

LIBERALISM AND MULTICULTURALISM: A PHILOSOPHICAL DILEMMA

By

Joshua Seth Crites

Dissertation

Submitted to the Faculty of the
Graduate School of Vanderbilt University
in partial fulfillment of the requirements
for the degree of

DOCTOR OF PHILOSOPHY

in

Philosophy

August, 2007

Nashville, Tennessee

Approved:

Professor Robert B. Talisse

Professor Henry Teloh

Professor Jonathan Neufeld

Professor William James Booth

Professor Chandran Kukathas

Copyright © 2007 by Joshua Seth Crites
All Rights Reserved

To my beautiful and loving wife Lindsey.

ACKNOWLEDGEMENTS

This project would not have been possible without the support and guidance of the Philosophy Department at Vanderbilt University. Those professors with whom I have had the pleasure of working have shaped my philosophical path in unforgettable ways.

I am grateful for each of the members of my Dissertation Committee, whose input from the development stages through the writing stages and at my defense have helped me think about these issues in ways that I could not have otherwise. I am particularly indebted to Dr. Robert Talisse, the chairman of my committee. His patience and diligence throughout this project have been essential to its success. I thank him for his critical reviews of my work, as his comments and conversations have taught me much about being a professional philosopher.

Of course nobody has been more important to me during this project than my friends and family. I would like to thank Dr. Caleb Clanton for his academic and moral support, and for knowing when it was time to take a break. My parents have been utterly supportive of my academic endeavors throughout my education, and I thank them for that. Most importantly, I would like to express my deepest gratitude for my wife, Lindsey. She has been my ultimate source of motivation and inspiration to see this project through.

TABLE OF CONTENTS

	Page
DEDICATION	iii
ACKNOWLEDGEMENTS	iv
Chapter	
I. INTRODUCTION	1
Liberalism	1
Liberalism and Modern Society	3
Liberal Commitments: Diversity or Individualism?	10
A Sketch of the Theories.....	20
II. STRONG COMPATIBILISM: MUST LIBERALS BE MULTICULTURALISTS?	37
Introduction.....	37
Kymlicka’s Liberalism.....	40
The Role of Culture and the Need for Reform	45
The Liberal Litmus Test.....	59
III. WEAK COMPATIBILISM: CAN LIBERALS BE MULTICULTURALISTS? ...	73
Introduction.....	73
Responding to the Demand for Recognition.....	75
The “Canadian Case”	81
But Is It Viable?	90
IV. LIBERAL INCOMPATIBILISM: MUST LIBERALS REJECT MULTICULTURALISM?.....	98
Introduction.....	98
Barry’s Understanding of Multiculturalism.....	101
Equal Treatment.....	106
Autonomy, Diversity, Toleration, and Barry’s Theory of Group Rights.....	117
V. LIBERAL MULTICULTURALISM: POLITICAL NOT METAPHYSICAL....	131
Introduction	131
Priority of the Right Over the Good in Comprehensive Liberalism.....	135

Emergence of a Political Liberal Conception	137
A Deeper Look at Rawls’s Political Liberalism with Criticisms.....	145
A “New” Political Liberalism.....	152
A Forward-Looking Conclusion.....	158
VI. CONCLUSION.....	163
Too Much of a Good Thing?	167
Freedom of Association and the Exit Option.....	176
Supporting Democracy	195
WORKS CITED	204

CHAPTER I

INTRODUCTION

In the following dissertation, I will examine the relationship between two popular commitments in contemporary political theory, namely liberalism and multiculturalism. Since these terms are used in many different ways within (and outside of) political theory, I will in this introductory chapter make the terms clear. I will proceed in a customary way by working through conceptions of liberalism and then of multiculturalism. I will then conclude this chapter with an outline of the various strands of liberalism and multiculturalism to be covered in the remaining chapters of this dissertation.

Liberalism

Martha Nussbaum defines liberalism in the following way:

liberalism holds that the flourishing of human beings taken one by one is both analytically and normatively prior to the flourishing of the state or the nation or the religious group; analytically, because such entities do not really efface the separate reality of individual lives; normatively because the recognition of that separateness is held to be a fundamental fact for ethics, which should recognize each separate entity as an end and not as a means to the ends of others. (Nussbaum 1997, 62)

Traditionally, liberalism holds that there are certain basic individual liberties and rights that ought to be the focus of political theory and subsequent state actions. These rights constrain what states, majorities, and individuals can do in their pursuits of the good life.

In other words, the basic idea here is that individuals are free to choose what to think, what to say, what to do, and with whom to associate (so long as they do not obstruct

others' rights to do the same), *and* that the state should not interfere with this freedom (unless, by exercising their own freedom, individuals bring harm to others or impede their lives in some way).¹ Nussbaum's definition of liberalism brings out the most important element of how that theory is commonly understood—namely, that *individuals* are viewed as prior—both in existence and in worth—to the state and other associations. In adopting this commitment, liberals address issues of rights always first by considering the individual as primary. For traditional liberals, this idea is made manifest by an attempt to treat each individual citizen in a liberal polity as an equal. That is, the best way to protect the rights and liberties of individuals is to provide a political framework within which each individual has equal opportunity to pursue any number of life goals. Consider John Stuart Mill on this idea: “The only freedom which deserves the name, is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it” (Mill 1974, 138). In most situations, pursuing our own good is viewed by liberalism as a private matter. Thus, the state has no business interfering in such matters so long as individuals do not attempt to use state power and authority to promote their private views. This idea is addressed by liberalism as a prioritization of the right over the good. The goal is to create a political society that is based on some conception of the right that makes no reference to any particular

¹ This definition is echoed by all so-called liberals—at least in its basic principles. See, for example, Brian Barry, “the defining feature of liberalism is, I maintain, the principles of equal freedom that underwrite basic liberal institutions: civic equality, freedom of speech and religion, non-discrimination, equal opportunity, and so on” (Barry 2001, 122); Chandran Kukathas, “the term liberalism identifies a political outlook which responds to human diversity by advocating institutions that permit different beliefs and ways of life to coexist; it accepts the fact of the plurality of ways of life—or the multiplicity of religious and moral values in the modern world—and favours toleration” (Kukathas 2003, 2); or Will Kymlicka, “the defining feature of liberalism is it that ascribes certain fundamental freedoms to each individual. In particular, it grants people a very wide freedom of choice in terms of how they lead their lives” (Kymlicka 1995, 80).

conception of the good but allows for there to exist different conceptions of the good within the liberal political society. According to Michael Sandel, there are two ways in which this prioritization takes place. He states:

First, the right is prior to the good in the sense that certain individual rights “trump,” or outweigh, considerations of the common good. Second, the right is prior to the good in that the principles of justice that specify our rights do not depend for their justification on any particular conception of the good life. (Sandel 1998, 185)

Historically, this can be seen as a strong separation between Church and State in most liberal countries. Because religious belief and practice is considered a private matter, the state does not promote any particular religion nor does it prevent anyone from practicing whatever religion he or she sees fit. Other private matters that are considered outside state authority include forming and expressing one’s views, associating with whomever one chooses, and living according to whatever moral conception one takes to be best (within broad constraints). What this means practically is that, under a liberal regime, individuals are afforded a set of rights which enables them to practice their religions freely, to think and to express themselves freely, to join whatever groups they wish, and to form and carry out life goals freely; in short, liberalism is a political theory which gives a wide berth to a range of ways of life without state intervention or interference from others.

Liberalism and Modern Society

There are two important empirical facts of modern societies worth noting at the start, as they are crucial to liberalism. The first aspect is a significant and increasing diversity between individuals, between social groups, even within social groups. This diversity ranges from moral, religious, and philosophical beliefs to racial and gender identities.

Second, and as a result of this diversity, there is widespread disagreement over almost all aspects of private and public life. In an individual's private life, this disagreement starts at differences in ideas about what constitutes a good life, including both the content and course of that life. From there, this disagreement extends into an individual's more public life, where individuals differ in their convictions regarding rights, freedom, justice, legitimacy, and the terms of general governmental order, just to name a few. In short, they disagree over their "comprehensive doctrines," to use the Rawlsian terminology.² The first observation is without serious contest. It is the second observation and its ensuing implications that evince serious philosophical controversy. What makes this all the more problematic is that many of these competing conceptions seem *defensible*. There are, for example, good Kantian arguments, good Millian utilitarian arguments, and good theological arguments regarding how society should be structured—and yet all of these doctrines differ on fundamental issues. For Rawls, this diversity among reasonable comprehensive doctrines is to be viewed as a permanent fixture of democratic societies because it is the inevitable result of the individual freedom that is secured in a liberal democracy. He states, "under the political and social conditions secured by the basic rights and liberties of free institutions, a diversity of conflicting and irreconcilable—and what's more, reasonable—comprehensive doctrines will come about and persist if such diversity does not already obtain" (Rawls 1996, 36). As such, there must be some way of finding a way to accommodate this plurality of beliefs; that is, to do politics *despite* such

² Rawls defines comprehensive doctrines in the following way: "A conception...is comprehensive when it includes conceptions of what is of value in human life, ideals of personal virtue and character, and the like, that inform much of our nonpolitical conduct (in the limit, our life as a whole)... A doctrine is fully comprehensive when it covers all recognized values and virtues within one rather precisely articulated scheme of thought" (Rawls 1999a, 480).

fundamental disagreement. One way of doing this is to advocate some form of totalitarianism in which individuals are told what to believe and how to act so as to live an externally determined good life. Clearly this option is not preferable.

A second response, and one which has taken center stage in contemporary political theorizing, is to uphold the rights of individuals to determine their own best lives and to live them accordingly—*and* to seek a conception of policy making and institution formation that will produce a relatively peaceful and stable social environment. This is not an easy task. Trying to accommodate a plurality of legitimate ways of life, to respect the individuals who live them, to maintain peaceful, stable relations between them, *and* to justify the state to all citizens is a daunting task indeed. Because of the fact of this inescapable disagreement (what Rawls has called the “fact of reasonable pluralism”), because this disagreement can and often does escalate into conflict, and because political theories continue to struggle with establishing an acceptable response, it is necessary to look for new ways of thinking about these unresolved issues with the aim of better understanding how to provide an answer that moves forward. This dissertation is one attempt to do so.

Without question, liberalism has become the dominant framework of political theory in Western countries. Historically, this prominence arose out of an interest in protecting individuals’ rights by defining and limiting legitimate state action (particularly with respect to religious beliefs and practices). Although this is still the case, increasing diversity in the form of religious, philosophical, and moral beliefs has given rise to group-specific claims for recognition and rights. In making claims for recognition, certain groups have argued that they should be given consideration *as a group*. That is,

the past forty years have seen increasing demands for group rights which would serve to protect *groups* in similar ways to protections afforded to individuals. For these reasons, the traditional liberal focus on protecting individuals so that they can pursue their own conceptions of the good life has been challenged by an increasing number of individuals whose conceptions of the good life are intimately tied to their group membership. As a result, it has been claimed that groups should be given their own rights, either in the form of special exemptions from standing laws, or in the form of additional entitlements that only members of the group enjoy. In this dissertation, I will be addressing the extent to which liberalism can accommodate such group-based claims, and, if it can, whether liberalism *should* make such accommodations.

Over the past several decades, there have been several examples of what is most pressing about the challenges to liberalism that result from increasing diversity. In the first of these cases, three Muslim girls (who were also French citizens) were suspended from their secondary school in Northern France in 1989 for wearing traditional Muslim headscarves to school.³ The school claimed that, according to the French Constitution, there a sharp distinction to be drawn and maintained between state and religious activities. According to this principle of *laïcité*, an individual's religion and its various forms of expression are relegated to that individual's private life, while an individual's public life (including his or her participation in public education) is to be marked by an absence of any such religious identification. What makes this case interesting is that the conflict arises exactly at the point where these girls' private lives and public lives

³ There is no shortage of discussion about this particular issue. See for example Seyla Benhabib, "Reclaiming Universalism: Negotiating Republican Self-Determination and Cosmopolitan Norms" (2004) and Amy Gutmann, "Civic Education and Social Diversity" (1995).

intersect. The Muslim girls maintained that their religion required them to dress modestly in public—headscarves being indicative of their attempt to do so.

Interestingly, the idea of separation of state and religious activities is fundamental to many expressions of the liberal freedoms of thought and religion. Yet, if this is the case, why were these girls expelled? Was it not the case that they were merely exercising these rights as they thought fit according to their religious beliefs? This and similar cases in France came to a head in 2003 with the Stasi Commission's report which resulted in an amendment to the French Constitution banning the wearing of headscarves (and other religious symbols such as yarmulkes and large crucifixes) in public schools. Since then, debate has flourished over this move by President Chirac, with critics arguing that such action represents an illicit move on the state's behalf which serves to limit certain individual freedom rather than protecting it. According to supporters of the new law, banning headscarves and other religious symbols is the only way to protect equality among students attending public schools. Clearly, two liberal commitments are conflicting here—freedom of conscience and equality—because the girls' religious convictions prescribes certain public behavior. In this case, it was decided that equality trumps, and that the public actions warranted by freedom of conscience must be circumscribed by a commitment to equality.

A similar situation exists in the United States with respect to a conflict between individuals' religious beliefs and public school education. Though the issue here is not one of religious symbols, the source of the conflict is the same. Consider *Wisconsin v. Yoder*⁴, in which three Old Order Amish families withdrew their children from public

⁴ *Wisconsin v. Yoder*, 406 U.S 205 (1972).

school at the end of their eighth grade year on the grounds that continuing beyond that grade level threatened a specifically Amish way of life—a religious belief widely shared by the Amish. This belief dictates that the Amish are to maintain a certain separation from mainstream society, grounded on the idea that separation from mainstream society is the best way to protect Amish communities as self-sustaining entities. It is for this reason that some Amish desire to remove their children from public education institutions. Continuing public education beyond the eighth grade is commonly held to be detrimental to the Amish lifestyle because it impedes education in traditional Amish ways, including education in Amish farming and other trades. Though originally convicted in local courts, the Wisconsin Supreme Court and later (by a 6-1 ruling) the U.S. Supreme Court found in favor of Yoder. The U.S. Supreme Court argued that requiring Amish children to attend public school beyond the eighth grade was an infringement on the Free Exercise Clause of the First Amendment and thus unconstitutional.⁵

Clearly, however, there is some public interest in requiring education of all U.S. citizens through the twelfth grade. It can be argued that doing so enhances individual freedoms of choice and of conscience by exposing individuals to a larger set of options with the intent of facilitating individual choices which are based on a reasonably wide range of options. Moreover, it can be argued that education is necessary for the

⁵ In delivering the opinion of the court, Chief Justice Burger states, “Although the trial court in its careful findings determined that the Wisconsin compulsory school-attendance law ‘does interfere with the freedom of the Defendants to act in accordance with their sincere religious belief’ it also concluded that the requirement of high school attendance until age 16 was a ‘reasonable and constitutional’ exercise of governmental power, and therefore denied the motion to dismiss the charges. The Wisconsin Circuit Court affirmed the convictions. The Wisconsin Supreme Court, however, sustained respondents’ claim under the Free Exercise Clause of the First Amendment and reversed the convictions. A majority of the court was of the opinion that the State had failed to make an adequate showing that its interest in ‘establishing and maintaining an educational system overrides the defendants’ right to the free exercise of their religion.’ 49 Wis. 2d 430, 447, 182 N. W. 2d 539, 547 (1971). (Wisconsin v. Yoder, 406 U.S. 205 (1972))

fulfillment of other principles valued by liberal theory such as mutual respect and fairness. The tension here, no less than in the headscarf case, thus hinges on the contrasts of individual freedom and state policies intended to protect that freedom—especially when an individual freely adopts a way of life that is ineliminably communal or group-oriented.

In both of the above cases, what is at issue is a question of how to respond to diverse ways of life that have commitments in conflict with a polity which holds individual freedom paramount. Although there are many interesting issues involved with these cases, there are two which are of particular relevance. First, these cases represent actual situations in which there is conflict over how best to respond to claims being made on the basis of group membership. In both of these cases, the groups in question happen to be religious, but this need not be the only time groups make demands which seem legitimate but which are nonetheless in conflict with basic liberal principles (consider for example recent controversy in the United States over privacy issues dealing with government acquisition of phone and email records). The second point illustrates an issue of particular importance for this dissertation—namely, that the basic liberal principles of valuing individual freedoms and of a state doing all that it can to protect those freedoms can and do lead to different responses to similar issues. In other words, how is it that the same principles can be understood so differently in cases where the particulars are so similar? In the above cases, the reasons given for why religious expression in French public schools was to be banned were essentially of the same kind given by the U.S. Supreme Court for why Amish children can be exempted from public school education beyond the eighth grade. What this illustrates is that there is

widespread disagreement amongst liberals not just over how to apply various liberal principles but also over which of those principles are primary. Thus the conflict between particular groups and the state over questions of justice is echoed in debates amongst liberal theorists themselves. This is of no small importance since the outcome will reveal an answer to more than just how liberalism might respond to and/or accommodate group-based claims (such as exemption from public education requirements). It will reveal an answer to the question of whether liberalism should address such claims at all.

Liberal Commitments: Diversity or Individualism?

The French head-scarf and Amish education cases, and many others like them, have forced liberalism to reevaluate its individualist presuppositions. What these cases point out is that by focusing exclusively on individual concerns, liberalism can very easily miss that, for many individuals, communal or group-based concerns comes prior to individual freedom. A liberalism which respects only the rights and liberties of individuals must assume a fairly severe homogeneity amongst conceptions of the good life if it is to manage conflict. The problem is a result of the tension which stems from how any political order is to approach diversity of individual beliefs. What a state must do, if it is to be legitimate, is *justify* itself to its citizens. If the state is comprised of citizens with relatively homogenous conceptions of the good life, there is little difficulty in such justification. If there is, however, a significant plurality of such beliefs, how can these rights and liberties be guaranteed? How, in other words, can the state justify itself as legitimate to every one of its citizens while taking into account the extent of pluralism found among them?

The traditional liberal answer to this question, as characterized above, is to respond by treating each individual the same. For other liberals the path to peaceful coexistence of individuals with divergent and reasonable conceptions of the good life is to advocate a strong sense of tolerance. This kind of liberal response is minimal insofar as it is an attempt to promote no infallible principles regarding which individual's view (or individuals' views) is right. Although certainly not something he advocates, Rawls states the following as a description of Robert Nozick's libertarianism: "[by this minimalist account] only a minimal state limited to the narrow functions of protection against force, theft, fraud, enforcement of contracts, and so on, is justified; and that any state with more comprehensive powers violates the rights of individuals" (Rawls 1996, 262-3). A third alternative—and one that seems, on the surface anyway, to be correct—is to propose a system that recognizes and promotes the differences in individuals' needs as a result of focusing more specifically on the fact of pluralism in conceptions of the good life. Here, liberalism is extended beyond the individual to recognize groups of individuals, guided by the notion that individual liberty ultimately rests on group recognition. The idea with this approach to liberalism is that the only way to truly protect the needs of individuals is to recognize that those needs are different *and* that they arise out of membership in various groups. The question in this last approach is this: if citizens disagree about fundamental matters, how is it possible to give philosophical responses to these questions that protect those involved? To treat people justly, and to protect the basic liberties mentioned above, is to treat them differently according to their variegated needs. The distinction here is between "standard," individual-oriented versions of liberalism, according to which equality means that each individual receives

the same treatment regardless of group membership, and multiculturalism, according to which standard liberalism has not met the needs of individuals adequately. For the multiculturalist, individual rights alone cannot guarantee the kinds of freedom to which liberalism is committed. To remedy this defect in traditional liberalism, multiculturalists argue that group-based claims must be addressed by recognizing that equality requires that everyone be treated differently. Simply put, an individual's membership in a cultural group matters for the question of what he or she deserves by way of liberal equality.

There is an inherent tension here. To say that liberalism provides a basic framework within which individuals are treated equally clearly is at odds with the idea that the only way to treat individuals fairly is to treat them differently. Consider, as an example of this tension, racism. According to the traditional liberal, racism is unjust precisely because it recognizes and takes into account the *groups* of which individuals are members as a basis for distributing (or withholding) social goods and burdens. There is something intuitively correct about this liberal response. Racism is wrong. And it is wrong specifically because it appeals to a morally irrelevant characteristic—racial group membership—in deciding how benefits and burdens should be determined. Yet, this is exactly the sort of attention advocated by multiculturalism. For the multiculturalist, there are certain situations in which individual recognition is unsatisfactory and must be supplemented (replaced, in extremely robust versions of multiculturalism) by group specific recognition. It is very difficult to see how one might justify group recognition in some cases but belie it in others. This tension is exacerbated by certain theorists who maintain that liberalism and multiculturalism are, in fact, compatible. It is made even

more difficult by those who maintain that liberalism *requires* that one be a multiculturalist.

To be sure, there are several views extant in contemporary political theory that attempt to discern the proper political response to group-specific claims for recognition. In this dissertation I am concerned only with those theories which fall under the banner of *liberal* responses. Even with the field limited in this way, there is still a strong need for taxonomy of liberal responses given the propensity for confusion and “talking past” one another over central issues within liberal political theory. It is to one such classification that I now turn.

One way of laying out the landscape covered here is to think of the relation of liberalism and multiculturalism in terms of three basic categories. The first category is comprised by those who maintain that liberalism and multiculturalism are compatible. This category is sub-divided into the further categories of what might be called “strong” and “weak” liberal compatibilism. A strong compatibilist view claims that liberalism actually *entails* multiculturalism. According the strong compatibilist, liberals *must* be multiculturalists; in other words, no liberalism is complete without the recognition of group rights. A weak compatibilist is someone who maintains that liberals can be multiculturalists; that is, the commitments of liberalism and multiculturalism are at least not mutually exclusive (and even that, under certain conditions, liberals should recognize group claims). The second basic category is made up of those who view the relationship between liberalism and multiculturalism as difficult, if not impossible to maintain. Proponents of this “liberal incompatibilism” maintain that the incompatibility results in a

total dismissal of multiculturalism; that liberals must *reject* multiculturalism.⁶ In the third category—what I am calling “political multiculturalism”—are those who also advocate the incompatibility of traditional liberalism and multiculturalism but take this to indicate the need for reform of liberalism. Thus, political multiculturalists hold that some revised form of liberalism *is* compatible with multiculturalism.

Within liberalism, then, there four types of responses to the question of whether liberals can be multiculturalists. These positions may be schematized as follows.

- 1) Strong Compatibilism: liberals *must* be multiculturalists,
- 2) Weak Compatibilism: liberals *can* be multiculturalists,
- 3) Incompatibilism: liberals must *reject* multiculturalism, and
- 4) Political Multiculturalism: liberals must *revise* liberalism in order to accommodate multiculturalism.

