THE SUPREME COURT AND TEENS:
A HOLISTIC APPROACH TO DEVELOPING TEENS’ DECISION MAKING

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Parents and teens mediate their different worlds everyday. If women are from Venus and men are from Mars, teens must be from an undiscovered planet a zillion light years away. Recent studies reveal that the brains of teenagers are not fully developed, which helps explain a lot. Of course, parents of teens always suspected this. We all have stories to tell about how irrational teens can be without even being aware of it. My friend told me that she found a bra under the seat of her van and when she confronted her son about it, he asked her if she knew how irrational she sounded by asking if it belonged to his girlfriend. It was after all, “not even a sexy bra, mom.” It does not take long for a parent to stop trying to reason with a teenager when his responses become ridiculously irrational even as he thinks he is the one making perfect sense.

Indeed, it is because teens think they always make sense that parents and other loving adults fear for their teens’ futures. We are afraid they will never make sense, never make good decisions. And in the end, that is all we want for them to be able to do: make good decisions that keep them safe and happy. It does not matter what situation our children get into, we want them to be able to reason their way out of it. To achieve this goal, parents willingly accept help wherever they find it, including from the justices of the Supreme Court.

The area of parent, child, and state relations has always been a contentious one in law and occasionally the Court is called upon to guide loving parents and adults in the “right” direction with regard to raising their children. Generally, an overriding concern in the parent, child and state relationship is who the decision maker should be in a particular situation. Many landmark cases in this area of jurisprudence reflect a traditional struggle between parents and the state, each vying to make a decision with respect to a child without much, if any, concern about what the child wants. Meyer, Prince, Yoder are classic examples of this dynamic. In other cases the state gets involved to resolve a dispute between the parent and child. The teenager who wants to get an abortion without her parents’ consent illustrates this type of case.

Necessarily, when the Court is called upon to decide who the decision maker should be, the answer generally depends on analyzing legal rights and responsibilities. For example, some cases focus on First Amendment rights in school and explore whether children’s rights are the same as or different from those of adults. Determining the legal rights and responsibilities in the parent/child/state relationship is important and the Court certainly is instrumental in defining what they are.

In this paper, I shift the focus away from the traditional doctrinal question about who the decision maker should be in a given situation and explore the ramifications of the decision making process. If our goal as parents is to help children become good decision makers, then it is important to ask whether the law, particularly the Court, supports or undermines our efforts. Bethel School District v. Fraser and Hazelwood School District v. Kuhlmeier offer especially rich examples for this analysis because the teens in both cases made decisions that adults ultimately judged to be “wrong.” Briefly, in Bethel, 16 year Matthew Fraser gave a campaign
speech in support of his friend's candidacy for elected office that resulted in Fraser's expulsion from school. In *Hazelwood*, a principal deleted two stories from the student newspaper prior to its publication.

Many cases illustrate the points I want to make in this paper and I will introduce several throughout the analysis. *Fraser* and *Hazelwood* are ideal cases to highlight because they involve decisions made by teens in schools. Moreover, their decisions were somewhat public ones that affected others in the school communities. No one doubts that teens should be considerate of others and that they should be held responsible for their behavior as it affects others. Indeed, the principals in both cases were motivated to react the way they did partly because they were concerned that Fraser's speech negatively affected others and that the Hazelwood articles, if published, might also negatively affect others.

My point is deeper. I also chose *Fraser* and *Hazelwood* because I think schools play a special function in helping teens develop good decision making skills in preparation for participation in a democracy and in the world-wide community. My starting premise for this exploration is that there is one paramount lesson that should shape children's education. Specifically, I posit that the most important lesson for children to learn, particularly in school, is the universal tenet that all humans are inherently equal and entitled to be treated with dignity. Instilling this fundamental value in children is not done to develop their altruism, although this also is a wonderful trait to have, but rather it is essential to our children's own safety and happiness. If they learn this lesson, they are more likely to live up to the democratic and universal ideal of respecting the inherent dignity and equality of each individual.

Yet the ultimate outcomes in both cases were reached without adequate or explicit consideration of the most important concern: what did the teens learn from the incidents with respect to the universal tenet? Notice that I am not focusing on whether the teens involved in these cases had free speech rights. I also am not suggesting that the principals did not have the authority to do what they did. Rather, I am curious to learn what, if anything, the decision making process taught the teens about the universal tenet.

This exploration is important, not only because it might provide insights into how adults can help teens become better decision makers, but also because it builds from a holistic approach to the parent/child/state relationship. Recall that many prominent Supreme Court decisions in this area reflect an adversarial approach to decision making but this is not always necessary and, at times, even undermines the very goal we have for our children: to help them learn how to make decisions that promote their safety and happiness within the context of abiding by the universal tenet. If the decision making process in schools operated on this premise, there would be less need for the Court, or the law, to become involved in the day-to-day operation of schools.

Ironically, a holistic approach to decision making might be the best protection available to safeguard the very constitutional and legal rights that become the focus of litigation.

[The tentative outline is attached. This is part of a larger book project that focuses on creating emotional safety in schools. I welcome any comments or suggestions.]
Outline: The Supreme Court and Teens  
(by Sharon E. Rush)

I. The paramount lesson - the universal tenet  
   A. Traditional goals of education  
      1. Knowledge, preparation for future  
      2. Concerns - meeting standards, physical safety  
   B. A missing ingredient: emotional safety  
      1. Define - background, relate to emotional intelligence concept  
      2. Why it is important  
         a. relate to goal of developing good decision makers  
            Relationships between teen and school authorities  
            Relationship between teen and parents  
            Relationships between parents and school authorities  
      3. How children are treated by others and how they treat others critical to community development-democracy.

II. Constitutional basis for inculcating universal tenet (many cases relate that schools play special role in preparing children for participation in a democracy). I think teachers have a Fourteenth Amendment duty to teach the universal tenet (equal protection).

III. Fraser and Hazelwood.  
   A. Background.  
   B. Court's decisions.  
   C. Analysis in context of this paper. Do the decisions  
      1. create emotionally safe environment?  
      2. promote goal of helping teens become better decision makers?  
      3. respect other constitutional rights?  
   D. Where has the Fraser and Hazelwood approach taken us? (Look at some recent cases, possibly Acton (drug testing in schools), prayer cases?, voucher cases? equality cases (Grutter?).)

IV. Back to the future. The holistic approach applied. Does it (help to)  
   1. create emotionally safe environment?  
   2. promote goal of helping teens become better decision makers?  
   3. respect other constitutional rights?  

IV. Summary