Yoder

406 U.S. 205 (1972)

- **Holding**

- The State's power is subject to a balancing test when it impinges on fundamental rights such as those protected by the Free Exercise Clause of the First Amendment and the traditional interest of parents with respect to the religious upbringing of their children.
- In order for Wisconsin to compel such attendance, it must follow that either the State does not deny the free exercise of religious belief by its requirement or that there is a state interest of sufficient magnitude to override the interest claiming protection under the Free Exercise Clause.
- This Court determines that the Amish objection to the attendance is rooted in religious beliefs that directly conflict with the compulsory school attendance law.



Wisconsin v. Yoder

406 U.S. 205 (1972)

- **Holding**

- The State advances two arguments.
- First, it notes that some degree of education is necessary to prepare citizens to participate effectively and intelligently in our open political system.
- Second, education prepares individuals to be self-reliant and self-sufficient participants in society.
- We accept these propositions.
- However, the evidence adduced shows that an additional one or two years of formal high school would do little to serve those interests.
- Such education may be necessary for preparation for the modern society in which we live, but is not for the separated agrarian community of the Amish faith.



Wisconsin v. Yoder

406 U.S. 205 (1972)

- **Holding**

- The State next attacks respondents' position as fostering ignorance from which children must be protected by the State.
- However, the record shows that the Amish community has been a highly successful social unit within our society, producing productive and law-abiding citizens.
- The State also supports its position on the possibility that some children will choose to leave the Amish community.
- This argument is highly speculative on the record, and the practical agricultural training and habits of industry would support children that did choose to leave.
- The requirement for compulsory high school education is a fairly recent development, designed to not only provide educational opportunities, but also to avoid child labor or forced idleness.
- In these terms, Wisconsin's interest in compelling school attendance is less substantial for Amish children than for children generally.



Wisconsin v. Yoder

406 U.S. 205 (1972)

- **Holding**

- The State finally argues that exempting the Amish children fails to recognize the children's substantive right to a secondary education, giving due regard to the power of the State as *parens patriae*.
- On this record there is no need to decide an issue in which the Amish parents are preventing children who wish to further their education from attending school.



Quick Quiz



Other Rules Regarding Minor's Interests

- Gifts to minors or property owned by minors
 - Uniform Gift to Minors Act and Uniform Transfers to Minors Act
 - Most wills and gift instruments allow Executor to hold assets in trust for minors
- Appointment of guardian in case parent is unavailable
 - This process can be time consuming and messy and should preferably be done in a will
- Appointment of *guardian ad litem* to represent minor's interests in court proceedings such as probate proceedings



End Of Class Review Quiz

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**THE
BIG
QUIZ**



The End