In this dissertation, I will examine the most thoroughly developed versions of each of the four theory types just identified as they are presented in the work of Will Kymlicka, Charles Taylor, Brian Barry, and Chandran Kukathas. The purpose of choosing these thinkers is two-fold. First, the range of ideas represented by these thinkers provides a framework for an answer to the question of whether and to what extent liberalism and multiculturalism are compatible. Kymlicka, a strong compatibilist, claims not only that liberals can be multiculturalists, but, more extensively, that the only way to be a proper liberal is to advocate his version of multiculturalism. According to Kymlicka the core

⁶ I shall use the term “liberal incompatibilists” for these thinkers to distinguish their theories from non-liberal and anti-liberal forms of incompatibilism. Iris Marion Young is one example of an anti-liberal incompatibilist since, as a radical democrat and feminist, she endorses group recognition as part of a more general rejection of liberal politics. I am concerned here solely with those theory that approach group-based claims from within a basically liberal framework.

liberal value is autonomy. To foster justice is to establish a system by which each individual can make intelligent choices; by which, that is, an individual can be fully autonomous. Since cultures make autonomy possible by making intelligent choice possible, cultures are necessary for autonomy. Thus a liberal state must be interested in and provide for the survival of cultures. As a result, by Kymlicka's account, liberals *must be* multiculturalists. For Taylor, a weak compatibilist, there is no reason to think that liberalism entails multiculturalism. Instead, in the interest of protecting individual liberties, it is sometimes required that group rights are also protected. By Taylor's estimation, it is illiberal to require that certain cultures survive by demanding recognition and respect of those cultures, but it is equally illiberal to preclude the possibility of group rights.

According to Barry, whose theory is clearly a version of incompatibilism, liberals must reject multiculturalism. In fact, Barry claims that multiculturalism has the very real potential to do harm to those whom it intends to protect. As an alternative, and residing on one extreme of this debate, Barry presents his version of an egalitarian liberalism to address the diversity of convictions about the good life present in modern societies. By Barry's account, equality trumps all other political values. Accordingly, justice demands that everyone be given equal consideration at the level of opportunity. Therefore, since multiculturalism violates the terms of equality according to Barry, liberals must reject multiculturalism.

Kukathas begins by conceding the multiculturalist claim that plurality and diversity run deep, and holds that traditional forms of liberalism cannot accommodate this diversity. His response, however, is to develop an ultra-minimal version of political

liberalism. To be a consistent and coherent liberal in Kukathas's view is to be an ultra-minimalist liberal; the only way to stay true to the values of liberalism (or, at least, Kukathas's conception of those values) is to leave others alone by not using state power to promote any particular conception of the good life. Kukathas describes this distinction in terms of "cohesion" and "coexistence" (Kukathas 2003, 19). The liberal state ought not to strive for the unification of individual citizens on a singular, comprehensive set of values, but instead foster the relatively peaceful coexistence of diverse beliefs. It is for this reason that Kukathas rejects Kymlicka and Barry—both of whom hold that a substantive value (autonomy in Kymlicka's case and equality in Barry's case) lies at the heart of liberalism. To be sure, Kukathas is able to sustain this rejection while remaining within the bounds of a liberal political theory by arguing that liberalism itself is fundamentally and primarily committed to *toleration*. With this commitment properly understood, it becomes clear that, although liberalism cannot respond to group-based claims by offering group-specific remedies, neither can it abstain from recognizing such claims as legitimate.

The second purpose in choosing the theories of Kymlicka, Taylor, Barry, and Kukathas is that they facilitate an approach to the question of the relation between liberalism and multiculturalism that is grounded primarily in the conceptual or theoretical dimension of the relationship between liberalism and multiculturalism. This is of particular importance given that this dissertation is not an attempt to settle difficult and important policy issues. To be sure, I will have occasion at the end to discuss certain policy issues, but it is not my specific aim to prescribe policy. Each of these theories adds important considerations to the broader theoretical question of how liberalism might

respond to the problems that arise within a society comprised of individuals who have competing conceptions of a good life. Although each of these thinkers offers what he thinks is a “liberal” answer to this particular question, their reasons for thinking this conflict with each other. It is for this reason that much work needs to be done to come to a better understanding of just what liberalism itself means, and what liberalism means in light of the challenges of multiculturalism. The fact that there are so many different—and defensible—conceptions about what constitutes a good life makes this problem rather complex. Even at the level of theory, there are considerations that pull in opposing directions. Given this, it is important to arrive at a conclusion about how liberal political theory can respond to such diversity while remaining consistent with its own set of commitments.

The question of whether liberalism and multiculturalism are compatible constitutes the foundation of this dissertation. In the remainder of this chapter, I will introduce (briefly) the four theories I have chosen as particularly important versions of liberalism followed by a full statement of my thesis. The remainder of the dissertation will consist of an additional five chapters: one each for a formal (and critical) presentation of the ideas illustrated by each theory and a concluding chapter in which I will address explicitly whether the most theoretically viable answer can sustain itself in practice. Let me say a bit more.

The general structure of Chapters 2-5 is as follows. In each chapter, I will demonstrate how each of these theories represents a distinct branch off of a common set of liberal values. As a result of this branching, each theory is an attempt to preserve liberalism (or some core of it) in light of cultural diversity. From a critical aspect,

evaluating the plausibility of each theory becomes an exercise in examining the implications of the various emphases placed on liberal values by Kymlicka, Taylor, Barry, and Kukathas. I see this critical examination as constituted by two basic questions. The first is to ask whether the prescriptive aspect of each theory accurately represents its own set of principles. This is essentially a question of internal coherence. The second question is whether the theory under consideration adequately deals with the set of problems it sets out to address. Here, the question is one of efficacy.

Returning for a moment to the fundamental questions of this dissertation as a whole—whether liberalism and multiculturalism are compatible—I understand these chapters as constituting the answers. Between the dismissal of any version of multiculturalism from Barry and the criticism of Kymlicka’s liberal multiculturalism from Kukathas, it is clear that liberalism and multiculturalism are not compatible in any strong sense—despite Kymlicka’s best efforts to argue the contrary.⁷ Even Taylor’s weak compatibilist view is unsuccessful in motivating tenable compatibility between liberalism and multiculturalism. On the incompatibilist side of the spectrum, Barry offers a persuasive argument for why one should view equal treatment as equivalent to treating every individual the same. Nevertheless, it is not only practically unlikely but also unsound to argue that there can be widely shared basis for this approach. In order for Barry’s theory to be representative of an adequate response, it would have to be the case that diversity is suppressed in the interest of equality and solidarity. Thus this theory is problematic to the extent that it does not deal adequately with the complexity of what is

⁷ It is not my intention to dismiss multiculturalism too quickly here. I think Kymlicka makes many positive contributions to the main questions here, especially with respect to what is to be done given the morass of diverse beliefs in modern societies.

at stake in the lives of those individuals who will be affected by those policies which follow from this kind of theory. As a political multiculturalist, Kukathas represents a position that must initially defend itself against criticism that it is not really a liberal theory at all. I will maintain that Kukathas does successfully defend his theory against such criticism but that there are several other issues which remain. More specifically, there are three main issues that cast some doubt on the long-term viability of the political multiculturalist position. First, it is open to the criticism of allowing too much as a result of maximal toleration. Because political multiculturalism calls for a “hands off” attitude when it comes to the inner workings of groups, it must be willing to accommodate some practices that seem objectively morally abhorrent. The second concern is that political multiculturalism cannot support the kind of freedom of association that is central to it. Individuals are free as a result merely of an absence of physical coercion. An individual’s decision to leave is based on his or her not being to conscientiously alive by the practices and/or beliefs of their group. It is no business of the state to inform individuals of other options or to prepare them for their new lives. Any attempts to do so results in an illegitimate use of state authority. Finally, I will raise the concern that the thin conception of democracy seemingly supported by Kukathas is not one that can sustain the kind of relationship necessary to establish and uphold the terms of peaceful coexistence required by an attitude of tolerance. This is a difficult point, but one that is crucial to getting a clear sense of what is at stake in the political multiculturalist position.

Consider these issues slightly differently. For Kymlicka, Taylor, Barry, and Kukathas, it is the case that the starting point for political theorizing is the common belief in or recognition of very real differences of opinion among reasonable persons about how

best to live both individually and collectively—diversity that is in fact the product of liberalism itself. From there, another common step is taken in recognizing that, when it comes to the political framework which will best handle these differences, liberalism offers a set of values or principles that offers the most promising structure of governmental institutions. Thus individual freedoms such as those of choice, of association, of expression, and of conscience are taken as basic. After these common steps, however, the specific courses of thought vary considerably. It is this variance that strikes me as what is most interesting and valuable—and troubling—about the theories examined here. In other words, these liberal theorists seem to have little trouble agreeing on what liberalism is; agreeing, that is, on the basic principles and aims of the liberal project. What they cannot agree on is which of these liberal values is primary and, thus, what liberalism entails. Taken in isolation, disagreement over fundamental principles does not pose a serious threat. After all, disagreement and deliberation are often the bases of clarification. It becomes problematic when no forward progress is being made, and when the viability of liberalism itself is brought into question. What is it that prevents such progress and challenges liberalism in its entirety? Surely one of these theorists must be on to something?

A Sketch of the Theories

The argument of this dissertation will proceed in an ordinary way. I will examine each kind of theory in turn, showing the first three to fail and defending a version of Chandran Kukathas's minimalist political liberalism. I will begin by examining the strong compatibilist view of Will Kymlicka. Regarding liberalism and minority rights, Will

Kymlicka argues in his *Multicultural Citizenship* (1995) that the basic principles of liberalism entail a commitment to multiculturalism. Kymlicka's basic thesis is that traditional liberal theories founder on the fact that they take individual rights to be sufficient when dealing with inequalities that arise out of diverse beliefs. To better address these inequalities and to fully respect individual autonomy, Kymlicka argues that traditional liberal theories must be supplemented by a theory of minority rights (Kymlicka 1995, 4-5). By socializing autonomy in this way—by focusing on groups as what makes autonomy possible—Kymlicka makes a case for a version of liberal theory that countenances group rights in addition to individual rights. In fact, Kymlicka argues that our concern for liberal autonomy *requires* us to countenance group rights.

This theory is, in places, somewhat complex. To avoid over-extension of his theory, Kymlicka divides groups into two categories. Those groups whose members are indigenous peoples or whose members were brought to a foreign country unwillingly he calls “national minorities.” These groups, according to Kymlicka, “typically wish to maintain themselves as distinct societies alongside the majority culture” (Kymlicka 1995, 10). Furthermore, national minorities do have some claim to special rights to address certain inequalities which are faced by their members. The second class of groups is those which Kymlicka has labeled “ethnic groups.” These groups are comprised of immigrants and other willing entrants into a larger community. Unlike national minorities, ethnic groups “typically wish to integrate into the larger society, and to be accepted as full members of it” (Kymlicka 1995, 10-11). Also unlike national minorities, these groups do not have very much leverage when it comes to special considerations and/or unequal treatment. What makes all of this a *liberal* theory of multiculturalism is

that Kymlicka retains a strong sense of individual liberty and autonomy as core values. The basic idea behind why these liberal values entail multiculturalism is the following: “individual freedom is tied in some important way to membership in one’s national group; and that group-specific rights can promote equality between the minority and majority” (Kymlicka 1995, 52). In other words, if individual liberty is central—and it is for any liberal theory—then, according to Kymlicka, autonomy must be promoted. If autonomy is to be promoted, and if autonomy can be exercised fully only within one’s cultural group, then liberalism must provide some recognition of minority rights.

On the face of it, this sketch of Kymlicka’s theory seems to address much more adequately some of the more challenging concerns by recognizing that there are some situations that warrant unequal consideration and action on the part of the state. But does this theory fully demonstrate that liberalism and multiculturalism are compatible? Further, does it give a sufficient answer to the question of what is to be done at the level of state building and policy making in a world marked by extensive diversity? For Kymlicka, this theory not only shows that liberalism and multiculturalism are compatible, but also that multicultural policies are the only way to put a liberal theory into practice. Once this is understood and accepted, argues Kymlicka, this theory also provides a solution to the puzzle of diversity and solidarity that political theory faces as a whole.

The main problem with Kymlicka’s theory stems from his demand that an individual’s own culture is required for the protection of that individual’s autonomy. If this is truly the case, then Kymlicka has a valid argument for group-differentiated treatment in the form of special considerations and privileges. However, because the importance of an individual’s culture is based solely on its providing a context of choice,

it is not clear why any *particular* culture must be protected. In other words, Kymlicka's argument leads to the conclusion that individuals must have *a* culture as a context of choice, not that individuals must have some particular culture as a context of choice.⁸

A second problem Kymlicka's theory faces is a result of an internal inconsistency. Following Chandran Kukathas's criticism, Kymlicka's theory is inconsistent insofar as "he proposes to embrace 'comprehensive' liberalism, and its commitment to autonomy, but *not* to enforce that liberalism" (Kukathas 2003, 187). The problem is based on Kymlicka's insistence that "liberals can and should endorse certain external protections, where they promote fairness between groups, but should reject internal restrictions which limit the right of groups members to question and revise traditional authorities and practices" (Kymlicka 1995, 37). It is as though Kymlicka intends this "*freedom within* the minority group, and *equality between* the minority and majority groups" to say that the only way to be a good liberal is to be comprehensive at the level of inter-group relations but not to extend that same comprehensiveness when it comes to intra-group activities (Kymlicka 1995, 152). However, Kymlicka's theory is not a total loss. Even putting aside the question of compatibility, Kymlicka emphasizes something significant about modern society—namely, that individual autonomy demands group rights. Thus, even if giving special rights is untenable, any viable liberal political theory must at least recognize these differences to fully encompass the scope of the situation regarding citizens and their beliefs.

With the strong compatibilist view rejected, I will turn to the weak compatibilist view of Charles Taylor as it emerges in "The Politics of Recognition" (1994). According

⁸ For a similar line of argument, see Jeremy Waldron, "Minority Cultures and the Cosmopolitan Alternative" in Will Kymlicka ed., *The Rights of Minority Cultures*, pp. 93-119, especially pp. 105-110.

to the weak compatibilist view, even though a liberal is not required to be a multiculturalist, there is nothing incoherent about claiming that liberalism and multiculturalism are compatible. As might be guessed from the title of Taylor's essay, his liberalism focuses on the importance of recognition. Following a historical account of the relationship between identity and recognition, Taylor claims,

the discourse of recognition has become familiar to us, on two levels: First, in the intimate sphere, where we understand the formation of identity and the self as taking place in a continuing dialogue and struggle with significant others. And then in the public sphere, where a politics of equal recognition has come to play a bigger and bigger role. (Taylor 1994, 37)

It is the latter portion of this discourse that is of particular interest here, especially with respect to the two very different sorts of politics it entails.

Taylor claims that the history of political development from honor to dignity has led us to a position where attention is on universal equality; where emphasis is placed on the "equal dignity of all citizens, and the content of this politics has been the equalization of rights and entitlements" (Taylor 1994, 37). Taylor calls this strand of political thought the "politics of equal dignity." Interestingly, the history of political thought as it pertains to identity has led in a very different direction. Although also based on a principle of universal equality, with the "politics of difference, what we are asked to recognize is the unique identity of this individual or group, their distinctness from everyone else" (Taylor 1994, 38). As stated however, these two modes of politics certainly seem incompatible, thereby precluding the possibility of liberals being multiculturalists. Taylor states,

For one [the politics of equal recognition], the principle of equal respect requires that we treat people in a difference-blind fashion.... For the other [the politics of difference], we have to recognize and even foster particularity. (Taylor 1994, 43)

The claim of proponents of the politics of equal dignity against the politics of difference is that the latter violates what might be called the “principle of non-discrimination” (Taylor 1994, 43). Against the politics of equal dignity, proponents of the politics of difference argue that it “negates identity by forcing people into a homogeneous mold that is untrue to them” (Taylor 1994, 43).

All of this so far is just a restatement of the tension between liberalism and multiculturalism. Where Taylor takes this, however, is what distinguishes his theory as a specific example of weak compatibilism. Taylor maintains that, for the most part, the charge of homogenization made against the politics of equal respect is accurate. To rectify this charge, Taylor argues that we should adopt a more hospitable version of the politics of equal respect, a version that can avoid the charge of homogenization while maintaining some of the basic principles found at its core. Taylor’s version is the following:

These forms [the more hospitable ones] do call for the invariant defense of *certain* rights.... [But,] they are willing to weigh the importance of certain forms of uniform treatment against the importance of cultural survival, and opt sometimes in favor of the latter. They are thus in the end not procedural models of liberalism, but are grounded very much in judgments about what makes a good life—judgments in which the integrity of cultures has an important place. (Taylor 1994, 61)

Even this version, though, cannot remain utterly neutral when it comes to the “judgments about what makes a good life.” For Taylor, this does not represent a failure of liberalism, but a call to find the proper balance between individual rights and the integrity of cultures.

A question arises at this point. Why should we adopt this more hospitable liberalism? Why, that is, should we not hold fast to the values of the politics of equal respect to the exclusion of the values found in the politics of difference (or vice versa)?

This is a question for *any* weak compatibilist view: if liberals *can* be multiculturalists, why and under what conditions *should* they be? Taylor has already made it clear that the values of the politics of equal respect lead to unjust homogenization of individuals. As for the politics of difference, Taylor claims that, when taken alone, the politics of difference is equally homogenizing. The example Taylor uses here is a fictional statement by Saul Bellow regarding the relative worth of Zulu literature. Bellow's claim that "when the Zulus produce a Tolstoy, we will read him" illustrates that "by implicitly invoking our standards to judge all civilizations and cultures, the politics of difference can end up making everyone the same" (Taylor 1994, 42, 71). In other words, to make judgments of the worth of a culture without an adequate understanding of that culture's categories of value would be to make judgments on the basis of the categories of one's own culture. To remedy this dilemma, Taylor offers a solution in the form of a presumption that different cultures provide meaning to their members. As such, these cultures are worthy of our open-mindedness to the possibility that they "have something that deserves our admiration and respect, even if it is accompanied by much that we abhor and reject" (Taylor 1994, 72-3). Thus, according to Taylor, we cannot be traditional liberals, as that implicates us as homogenizing difference, thereby failing to recognize fully the unique identities of individuals. But neither can we be multiculturalists, as that would mean forcing the recognition of worth found in different cultures without adequately appreciating the differences found even in those cultures' categories of value—an equal homogenization of difference. The best we can hope for is a presumption of value until we understand what makes the values of some culture or other valuable to *it*, all the while holding fast to a core set of traditional liberal values.

Taylor would have a much stronger case for his weak compatibilism if the foundation for his conclusions were something other than the recommendation that we should adopt the presumption that different cultures are valuable simply because doing so may prove beneficial to our understanding of our own culture. This presumption, in one way, presumes too much. By giving some culture the benefit of the doubt, we are already bestowing recognition of value on that culture. In this way, Taylor's view collapses into a stronger version of compatibilism. In another way, Taylor's theory does not presume enough. If the best we can hope for out of a political theory is that it will reveal whether a cultural is truly valuable, it is difficult to imagine what is supposed to happen in the mean time. This is unsatisfactory insofar as it does not provide an answer to the question regarding what is to be done politically in an increasingly diverse world. According to Susan Wolf,

Taylor's reason for studying different cultures...is that over time these studies are very likely to 'pay off' in terms of an enlarged understanding of the world and a heightened sensitivity to beauty. This is *a* reason for studying different cultures, to be sure, but it is not the only reason, nor, I think, the most pressing one. (Wolf 1994, 85)

Wolf concludes from this that Taylor's justification for studying different cultures is not necessarily wrong-headed, but that it must be grounded in something stronger, which, for Wolf, is justice.

I agree with Wolf on this point, but would go a step further in claiming that even the requirement of justice does not get Taylor (or any other weak compatibilist) out of the fire. At bottom, the dilemma posed by Taylor himself is inescapable—either equality means treating every individual the same and traditional liberalism prevails, or liberalism and multiculturalism are incompatible. And if they are incompatible, some determination must be made regarding whether one of these alternatives offers a viable solution

regarding what is to be done when it comes to dealing with societies that are becoming increasingly diverse.

Turning now to the incompatibilist view, what emerges from Brian Barry's egalitarian liberalism is a comprehensive liberal theory that offers a solution to the diversity of ways of life by focusing primarily on treating everyone equally. It is Barry's contention that we ought to focus on establishing policies and institutions that ensure equal treatment at the level of opportunity. In *Culture and Equality* (2001), Barry argues that all forms of the politics of difference—including those theories which are called multicultural—are problematic for the very reason that their proponents begin with an assumption about what might be called the locus of recognition. Following Enlightenment ideas of liberalism, Barry states,

there should be only one status of citizen (no estates or castes), so that everybody enjoys the same legal and political rights. These rights should be assigned to individual citizens, with no special rights (or disabilities) accorded to some and not others on the basis of group membership. (Barry 2001, 7)

In other words, Kymlicka and others have in mind that the best way to carry out liberal principles is by granting the bearer of rights (at least in part) to those groups of which citizens are members. To say the least, this idea is preposterous to Barry. It is the case for Barry that any theory which claims to value liberty and equality, but goes about achieving those ends by focusing on *differences* cannot be accepted as even a shadow of a liberal theory.

None of this is to say, however, that Barry ignores diversity. In his more positive program, Barry develops a liberal theory that focuses specifically on *individuals* as the primary center of attention. As such, and in the interest of securing justice, these individuals ought to be given equal opportunity. In Barry's own words,

A simple model of rational decision-making, but one adequate for the present purpose, would present the position as follows: the rules [of what is and is not allowed within a polity] define a choice set, which is the same for everybody; within that choice set people pick a particular course of action by deciding what is best calculated to satisfy their underlying preferences for outcomes, given their beliefs about the way in which actions are connected to outcomes.... If uniform rules create identical choice sets, then opportunities are equal. (Barry 2001, 32)

So, what is gleaned from Barry's theory is an egalitarian liberalism as it is applied to individuals *qua* individuals. The value of this, at least for my purposes here, is that issues such as group rights and rule-and-exemption policies—policies which “keep the rule objected to for most of the population but allow members of cultural or religious minorities to opt out of the obligation to obey it”—are wholly rejected (Barry 2001, 33). Though polemical at times, this critical examination of so-called politics of difference is instructive to the degree that it demonstrates a hostile *incompatibility* between liberalism and multiculturalism, as well as setting the foundation for a thoroughly egalitarian approach to the problem.

On the negative side of things, however, there is something about Barry's theory which does not sit quite right with what I take to be integral to a liberal theory that purports to take cultural pluralism seriously. More specifically, it is the shape of Barry's comprehensive theory that is troublesome. At times, I must admit, I am thoroughly persuaded by the idea that the best political theory—liberal or otherwise—is that theory which “has it right” and enforces that truth unilaterally. But this is not realistic in a world in which disagreement extends all the way down to ideas about what constitutes the “right” in the first place. Even if Barry *is* right, his theory cannot possibly win the assent of all reasonable citizens. Though this demand for the assent of all reasonable citizens may be extreme, it still raises some concern about the internal coherence of Barry's

theory. Therefore, any theory sympathetic to diversity must also recognize that that diversity includes beliefs regarding epistemic claims about the truth of a theory. Without such sympathies, Barry's theory runs a serious risk of being relegated to just another example of oppressive exertion of majority beliefs over minority beliefs—even if his theory is otherwise entirely correct.

The version of political multiculturalism to be considered here is that put forward by Kukathas in *The Liberal Archipelago* (2003). His is an ultra-minimalist liberalism in which he takes to task some of the fundamental assumptions of traditional liberalism. More specifically, Kukathas shares the belief that certain rights and liberties are fundamental to the lives of free citizens. The problem as Kukathas sees it, however, is how traditional liberal theories have approached diversity. In order to avoid a theory based on an assumption of a closed society, Kukathas asserts “only [that] the freedom to associate is fundamental” (Kukathas 2003, 5). As stated above, this puts Kukathas in a unique position of fully advocating neither traditional liberalism nor its multiculturalist variant. His theory “is at odds with much of contemporary political theory...because it denies two things: first, that any particular group or class or community should be given special recognition; and second, that there is any authoritative standpoint—political or philosophical (or metaphysical)—from which such recognition may ultimately be granted” (Kukathas 2003, 5). Once these ideas are abandoned, and more attention is given to the liberty of individual conscience, what emerges is a theory which is intended to allow for individuals to pursue those paths which best suit their beliefs about what is right for them to do, without interference from other individuals or the state.

This is not the only assumption that Kukathas leaves behind in his appropriation of liberal principles. A second dismissal is grounded on the idea that traditional liberalism focuses too much on the assumption that its task is to start with existing institutions and figure out how best to use them to address the problems of society. In Kukathas's own words:

Much of recent theorizing begins with the question: what should the state or the government—or 'we'—do, or permit, in a good society?... In the theory developed here, however, a different starting point is adopted. The important question is taken to be, not 'what should the state or government—that is, authority—do'? but 'who should have authority'? The question of the justice of an action or arrangement, and the question of its legitimacy are two different matters, even if they may be importantly related. The focus here is on the latter. (Kukathas 2003, 5)

This focus on the role of government is wrongheaded for the very reason that political society is only one of many "partial communities" to which people give their allegiance. As such, political communities are "groups related not by shared localities or a direct concern for some common good but simply by shared interests" (Kukathas 2003, 169). If this is the case, the state ought not to be the locus of definitive statements about what is right and wrong, what counts as acceptable and unacceptable ways of life, or which groups should be favored when it comes to thinking through and carrying out liberal policies. Nevertheless, a political community has a unique status among other communities in that "it must also be an *association*. In a political community, not only do people share an understanding of what is public and what is private, but they are also associated by their 'subordination' to a common authority which has the right to address issues which are of public concern" (Kukathas 2003, 173).

Starting with the dismissal of these traditional liberal assumptions, Kukathas goes on to focus more deeply on the extent of diversity of beliefs in modern society. Given

this diversity, and given his rejection of traditional liberal focus on stability, social solidarity, and the importance of state action, Kukathas comes to the conclusion that states should serve only as “umpires;” that is, states should drop out of interfering in the lives of its citizens and exist only as impartial arbiters in the safety of citizens (Kukathas 2003, 212-14). It is in no way the role of the state to decide what is right or wrong; that is the job of individual citizens. Instead, the state should become visible only when the demands of one citizen (or group of citizens) become harmful impediments to the demands of another citizen (or group of citizens). As a special kind of association—an association that is subordinated to as “umpire”—and because of the diversity of its members, the state must exercise its authority in a minimalist fashion if it is to have any legitimacy.

This solution redresses several problems present in Barry and Kymlicka. For Kymlicka, one difficulty is deciding, legitimately, which groups are worthy of state protection or special consideration. In *Multicultural Citizenship*, Kymlicka struggles to justify the argument that religious groups have no legitimate claim on state protection because of their tendency to promote internal restrictions. “In these cases, a group has sought the legal power to restrict the liberty of its own members so as to preserve its traditional religious practices” (Kymlicka 1995, 42). Kymlicka is forced to conclude that, because these groups are making claims on state power to restrict individual freedom, no special consideration should be given. Yet, this decision requires the exercise of state power that inevitably favors some citizens over others. Similarly, the imposition of liberal values on illiberal groups that Barry’s theory requires means that the state is used to exert a certain set of values over others—even if that exertion is for the

sake of equal opportunities. All of this means, for Kukathas, that one of the first tasks of liberal theory is to set limits on state authority to the extent that it has jurisdiction in the lives of its citizens. In other words, a truly liberal state should be unconcerned with the interests, beliefs, and life pursuits of its citizens—stepping in only when there is concern about a citizen’s well-being and his or her ability to pursue whatever way of life he or she sees fit without impediment. It should be, in other words, formed on the basis of a “politics of indifference.” The reason for this is Kukathas’s strong belief that all individuals cannot be expected to share common beliefs, even at the level of fundamental principles. “This conception of a political order,” he states,

as a social union which enables individuals to know a good in common that they cannot know alone, expresses a wish for a degree of social unity which is simply inconsistent with the extent of diversity, mobility, and disagreement in the modern world. It can only be achieved, in the end, by suppressing diversity, or reducing freedom of movement, or stifling dissent. (Kukathas 2003, 258)

Thus, what sets Kukathas apart is that his theory denies that what individuals need in order to pursue their own conception of the good is equal opportunity on the one hand or group rights on the other. In Kukathas’s own words, political theory should focus on “a conception of a society not as a social union held together by justice but as a looser network of associations held together by a form of civility” (Kukathas 2003, 261). More generally, any political theory that pushes some comprehensive idea of what is best for citizens should be rejected.

Though there is some concern about what is to happen at the level of implementation, Kukathas is only trying to motivate a rethinking of some of the basic assumptions of traditional liberalism in light of pervasive and deep diversity. To be sure, Kukathas’s political multiculturalism is not a multiculturalism that Kymlicka would

recognize, simply on account of the absence of any comprehensive liberal ideal at its core. But it is a version of multiculturalism in so far as it takes into account that there are legitimate group-based claims and that something must be done in response. It is for these reasons that I will argue that Kukathas does as much for multiculturalism as Rawls did for liberalism in his attempts to ground liberalism on strictly political principles rather than comprehensive ideals.

The debate between traditional liberalism and multiculturalism shows, on the one hand, that traditional liberalism is ineffective when it comes to achieving what it sets out for itself and, on the other hand, that a strong compatibilist view (as conceived by Kymlicka) is internally inconsistent. More specifically, Kymlicka is right to recognize the legitimacy of (certain) group claims. Barry is also right in arguing that liberalism cannot accommodate these claims in the way that Kymlicka asserts; in other words, there is no entailment relationship between liberalism and multiculturalism. However, Barry's theory runs into its own problems when it comes to the justification for certain state actions based on liberal principles. To remedy those problems, Kukathas's theory offers an alternative which demonstrates how liberalism might look if it begins with a much thinner conception of the role of the state and of basic liberal principles. It gives a glimpse of how liberalism and multiculturalism might be paired. Doing so, however, means that there are some difficult concessions that must be made to certain liberal intuitions. Because of the failures found in Kymlicka and Barry, and because it is simply untenable to think of groups (as Taylor does) as deserving recognition on the assumption that they have something valuable to offer, liberalism needs to be improved upon—updated, if you will—if it is going to be at all possible both to meet the legitimately

specific needs of individuals and to do so while remaining theoretically internally consistent. Kukathas's theory accomplishes this task, but not without several problems of its own.

To state things more succinctly, let me recap the main points. There is a plurality of legitimate demands which has arisen as a natural result of free and democratic societies. Often, these demands are for the same limited resources and, as a result, come into conflict with each other. The individuals who make these demands are to be given priority because they have the ability to make rational decisions about what is best for them, including what to think, what to do, with whom to associate, etc. Taking this as given means that sometimes the demands made are group-specific; that is, some of the demands which individuals make arise as a result of being a member of this or that group. If it is at all possible to meet these demands, it must be on the basis of recognition of the legitimacy of the claims made. Taylor addresses this from a liberal standpoint that allows for multiculturalism, if being multiculturalist is beneficial in some way. This view is too thin to support (or deny) that liberalism and multiculturalism are compatible. A stronger claim is made by Kymlicka. It is his contention that being a liberal (and all that that entails) *demands* that one be a multiculturalist. This view has its virtues to the extent that it recognizes the legitimacy of some group-based claims. It fails, however, to be compelling specifically because it does not treat individuals equally. In this way, it is clear that one must be either a liberal or a multiculturalist, but never both. This last criticism is Barry's main line of attack on multiculturalism, and clearly a criticism that I endorse. But Barry's positive program offers no better alternative. Having shown that liberalism must mean treating each individually equally, Barry falls victim to another of

liberalism's commitments—namely, the idea that individuals are to be left alone to compose and pursue their own life goals. Because of this sacrifice of the liberty of conscience in favor of a comprehensive ideal of equality, Barry is unable to provide a justification for state action that would compel the assent of all. Kukathas then offers what he takes to be the only possible version of liberalism that avoids the pitfalls found in Kymlicka and Barry. This ultra-minimalist liberalism prescribes an attitude of leaving others alone to the extent that doing so does not result in harm. This version of liberalism also rejects a strong sense of multiculturalism, especially one that results as an entailment of liberalism. What it provides, however, is the positive conclusion that, if liberals want to accommodate the claims of multiculturalists, they must adopt an ultra-minimal political liberalism. If liberals are not comfortable with such a thin version of liberalism, they must reject multiculturalism.

CHAPTER II

STRONG COMPATIBILISM: MUST LIBERALS BE MULTICULTURALISTS?

Introduction

As was shown in the previous chapter, liberalism holds that individuals are both “normatively and analytically” prior to the groups of which they are members. Recently, however, liberal individualism has been challenged as inadequate to account for how individuals often view themselves as essentially situated in various cultural contexts. The charge is grounded in the fact that many (if not most) modern developed societies are comprised of individuals whose identities and allegiances are tied to a number of distinct cultural heritages. In the United States for example, there are a number of religious groups including Old Order Amish communities, Jews, and Christians (both Protestants and Catholics). There are also any number of ethnic groups including African-Americans, Arab-Americans, Italian-Americans, and Irish-Americans just to name a few. Furthermore, there are several cultural groups present in the United States. An example of these groups is the Pueblo peoples living in America. Despite this variety, we can still locate majorities and minorities within the United States and other similar societies. When the society is generally liberal in its political structure, it is faced with the challenge of protecting the rights and freedoms not just of the members of the majority culture, but of the individual members of minority cultures as well. Traditionally, this has been carried out by an attempt to treat all individuals equally, regardless of specific cultural membership. This means seeing each individual as entitled to an identical set of

rights and protections, and an identical corresponding set of obligations and restrictions. Although this approach is in line with liberal principles, it is unclear that focusing *only* on individuals—without at least taking into account the group(s) of which they are parts—enables the fulfillment of liberalism’s primary aim of protecting liberty. The point of strong compatibilism is to call attention to the fact that protecting individual freedoms requires more than the traditional liberal approach of equal treatment of all individuals. From the standpoint of multiculturalism, group membership is too important to be left out of the picture, specifically because it is necessary for the fulfillment of liberal values. For a variety of reasons—some stronger than others—multiculturalists such as Will Kymlicka want to re-examine liberalism’s exclusive attention on the individual as the primary recipient of political rights and liberties. The aim of these thinkers is to challenge the idea that membership in groups is at best of only secondary importance in liberal political theory.

This debate between individualists and multiculturalists raises a series of questions, the answers to which are sometimes complicated and troubling. First, what is the specific inadequacy of the traditional liberal approach? In other words, what is it about liberalism’s focus on the individual that is challenged by group-based claims? Second, is it the case that society has changed or is changing in ways which render the traditional liberal approach impotent to handle the hard cases? Finally, why does a group-based theory appear so attractive to some as the remedy to liberalism’s ailments?

Interestingly, these questions are being raised and addressed both by non-liberals and liberals alike. This indicates a genuine concern about group related issues and points toward a possible rethinking of how liberalism has traditionally handled group-based

claims. In this chapter, I will look specifically at Will Kymlicka's liberal approach to multiculturalism. It is his argument that liberalism has gone on for too long without considering the extent to which group membership influences an individual's life choices. Kymlicka's theory is, by his own admission, decidedly liberal in its foundations. He begins with basic liberal principles and proceeds in an attempt to show that these principles indicate a much more group-oriented approach to liberalism than has commonly been the case. Compared to traditional liberalism, a group-oriented liberalism implies a different understanding of how to respond to the ways in which groups impact individuals' lives and how the freedom of those individuals is affected by their group memberships. The point of such thinking is to call attention to the void left by traditional liberalism when it comes to many important questions raised by cultural minorities concerning language use, designated land ownership and/or usage, local authority, representation, etc. Kymlicka states,

The problem is not that traditional human rights doctrines give us the wrong answer to these questions. It is rather that they often give no answer at all. The right to free speech does not tell us what an appropriate language policy is; the right to vote does not tell us how political boundaries should be drawn, or how powers should be distributed between levels of government.... These questions have been left to the usual process of majoritarian decision-making within each state. The result, I will argue, has been to render cultural minorities vulnerable to significant injustice at the hands of the majority, and to exacerbate ethnocultural conflict. (Kymlicka 1995, 5)

To counteract the effects of majoritarian decision-making, group-oriented liberalism often suggests certain exemptions (say, from work-related headwear requirements for Jews and turban-wearing Sikhs), special rights (sometimes in the form of limitations on land use rights for non-members of indigenous groups such as the Pueblo), and/or special representation for the groups affected (possibly in the form of guaranteed seats in

Congressional bodies). In moving towards such group-oriented considerations, Kymlicka is not abandoning liberalism. Instead, his aim is to construct a liberal argument that not only favors multiculturalism, but indeed demands it.

After outlining Kymlicka's understanding of traditional liberalism and its basic principles, I will address his thoughts on why this tradition is in need of reevaluation. This will lead into a discussion of Kymlicka's argument for the role of groups in an individual's life, as well as how this role is demonstrably more important than liberalism has commonly given credit. From there, the chapter will proceed into an outlining of Kymlicka's corrected liberalism, now with a deeper appreciation of and specific attention on group membership. This explicative work will allow for a thorough critique of Kymlicka's project in which I will show that his liberal multiculturalism falls short in two significant regards. First, in terms of its internal coherence, Kymlicka's theory is plagued by an inability to be consistently and fairly applied. The motivation behind focusing on groups leads Kymlicka onto thin ice when it comes to addressing how and why those groups are to be recognized in "special" ways. Second, as an attempt to answer the question of whether liberals can be multiculturalists, Kymlicka's theory fails to provide anything more than the suggestion that groups are important in individuals' lives. This failure is not due to a lack of rigor on Kymlicka's part, but rather, as my criticism will make clear, to the inherent conflict between liberal and multicultural principles.

Kymlicka's Liberalism

In Chapter 5 of *Multicultural Citizenship* (1995), Kymlicka states that his approach is "distinctively liberal" (Kymlicka 1995, 75). Such a statement begs the obvious question

of what liberalism is—in general and according to Kymlicka. This is not an easy question to answer. The history of liberalism reveals a number of theories which bear the title “liberal,” ranging from Mill’s consequentialist view as expressed in *On Liberty* and Locke’s natural rights approach in the *Second Treatise of Government* to contemporary rights-based and contractualist approaches. Clearly, these theories must share at least some adherence to a set of common basic principles, even though in their various manifestations emphasis might be placed differently or in varying degrees on one or a subset of the common liberal principles. Whatever the theory may look like, if it is truly liberal, its ordering of principles must center on individual freedom.

According to Kymlicka, liberalism, in its most common form,

is characterized both by a certain kind of *individualism*—that is, individuals are viewed as the ultimate units of moral worth, as having moral standing as ends in themselves, as ‘self-originating sources of valid claims’ (Rawls 1980 p. 543); and by a certain kind of *egalitarianism*—that is, every individual has an equal moral status, and hence is to be treated as an equal by the government, with equal concern and respect (Dworkin 1983a p. 24; Rawls 1971 p. 511). (Kymlicka 1989, 140)

The first of these commitments, individualism, represents the Kantian moral idea that individuals are the primary bearers of rights and freedoms because of their ability to be self-governing or autonomous. The second commitment to egalitarianism shows that liberalism takes the first commitment to be true of all individuals and that, as a result, each individual is a moral equal and thus is entitled to equal treatment. These two commitments to individualism and egalitarianism have for the traditional liberal meant a rejection of collective rights. The idea is that an individual’s community is at best only of secondary importance, and at worst a hindrance to individual liberty “since the value of the collective derives from its contribution to the value of individual lives” (Kymlicka

1989, 140). In other words, the collective does not enjoy the same characterization as the individual regarding moral worth and status. For that reason, it is enough for the traditional liberal that individuals are treated as equals.

According to Kymlicka, however, such individualist and egalitarian thinking—however good its intentions—can only tell part of the story. This, according to Kymlicka, results from a desire to respect individuals as citizens *and* as members of cultural communities (Kymlicka 1989, 151). In a “mono-cultural” society, where citizenship and cultural membership overlap, treating everyone equally achieves its goal without difficulty. When a society is culturally plural, however, treating everyone the same can have the negative result of homogenizing or, worse, disintegrating minority cultural communities. None of this is to say that cultural communities are *unimportant* to liberalism. Instead, it is Kymlicka’s contention that the problem stems from a misinterpretation by liberalism of the importance of such communities in the lives of individuals. Thus it is here that Kymlicka criticizes his liberal comrades as misunderstanding the traditional liberal commitment to autonomy. Although most liberals would agree with Kymlicka that a complete liberal political theory must honor autonomy, what distinguishes Kymlicka is how he understands what it means to honor autonomy. For Kymlicka, honoring autonomy is not achieved by an individualist egalitarian liberalism. It is his claim that, since communities are the vital sources of an individual’s ability to exercise his or her autonomy, liberalism must recognize group claims by looking to provide certain protective and exceptive measures for the groups of which individuals see themselves as members. But why, it might be asked, focus so heavily on autonomy?

To answer this question, it is important to recall Kymlicka's overall goal—namely, to supplement liberalism with a theory of minority rights by showing that once we are clear about what liberalism is we will see that liberalism *requires* minority rights. Focusing on autonomy as the fundamental liberal value allows Kymlicka to accomplish at least two key objectives. First, Kymlicka is able to establish the limits of his liberal theory. He states, “liberals can only endorse minority rights in so far as they are consistent with respect for the freedom or autonomy of individuals” (Kymlicka 1995, 75). Second, the focus on autonomy provides the framework within which his theory is to be established. Thus, argues Kymlicka, there are

two preconditions for the fulfillment of our essential interest in leading a life that is good. One is that we lead our life from the inside, in accordance with our beliefs about what give value to life; the other is that we be free to question those beliefs, to examine them in light of whatever information and examples and arguments our culture can provide. (Kymlicka 1989, 12-13)

The idea of living a life “from the inside” is captured in the following example. Imagine that a friend of mine is a long time smoker. I have noticed a steady decrease in her health over the past several years and decide to approach her about quitting. In fact, I know that she is going to be extremely reluctant to comply because of her enjoyment of the habit, so I employ several other friends to conduct an “intervention.” We bring our friend to my house under the pretenses of a dinner party and tell her that, in addition to the known health risks of smoking, if she does not quit smoking she will lose us as friends. In other words, I and other mutual friends try to coerce her to quit smoking by offering her a choice between quitting smoking and losing us as friends—an alternative that presumably would be worse than continuing to smoke. She does not want to quit smoking but, since she wants less to lose us as friends, she decides to quit. In this scenario, my friend's

decision to quit is not made “from the inside” specifically because she herself does not endorse the real reasons why she should quit but is instead coerced by me and our other mutual friends to quit. Extend this idea to a political environment, and the point becomes all the more relevant. A life cannot be good if the individual living it cannot make choices on the basis of values that he or she endorses him/herself, free from external pressures to believe certain things or to adhere to certain values. Furthermore, the individual living that life, on the basis of values he or she endorses from the inside, must be able to revise his or her beliefs on the basis of new information.

To illustrate this second precondition, imagine another scenario in which I happen to think that being Christian is the best way to live my life. I have chosen this path as a result of values that I endorse (I have met the “from the inside” requirement) and go about my life trying to learn how to be a better Christian. At some point, however, I begin to learn about Buddhism as the path to enlightenment and decide that *this* is the best way to live my life. If I cannot freely question and alter the beliefs formed during my former Christian life, then, according to Kymlicka, I am not fully autonomous. Because these two preconditions are binding over the fullest expression of my autonomy, if, and only if, they are met by a political theory can that theory be justifiably labeled ‘liberal.’ Moreover, and based on these preconditions, it is clear why the liberal tradition places so high a weight on *individual* liberties and autonomy. Since an individual’s ability to lead a good life provides the starting point of liberal political theorizing, and since the actual leading of a good life requires the fulfillment of the above two preconditions, it follows that liberal political theory must uphold policies which enable an individual both to choose and to live out a life that he or she deems good.

Kymlicka's goal at last begins to manifest. It is his explicit purpose to "show that the liberal value of freedom of choice [a freedom that stems from individual autonomy] has certain cultural preconditions, and hence that issues of cultural membership must be incorporated into liberal principles" (Kymlicka 1995, 76). This purpose requires achieving two objectives. First, Kymlicka must motivate the claim that groups have a more significant role in fleshing out or enabling individual autonomy than liberalism has given credit. He must motivate the claim that maximizing individual freedom of choice can be achieved only through the recognition of group rights. Second, it must be shown that this role can and should be embraced by liberal principles. Because traditional liberalism recognizes the importance of freedom of choice as a result of individual autonomy but rejects group or collective rights, Kymlicka must show how that idea is mistaken. He must show not only that groups have more significant roles in the expression of autonomy but that liberalism is incomplete or defective without embracing group rights. In the next section, I will address the first of these objectives before moving on to a criticism of what it means for Kymlicka to argue that the importance of culture for individual freedom entails that liberalism ought to apply its principles to minority groups.

The Role of Culture and the Need for Reform

Recognizing that "culture" has a multiplicity of meanings and applications, Kymlicka states,

the sort of culture that I will focus on...is a *societal* culture—that is, a culture which provides its members with meaningful ways of life across the full range of human activities...encompassing both public and private spheres. These cultures tend to be territorially concentrated, and based on a shared language. (Kymlicka 1995, 76)

It is important for Kymlicka's overall theory that this definition be made explicit in order to clarify the ways in which culture impacts individuals' lives is clear. Moreover, by giving the relevant cultures status as "societal cultures," Kymlicka increases the legitimacy of the claim that liberal principles can be applied to certain groups.

As of yet, however, none of this explains the role of cultures in individuals' lives. To do so, recall Kymlicka's discussion of the idea that underlying liberalism is the recognition of an individual's ability to decide on and carry out a conception of a good life. The goal of liberalism, according to Kymlicka is to ensure that individuals have the requisite freedoms to satisfying the two preconditions for leading a good life—namely, leading our lives from the inside and being free to question and revise our beliefs based on whatever sources we have at our disposal. But being free to question and revise our beliefs does not make much sense if we do not have at our disposal a variety of choices, and it is cultures which provide such variety. Therefore, it is the second of these two preconditions where culture comes to the fore of the discussion for Kymlicka. Cultures are necessary conditions for freedom—where freedom means individuals' abilities to exercise their autonomy without hindrance—explicitly because "freedom involves making choices amongst various options, and our societal culture not only provides these options, but also makes them meaningful to us" (Kymlicka 1995, 83).

Looking at this idea more closely reveals that there is a robust sense in which Kymlicka understands the role of societal cultures in facilitating the fullest expression of our autonomy. It is not just that cultures provide us with various options from which we pick and choose that makes them so important in individuals' lives. It is the further claim that cultures make these choices meaningful to us in ways that enrich how we order them

in deciding on how to best lead our lives. In other words, the system of valuation of various choices is rooted in cultures to the extent that those cultures interpret and rank those choices. For example, there are numerous options available to high school graduates. They may find employment immediately upon graduation (either by falling into family businesses, by securing employment that provides on-the-job training, or by taking jobs that require minimal additional education beyond high school), they may enlist in active military service, or they may pursue post-secondary education. In the United States, these options are made available because the cultures which comprise American society place varying degrees of emphasis on their importance. Which of these options an individual graduate chooses, however, is a function of his or her beliefs about the specific meaningfulness or value of particular choices—and it is those beliefs about meaningfulness which are made possible by that individual’s particular cultural membership. Consider the following:

For *meaningful* individual choice to be possible, individuals need not only access to information, the capacity to reflectively evaluate it, and freedom of expression and association. They also need access to a societal culture. (Kymlicka 1995, 84 my emphasis)

Presumably, the first three of these needs are satisfied either by liberal society or by an individual’s ability to use reason. In the above example, high school graduates were said to have a variety of choices available to them specifically because American society (as a liberal society) “gives them access to information about other ways of life (through freedom of expression), and indeed requires children to learn about other ways of life (through mandatory education), and makes it possible for people to engage in radical revision of their ends (including apostasy) without legal penalty” (Kymlicka 1995, 82). These graduates, having access to information, are more or less well able to reflectively

evaluate their options in virtue of their education and natural abilities. As far as freedom of expression and association, these are guaranteed by their being citizens of the United States. However, these are inadequate by themselves to guarantee an individual's *complete* freedom of choice. Merely having these options available does not make high school graduates' choices meaningful to them. Without a societal culture, any one of the options would be as valuable as each of the others. But if this were the case, and given that individual's have an interest in leading a life that is actually good (as opposed to living the life that merely seems good now), there would be no way for an individual to decide which of these options best advances his or her conception of the good life. An individual has a further need for a societal culture to provide the meanings and context of the options which arise in his or her experience because it is those meanings and that context which drive an individual's belief that his or her life is good. It is Kymlicka's argument that this need must also be met by applying the principles of liberalism, now, though, as liberal multiculturalism.

So far, I have discussed Kymlicka's basic motivation for thinking that liberalism entails the recognition of group rights. I have outlined his justification for this maneuver within a liberal framework, which is provided on the grounds that the individual freedom of choice with which liberalism is fundamentally concerned can be guaranteed only by an expansion of liberal practices. In fact, so Kymlicka thinks, liberalism has been silent on this issue far too long, sticking to an individualistic framework that may not be applicable in societies comprised of a plurality of legitimate groups. This does not mean, however, that liberalism is to be abandoned. Instead, Kymlicka argues that liberalism's concern for individual rights and liberties entails considering groups as what provide the necessary

context of choice for individuals to adequately compose and carry out our conceptions of a good life. This was made clear in the above example, where it was shown how the cultural membership of different high school graduates gives meaning to the choices they face. If liberalism *really* values individual freedom and autonomy, it must recognize that it is only through one's cultural membership that such autonomy is fully expressed. Thus, groups must be protected to protect individual rights and freedoms.

If we accept Kymlicka's argument that groups should be afforded certain group-specific rights on the grounds that those groups are a necessary component to an individual's freedom of choice, a question arises as to what sorts of groups are eligible for consideration, as well as what sorts of consideration are relevant. Regarding which groups are eligible for consideration, I have already stated that Kymlicka is here concerned with a specific kind of culture—a "societal culture"—as just the sort of group that should be considered as privy to group-specific rights. Certainly, however, societal cultures come in many forms and, more importantly, are created by several kinds of minority cultures. How, then, does the liberal multiculturalist decide on who gets what?

Let us turn to the general composition of American society as a brief illustration of a developed state in which there is a plurality of societal cultures and in which the majority culture is generally liberal. At the founding of the United States, and within its history, there were self-governing indigenous populations already living within what would become America's borders (e.g. the Pueblo Indians) and there has developed other groups which exist as relatively close-knit, self-sustaining religious sects (e.g. Old Order Amish). Further, it is important to note that these indigenous peoples and religious orders have since been incorporated into the larger state (either by force or willingly).

Unfortunately, there was also a period in America's development during which slavery was permitted and large numbers of people were brought here against their will to work and live as slaves. Later, slavery was abolished, but most of the freed slaves and their descendents remained living here rather than returning home or emigrating somewhere else. Furthermore, because the United States has relatively open borders, there is present within its borders a large number of immigrants whose "home cultures" are as diverse as the places from which they originate.

Kymlicka claims that modern societies (such as the one described above) illustrate how different kinds of minority groups vary with respect to the ways in which they were incorporated, the claims they make on the majority culture, and how legitimacy of granting them special rights and freedoms is decided. Moreover, these different categories of minority groups matter when it comes to the normative question of what they are owed. For Kymlicka, the focus is on two such minorities: "national minorities" and "ethnic groups." The reason for focusing on these two minority groups is three-fold. First, they are the most visible groups in culturally pluralistic states. To be sure, there are many forms of cultural pluralism, and this dichotomy is not meant to capture all the nuances involved in culturally pluralistic states. Instead, focusing on national minorities and ethnic groups allows Kymlicka to make a case for how these two most common sources of cultural diversity warrant revamping liberalism to accommodate group-specific claims. Furthermore, focusing on these two groups allows Kymlicka to argue for the difference between that to which different groups can legitimately lay claim. As will become clear below, national minorities and ethnic groups are viewed differently when it comes to the kinds of accommodations liberalism should make for them. Finally,

national minorities and ethnic groups are, in a way, the “easiest” to identify because there are “many clear cases of voluntary immigrants and national minorities” (Kymlicka 1995, 25). In the case of other minority groups, the difficulty of deciding who constitutes their population and making determinations of their group-specific claims produces a barrier to theorizing about the right liberal response to those claims. Choosing to focus on national minorities and ethnic groups, therefore, does not represent a denial of the legitimacy of claims made by other minority groups. Rather, it is a pragmatic move on Kymlicka’s part. Because national minorities and ethnic groups are the most common sources of cultural diversity, because they represent differently the kinds of legitimate claims that minority groups may make, and because their membership and sets of demands are most easily identified, it is Kymlicka’s anticipation that the solution to the problems raised by these groups will enable liberals to better accommodate the claims of other minority groups as well.

American Indians, native Hawaiians, aboriginal peoples in Canada, and the Quebecois in Quebec are all examples of national minorities. Although there are other groups that can be considered national minorities, they all share in common the nature of their origin and their history within the majority society. National minorities are characterized as having been incorporated (usually involuntarily) as “previously self-governing, territorially concentrated cultures” (Kymlicka 1995, 10). Moreover, these groups tend to strive for some level of separatism in their relation to the majority culture. As a result, national minorities are or have been granted a “special political status,” as well certain special rights for language and land use in most multinational states (Kymlicka 1995, 12). A further important characteristic of national groups—minority or

majority—is that they are not defined by race or descent. Instead, by Kymlicka’s definition, “national membership should be open in principle to anyone, regardless of race or colour, who is willing to learn the language and history of the society and participate in its social political institutions” (Kymlicka 1995, 23). For these reasons, national minorities can be thought of as essentially miniature states. In other words, and as will get fleshed out below, national minorities represent entities whose characteristics entail the same considerations a liberal state gives other liberal states.

Ethnic groups, as Kymlicka defines them, are comprised of immigrants. Because their members are immigrants, ethnic groups do not share the characteristic of national minorities of having been involuntarily incorporated into the majority culture. This is an important feature of ethnic groups because it will temper the kinds of rights and privileges to which they can lay claim. On the whole, it is the desire of ethnic minorities to integrate into the mainstream society. This desire is inferred from the voluntariness of ethnic minorities having left behind their home culture in the attempt to better their situation. Because of this desire, and at least beginning in the 1970’s, polyethnic states such as the U.S., Canada, and Australia have “adopted a more tolerant and pluralistic policy which allows and indeed encourages immigrants to maintain various aspects of their ethnic heritage” (Kymlicka 1995, 14). Even so, Kymlicka stresses that it is important to view the distinctiveness of ethnic minorities not as nations (since they do not share a common homeland), but instead as “manifested primarily in their family lives and in voluntary associations, and [as] not inconsistent with their institutional integration” (Kymlicka 1995, 14). In other words, whatever considerations are to be given to ethnic

minorities should accommodate them only so far as such accommodation does not obstruct integration into the majority culture.¹

Given these two primary sources of diversity and my earlier discussion of the ways in which Kymlicka argues that group claims should be met, it is necessary to consider what kinds of rights or protective measures liberalism must extend to national minorities and ethnic groups. Kymlicka states that there are at least three forms of group-specific rights: self-government rights, polyethnic rights, and special representation rights. These kinds of rights are important because they delineate more specifically the boundaries of group-specific rights. In order to assess whether and to what extent liberalism can meet group-based claims, it is necessary to understand just what claims are being made. I will detail these before moving on to the critical sections of this chapter.

For Kymlicka, self-government rights are those rights which establish and protect the “political autonomy” and/or “territorial jurisdiction” of national minorities (Kymlicka 1995, 27). The justification for these rights is a function of the nature of national minorities. National minorities

already possessed a societal culture—i.e., they already possessed a full range of institutions operating in their own language when they were incorporated into the larger state, and have fought to maintain these institutions.... Insofar as national minorities form a distinct society [and, moreover, a societal culture], they can provide a satisfactory context for the autonomy of their members. (Kymlicka 1997, 76)

¹ It is interesting to note that Kymlicka struggles a bit in this section of *Multicultural Citizenship* with the status of African-Americans. It seems that they cannot easily be characterized as either type of minority. Kymlicka says of African-Americans, “they do not fit the voluntary immigrants pattern, not only because they were brought to America involuntarily as slaves, but also because they were prevented (rather than encouraged) from integrating into the institutions of the majority cultures.... Nor do they fit the national minority pattern, since they do not have a homeland in America or a common historical language.... Moreover, they were legally prohibited from trying to recreate their own culture” (Kymlicka 1995, 24). I will leave it to the reader to decide whether African-Americans fit into one of these patterns or should be considered for special consideration on some other grounds. It will serve my purpose to look only at those groups which Kymlicka views as having justifiable claims on special consideration according to liberal principles.

It would be wrong, therefore, to expect national minorities to integrate since they already provide the requisite context for the autonomy of their members. Instead, self-government rights for national minorities aim to protect individual freedom by protecting the separate status of national minorities. Kymlicka claims that, at the extreme, these demands result in secession, but that most of time this is not necessary to meet the demands of political autonomy. In some countries, a federalist system has been established to accommodate demands for political autonomy (e.g. Quebec), while in other countries these demands have been met by provisions within state borders (e.g. Indian reservations in the United States) or by annexation (e.g. Puerto Rico and Guam). Thus, in most cases, rights of political autonomy are the result of “devolving political power to a political unit substantially controlled by the members of the national minority, and substantially corresponding to their historical homeland or territory” (Kymlicka 1995, 30). These rights are legitimate only for national minorities and are viewed as permanent.

In the case of polyethnic rights, the aim is not a separatist movement of achieving political autonomy. Rather, these rights generally express the demand of ethnic minorities to have the ability to retain some portions of their culture despite becoming fully integrated into the majority culture. In other words, immigrants recognize that their interactions with others in the public realm will be conducted in the language of their new country, that certain conventions govern the length and days of the work week, and that codes of conduct will be those of the receiving culture. But this does not mean that the cultures of ethnic minorities are entirely subsumed by the majority culture. The point here is that immigrants are without a societal culture, having left their home societal

cultures behind. As a result, and from a liberal point of view, it is necessary for immigrants to integrate into the mainstream culture of their new society in order for them to be able to fully express their autonomy. Think of things this way. Without a societal culture, immigrants cannot possibly have an equal opportunity to develop their conceptions of the good life and/or to revise those conceptions. Immigrants are left without a societal culture when they choose to leave their homeland and settle in a new country. Thus, immigrants are not fully free until they integrate into a societal culture. For a number of reasons—not the least of which is wide geographical dispersion—immigrants cannot re-create the societal cultures they left behind. They must therefore integrate into the mainstream culture of their receiving society. Kymlicka states,

Freedom and equality for immigrants, therefore, requires freedom and equality within mainstream institutions. And this, I argue, is a two-fold progress: on the one hand it involves promoting linguistic and institutional integration, so that immigrant groups have equal opportunity in the basic educational, political and economic institutions of society; and secondly, it involves reforming those common institutions so as to accommodate the distinctive ethnocultural practices of immigrants, so that linguistic and institutional integration does not require denial of their ethnocultural identities. (Kymlicka 1997, 76)

In order to accomplish this two-fold aim of protecting some aspects of immigrants' cultures while at the same time facilitating integration, polyethnic rights often take the form of anti-racism and anti-discrimination policies, though these are not exhaustive of the claims made by ethnic groups. Other demands come in the form of public funding for cultural events (e.g. ethnic "heritage festivals" or art exhibits) and exemptions from disadvantageous regulations which hinder religious expression (e.g. exemptions for Jews and Muslims from Sunday business closings, for Sikhs from wearing motorcycle helmets or hard hats on construction sites, and for Orthodox Jews from not being allowed to wear yarmulkes during active military services) (Kymlicka 1995, 31). Polyethnic rights are

also viewed as permanent, to the extent that the cultural elements they protect allow for integration to occur.

The final form of a group-differentiated right that Kymlicka considers is a right to special representation. Special representation rights might be claimed by either national minorities or ethnic groups. In addition, special representation rights may be claimed by non-ethnic groups as well when those groups are otherwise disadvantaged by under- or misrepresentation. The concern here, without much surprise, is that minority groups are not accurately (or adequately) represented in legislative proceedings carried out by the majority culture. A quick glance at the composition of the legislatures of most western countries reveals that the majority of representatives are white men. This fact represents a gross under-representation of other portions of society, including ethnic minorities, national minorities, women, physically disabled persons, and persons of economic disadvantage. Individual members of each of these segments of the population—particularly members of national minorities and ethnic groups—are ill-served by such under-representation to the extent that their individual freedoms are threatened by a system which does not fully represent the groups of which they are a part. Kymlicka covers several ways of addressing this issue, from increasing the abilities of members of minority groups to run for elected positions to instantiating some form of “proportional representation” (Kymlicka 1995, 146). In some cases, Kymlicka argues that it may even be necessary to put into place some form of a quota system, thereby guaranteeing that a certain number of positions are filled by members of under- or unrepresented groups. Of the three kinds of group-differentiated rights, special representation rights are viewed as

temporary or stop-gap measures, usually implemented only for as long as is necessary to remedy some form of systematic disadvantage.

These are the basic categories of Kymlicka's argument for a liberal theory of group rights. To round out this argument, Kymlicka makes an attempt to rectify the apparent gap between "group-differentiated citizenship" and individual rights—a seemingly contradictory pairing. The basic point is this: given that liberalism is primarily concerned with autonomy and individual freedom, and that societal cultures are what make such autonomy possible, it is the task of the liberal multiculturalist to show that the recognition of certain group-based claims is necessary for realizing liberal autonomy. It is Kymlicka's claim that there are two basic types of claims a group might make, but that only one of these kinds can be justified by liberalism. "Internal restrictions" are claims which a group might make in the interest of, as the name suggests, restricting certain actions of its members which would result in the destabilization of the group's structure. Examples of these claims would be the stripping of land rights for members of Pueblo communities who reject the traditional religion or who marry outside of the community. The second type of claim, "external protections," are claims made by a group in order to lessen the impact of decisions made by the majority society. So, for example, a group may petition for exemption from resource-exploration bills which would infringe on the borders of its homeland. Although each of these poses its own difficulties, Kymlicka states, "liberals can and should endorse certain external protections, where they promote fairness between groups, but should reject internal restrictions which limit the right of group members to question and revise traditional authorities and practices" (Kymlicka 1995, 37). External protections enable or promote freedom because they prevent

limitations on individuals' ability to choose and revise life plans. Thus, they promote liberal principles—particularly the liberal commitment to autonomy. Protections of the kind mentioned above—limitations on extra-cultural resource-exploration or land use—result in protection from interference from the larger society. Internal restrictions, on the other hand, are fundamentally *illiberal* because they limit individual autonomy by suppressing the civic and political rights of individual members. It is clearly illiberal to seek exemption from voting laws because the tradition of some religious group views women as inferior and wishes to suppress their abilities to vote. For these reasons, no liberal society can endorse internal restrictions while it must recognize and promote claims for external protections.

If one were to put Kymlicka's overall argument into two sentences, they might look something like this: Liberalism (as a theory based primarily on the principle of individual autonomy), when it identifies the kind of society the majority society in a multi-national and/or polyethnic state is, must recognize group-based claims on the basis that it is an individual's societal culture which provides the context within which his or her autonomy can be realized. The boundaries of the legitimacy of group-based claims are delineated by what kind of group is making the claim (national or ethnic minority), what form of group-specific right is relevant to the claim (self-government rights, polyethnic rights, or special representation rights), and whether the claims are for internal restrictions or external protections. Although making these determinations is not always as simple as filling in the blanks and determining whether the results "fit the formula," it is Kymlicka's contention that this basic reapplication of liberal principles indicates not

only that liberalism and multiculturalism are compatible, but that liberalism entails multiculturalism.

So far, I have outlined what I take to be the main points of Kymlicka's liberal multiculturalism. In most places, I have attempted to remain indifferent to the various elements of his theory for the explicit purpose of providing an objective account of its basic structure. In the next section, I will look more critically at Kymlicka's theory, evaluating whether it can stand up to challenges which go right to the core of his claim that liberal principles can—and indeed require—recognizing group-differentiated claims.

The Liberal Litmus Test

There are several problems with Kymlicka's theory. Some of these problems result from the way in which Kymlicka articulates various aspects of his theory. Although genuinely interesting, I want to make it clear that the type of criticism I will be focusing on in this section is that which impacts Kymlicka's theory as a specifically *liberal* multiculturalism. In other words, I am interested in the way(s) in which Kymlicka's theory fails to render compatible liberalism and multiculturalism. More specifically, Kymlicka's theory fails to motivate the claim that particular cultures should be afforded special consideration; his own liberal principles do not justify such accommodation. By relying on the argument that liberalism must recognize group-based claims to fulfill its commitment to individual freedom and autonomy, Kymlicka's position can conclude only that there must be *some* societal culture present as the context of choice which makes autonomy possible—not the stronger claim that *particular* societal cultures must be protected. This means that the

strong compatibilist position fails; liberals cannot be multiculturalists if doing so means recognizing the claims of particular cultures.

I am granting for the sake of argument Kymlicka's conception of liberalism; that is, I am taking as a given that his emphasis on autonomy as the primary liberal value is the best way of understanding liberalism. Later, I shall call into question the adequacy of this conception of liberalism. What I am interested in at present, however, is whether Kymlicka's version of liberalism does indeed entail multiculturalism.

Let us begin by noting that in liberal multinational/polyethnic nation-states, society is essentially a societal culture of societal cultures—a make-up which includes a majority and several minorities. Within this structure, then, individuals have what we might call dual membership. In the United States, for example, individuals are both American citizens (which entitles them to the protections and privileges provided by the U.S Constitution and Bill of Rights) and members of various ethnocultural groups. Membership in the latter carries with it, in varying degrees, certain convictions and responsibilities which are an integral part of an individual's membership in that group. I take it that this much is not controversial. However, when the fact of dual membership is considered more deeply, and when attention is focused more on national minorities, it becomes clear that some deep tensions arise in the interaction between the majority societal culture and the plurality of minority societal cultures.

This tension becomes a concern when considering Kymlicka's claims about how a liberal state thinks about minority groups. In this spirit, Kymlicka states, "Since liberalism (as I understand it) is grounded on respect for individual autonomy, a liberal conception of minority rights will insist that the members of ethnocultural groups have

the right to question and revise traditional cultural practices” (Kymlicka 1997, 81). This fundamental principle is at the core of political practices in liberal nation-states. In the case of deeply illiberal minority groups, the potential for conflict is clear. In *Multicultural Citizenship*, Kymlicka argues that minority groups can be accommodated only to the extent that they also respect the basic principles of liberalism. “I have defended the right of national minorities to maintain themselves as culturally distinct societies, but only if, and in so far as, they are themselves governed by liberal principles” (Kymlicka 1995, 153). The worry here is that Kymlicka’s theory results in the illegitimate imposition of liberal values on those who do not share the same conception of liberalism and its corresponding commitments. By requiring that national minorities be governed themselves by liberal principles, Kymlicka’s view of multicultural accommodation turns out not to be a matter of accommodation at all. Rather, his view reveals itself as requiring the *assimilation* of cultural groups. Regardless of Kymlicka’s insistence that this is not (or should not) be the aim of liberal approaches to minority groups, the result is the same. Kymlicka states, “our aim should not be to assimilate the minority culture, but rather to liberalize it, so that it can become the sort of ‘society of free and equal citizens’ which liberalism aims at” (Kymlicka 1997, 77). Try as he might to say otherwise, liberalizing a culture so that it becomes more like the sort of society liberalism aims at amounts to assimilation. This is a troubling outcome specifically because it means that liberal principles must be generally adopted prior to the recognition of specific group rights. To be sure, it is extremely difficult to say that there is no threshold of accommodation and that any group fitting the definition of a national minority should receive special consideration merely as a result of that status. But to

draw the line anywhere requires justification and Kymlicka's justification for drawing the line at the point of illiberal (even non-liberal) groups simply does not hold water. It is contrary to the basic liberal commitment to freedom to require that groups be liberal before they are given special consideration. In other words, Kymlicka's initial goal was to come up with a liberal theory of group rights, presumably a theory that takes into account the nature of those groups and attempts to accommodate them as they are. The more the theory demands that groups look a certain way or adopt a certain set of principles, the further it gets from this initial aim. Thus, Chandran Kukathas argues,

[Kymlicka's] account of the place of cultural minorities seeks to entrench cultural rights on a basis which itself undermines many forms of cultural community, specifically those that fail in their practices to conform to liberal norms of tolerance and to honor the liberal ideal of autonomy. Cultural minorities are given protection—provided they mend their ways. (Kukathas 1992a, 123)

Kymlicka's response to Kukathas's objection is unsatisfactory. Kymlicka begins by merely reasserting that a *liberal* theory of minority rights simply cannot accommodate those groups which impose limitations on the freedoms of their individual members; that is, internal restrictions will not be tolerated. This, however, does not constitute a response to Kukathas's criticism. Instead, it merely restates the problem that Kukathas points out. In fact, Kymlicka's "response" drives the wedge even further between liberal principles and group-based rights. He states,

Liberals are committed to supporting the right of individuals to decide for themselves which aspects of their cultural heritage are worth passing on. Liberalism is committed to (perhaps even defined by) the view that individuals should have the freedom and capacity to question and possibly revise the traditional practices of their community should they come to see them as no longer worthy of their allegiance. (Kymlicka 1992, 142)

Yet it is clear that these commitments are tempered by Kymlicka's argument that groups must adhere to basically liberal principles if they are to receive special consideration.

Again Kymlicka states,

Restricting religious freedom or denying education to girls is inconsistent with these liberal principles and indeed violates one of the reasons liberals have for wanting to protect cultural membership—namely, that membership in a culture is what enables informed choice about how to lead one's life. Hence a liberal conception of minority rights will condemn certain traditional practices of minority cultures just as it has historically condemned the traditional practices of majority cultures and will support their reform. (Kymlicka 1992, 142)

These two ideas are clearly in conflict. If, for example, the individual members of some group decide that restricting religious freedom is an aspect of their cultural heritage that is worth passing on, and have done so in an uncoerced way, then they have exercised their freedom as outlined by the above liberal commitments. Nevertheless, Kymlicka's theory will not recognize those groups as worthy of special consideration because they are essentially non-liberal.

A similar criticism is raised by Bhiku Parekh in "Dilemmas of a Multicultural Theory of Citizenship" (1997). Parekh argues that Kymlicka's theory "universalizes and imposes the liberal understanding of culture on non-liberal cultures and defends them only after suitably liberalizing them" (Parekh 1997, 59). This understanding, Parekh argues, distorts Kymlicka's liberal approach in ways very similar to those raised by Kukathas. By requiring that individual members of minority groups relate to their culture in a basically liberal way, "Kymlicka homogenizes all cultures and reduces their diverse modes of self-understanding and self-appreciation to a single liberal model" (Parekh 1997, 60).

Kymlicka's response here is a bit more thorough, even if in the end it fails to redress the issue. In most situations, Kymlicka argues, conflicts do not arise over the legitimacy of liberal principles, but about the policy which follows from those principles (Kymlicka 1997, 81). Kymlicka states,

These groups may agree on liberal-democratic principles, but they disagree substantially on the implications of these principles for concrete questions about the distribution of power between federal and regional governments, or about the legitimacy of affirmative action, or about naturalization rules, or about the designation [of] public holidays, or about the scope of minority language rights. (Kymlicka 1997, 82)

In other words, Kymlicka seems think that the real conflict is not between liberal and non-liberal groups but between groups who have a different understanding of what liberal principles entail. This may be true to some extent, but it is clear that Kymlicka also prioritizes liberal groups and thinks that, through various means short of direct intervention or imposition of liberal values, non-liberal groups should be brought into the fold of liberalism.

Even if we grant Kymlicka's claim that the main conflicts which arise are the result of debates concerning the *interpretation* of liberal principles rather than the *legitimacy* of those principles, it remains to be shown that recognizing group-based claims for special consideration or differential treatment is entailed by Kymlicka's liberalism. Kymlicka must show that the liberal commitment to autonomy is possible only within a polity that preserves minority cultures as a necessary condition of individuals' abilities to fully express their autonomy. More specifically, if, as Kymlicka implies, autonomy is the principle value of liberalism, why not insist that all minority cultures embrace liberal autonomy? Kymlicka's whole argument depends on the notion that there is something specific about societal cultures which warrants differential

treatment. As I have already shown, Kymlicka claims that societal cultures provide the relevant context of choice for an individual to express his or her autonomy. From this it follows that liberals should care about the preservation of societal cultures in general. But why should liberals care about the survival of *specific* societal cultures, as Kymlicka claims? After all, the argument Kymlicka provides for protecting societal cultures hinges on their necessary role in making the full expression of autonomy possible. Kymlicka holds that liberalism, when it takes autonomy as the primary value, entails that there must be *some* societal culture present for that autonomy to become realized. Here, his view seems to be that Pueblo individuals need *Pueblo* societal culture to achieve autonomy. I am asking why that is the case, given that there is nothing in Kymlicka's argument which demands that specific societal cultures must be in place for the achievement of autonomy. Negatively stated, Kymlicka's liberal argument for group rights does not preclude the equal ability of individuals to express their autonomy in different societal cultures. And if any societal culture can serve this purpose, it is not at all clear that liberalism demands the preservation of specific societal cultures.²

Kymlicka's reasoning for arguing that it must be an individual's *own* culture that presents the right kind of context of choice is complicated by the fact that he insists on the value of cultures as a result of their instrumental role in individuals' lives rather than as having some intrinsic worth. The result of this is a situation in which cultures are deemed as worthy of differential treatment because of their instrumental role in providing a context of choice for their members, but also in which those determinations are made on the basis of the specific content of those cultures. Let me elaborate. Kymlicka has

² See Jeremy Waldron's "Minority Cultures and the Cosmopolitan Alternative" (1995) for a similar argument.

argued that societal cultures are important because of the context of choice they provide their individual members. So far as it is merely this *context* which is the central feature, purely instrumental evaluation is legitimate. But Kymlicka has also argued that is the *meaning* of those choices which give specific societal cultures their value and why those specific societal cultures should be preserved. Meaningfulness or the *content* of choices provided by a societal cultural extends beyond an instrumental value. What it is about groups that make them worthy of liberal protection must be something more than just their instrumental role; it must be more, that is, than just the provision of a variety of options that makes a societal culture worthy of special consideration. The further requirement is that societal cultures provide those choices in a certain way. We can think about it this way. Recognizing group-based claims means that the majority liberal culture results in privileging some cultures over others. If such recognition is a function purely of the instrumental value of different societal cultures, it is difficult to see why any one culture is privileged over any other. Kymlicka argues that this privileging determination “requires that we can identify, protect, and promote cultural membership, as a primary good, without accepting [the] claim that this requires protecting the character of a given cultural community” (Kymlicka 1989, 169). I maintain that this is impossible. What makes a culture “unique,” and thus worthy of special protection, is its content or character: there must be something about that culture that is particularly meaningful to its members. To this end, Kymlicka argues,

People *are* bound, in an important way, to their own cultural community. We can’t just transplant people from one culture to another, even if we provide the opportunity to learn the other language and culture. Someone’s upbringing isn’t something that can just be erased: it is, and will remain, a constitutive part of who that person is. Cultural

membership affects our very sense of personal identity and capacity.
(Kymlicka 1989, 175)

This is a strange notion. In the case of immigrants, Kymlicka uses the idea of instrumental value to argue for the legitimacy of requiring that ethnic minorities assimilate into the mainstream society. They have left the home societal culture and are therefore left without an adequate context of choice. Assimilating into the mainstream society—a foreign or alien societal culture—allows them to fully express their autonomy and thus fulfills the liberal commitment to freedom of choice. When it comes to national minorities, however, it seems that it is more than just having some context of choice available that demands differential treatment. Otherwise, there would be no reason to argue that it must be their own culture that needs to be preserved.

As best as I can tell, the only argument Kymlicka provides for protecting specific national minority groups—individuals' *own* cultures—is that these societal cultures are also important for their role in the formation and maintenance of an individual's identity. He argues that it is often too costly for an individual to be expected to leave his or her national minority group and assimilate into the liberal majority, and so group specific protections should be instantiated. Although Kymlicka has no problem with immigrants being “forced” to assimilate (because, as he states, they have chosen to leave their home societal culture behind), he argues that national minorities should not be expected to do so. Following Margalit and Raz (1990), Kymlicka argues that

cultural identity provides an ‘anchor for [people’s] self-identification and the safety of effortless belonging’.... If a culture is not generally respected, then the *dignity* and *self-respect* of its members will also be threatened. (Kymlicka 1995, 89)

Thus it is not only that a culture provides a context of choice that matters here. If that were the case, *any* culture would do to provide an individual with a range of options and the meanings of those options.

Consider Kymlicka's example of an Inuit girl living in Northern Canada. During her youth and early adulthood, the Inuit group of which she is a member experiences external influences which result in the deterioration of specific Inuit traditions. Kymlicka states, "without special political protection, like the restrictions on the rights of transient workers, by the time she is eighteen the existence of the cultural community in which she grew up is likely to be undermined by the decisions of people outside the community" (Kymlicka 1989, 189). It is Kymlicka's argument that this represents an unfair inequality on the range of options open to this girl and so should be protected against by the recognition of group-differentiated special protective measures. Now, it is true that the stability of this girl's societal culture suffers during this time, and that there will be some confusion because of the intermingling of traditional Inuit heritages and those of the outsiders. Despite this waxing of the Inuit societal culture, however, the girl still draws upon a context of choice that helps her to realize her autonomy. In the words of John Tomasi, "it would be strange indeed to say that she, as an individual, therefore made her choices within no cultural structure" (Tomasi 1995, 588). In this case, it seems that the only responsibility of the liberal majority is to ensure that this girl's ability to make choices "from within" is not restricted. Beyond that, it is unclear why the liberal majority should put into place group-specific measures with the intent of preventing disintegration of the Inuit societal culture. There is still available to this Inuit girl a societal culture in

which she is presented a range of options and the meanings which might be attached to those options. In other words,

the cultural community in which she grew up is the cultural community in which she grew up; it is not the more purely Inuit cultural community in which she would have grown up had she (somehow) lived her life before she was two (or lived it all of a sudden when she was just two). For her, a cultural context existed and that context, however unstable, was a context that was hers. (Tomasi 1995, 588)

From this example, it is clear that Kymlicka must rely on something beyond the mere existence of a societal culture to motivate the claim that specific groups need to be protected if they are to provide a meaningful range of options to their individual members. He must give an account of why the *Inuit* societal culture must be preserved if the girl's autonomy is to be realized. The question then becomes whether this "something else" can be established on liberal grounds.

To argue that an individual's own culture must be protected, Kymlicka must rely on a further consideration of culture as a "context of identity"—the historically grown, particular 'meaning' a culture bestows on the ethical options open to a person as a member of that culture rather than the number of options and choices it provides" (Forst 1997, 66). To be sure, Kymlicka legitimately includes in his understanding of cultures as contexts of choice that they provide a variety of options and meanings *for those options*. What this entails is that cultures which provide a context of choice are valuable and should be protected by recognizing group-based claims. What this does not entail is that it is an individual's *own* culture that is worthy of such recognition. Such recognition is in fact a *non-liberal* criterion for evaluating group-based claims. It may be true that an individual's identity is a fragile aspect of his or her self-understanding, but the reasons

for protecting the source of that identity are not those commonly associated with the basic principles of liberalism.

Kymlicka's answer to this objection is basically to claim that it is better for an individual to retain the choices provided by his or her own societal culture because individuals are "more familiar with, and identify with" those choices found in their own cultures (Kymlicka 1997, 76). It is more than interesting that in the footnote to this response, Kymlicka states the following:

In principle, either the minority's own culture or the dominant culture could satisfy people's autonomy-interest in culture, but considerations of identity provide powerful reasons for tying people's autonomy-interest to their own culture. Identity does not displace autonomy as a defense of cultural rights, but rather provides a basis for specifying which culture will provide the context for autonomy. (Kymlicka 1997, 87)

Without sounding too condescending, this argument strikes me as basically saying that it would be "nice" for individuals to retain their original cultures, but it by no means illustrates that an individual's own culture is *necessary* for the expression of autonomy and the protection of an individual's freedom of choice. Kymlicka has *denied* that access to one's own culture is necessary for autonomy.

Aside from the difficulties that arise for Kymlicka when considering the hard cases of what to do when there is a genuine "clash of civilizations," when, that is, the group(s) seeking special consideration are deeply illiberal, this approach suffers from an inaccurate portrayal of what it is about minority cultures that is to be recognized. In a way, it is clear why this is the case. A liberal nation-state cannot justifiably recognize groups on the basis of somehow agreeing with those groups' basic structure. Such favoritism is anathema to the basic egalitarian goal of liberalism. On the other hand, in recognizing group claims at all, Kymlicka insists that liberalism only recognize those

groups which are already basically liberal and attempt to liberalize those that are not. It seems that a legitimate liberal theory of group rights should be able either to accommodate illiberal groups or give a justification as to why certain groups cannot be accommodated (beyond the claim that those groups are illiberal).

Moreover, it seems reasonable that a liberal theory of group rights should be able to say what it is about a specific group that warrants differential treatment *on the basis of liberal principles*. For Kymlicka, the justification is that societal cultures provide the basis for an individual's context of choice and are therefore in need of differential treatment in order to protect individual autonomy. But, as I have argued above, this argument results only in the conclusion that societal cultures are important, without distinguishing which ones are to be preserved. In other words, a liberal society that does not recognize group rights can still provide societal cultural contexts in which autonomy can be realized. Kymlicka's argument does not explain why specific societal cultures should be given resources to maintain their distinct structure. In order to justify that claim, Kymlicka must rely on the further argument that specific societal cultures are important because they provide their members with a particular identity. Although this may be true, it is not a consideration which warrants invoking liberal principles to protect.

As a way of concluding, it is important to remark that I do not think any of the foregoing discussion entails that liberalism is somehow discriminatory or disrespectful of minority groups. In fact, I think that what this points out is the acute seriousness of issues arising from ethnoculturally plural societies. It is my contention that part of the problem with straying away from the liberal focus on individual rights and freedoms is

that it results in an overly-rigid definition of which groups get what, without taking into account the actual wishes and needs of their members. So individuals are ill-served by a group-based approach because their group membership becomes the determining factor in what rights they are afforded. It may be the case that societal cultures are integral in providing access to and meanings of choices (thereby serving as facilitators of autonomy), but this does not remove the centrality of *individual* choices. Kymlicka is left, then, with a dilemma. If he is going to maintain a strong sense of autonomy as the primary liberal value, and only recognize group claims which come from groups which are themselves basically liberal, he must insist that individual rights be universally recognized according to basic liberal commitments. And since this is the only legitimate option for how Kymlicka's liberalism answers the claims of minority groups, the result is that liberalism (at least as Kymlicka sees it) cannot accommodate a robust ethnocultural diversity.

CHAPTER III

WEAK COMPATIBILISM: CAN LIBERALS BE MULTICULTURALISTS?

Introduction

In the previous chapter, I argued that Will Kymlicka's strong compatibilism fails to establish an entailment from liberalism to multiculturalism. Yet a question remains as to the possibility of liberals being multiculturalists; namely whether liberals *can* be multiculturalists. Having shown that it has not been established that they must be, I will move on in this chapter to discuss a position that makes some of the same conceptual moves as Kymlicka does but which does not make the strong claim that liberalism *entails* multiculturalism. In his essay, "The Politics of Recognition" (1994), Charles Taylor advocates a version of what I am calling weak compatibilism—he advocates group-differential treatment, but does not hold that liberal commitments *entail* multiculturalism. I shall argue that, in the end, this position is untenable for a number of reasons, not the least of which is the paradoxical reasons given for why we ought to recognize cultures other than our own as having some potential value. This paradox follows from the fact that weak compatibilism advocates recognition of difference as a self-serving project. To say that we ought to recognize different cultures by extending a presumption of value to them can only be justified by saying that *we* have something to gain by doing so—namely, that we will learn something about ourselves in the process. To be sure, this is not the aim of weak compatibilism. However, as I will show in what follows, arguing for recognizing difference on the grounds that doing so may, at some time in the future,

prove meaningful or useful amounts not only to a non-liberal position but also to a position that is not really multiculturalist. If liberals can be multiculturalists, they must do so according to strong compatibilism—a position already shown to fail. Taylor paints himself into this corner by limiting the kinds of reasons that might be given as justification for group-differential treatment, leaving himself only the very kind of reason that most liberals reject as illegitimate; namely, a personal moral mandate that has jurisdiction only over the private or inner lives of individuals—not a reason that is acceptable as justification for political action.¹

This chapter will proceed as follows. In the first section, I will trace briefly the development of weak compatibilism as it emerges from Taylor's conception of the politics of recognition. In this section, I will pay particular attention to the emergence of recognition as a response to the centrality of identity in individuals' lives—a particularly poignant aspect of Taylor's theory. In the second section, I will look at Taylor's understanding of what he calls the "Canadian case," using that example as a springboard for discussing the reasons Taylor gives for why we ought to opt for a politics of difference over a politics of equal dignity. In the last section, I will launch what I take to be a damaging objection to Taylor's theory. I have mentioned this above but will develop it more fully in that section, having established the basis for Taylor's conclusion.

¹ For anyone who knows Taylor well, my criticism may well be dismissed as a non-starter since Taylor himself argues against what many will recognize as liberalism. I take this objection seriously, but maintain that Taylor's view is at least compatible with liberal principles. Furthermore, Taylor says his view is liberal (qualified in certain ways) in "The Politics of Recognition." Thus, I am comfortable making such a criticism on the grounds stated above.

Responding to the Demand for Recognition

Taylor begins his essay with the claim that multiculturalism (here understood as a political theory rather than as a descriptive term equivalent to ‘diversity’) represents a trend in political theory toward a demand for recognition. Taylor contends that this demand is more than merely a claim for increased material welfare. Instead,

the demand for recognition [in the case of multiculturalism] is given urgency by the supposed links between recognition and identity.... The thesis is that our identity is partly shaped by recognition or its absence, often by the *misrecognition* of others, and so a person or group of people can suffer real damage, real distortion, if the people or society around them mirror back to them a confining or demeaning or contemptible picture of themselves. (Taylor 1994, 25)

The issue, then, is that proper recognition limits the extent to which its opposite—misrecognition (or, worse, non-recognition)—inflicts harm on those to whom it is directed. It is the threat of this harm, a consequence that Taylor goes so far as to call “oppression” (Taylor 1994, 25), which places recognition at the fore of contemporary political theory. The goal, then, is to work out a politics of equal recognition as a response to this demand.

Taylor argues that recognition has come to mean two different things in contemporary political philosophy. In the first instance, a politics of equal recognition reflects a politics of universalism, where emphasis is placed on the “equal dignity of all citizens” and where the concern is with “equalization of rights and entitlements” (Taylor 1994, 37). This meaning of recognition parallels a common understanding of liberalism as a difference-blind theory. With the politics of equal dignity, the aim is to treat everyone the same as a result of focusing on what is common to all—namely, dignity or rights or entitlements. Such an understanding can be seen in the success of the Civil

Rights Movement in the U.S. One aspect of this movement was the establishment of equal voting rights for African-Americans. The basis for this victory was a successful appeal to the idea that African-Americans were entitled to equal voting rights because of their equal citizenship. These rights are recognized not because of something particular about African-Americans but rather because of what is common to all Americans; namely, the entitlement to protection under the Constitution and Bill of Rights as United States citizens. Here, it is clear how the politics of recognition is universalistic. It is also clear that, in this case, recognizing everyone as equal amounts to treating them the same.

Although the second meaning of “recognition” is also universalistic, it takes the politics of equal recognition to manifest a “politics of difference.” Thus, instead of focusing on the recognition of sameness or equal dignity, proponents of the politics of difference recognize that everyone has a unique identity which must be recognized.

Taylor states,

Everyone should be recognized for his or her unique identity. But recognition here means something else. With the politics of equal dignity, what is established is meant to be universally the same, an identical basket of rights and immunities; with the politics of difference, what we are asked to recognize is the unique identity of this individual or group, their distinctness from everyone else. (Taylor 1994, 38)

For the politics of difference, then, what becomes important is recognizing the ways in which individuals *differ*. More strongly, it is the need to recognize these differences which is said to justify differential treatment. Thus, according to the politics of difference, different individuals should be treated differently if doing so facilitates recognition of their unique identities. This is a common argument made by some

feminist critiques of policies that attempt to treat men and women the same.² According to this line of thought, for example, something significant is lost in corporate policies which treat maternity leave as an absence due to a temporary disability. Recognizing the equal ability of women to succeed in the work place must mean recognizing that there is something qualitatively different and unique about that experience—and that such difference should be the basis for differential treatment.

The distinction here, according to Taylor, represents a difference in “underlying intuitions of value” present in the politics of equal dignity and the politics of difference.

The politics of equal dignity is based on the idea that all humans are equally worthy of respect.... Thus, what is picked out as of worth here is a *universal human potential*, a capacity that all humans share. (Taylor 1994, 41)

By way of comparison, “we might also say that a universal potential is at [the basis of the politics of difference], namely, the potential for forming and defining one’s own identity, as an individual, and also as a culture” (Taylor 1994, 42). What emerges, therefore, is that the politics of equal dignity, based on the principal of equal respect, demands that individuals be treated the same (i.e. in a “difference-blind” fashion), whereas the politics of difference, also based on the principal of equal respect, demands that “we have to recognize and even foster particularity” (Taylor 1994, 43).

There are two issues here that should be understood before going on, one exegetical and one critical. First, the exegetical point. It is not the case that the politics of equal dignity and the politics of difference merely represent two sides of the same conceptual coin. Instead, it is clear that adherence to one entails a rejection of the other. For proponents of the politics of equal dignity, the politics of difference “violates the

² See for example Lise Vogel, “Debating Difference: Feminism, Pregnancy, and the Workplace,” *Feminist Studies* 16 (1) Spring 1990, 9-32.

principle of nondiscrimination” (Taylor 1994, 43). This sort of rejection of a politics of difference is clearly illustrated by the recent controversy over special consideration being given to members of under-represented ethnic groups in the University of Michigan admissions procedure. In this case, members of minority groups were given weighted consideration for admission simply for being members of those groups. According to this practice it became entirely possible to make an admissions decision between two applicants who were “tied” when it came to high school GPA, standardized test scores, extra-curricular activities, and other difference-blind considerations on the basis of their ethnicity. Although this type of example is often cited as a temporary stop-gap practice that is hopefully to be abandoned at some time in the future, other practices that maintain differential treatment indefinitely are also condemned.

Conversely, proponents of the politics of difference maintain that the politics of equal dignity

negates identity by forcing people into homogenous mold that is untrue to them.... The claim is that the supposedly neutral set of difference blind principles of the politics of equal dignity is in fact a reflection of one hegemonic culture. (Taylor 1994, 43)

Here again, the reasoning of some feminist critiques of hegemonic structures is relevant.

Arguing against traditional theories of psychological development—particularly moral development—Carol Gilligan argues,

The failure to see the different reality of women’s lives and to hear the differences in their voices stems in part from the assumption that there is a single mode of social experience and interpretation. By positing instead two different modes, we arrive at a more complex rendition of human experience which sees the truth of separation and attachment in the lives of women and men and recognizes how these truths are carried by different modes of language and thought. (Gilligan 1982, 173-174)

Gilligan's point here is to argue for an understanding of psychological development that takes difference into account. More strongly, it is her point that a theory which does not recognize difference in the experiences of men and women misses something important about the unique identity of women. Thus, her recommendation is that psychological theory must be rethought through difference rather than sameness if it is to capture the truth of the differences between the lives of men and women. This example parallels very closely the politics of difference. In both, the point being made is that it is not enough to think about things from a supposedly difference-blind viewpoint since that viewpoint itself represents only one among several possible understandings. Moreover, it is not just that there are other possibilities; rather, those possibilities represent meaningful differences that *cannot* be recognized from within the politics of equal dignity. It is not enough to treat everyone the same because doing so glosses over differences that matter in the identities of individuals. Political theory must take difference seriously.

The question to address at this point is how to decide between the politics of equal dignity and the politics of difference. In other words, it must be decided whether negating identity (the charge against the politics of equal recognition) or violating the principle of nondiscrimination (the charge against the politics of difference) is a *prima facie* reason for rejecting one or the other of the two alternatives. As I will discuss in more detail below, Taylor holds that the charge of homogenization "sticks" when applied to the politics of equal dignity. The problem is that proponents of the politics of equal dignity must assert that there really are universal, difference-blind principles and then try to prove what these principles are. In the absence of such principles (as the argument goes), the politics of equal dignity emerges as culturally hegemonic, reflective of the

ideas and commitments of a particular culture. According to Taylor, “the worrying thought is that this bias might not just be a contingent weakness of all hitherto proposed theories, that the very idea of such a liberalism may be a kind of pragmatic contradiction, a particularism masquerading as the universal” (Taylor 1994, 44).

So much for the exegetical point I mentioned. I want to turn now to the critical point. There is something suspicious about the distinction Taylor makes between the politics of equal dignity and its counterpart, the politics of difference. In that distinction, Taylor argues that the politics of equal dignity is based on the value that all humans are equally worthy of respect. I maintain that any proponent of a politics of equal dignity would agree with at least that much. But the assumption seems to be (and a correct assumption it is) that the politics of equal dignity is a theory concerned primarily—if not solely—with individuals. It is, after all, attentive to the universal equality of rights and entitlements as they pertain to *individuals*. Again, I am not arguing that this in any way mischaracterizes the politics of equal dignity. The worry becomes relevant when attention is turned to Taylor’s portrayal of the politics of difference. Here, the reader will recall, it is Taylor’s contention that the potential being recognized is that of the individual *or of the culture* to form and define one’s own identity. There seems to be some slippage from individuals to cultures, which perhaps Taylor views as legitimate because of his belief that human lives are fundamentally “dialogical”—that is, individuals are capable of understanding themselves only through the acquisition and use of various languages, which are possible only by means of interaction with others (Taylor 1994, 32). It remains to be seen, however, whether this dialogical character justifies the slippage from talking about individual identity to talking about cultural identity. The point here is this: just

because identity is (partially) dependent on the languages acquired from and used within group interactions does not mean that those *sources* of language should be given special consideration. It may be true that identity is possible only through continued interaction with others. But this does not mean that any particular group should be viewed as having some particular importance merely because it was the origin of an individual's language and the arena within which that individual continues to have meaningful interactions. I will argue that this shift from individuals to cultures begs the question as a result of the fact that Taylor's conclusion depends on the prior belief that cultural identity is somehow on a par with individual identity. Liberalism is concerned with the rights and freedoms of individuals as analytically and normatively prior to groups, to recall Nussbaum's characterization. Even if individuals are to have the freedom to acquire and use languages in forming their identities, it simply does not follow that particular groups ought to be recognized as the sources of those languages. Guaranteeing that individuals can acquire some language and freely interact with others is sufficient to protect the importance of doing so to identity formation.

The "Canadian Case"

I turn now to Taylor's own criticism of the politics of equal dignity. Taylor argues that the politics of equal dignity is deficient insofar as it presents a "restrictive view of equal rights" and a "restricted acknowledgment of distinct cultural identities" (Taylor 1994, 52). The issue at stake in the so-called Canadian case arose as a result of the adoption of the Canadian Charter of Rights—a doctrine very similar to the United States Bill of Rights in that it presented "a schedule of rights offering a basis for judicial review of

legislation at all levels of government” (Taylor 1994, 52). The particular difficulty for the Charter was the claims for distinctness being raised by French Canadian “Quebeckers” and by Canadian aboriginals. According to Taylor, these demands were a function of the desire of these peoples for the survival of their distinct cultural ways, which came in the form of demands for rights to autonomous self-government and for the ability to enact legislation which was thought to be necessary for cultural survival (Taylor 1994, 52). Examples of these include certain language laws passed in the province of Quebec which range from limitations on who can send their children to English-speaking schools to a requirement that commercial signage be presented in French.

Here, the conflict between a politics of equal dignity and a politics of difference is apparent. Following the accusations each makes of the other, it is clear how the adoption of a politics of difference (represented here by the Quebeckers) threatens to violate the principle of nondiscrimination. Taylor puts it this way: “restrictions have been placed on Quebeckers by their [provincial] government, in the name of their collective goal of survival, which in other Canadian communities might easily be disallowed by virtue of the Charter” (Taylor 1994, 53). According to a politics of equal dignity, these are the very sorts of restrictions that violate individual rights. As such, and “even if overriding individual rights were not possible, espousing collective goals on behalf of a national group can be thought to be inherently discriminatory” (Taylor 1994, 55). On the other hand, it is also clear how the argument made by the proponents of a politics of difference would proceed against a politics of equal dignity: by requiring that all Canadian citizens adhere to the Charter, the Canadian Parliament is essentially requiring that differences be eliminated in favor of the idea that each Canadian citizen should be treated the same—

regardless of whether each of those individuals (or their individual cultural heritages) agrees with the basic thrust of the Charter. The question, of course, is which of these positions ought to be adopted.

The answer to this question comes down to a decision about the “right” kind of liberalism. Following Ronald Dworkin, Taylor distinguishes between “procedural” commitments and “substantive” commitments. The distinction is straightforward enough: according to the procedural commitment, we “acknowledge a commitment to deal fairly and equally with each other, regardless of how we conceive our ends,” while the substantive commitment deals with “views about the ends of life, about what constitutes a good life, which we and others ought to strive for” (Taylor 1994, 56). The initial point of this distinction is to illustrate that most liberal societies are centered on the procedural commitment, at least to the extent that those societies are successful in adopting no particular substantive views about the ends of life (Taylor 1994, 56). In other words, liberal societies are characterized by a commitment to impartiality. By remaining impartial to the various substantive views of the good life held by its citizens, a liberal society seeks to favor no particular view of the good life over any other. Thus, when considering the rights and freedom of individual citizens, liberal societies tend to view them as sources of potentiality rather than actuality—that is, individuals are afforded certain rights and freedoms not on the basis of their actual beliefs but on the notion that they are *capable* of forming, revising, and carrying out whatever views of the good life they happen to hold.³ The reason behind this view, Taylor argues, is that any substantive view which was adopted would not be held by all. As such, it would result in

³ John Rawls says of this capacity that “citizens view themselves as free [in] that they regard themselves as self-authenticating sources of valid claims” (Rawls 1996, 32).

not treating everyone equally—namely, the dissenters—because being partial to one particular substantive view over another amounts to advocating the supported view as more worthy of respect. It may turn out that there are good reasons for individuals to support one view over the other, but it is not the business of the liberal state to make that kind of determination. Thus, “a liberal society must remain neutral on the good life, and restrict itself to ensuring that however they see things, citizens deal fairly with each other and the state deals equally with all” (Taylor 1994, 57).

The further point that Taylor makes regarding this distinction hearkens back to the Canada case. Clearly, from that case, Quebec would violate the procedural model specifically because it *does* have at its base the desire to promote certain substantive commitments—namely those commitments that would ensure the survival of the Quebecker culture. This involves the value judgment that Quebecker culture is *worth* preserving, even at the expense of impartiality. Taylor states, “It is axiomatic for Quebec governments that the survival and flourishing of French culture in Quebec is a good” (Taylor 1994, 58). Because what is at stake is *survival* (rather than protection and as opposed to temporary measures in the present), the procedural model of liberalism simply will not work for Quebec because the procedural model cannot allow steps designed to ensure the survival of Quebecker culture. Taylor continues,

Policies aimed at survival actively seek to *create* members of the community, for instance, in their assuring that future generations continue to identify as French-speakers. There is no way that these policies could be seen as just providing a facility to already existing people. (Taylor 1994, 58-59)

The interesting move that Taylor makes with this is to argue that Quebec can be organized around a different—but still liberal—model, a model that retains the collective good without infringing on the rights of dissenters. Taylor explains that, “according to

this conception, a liberal society singles itself out as such by the way in which it treats minorities, including those who do not share public definitions of the good, and above all by the rights it accords to all of its members” (Taylor 1994, 59). Thus, it seems, there is a way for liberalism to be compatible with collective goals or substantive commitments; that is, the politics of difference can be coupled with a version of liberalism that rejects the procedural model. It is compatible insofar as diversity is respected and fundamental rights of all are protected.

This is the model Taylor advocates. The conceptions of liberalism depicted by this model,

are willing to weigh the importance of certain forms of uniform treatment against the importance of cultural survival, and opt sometimes in favor of the latter. They are thus in the end not procedural models of liberalism, but are grounded very much on judgments about what makes a good life—judgments in which the integrity of cultures has an important place. (Taylor 1994, 61)⁴

The primary reason for Taylor’s advocacy here is that this form of liberalism avoids the charge of homogenization. On another level, however, Taylor argues that no form of liberalism can create “a neutral ground on which people of all cultures can meet and coexist”—nor should it try (Taylor 1994, 62). In fact, Taylor uses this fact as further support for the non-procedural form of liberalism he espouses, at least insofar as this form is willing to accept that there are inevitable substantive distinctions to be made. I take Taylor to be advocating a kind of accommodationist or “pragmatic” politics here. To

⁴ It seems that a word of warning is appropriate here. Though I cannot go into great length about it, there is a worry that the kind of collective goal oriented or substantive form of liberalism Taylor advocates can give unrestricted license to the majority to decide what is in the interest of the collective. Thus any number of atrocities might be justified merely by claiming that it was in the interest of the collective or necessary for cultural survival that certain forms of uniform treatment be superseded. I think Taylor means to stave off such objections by saying that certain basic or fundamental rights are irrevocable, but it remains to be seen just whether actual politics are so virtuous if given freedom to opt sometimes in favor of the importance of cultural survival.

be sure, it is not one which takes us as far as Kymlicka, whose liberal multiculturalism makes it a matter of right that cultures be protected with special measures. For Taylor, the fact that societies are becoming “more porous” and “increasingly multicultural” indicates that there are

substantial numbers of people who are citizens and also belong to the culture that calls into question our philosophical boundaries. The challenge is to deal with their sense of marginalization without compromising our basic political principles. (Taylor 1994, 63)⁵

To answer this challenge, Taylor maintains, we must once again return to the idea of recognition.

Taylor holds that in societies that are increasingly diverse and open to newcomers, it becomes all the more important to realize that the demands being made are not just for the recognition of equal value of different cultures. With Quebec in the Canada case, the demand was that

we let cultures defend themselves, within reasonable bounds. But the further demand we are looking at here [in diverse and porous societies] is that we all *recognize* the equal value of different cultures; that we not only let them survive, but acknowledge their *worth*. (Taylor 1994, 64)

This is clearly a much stronger claim than that cultures be given certain latitudes when it comes to self-government or legislative policies. Taylor argues that the proper response to this demand is to adopt an attitude of presuming that “all human cultures that have animated whole societies over some considerable stretch of time have something important to say to all human beings” (Taylor 1994, 66). The basic idea here is that such a presumption orients us toward cultures distinct from our own. Thus Taylor states,

⁵ By “porous” Taylor means that societies are “more open to multinational migration” and by “multicultural” Taylor must mean something more akin to diversity than to a political program which puts the rights of groups above or even on a par with the rights of individuals.

But when I call this claim a ‘presumption,’ I mean that it is a starting hypothesis with which we ought to approach the study of another culture. The validity of the claim has to be demonstrated concretely in the actual study of the culture. (Taylor 1994, 66-67)

To be sure, this is neither an *a priori* recognition nor the preclusion of value. It is only a way of approaching other cultures by keeping an open mind regarding their value.

There arises at this point a distinct concern regarding the notion of a presumption of value. Taylor is aware of it, and addresses it soon after introducing the idea of a presumption of value. The concern is that evaluating cultures other than our own sometimes require an entirely different scheme of evaluative terms and concepts if it is to be genuine or legitimate. For one culture to evaluate another by its own terms is not really to recognize the potential value of that culture. Instead, it would be to perpetuate the very same hegemony from which Taylor is attempting to escape. In response to this, Taylor argues that we must learn to navigate from *within* the evaluative concepts of the yet-to-be-determined-valuable culture. He states,

for a culture significantly different from our own, we may have only the foggiest idea *ex ante* of in what its valuable contribution might consist. Because, for a sufficiently different culture, the very understanding of what it is to be of worth will be strange and unfamiliar to us.... We learn to move in a broader horizon, within which what we have formerly taken for granted as the background to valuation can be situated as one possibility alongside the different background of the formerly unfamiliar culture. (Taylor 1994, 67)

Thus, it seems, our reason for presuming value is that doing so might lead to some benefit for us in the form of a transformation of our standards of evaluation, resulting from exposure to evaluative ideas and terms unfamiliar to us.

This is not the only reason why we ought to adopt such a presumption, however. Taylor continues by arguing for a stronger claim: that we *owe* all cultures such a presumption. He argues, “If withholding the presumption is tantamount to a denial of

equality, and if important consequences flow for people's identity from the absence of recognition, then a case can be made for insisting on the universalization of the presumption as a logical extension of the politics of dignity" (Taylor 1994, 68). Taylor is careful at this point about accepting the validity of demanding this sort of recognition as a right. For one thing, he is clear that, even though this presumption might be viewed as an extension of the politics of equal dignity, it does not sit easy with that theory's adherence to difference-blindness. More to the point, Taylor is concerned about the extent of the demand for recognition. It is his contention that this demand is not just about whatever "future study" may reveal about a culture's value, but rather about making "actual judgments of equal worth applied to the customs and creations of these different cultures" (Taylor 1994, 68). In response to this stronger form of the demand, Taylor is skeptical.

He states,

if the judgment of value is to register something independent of our own wills and desires, it cannot be dictated by a principle of ethics...it makes no more sense to demand that we do [find something of great value in a culture different from our own]⁶ than it does to demand that we find the earth round or flat, the temperature of the air hot or cold. (Taylor 1994, 69)

In other words, we simply cannot make these sorts of evaluations, and make them legitimately (that is, based on evaluative terms native to the culture in question), without first learning what it would mean for *that* culture to be valuable.

There is a further danger in demanding favorable judgments of worth as opposed to a presumption of finding value will result after some period of study and "fusion of

⁶ The notion of "great value" is Taylor's own. It is not clear from the context what it would mean for, or whether it is required that, a culture to be of *great* value as opposed to merely being of value. I do not think that it makes much difference, except to say that maybe we should recognize all and only those cultures which admit of great value while only recognizing some of those which are merely valuable.

horizons.”⁷ Taylor continues,

the peremptory demand for favorable judgments of worth is paradoxically—perhaps one should say tragically—homogenizing. For it implies that we already have the standards to make such judgments. (Taylor 1994, 71)

Thus, if the demand is that judgments be made in the present and, so to speak, on the spot, there is a very real danger that everyone will be made the same by evoking the same (monolithic) standards of judgment. But this is very thing that led Taylor to abandon a procedural conception of liberalism. It was said that difference-blindness depended on the ideas of a particular culture. This was reason enough to seek an alternative that was not homogenizing in the same way, an alternative which Taylor found in the politics of difference as manifested through a non-procedural conception of recognition.

Thus we arrive at a difficult crossroads. On the one side—where the politics of equal dignity resides—the whole idea of recognition of difference (and the subsequent differential treatment) is anathema to a procedural conception of liberalism, where the guiding principle is that substantive views of the good life are best left out of political proceedings in favor of fair and equal treatment of all. On the other side—the politics of difference side—it seems that responding to demands for recognition, though accepted on the basis of a non-proceduralist conception of liberalism, results in an inauthentic recognition of value when it is demanded that cultures be found worthy as they are now.

Taylor argues,

There must be something midway between the inauthentic and homogenizing demand for recognition of equal worth, on the one hand, and the self-immurement within ethnocentric standards on the other.

⁷ At this point, Taylor moves into talking about this as a problem for the “politics of multiculturalism.” I cannot find a point at which he makes this shift explicit. However, it seems plausible that what he refers to as the politics of multiculturalism is the culmination of the politics of difference tempered by the demand that cultures actually be found to be valuable.

There are other cultures, and we have to live together more and more, both on a world scale and commingled in each individual society. (Taylor 1994, 72)

The midway point, for Taylor, is the *presumption* of value described above. He claims that it might not be possible to demand it as a right, but can be argued for “as the way we ought to approach others” (Taylor 1994, 72). The reason for accepting that this is the way we ought to approach others stems from an idea with which the reader should be familiar. Taylor states,

one could argue that it is reasonable to suppose that cultures that have provided the horizon of meaning for large numbers of human beings, of diverse characters and temperaments, over a long period of time—that have, in other words, articulated their sense of the good, the holy, the admirable—are almost certain to have something that deserves our admiration and respect, even if it is accompanied by much that we have to abhor and reject. Perhaps one could put it another way: it would take a supreme arrogance to discount this possibility *a priori* (Taylor 1994, 72-73).

This presumption, then, does not require that we make actual judgments of value. It has already been shown why Taylor thinks that fails. Instead, what is required is something akin to recognizing our own fallibility, or, more poignantly, the fallibility of our cultural understandings. What is required, therefore, is that we adopt as a default position the presumption that foreign cultures are worthy of our respect.

But Is It Viable?

Toward the end of the first section above, I began to raise some concern that one of Taylor’s crucial distinctions begs the question to the extent that he does not provide an argument for including in his characterization of the politics of difference the notion that cultures are somehow to be viewed as legitimate bearers of identity. This has to be the case to sustain his notion that it is *cultures* that are to be recognized by the politics of

difference. To be sure, I think the inclusion of culture is something with which most proponents of the politics of difference would whole-heartedly agree. Nevertheless, the inclusion of cultures as entities to be recognized and protected stands in need of justification. Taylor provides no such justification. It simply will not work to reject the politics of equal dignity on the grounds that it is overly individualistic or, better, “inhospitable to difference,” without arguing why group recognition is preferable. This point is especially poignant in light of the following passage:

There is a form of the politics of equal respect, as enshrined in a liberalism of rights, that is inhospitable to difference, because (a) it insists on uniform application of the rules defining these rights, without exception, and (b) it is suspicious of collective goals. *Of course, this doesn't mean that this model seeks to abolish cultural differences....* I call it inhospitable to difference because it can't accommodate what the members of distinct societies really aspire to, which is survival. (Taylor 1994, 61)

This passage is confusing. If the original reason for rejecting the politics of equal respect (at least the proceduralist variant) was that it did not—and could not—recognize groups, this passage seems contradictory insofar as Taylor is saying that it is not a necessary consequence of proceduralist politics of equal recognition that group difference be abolished. Here, the claim must be something else; namely that the proceduralist politics of equal recognition is to be rejected because it cannot guarantee, or even takes steps toward guaranteeing, what groups *really* demand—survival. Thus, even though proceduralist politics does not have as an explicit goal the abolition of cultural differences, it can have that effect. And this is reason enough to reject it.

According to Brian Barry, the issue of being inhospitable to difference raises a separate issue. For Barry, Taylor's criticism of difference-blind liberalism is not just poorly formulated. It is wrong. Barry takes himself to be advocating just this sort of

difference-blind liberalism, and he thinks that doing so is the only true way to be a “good liberal.” Thus, Barry argues, “if liberalism is indeed blind to cultural differences, we should not assume immediately that this must be a fault: it may in some circumstances be precisely what is required” (Barry 2001, 64). In fact, Barry goes on to argue that it is a “virtue” of liberalism that it is difference-blind and, as a result, that it is the politics of difference which should be rejected (Barry 2001, 65). This may sound like so much polemical badgering, and, to some extent, I would agree that it is. Nevertheless, Barry makes an important point. In response to Taylor’s claim that liberalism “can’t capture the full thrust of policies designed for cultural survival” (Taylor 1994, 58), Barry raises the question as to why this should even be considered an expectation of liberalism. Accordingly, Barry is reluctant to allow that liberalism might be capable—in any version, but particularly in the politics of equal recognition variety—of facilitating the survival of cultures.

Arguing that liberalism is an outcome of the idea that the state has no authority to enforce the “true religion,” Barry states,

Conversely, the notion that the state may (and perhaps should) deploy its coercive powers to ensure the maintenance of the ancestral culture can be seen as what we get by ‘culturalizing’ the proposition that the legitimate tasks of the state include the enforcement of the true religion. (Barry 2001, 65)

Barry continues by contending that the justification for state enforcement was founded on the notion that there was some objective value to the true religion. With the “culturalization” of this enforcement, however, “the proposal to put the state’s power behind the maintenance of ‘culture’ does not rest on any claims about the objective value—truth value or any other value—of the culture in question” (Barry 2001, 66). In

other words, it appears entirely arbitrary as to which cultures are deemed worthy of state protection. The point, therefore, is this. According to Barry, liberals are not in the business of attempting to

eradicate all traditional ways of life in order to further some ideal of free-floating personal autonomy.... The point here is simply that the complaint made by liberals is not against the objective of remaining true to some ancestral culture but against the coercion of those who do not share that objective. (Barry 2001, 66)

It is simply illegitimate for the state to exercise its authority for the maintenance or survival of *any* individual culture—whether it be the majority culture of the state or the culture of some minority group within the state’s borders. Thus, when Quebec limits who can send their children to English-speaking schools or what language can be used on commercial signage, it is illegitimately exercising its authority to ensure the survival of Quebecois culture. Of course, it might be asked, what is so wrong with wanting one’s culture to survive?

For Barry, such an aspiration is unproblematic in and of itself. Barry compares this aspiration to one’s desire to perpetuate one’s genes, which he also takes to be a legitimate aspiration. “But,” Barry warns, “there are legitimate and illegitimate ways of going about it: rape, for example, is excluded” (Barry 2001, 66). To be sure, Barry is not here saying that a state which acts so as to perpetuate some particular culture is committing the political equivalent of rape. What he is arguing is that there is a conceptual difference between the aspiration for cultural survival and the politicization of that aspiration which results in the procurement of survival. When the state exercises its authority to ensure cultural survival, it commits the error of thinking that cultures are the kind of thing to which rights can be ascribed. Quoting Peter Jones, Barry states,

Cultures are not moral entities to which we can owe obligations of fairness. Insisting that we should be fair to cultures merely as cultures is like insisting that we should be fair to paintings or to languages or to musical compositions.... So, if we seek to deal fairly with cultural diversity, it is not cultures that will be the ultimate objects of our concern but the people who bear them. (Barry 2001, 67)

By being concerned primarily (if not exclusively) with individuals who are the bearers of cultural identities, the most a state can do is ensure that there is an equal opportunity for individuals to pursue ways of life which would lead to the survival of their cultures. In the Canada case, this would mean that Quebec would offer equal opportunity to parents to send their children to French- *or* English-speaking schools—regardless of whether the parents are of French descent. But for Taylor, this is not enough. If *survival* is what is at stake, merely providing the opportunity to perpetuate the French language in Quebec will not guarantee that that culture will exist in Quebec indefinitely. What Barry argues is that the flip-side to the coin (what is already transpiring in Quebec with language limitations) is illegitimate because it becomes a pernicious form of reverse discrimination. Thus, Barry states,

This perversion of common sense is bound to happen once the goal of cultural survival is elevated to the status of an end in itself. Human beings then become mere ciphers, to be mobilized as instruments of a transcendent goal. (Barry 2001, 67)

Within Taylor's theory this amounts to not treating any culture equally—either as a result of the politics of equal dignity or the politics of difference. Once survival becomes an end in itself, individuals and their respective cultures become secondary to the goal of the survival of the majority culture. Certainly Taylor cannot mean that this should be the outcome of the aspiration of cultural survival, and yet it is doubtful that any other conclusion can be drawn.

Thinking back to Taylor's positive statements about extending the presumption of value or worth to cultures different than our own, it will be recalled that his conclusion there was that "it is reasonable to suppose that cultures...are almost certain to have something that deserves our admiration and respect" (Taylor 1994, 72). Without going any further, it is easy to ask what reason we (or anybody, for that matter) have for presuming that a culture distinct from our own has any value. Taylor only offers the suggestion that it seems *reasonable* to presume that a culture which has provided meaning for some period of time to a number of individuals must have at least some value. But should that presumption move us (the majority liberal culture) to seek verification of that value, and subsequently to accommodate the special needs of the culture under scrutiny?

This presumption, in one way, presumes too much. By giving some culture the benefit of the doubt, we are already bestowing recognition of value on that culture. In this way, Taylor's view collapses into a stronger version of compatibilism. Thus, if liberals can be multiculturalists at all, the connection between the two must be a result of strong compatibilism—a view shown in the last chapter to be untenable. In another way, however, Taylor's theory does not presume enough. If the best we can hope for out of a political theory is that it will reveal whether a cultural is truly valuable, it is difficult to imagine what is supposed to happen in the mean time. This is unsatisfactory insofar as it does not provide an answer to the question regarding what is to be done politically in an increasingly diverse world.

The conflict between presuming too much and presuming too little comes to a head within the following consideration. If "we" refers to educated, right- and truth-

seeking individuals, then it seems plausible to adopt the attitude that a presumption of worth ought to be extended to people and cultures different than our own. If, however, “we” refers to liberal polities, then the requirement that such a presumption be so extended simply cannot be motivated by the claim that it is in the best interest of that liberal polity to find out whether the culture in question has something interesting or valuable to offer.⁸ It must be motivated by a claim such as *justice* requires that minority cultures be afforded a “benefit of the doubt” appropriation until a determination can be made, based on the evaluative terms of that culture, as to whether there are legitimate reasons to recognize that culture’s right to survival. In her commentary on “The Politics of Recognition,” Susan Wolf puts the point this way:

Taylor’s reason for studying different cultures, then, is that over time these studies are very likely to “pay off” in terms of an enlarged understanding of the world and a heightened sensitivity to beauty. This is *a* reason for studying different cultures, to be sure, but it is not the only reason, nor, I think, is it the most pressing one. (Wolf 1994, 85)

The problem here is not that justice might require such an approach. The problem is that justice (or even tolerance or equality or any other core liberal value) cannot mandate that cultures be so recognized. Any justification, then, would have to be non-liberal. In fact, it seems, it would be *anti*-liberal. In other words, if our motivation for recognizing other

⁸ It may be that this is too strong a criticism for the actual context in which Taylor presents this argument of presumptive value. In that context, the issue is whether certain texts should be included in the recognized canon. There, Taylor argues that it is nothing more than cultural arrogance to think that there are no other cultures whose authors could present anything of value. As such, Taylor argues, we should adopt the presumption that those cultures have something of value to offer and that, if we take the time to “fuse horizons” we will discover what is of value. Nevertheless, I think it is clear that Taylor means for this presumption of value to be universally applicable. That is, faculty and administrators are not the only ones who should be more open to the possibility of a more culturally diverse canon. Policy makers and political theorists should also recognize the possibility that there is something worth saving in other cultures. Recalling Barry’s criticism, however, points out that recognizing that there is something worthy or valuable in diverse cultures is one thing; using the state’s authority to make sure that it survives is entirely another. Thus, it is clear that Taylor must provide reasons for ensuring cultural survival that extend beyond the assumption that certain cultures will add to the value already found in our own.

cultures is that it might “pay off,” recognition is not a requirement of justice but of mere prudence.

Even if Taylor can get around my charge of begging the question and can show that his own politics of difference really is preferable to Barry’s egalitarian liberalism, there is a more serious concern regarding the plausibility of his theory of presumptive value. Taylor’s view that minority groups are worthy of a presumption of value entails a non-liberal (if not anti-liberal) *as well as* a non-multiculturalist conclusion. For some, at least the first part of this entailment might not be such a bad thing. After all, if liberalism cannot answer the legitimate claims groups are making, then maybe we should re-think our political framework. But Taylor views himself as advocating a kind of liberalism, albeit an accommodationist, somewhat substantive version. As such, Taylor must provide a liberal justification for promoting cultural survival, and it is this requirement at which he fails. Furthermore, the path Taylor takes in providing this justification essentially renders minority groups as resources for the majority culture. To extend a presumption of value to minority cultures is to view those cultures as potential sources of value for the majority culture. But this is arguably to miss the multiculturalist’s point altogether. Thus, Taylor not only fails to give an adequate liberal response to group-based claims, he also fails to appreciate the real demands of multiculturalism.

CHAPTER IV

LIBERAL INCOMPATIBILISM: MUST LIBERALS REJECT MULTICULTURALISM?

Introduction

In the two preceding chapters, I argued that both the strong and weak forms of compatibilism fail to establish a friendly relationship between liberalism and multiculturalism. In this chapter, I will look explicitly at Brian Barry's criticism of multicultural political theory and his proposed alternative as they appear in *Culture and Equality* (2001). It is Barry's contention that liberalism has no place for any form of multiculturalism—in short, liberals must reject multiculturalism. To support this claim, Barry argues that liberalism is best conceived of as primarily egalitarian; that is, as a political theory that has at its core a commitment to equality. As will become apparent in what follows, this is a compelling approach to the issue of whether liberalism and multiculturalism are compatible. It offers a response to multiculturalist politics that definitively concludes that liberals cannot be multiculturalists. Nevertheless, as I will argue below, Barry's egalitarian liberalism is challenged by the fact that it is a controversial version of liberalism. This is troubling because Barry relies on his conception of liberalism to make some rather strong policy recommendations. To be sure, these recommendations *are* what follow from Barry's egalitarian liberalism. It is for this reason that his theory is internally consistent. However, in order for such recommendations to stick, it would have to be the case that there is more widespread

agreement on the principles that Barry puts at the center of his liberalism. Because there is no such agreement—and, importantly, no such agreement among *liberals*—it is difficult to see how Barry’s liberalism can be adopted as the solution to how liberalism should respond to diversity. It seems, then, that the only thing the success of Barry’s argument shows is that proponents of *Barry’s* version of liberalism must reject multiculturalism, but the question of whether Barry’s version of liberalism is the best version of liberalism remains open.

The basic structure of the chapter is as follows. I shall begin with a section outlining what Barry takes to be wrong with multiculturalism. The basic idea here is that multiculturalism, according to Barry, is doomed from the start insofar as it attempts to politicize groups in ways that run contrary to the basic principles of liberalism. The reason for Barry’s out-of-hand rejection of “group-specific public policies” (Barry 2001, 71) is that they threaten to undermine the liberal commitment to individual freedom. Barry contends that this commitment requires a strong sense of what is public versus what is private, and that the politicization of groups tears down that distinction, forcing debates about what constitutes the good life into the political arena. To counter this tendency, Barry maintains that liberalism should not recognize political differentiation based on cultural group membership. From there, I shall turn to Barry’s conception of liberalism as fundamentally egalitarian. In this section, I will discuss how this sort of liberalism necessarily precludes the possibility of liberals being multiculturalists. I will conclude this chapter with a section in which I consider limitations on Barry’s egalitarian liberalism as it emerges in *Culture and Equality*. The major concern is that the prioritization of equality found in Barry’s theory represents a rather particular

understanding of liberalism and, moreover, a particular understanding of equality. In fact, it is unclear that centralizing equality (over, say, liberty or autonomy for example) is the correct view of liberalism. This poses a serious concern to the extent that Barry's argument against multiculturalism depends on his theory being the correct conception of liberalism. If even liberals cannot agree that this is the correct version of liberalism, it is unclear that Barry's particular conception of liberalism stands as the proper approach to questions regarding how liberals might respond to group-based demands. To be sure, it is certainly possible that Barry *is* right, and that liberalism and multiculturalism are objectively incompatible. In fact, the argument he presents for this conclusion is rather persuasive. Following Ayelet Shachar, however, we see that the problem is

not so much the persuasive quality of [Barry's] argument. Rather, the dilemma is that it seems almost impossible to imagine a return to an age of blindness-to-difference, given that we are already living in increasingly heterogeneous societies, and that the trends of globalization, economic interdependency, and increased trans-national migration are likely to increase, not decrease, this intra-state diversity. (Shachar 2001, 296)

This indicates that there are good reasons for thinking that at least some of the issues raised by multiculturalists are legitimate and need to be addressed by liberalism rather than rejected out of hand. Moreover, the appeal of Barry's liberalism would be much stronger were it not for the fact that there are other versions of liberalism that seem to be equally viable candidates for the right, the true, or the best version of liberalism. This is an especially compelling consideration when some of those versions do not require liberalism to fly in the face of reasonable intuitions about how best to respond to diversity. Before considering these issues, however, let us first get clear about what Barry believes is wrong with multiculturalism.

Barry's Understanding of Multiculturalism

Just what is multiculturalism as Barry understands it? In *Culture and Equality*, Barry hones in on the target of his criticism early in the introduction. He states, “my concern is with views that support the politicization of group identities, where the basis of the common identity is said to be cultural” (Barry 2001, 5). This tells us quite a lot about the specifics of Barry’s conception of multiculturalism. First, and what I take to be most important, is the idea that culture has some privileged status in delineating what is important about groups—namely, that groups have some status which mandates political attention. Second, and stemming from the first idea, is the notion that group identities provide something for individual group members that citizenship in the majority society does not. Together, these ideas form the target at which Barry is aiming in his rejection of multiculturalism as a viable political approach to diversity.

In a statement of his purpose for *Culture and Equality*, Barry claims that he is concerned with

those multiculturalists who would be happy to embrace the watch-words of the French Revolution: liberty, equality and (in some appropriately non-sexist rendition) fraternity. What unites them is the claim that, under contemporary conditions of cultural heterogeneity, “classical” or “difference-blind” liberal principles fail to deliver on either liberty or equality: only by adopting the tenets of the “politics of difference,” it is said, can we hope to achieve real liberty and equality. (Barry 2001, 12)

This statement brings to the fore the key juxtaposition between the two political theories in question. On the one hand, classical liberalism (as Barry understands it) aims to promote liberty and equality by means of universalist policies of equal treatment. He states, “in abstract terms, we may say that liberalism stands for individualism (versus communalism), equality (as against the notion of natural or divinely-appointed hierarchy), and moral universalism (as against moral particularism)” (Barry 1997, 3). By

this understanding, everyone—regardless of group membership or cultural heritage—receives a uniform set of rights that entitles everyone to equal consideration. On the other hand, and because its proponents view the classical liberal project as a failure, the politics of difference or multiculturalism is taken to promote the same values of liberty and equality by treating people differently. By the multiculturalist account, fair treatment of people with different cultural heritages requires that those cultural heritages be taken into account when meting out rights and privileges. In other words, because individuals with different cultural heritages will feel the effects of an equal set of rights and privileges differently, they are not really being treated the equally. To rectify this situation, multiculturalists argue for special rights and privileges for cultural groups. According to Barry, “the argument [for culture-based special rights] is that, even where resources and opportunities are equal, the members of a group are entitled to special rights if their distinctive culture puts them in a position such that they are in some way less well placed to benefit from the exercise of the rights that provide the standard resources and opportunities than are others” (Barry 2001, 13). The distinction here between fairness requiring treating everyone the same and fairness requiring treating certain members of society differently stands at the center of the debate between liberals and multiculturalists and serves well as a starting point for understanding Barry’s conception of multicultural politics.

Let us consider further the distinction between a liberal and a multiculturalist conception of what equal treatment entails. The basic idea that multiculturalists adopt as central is familiar enough: a political theory which attempts to justify policy and institutions on a universalist basis founders on what I will call a “blanket effect,”

covering any and all differences between individual conceptions of the good life. Such an effect, to recall Taylor's way of framing the issue, results from an attempt to recognize only what is the same in all individuals (the "politics of equal dignity") rather than what is unique to each individual (the "politics of difference"). The multiculturalist response to this blanket effect is to turn away from universalism toward group specific rights and recognition specifically because of the potential for homogenization coming from a universalistic theory. The concern of these anti-universalists is that the kind of difference-blind approach advocated by Barry necessarily thwarts diversity by requiring that groups relinquish certain practices which are central to their diverse identities. But what the anti-universalist's own understanding requires is that groups have a static and determinate structure which can be identified and recognized among all of their members.

Importantly, the contention being made by multiculturalists here is not necessarily just an argument objecting to inequality in resources and opportunities. As Barry states, "the argument is that, even where resources and opportunities are equal, the members of a group are entitled to special rights if their distinctive culture puts them in a position such that they are in some way less well placed to benefit from the exercise of the rights that provide the standard resources and opportunities than are others" (Barry 2001, 13). If Barry is right about this, it seems that proponents of multiculturalism are concerned with expanding the standard egalitarian liberal understanding of liberty and equality. What is lacking in this traditional understanding, so the argument goes, is a thorough recognition of the importance of "the independence of associations and communities that are the bearers of minority cultures" (Barry 2001, 17). As a result, egalitarian liberalism is

under-equipped to provide the framework requisite to realize liberty and equality in contemporary societies.

I will take Barry's structuring of *Culture and Equality* as a model for the remainder of this section. As he views it, there are three main claims which multiculturalism makes, and which he considers in turn. The first, as I have already mentioned, is the multiculturalist idea that "if public policy treats people differently in response to their different culturally derived beliefs and practices, the argument runs, it is really treating them equally" (Barry 2001, 17). Barry maintains that the policies advocated by this approach are both negative and positive. Negative policies come in the form of exemptions from laws which generally apply to the society as a whole. This "rule-and-exemption" approach is exemplified by a multitude of cases, one being the case of turban wearing Sikhs being exempted from motorcycle helmet wearing laws in Britain. Concerning positive policies, Barry claims, "whereas negative policies simply provide relief from the burden imposed by some law, positive policies provide advantages to individuals (on the basis of their membership in some culturally defined group) that are not available to others" (Barry 2001, 17). Though not based on cultural membership, an example of positive policies is a situation in which individuals who fall below a certain line of minimum income requirement are given state-provided healthcare. This is clearly an advantage that is not available to others provided on the basis of group membership.

The second multicultural claim that Barry rejects is the proposal that since egalitarian liberal principles "do not impose similar constraints on the associations and communities of the mainstream society, it is suggested that they have an unfair impact on cultural minorities and thus again fail the test of mandating really equal treatment" (Barry

2001, 17). The basic idea here is that, according to multiculturalists, egalitarian liberal principles require minority cultures to curtail some of their traditional practices which are viewed as anathema to a liberal conception of liberty, but that similar restraints are not placed on “mainstream” societal groups. Thus, the conclusion reached by multiculturalists is that egalitarian liberalism is not so egalitarian after all: what it requires of some is not required of others. In place of this apparent unequal treatment, proponents of multiculturalism insert a “politics of difference” which is meant to redress the treatment of minority groups.

Finally, Barry rejects the underlying assumption of multiculturalism that the universalism he advocates must be false. As I understand it, Barry’s primary concern here is first that multiculturalism must propose some variant of cultural relativism to motivate the claim that different groups should be treated differently solely on the basis of their culture. Barry challenges this move by providing an argument for the validity of his own understanding of moral universalism. Barry’s second concern here focuses on the effects specific multicultural policies have on the proposed recipients. Barry is highly skeptical of the benefits of such policies on the grounds that they are in most cases of little or no help (and in some cases actually of harm) to the groups which they aim to assist. To counter the ill-effects that result from multiculturalist policies, Barry proposes that we accept equality—more specifically, equal treatment—as the core value to be upheld by a liberal state.

Equal Treatment

The exact meaning of equal treatment is central to understanding Barry's rejection of multiculturalism and his egalitarian liberal alternative. Insofar as his understanding of equal treatment is grounded on an individualist conception of rights and liberties, it might seem easy to conclude that Barry is simply ignoring the fact of diversity by advocating a position that downplays groups in favor of individuals. If true, this would be a significant advantage for the multiculturalist, at least to the extent that he or she would then be able to push more strongly for the multiculturalist alternative. However, Barry is clear that his own position is

not that the fact of multiple cultures is unimportant (or in most cases regrettable) but that the multiculturalist program for responding to it is in most instances ill-advised. Indeed, it is just because the fact of multiple cultures is important that the politicization of group identities and the development of group-specific policies should be resisted. (Barry 2001, 23-4)

At first glance, this statement seems uncharacteristic of the argument that Barry presents in the introduction. Looking more closely, however, reveals that the argument Barry wants to promote is not one that wishes to dissolve or otherwise challenge the presence of multiple cultures (as some multiculturalists claim¹); rather, Barry wants to make an argument that looks beyond the differences of those cultures in favor of equality. To better understand this move, consider how religious groups compare to cultures with respect to equality.

¹ I have in mind here most notably Iris Marion Young, whose argument Barry characterizes in the following way: "According to this line of analysis, liberalism does not actually assume away the existence of difference, but it is committed to hoping that all the differences constituting people's distinctive social identities will some day disappear" (Barry 2001, 69). Charles Taylor and Will Kymlicka are also wary of conceptions of liberalism which entail the erasure of important cultural differences.

The kind of equality Barry favors is a “civic equality [which] entails that laws must provide equal treatment for those who belong to different religious faiths and different cultures” (Barry 2001, 24). The key element of this equality is what it means to treat people equally. One way that liberalism has enacted equal treatment is to privatize or de-politicize religious groups. The reasoning for this, as Barry sees it, is that conflict between competing religious groups arose as a result of the assumption that a single religion should dominate within a state. This sort of religious conformity was rejected in favor of a position which took religion to be separate from the affairs of the state. From the multicultural standpoint, “the liberal solution to religious conflict, in relegating religion to the private sphere, fails to accommodate all those whose beliefs include the notion that religion ought to have public expression” (Barry 2001, 25-6). The basic idea here is that the exclusion of those whose religious beliefs call for public expression represents a failure of the liberal project to provide neutrality between diverse conceptions of “proper” religion. Barry argues that the attempt to achieve the sort of neutrality that is apparently being called for is a non-starter. In its place, Barry claims, is a conception of neutrality as fairness. “What can be said about the liberal proposal for privatizing religion, then, is that it is the only way in which religions can be given equal treatment, and equal treatment is what in this context is fair” (Barry 2001, 28). The point of all of this is just to say that equal treatment means for Barry just what it sounds like: everybody gets the same consideration in an even-handed way. In the case of those religions whose basic beliefs call for public expression, there is no reason to think that they are being treated unequally or unfairly. They are being treated in exactly the same way as other religions.

Let us follow Barry in thinking that cultural groups are sufficiently like religious groups to warrant the same treatment by law.² Would we be willing to say that *religious* groups (or their members) are entitled to specific rights and exemptions from the typical obligations to which we are normally subject? According to Barry, it would be absurd for a liberal society to take special measures to protect or enable certain religious communities. Doing so would only exacerbate conflict by making difference a political issue. This is a recipe for disaster, since once religious difference becomes a political issue, the state cannot help but advocate one particular (or a set of particular) religious doctrines over others. Barry reminds us that

liberalism is, both historically and logically, the result of generalizing the proposition that it is no business of the state to enforce the observance of true religion—however and by whomever that is defined. Conversely, the notion that the state may (and perhaps should) deploy its coercive powers to ensure the maintenance of the ancestral culture can be seen as what we get by “culturalizing” the proposition that the legitimate tasks of the state include enforcement of the true religion. (Barry 2001, 65)

Because politicizing religion results in the illegitimate use of state authority, it is absurd to demand that the state use its authority to protect the special interests of religious groups. Furthermore, since multiculturalism makes similar claims about the use of state authority when it comes to cultural groups, multiculturalism is similarly absurd from the liberal point of view.

It is easy to see why a multiculturalist would contest this argument on the grounds that cultures are not significantly analogous to religious groups. However, Barry’s next point about equal opportunity challenges this multiculturalist line of thinking by showing that cultures and religious groups are essentially the same insofar as they receive the

² This is, to be sure, a contentious claim. It is clear, for example, that Will Kymlicka would not grant Barry even this much.

same set of rights and are subject to the same laws. Consider Barry's restatement of his conception of equal treatment as a model of rational decision-making:

The rules [of privatization] define a choice set, which is the same for everybody; within that choice set people pick a particular course of action by deciding what is best calculated to satisfy their underlying preferences for outcomes, given their beliefs about the way in which actions are connected to outcomes. From an egalitarian liberal standpoint, what matters are equal opportunities. (Barry 2001, 32)

Here, a choice set is simply a range of options available to each individual; it represents what opportunities are open among which individual's may choose. Understood this way, Barry is able to argue that when choice sets are identical opportunities are equal (Barry 2001, 32). This is not an easy position for Barry to maintain. The reason for this is that there is a strong intuition that no choice set will be large enough to encompass the specific beliefs of all who must choose from it. In other words, claiming that a choice set is equally available to all who will choose from within it requires pushing aside the very real possibility that some individuals will want to choose courses of life not made available in the choice set established by the rules of privatization. To put things simply, the concern is that the situation one faces here is essentially being told 'these are your options; do with them what you can.' Clearly, this is not going to be maximally satisfying to all individuals. To use the above example, it does seem particularly unfair that members of a religion whose basic belief system requires public expression do not have open to them the opportunity to choose this course of action because it is not part of the choice set made available by the liberal society. Yet Barry maintains that no injustice is done in such a situation. The important thing is that each group—religious or cultural—be afforded identical choice sets; what individuals choose from within those sets is irrelevant from the standpoint of what is just. Nevertheless, there are sure to be

some members of society who claim to be ill-served by a choice set that does not make available certain options which are central to their beliefs. What should be done in these cases is not abundantly clear. What is clear, however, is what should not be done—namely, the establishment of a system of concessionary rules where some individuals are granted exemptions based on their being impacted differentially because of their cultural association.

Barry outrightly rejects any approach that addresses claims of unfair treatment through rule-and-exemption policies. Such a policy “keeps the rule objected to for most of the population but allows members of cultural or religious minorities to opt out of the obligation to obey it” (Barry 2001, 33). Further, the rule-and-exemption approach is grounded in the anti-universalist idea that

failure to offer special treatment is in some circumstances itself a kind of unequal treatment. For, it is said, the same law may have a different impact on different people as a result of their religious beliefs or cultural practices. (Barry 2001, 34)

For Barry, this result is inevitable. *Every* law has a different impact on those governed by it. Thus, for example, a law against theft impacts more heavily individuals who would otherwise steal with impunity. Similarly, a law forbidding rape differentially impacts would-be rapists by making a practice legally unavailable to them. The question then becomes whether the fact that the same laws have different impacts on different people is inherently unfair. If such laws are inherently unfair, it would have to be the case that laws forbidding rape are unfair to would-be rapists. According to Barry,

These laws clearly have a much more severe impact on those who are strongly attracted to rape...than on those who would not wish to engage in [rape] even if there were no law against [rape]. But it is absurd to suggest that this makes the laws prohibiting [rape] unfair: they make a fair allocation of rights between the would-be rapist...and the potential victim. (Barry 2001, 34)

For multiculturalists, differential impact is never justified—at least when that difference is a result of different cultural practices. For Barry, on the other hand, “the notion that inequality of impact is a sign of unfairness...is simply a mistake” (Barry 2001, 34).

An alternative way of thinking about this approach is to consider beliefs as a disadvantage for those who hold them when they conflict with the range of possibilities open in a given choice set. Barry suggests that, contrary to the multiculturalist position that beliefs should be justification enough for special treatment (i.e. exemptions), “beliefs are not an encumbrance in anything like the way in which a physical disability is an encumbrance” (Barry 2001, 36). This comparison is an important one. Disabilities are the products of chance, not choice. As such, they justify special consideration—especially under an egalitarian liberal political regime. Think about this for a moment. The whole point of Barry’s egalitarianism is to provide individuals with equal opportunities by providing an equal set of available choices. To be sure, this choice set cannot be without limits; the limits it has are set by the demands of equality. When it comes to being disabled, this is not something individuals choose from within the choice set available to them. Instead, having a disability means *not* having equal access to the range of possible options available to everyone else. To have equal access, a disabled individual must be given special consideration or exemptions. The implication is that, if beliefs based on religious affiliation or cultural heritage were enough like physical disabilities, there would be no question that individuals who hold those beliefs are in a position to receive special consideration. For Barry, however, aligning beliefs with physical disability too closely is an insult to both parties. He states, “the position of somebody who is unable to drive a car as a result of some physical disability is totally

different from that of somebody who is unable to drive a car because doing so would be contrary to the tenets of her religion” (Barry 2001, 37). In other words, someone with a physical disability would no more appreciate being told that his or her need for a wheelchair is somehow merely an expensive taste³ than would a follower of some religion appreciate being told that his or her belief constitutes being at a disability. Withholding from judgment as to whether this analogy is likely to hold, Barry’s position is clear enough on this point. As he states, “the critical distinction is between limits on the range of opportunities open to people and limits on the choices they make from within a certain range of opportunities” (Barry 2001, 37). Let me say a bit more about his point.

Staying with the above analogy, it is clear that individuals with physical disabilities have a very real limit on the range of opportunities open to them. I take it that this point will be conceded without hesitation. In the case of the religious believer, however, Barry intends that the relevant limits are only on the choices that they can make from within a given choice set. Agreeing with this point for the sake of argument, the question then becomes whether Barry can justify that the choice set in question is robust enough to count as fair or just. In other words, we are once again back to the question of whether the religious believer has a legitimate complaint that his or her beliefs are disadvantaged by the choice set which is made available to him or her. It is interesting

³ I am thinking of expensive tastes as costly choices that one could have made otherwise, and which come after the fair distribution of “rights, resources and opportunities” (Barry 2001, 35). Importantly, it should be noted that expensive tastes are usually not compensated for because they represent what one does with resources equally distributed. Thus, characterizing Dworkin's example, Barry states that “people who...have to have plovers’ eggs and drink vintage claret if they are to achieve the same level of satisfaction as others can achieve with sausages and beer” (Barry 1997, 5) should not be given special compensation in the form of additional income to satisfy their expensive tastes. Characterized this way, it is clear why it is absurd to think of the needs created by physical disabilities to achieve the same level of satisfaction as expensive tastes.

that multiculturalists take an affirmative line on this issue without question. The claim made by proponents of multiculturalism is that *justice* requires that an individual's cultural inheritance be taken into account, and that universalist policies proposed by egalitarian liberal politics fail to meet the requirements of justice. How are we to decide between the two approaches?

Let me begin by re-iterating Barry's conception of what justice requires. Justice demands that every citizen be afforded the same treatment; that is, citizens should be given the same distribution of rights and face the same choice set from within which to choose according to group-influenced preferences. What justice cannot demand is that laws and rights have equal impact on those affected by them. Simply put, we are equal when we enjoy the same *opportunities*. Any difference in impact is not something that can be taken into account from the point of view of justice. It makes sense, then, why Barry is adamantly opposed to any theory that allows for exemptions on the basis of cultural heritage. To be sure, an argument for exemptions can be made on grounds other than justice. Thus, for instance,

If it is true that a law bears particularly harshly on some people, that is at the very least a reason for examining it to see if it might be modified so as to accommodate those who are affected by it in some special way. Prudence or generosity might support such a move.... It does not follow, though, that the best approach is to keep the general rule unchanged and simply add an exemption for the members of some specific group. (Barry 2001, 39)

The basis for exemption here is that it would alleviate some hardship created by having to adhere to a generally applicable law. Barry is sympathetic to the idea that there are some cases in which exemptions are defensible, but that two considerations should be made prior to accepting an exemption. First, Barry argues that most often the only case for

exemptions is a pragmatic one.⁴ It is rarely ever the case that *justice* requires exemptions. Second, and in most instances when an exemption is lobbied for, “either the case for the law (or some version of it) is strong enough to rule out exemptions, or the case that can be made for the exemption is strong enough to suggest that there should be no law anyway” (Barry 2001, 39).

The strongest support for rule-and-exemption policies comes from an argument based on religious liberty. Barry considers two examples which illustrate this issue—humane slaughter laws with exemptions for Jews and Muslims and motorcycle helmet wearing laws in Britain with proposed exemptions for turban-wearing Sikhs. In the interest of brevity, I will focus here only the latter. The law requiring that helmets be worn was passed in Britain in 1971 without exemptions. The law was subsequently challenged on the grounds that it infringed on religious freedom by restricting the ability of Sikhs to ride motorcycles because of their religious custom of wearing turbans. Because it is important to consider this case from within the framework of equal opportunity, recall that the relevant consideration is whether a Sikh’s religious belief requiring him to wear a turban constitutes an unjust limitation on a Sikh’s available opportunities in the same way that a physical disabilities does. On the basis of religious freedom, a multiculturalist can argue that, in fact, a Sikh’s choice set is limited by his religious belief. According to Barry, however, the correct conclusion was reached by Lord Widgery, whose response to the charge that the helmet law restricts religious freedom Barry quotes as follows: “no one is bound to ride a motor cycle. All that the law prescribes is that if you do ride a motor cycle you must wear a crash helmet” (Barry 2001, 44). The idea here is that Sikhs are not prevented from riding a motorcycle by the

⁴ On the prudential or pragmatic grounds of exemptions, see also Macedo (1995a) p. 488.

law which requires riders to wear helmets. The only restriction on riding motorcycles is imposed by a Sikh's beliefs. Thus, no denial of opportunity is imposed on Sikhs as a result of the law. The result is the same as if an individual chose to not ride a motorcycle because he or she believed it "too dangerous to be a rational undertaking" (Barry 2001, 45).

In a revealing discussion of individual-based rights and group-based rights, Barry argues that it is not the case that the "individualistic nature of liberalism precludes any policies that provide special benefits for people on the basis of their membership in some group" (Barry 2001, 114). This indicates that Barry's egalitarian liberalism is not entirely hostile toward policies which take into account an individual's group membership. It also reinforces the idea that the focus of egalitarian liberalism is on equal opportunities and that the right kind of policies are those that are universalistic in nature.

The implication is that special measures to help the disabled are fully justified—and indeed required by justice—as a way for compensating for disadvantage.... Such policies are, however, universalistic in exactly the same sense that national health service that covers everybody is universalistic: different people receive different treatment in accordance with their needs, but everybody with the same need receives the same treatment. (Barry 2001, 114)

What, then, is wrong with group-based policies?

Barry claims that multiculturalist policies are still problematic "where the group is defined in a way that makes it either under-inclusive or over-inclusive" (Barry 2001, 114). Of course, it must be shown that multicultural policies actually commit this over- or under-inclusiveness, but if it can be shown that this is the case, it would clearly be a strong argument against implementation of multicultural policies. The problem with under-inclusive policies, as Barry understands them, is that any such policy

is bound to create resentment—which cannot be dismissed as unjustified—among others similarly placed who cannot see why they should be denied the same benefits. And it builds the policy on a perilously small constituency, which does not even punch its weight politically in accordance with its numbers. (Barry 2001, 115)

On the other hand, over-inclusive policies have their own set of problems. According to Barry, “these are policies that offer benefits indiscriminately to all the members of a group that has the following property: its members are on the average deprived in relation to the average of the population as a whole, but some of its members are not deprived at all” (Barry 2001, 115). It is important to note that both types of policies do have some benefits for their recipients. Nevertheless, the problem lies in the way in which such policies are justified.

With respect to special treatment for the physically disabled and the socially disadvantaged—two policies which Barry’s liberalism condones—the justification comes from the assumption that “both want the same things as the rest of the population and simply lack the resources that would enable them to enjoy more of those things” (Barry 2001, 116). Unsurprisingly, this justification stems from Barry’s attempt to validate liberal policies on the basis of equal opportunities. Here, the reason that a group based approach is legitimate is that it serves to equalize opportunities for the disadvantaged groups. In contrast, Barry claims that what multiculturalists propose are “group-based policies deliberately intended to perpetuate cultural differences indefinitely” (Barry 2001, 117). The problem, then, is that multicultural policies fix group identities in a way that unjustifiably extends beyond the requirements of justice. Difference of impact simply cannot be redressed by liberalism.

So far, I have focused on the conflict between multiculturalism and Barry’s views on egalitarian liberalism as it pertains to the issue of rule-and-exemption policies. This

attention goes a long way to illustrate the relevant concerns, as well as to point out what is at stake for both multiculturalism and egalitarian liberalism. There is much work still to be done, however, in order to clarify just what egalitarian liberalism means and how it is meant to defeat multicultural politics. To accomplish this task, I wish now to turn to a comparison of Barry's egalitarian liberalism to competing conceptions of liberal political theory.

Autonomy, Diversity, Toleration, and Barry's Theory of Group Rights

At this point, I want to begin to focus more specifically on Barry's positive conception of liberalism. This theory is decidedly universalistic. As Barry states, "a theory of justice cannot simply be a theory about what justice demands in this particular society but must be a theory about what justice is in any society" (Barry 1995, 6). To support this universalism, Barry defends the view that equality is the core liberal value against competing conceptions of liberalism—namely, autonomy-based and diversity-based liberalisms. This leads Barry to reject the two-fold distinction between conceptions of liberalism captured by William Galston in "Two Concepts of Liberalism" (1995). Quoting Galston, Barry sets up the idea that there are only two ways of thinking about liberalism only later to reject it:

one [conception] is concerned with the promotion of the autonomy of the individual, and entails a "commitment to sustained rational examination of self, others and social practices." The other strand values "diversity," understood as "differences among individuals and groups over such matters as the nature of the good life, sources of moral authority, reason versus faith, and the like." (Barry 2001, 118-19; internal quotes from Galston 1995, 521)

For Barry, neither of these is a viable option. This is an interesting move, and one that requires further exploration specifically because so much hinges on the viability of

Barry's conception of liberalism. If he can defend his conception of liberalism against competing conceptions, then the entailments that follow from egalitarian liberalism show liberalism and multiculturalism to be fundamentally incompatible. If, on the other hand, Barry cannot successfully defend his version of egalitarian liberalism against competing conceptions, then it becomes increasingly difficult to accept the conclusions he draws regarding multiculturalism.

Starting with the conception of liberalism which places autonomy at the center—a conception that Barry will ultimately reject—it is certainly defensible to claim that a society is better the more autonomous its members are. In fact, to recall Will Kymlicka on this point, “my life only goes better if I’m leading it from the inside [that is, autonomously], according to my beliefs about value” (Kymlicka 1989, 12). Because autonomy is what enables my life to go better both in terms of leading it from the inside and in terms of being free to question our beliefs—the two preconditions of living a good life—Kymlicka argues that societies are better the more they protect autonomy. It is one thing, however, to say that a society comprised of autonomous individuals is better than one that is not and quite another thing to say that a state should inculcate autonomy in its citizens. Even making the claim that the state should “inculcate” autonomy seems contrary to the liberal commitment to remain neutral to individuals’ non-political lives. Instead, it is claimed that a liberal state should only provide the framework within which individuals may exercise their autonomy. Barry states the idea well, though he is skeptical of it: “[Liberal] institutions provide the conditions under which autonomy can

flourish but they do not do anything directly to bring about the ‘ideal of autonomy’⁵” (Barry 2001, 121). To overcome the pitfalls of basing liberalism on an ideal of autonomy, Barry suggests that we abandon autonomy altogether as what justifies liberal institutions. According to Barry, liberalism has as its defining feature not autonomy but “the principles of equal freedom that underwrite basic liberal institutions: civic equality, freedom of speech and religion, non-discrimination, equal opportunity, and so on” (Barry 2001, 122). This means that, for Barry, liberalism is preferable because it serves as the fairest way to treat conflicting claims which arise from diverse conceptions of the good life. At this point, Barry claims to have shown that there are not merely two conceptions of liberalism, since his own conception is based neither on autonomy nor diversity and yet serves as the basis for a version of “difference-blind” liberalism. In the end, although Barry moves away from autonomy, he maintains that it is in fact a legitimate form of liberalism, but one that he would not endorse because of its tendency to lead to policies which promote a singular conception of the good life. The point of moving away from autonomy is captured in the following way: “The ‘ideal of autonomy’ is, it may be said, a conception of the good life like any other, so the inculcation of autonomy by the state is as much a violation of neutrality between conceptions of the good as would be the inculcation of say, some specific religious doctrine” (Barry 2001, 123). Here, I take it that the “ideal of autonomy” is meant to capture something closer to the way in which policy gets enacted as opposed to a description of something characteristic of human beings. If I am right about this, then I think it is clear that what Barry rejects here is the notion that achieving an ideal of autonomy could occur only at the expense of thwarting

⁵ Barry defines an “ideal of autonomy” as a “vision of a state of affairs in which all the members of a society devote a great deal of time and effort to such activities as questioning their basic beliefs and probing the rationale of the institutions and practices within which they live” (Barry 2001, 120-1).

basic liberal commitments for the very same reasons that inculcating religious beliefs would. Of course, it can be argued that autonomy is not quite the same as inculcated religious beliefs since, if successfully inculcated, autonomy would mean questioning one's beliefs always. Here again, it is helpful to recall Kymlicka's conception of living a life "from the inside." In order for my life to be good, I must be able to make decisions unimpeded by external forces, even if those forces know better which course my life should take. Nevertheless, there is good reason to shy away from autonomy (especially the "ideal of autonomy") simply because it runs counter to the liberal goal of neutrality between conceptions of the good life. If autonomy represents another among several conceptions of the good life, inculcating it—even just showing state support for it—threatens to violate the core principles of liberalism. Because viewing equality as what grounds liberal political theory and the institutions which follow from it does not violate the core principles of liberalism, Barry espouses equality as the core liberal value. So, a specifically *egalitarian* liberalism seems preferable to a conception of liberalism based on autonomy as the fundamental principle. What about a diversity-based conception of liberalism?

Once it is argued that egalitarian liberalism does not close off consideration of groups in the primary interest of individuals, the first question to be answered is what benefits are supposed to result from diversity which traditional liberal principles are unable to provide. A start to this question is to consider that liberal principles put various restrictions on how groups may treat their members. Thus, in the case of churches, "the condition on which churches can legitimately tell their members what to do is that those members are free to disobey without be liable to any penalty (in this world, anyway)

except expulsion” (Barry 2001, 124). Similarly, the power of parents over their children is limited in a liberal state. In this case, parents are prevented from practices such as refusing medical care for their children because of religious beliefs and female circumcision as it is prescribed by cultural norms. The aim of diversity, then, seems to be a politicization of groups such that their practices are given “recognition, status and support” (Parekh 1994, 13). Furthermore, the charge against liberal principles is that these same practices are denied as a result of privatization. For Barry, this accusation is unfounded. He argues,

to say that liberalism ‘privatizes’ non-liberal ways of life is simply to say that members of illiberal groups enjoy exactly the same rights as anybody else. If they so choose, they are perfectly free to participate with others in, say, the observance of a religious faith that is autocratic, misogynistic and bigoted. But the terms on which they can do so are just the same as those open to all their fellow citizens. The state does not lend any special weight to the norms of illiberal—or liberal—groups (Barry 2001, 124-25).

The point here is that policies based on diversity seem to unwaveringly give state support to specific group practices to which other groups are not privy. In effect, this differentiated treatment gives free reign to group practices because it does not set any limits on how group members may be treated. As a result, the policies of diversity “would systematically enfeeble precisely those rights of individuals to protection against groups that liberal states ought to make it their business to guarantee” (Barry 2001, 125). It is not difficult to see how this might be the case. If a political theory grants exemptions to cultural groups, there is nothing to prevent those groups from acting in ways that are harmful to their members. To be sure, Barry maintains that it is central to liberalism that individuals are able to associate however they choose. Freedom of association, however, does not come freely. Barry states,

The only condition on a group's being able to impose norms on its members is that the sanctions backing these norms must be restricted to ones that are consistent with liberal principles. What this means is primarily that, while membership of the group can be made contingent upon submission to these unequal norms, those who leave or are expelled may not be subjected to gratuitous losses. (Barry 2001, 128)

And this result, Barry claims, is unacceptable for the very reason that such policies are non-liberal.

It is important to recognize that Barry does not require that groups be basically liberal in their internal structure, only that they recognize an individual's exit right. So it comes as no surprise that Barry continues the above idea stating, "the value of underwriting the freedom of groups to operate in illiberal ways is not respect for their culture but rather an acknowledgement of the significance in people's lives of freedom of association" (Barry 2001, 128). This is a rather subtle distinction. The danger of multicultural political theories that recognize the freedom of groups to act in illiberal ways on the basis of respect for cultural practices is that there is then no way of enforcing any kind of limit to what might be done in those groups. Moreover, multiculturalism cannot address the problems in mainstream society that contribute to injustice suffered by minorities. As Barry states,

Attempts to combat [ethnic and racial discrimination] have to be based on universalistic norms because they demand a change in the culture of the majority. Multiculturalism threatens to undermine these efforts. For if minority groups demand exemptions from equal rights for women in pursuit of their traditional cultures, it is hard to see how they could object if the majority were to decide to revert to their own traditional culture of ethnic and racial discrimination. (Barry 2002, 229-30)

It is for these reasons that Barry concludes *Culture and Equality* stating that "the whole thrust of the 'politics of difference'...is that it seeks to withdraw from individual members of minority groups the protections that are normally offered by liberal states"

(Barry 2001, 326). Because multiculturalist policies cannot protect individuals from harms that might be inflicted from both without and within their respective groups, multiculturalism should be abandoned in favor of egalitarian liberalism.

So far, I have discussed autonomy as a liberal value which, although legitimate, Barry rejects due to the implications that its realization requires inculcation of that value through state action. I have also discussed diversity as a proposed liberal value, showing how Barry rejects policies which result from diversity as being distinctly non-liberal. The remaining consideration before moving on to Barry's theory of group rights is toleration. The basic idea behind toleration, at least according to Barry, is that "it is not the business of the law to regulate conduct as long as it does not violate the constraints imposed by a liberal state for the protection of individuals" (Barry 2001, 131). At this level, Barry sees nothing wrong with saying that toleration is a "defining feature" of liberalism. When toleration means something more—namely, when it means abandoning the liberal constraints meant to protect individuals—Barry is quick to dissent. What might this look like? To use an earlier example, recall the situation in which female members of a group are circumcised as part of a cultural tradition. In that example, it was clear that liberal constraints apply and restrict such practices in the interests of the individuals receiving such treatment. From the standpoint of the proponent of toleration, however, the state cannot intercede in these cases precisely because it has no jurisdiction over the practices of groups.⁶ In a way, this position represents an extreme form of privatization. What groups do to their members is permissible so long as the state is not

⁶ This case should be taken as an extreme example. It is not altogether clear that a supporter of toleration would allow such practices to occur. I am thinking specifically of Chandran Kukathas on this point whose theory of toleration has been criticized for committing a slippery slope to the point of "anything goes." See Chapter 5 of *Culture and Equality* regarding how Kukathas answers such criticisms.

required to empower them through resources or special rights to do so. All of this stems from what Barry takes to be a strong cultural relativism, whereby liberalism (or any other political theory) cannot assert itself as the only alternative. It is Barry's further claim that such relativism is antithetical to the liberal project. Thus, any theory which forfeits basic liberal rights in the interest of "cultural diversity," pluralism, or toleration cannot possibly hold "that there are certain rights against oppression, exploitation and injury to which every single human being is entitled to lay claim" (Barry 2001, 132). And if this is the case, proponents of toleration are not liberals.

At this point, I want to turn to Barry's proposal of what he calls a "liberal theory of group rights." At first glance, it seems rather odd that Barry would call his theory one of group rights, as much as he is against the idea that groups are worthy of preferential treatment. If we take Barry at his word, "it is no part of liberalism, as I understand it, to insist that every group must conform to liberal principles in its internal structure" (Barry 2001, 147). To better understand what Barry means here, contrast this statement with the following statement from Daniel Weinstock: "a liberal theory of rights for liberal minorities does the same [as a liberal theory of minority rights], but restricts its purview to liberal minorities, or to minorities whose internal modes of organization and belief systems already incline them towards liberal values" (Barry 2001, 147). By accepting this framework, Barry is proposing that a liberal theory of group rights "demand[s] that groups should have the utmost freedom to handle their affairs in accordance with the wishes of their members" (Barry 2001, 148). Even so, following Mill, liberalism insists that

individuals should be free to associate together in any way they like, as long as they do not in doing so break laws designed to protect the rights

and interests of those outside the group. There are only two provisos. The first is that all the participants should be adults of sound mind. The second is that their taking part in the activities of the group should come about as their voluntary decision and they should be free to cease to take part whenever they want to (Barry 2001, 148).

I would be remiss if I did not at least mention that Barry is on extremely thin ice here.

Although he is not explicitly claiming that groups must have a generally liberal internal structure, he is willing to argue that groups which do not allow for voluntary association and or freedom of exit should not expect to be left alone by the state. The example Barry offers to support his position is consensual sado-masochism between adults (Barry 2001, 148). But consensual sado-masochism is a far cry from more heinous practices where the participants are consenting adults who chose to remain a part of the group which is oppressing them. To counter this claim, Barry argues that staying in a group—even a group that has an appearance of unjust treatment when viewed from the outside—suggests that the benefits of remaining outweigh the costs of leaving. All of this is Barry's attempt to claim that

liberals are fully committed to freedom of association. This includes freedom of association for groups whose norms would be intolerable if they were backed by political power but are acceptable provided that membership in the group is voluntary. (Barry 2001, 150)

Thus, it is not the case that groups are precluded from the protection of egalitarian liberal policies. Egalitarian liberalism does not grant special protection (or any other consideration, for that matter) directly to groups; nevertheless, groups are permitted to conduct their internal affairs as they see fit within the confines of the law. So long as group practices fall within these confines, and membership is voluntary, groups may have internal structures which are for all intents and purposes highly illiberal. It remains to be

seen whether this ideal can be sustained without compromising the nature of certain associations.

The Controversy of Equality

I wish to begin this last section by quoting Barry on what he sees as the aim of his project in *Culture and Equality*. Barry states that there are two claims that he wants to defend:

The first is that there are universal criteria for judging societies and polities which can be arrived at by a process of general reasoning and are valid for all societies regardless of the actual beliefs and norms of the people who live in them.... The second thing that I approve of and many multiculturalists do not is “the modern state,” defined as one in which “citizens are...related to the state in an identical manner, enjoying equal status and possessing identical rights and obligations.” (Barry 2002, 227-8)⁷

The purpose in beginning with this quote is that it sets up nicely a critical evaluation of Barry’s overall project. There have been a number of criticisms aimed at various aspects of Barry’s project in *Culture and Equality*.⁸ Here, however, I want to focus only on Barry’s egalitarian liberalism more broadly as an alternative to multiculturalist theories. It is my contention that Barry’s conception of liberalism is too controversial to serve as the standard to which all liberalisms must conform. To be sure, this does not mean that I have some ready alternative that does any better. It does mean that liberals should not be too quick to dismiss all of multiculturalists’ objectives. In other words, I view much of what Barry argues for as having a fairly wide intuitive appeal; but in the absence of widespread agreement (especially among liberals) that equality is the fundamental liberal

⁷ Internal quote from Parekh 2002, 181-2.

⁸ See, for example, Paul Kelly (ed.), *Multiculturalism Reconsidered: Culture and Equality and Its Critics* (2002).

value, it is philosophically irresponsible to accept the entailments of Barry's theory.

Consider Richard Arneson on this same point:

To illustrate the seriousness of the incompleteness in Barry's account, consider that it is consistent with his characterization of social justice that a Lockean libertarian might agree that justice is Barry-style justice but deny that this has much relevance for public policy because justice is entirely trumped by the moral requirement that we ought always to respect each person's Lockean rights and are permitted to pursue justice only within the severe limits set by these rights. In the same spirit, a utilitarian might agree that justice is equality but hold that what we morally ought to do is set policies, actions, and institutions to maximize aggregate utility and treat justice as equality as merely a tiebreaker consideration. (Arneson 2007, 404)

The problem that I want to focus in on, then, is that which form liberalism should take (whether based primarily on a commitment to autonomy, individuality, diversity, or equality) *has not been decided*. In practical affairs, this means that we have to make some policy decisions without general consensus over the "correct" form of liberalism.

We simply cannot wait to make some of these decisions until the final verdict has come in regarding which conception of liberalism should be universally accepted. In fact, there is little evidence to believe that such a verdict can be reached. Rawls came to believe that diverse reasonable ways of life could be brought together under an overlapping consensus, but this is a far cry from his earlier thought that justice as fairness was a doctrine to which *all* citizens would agree.

I am suggesting that we take a similar line in thinking about Barry's proposed egalitarian liberalism. To capture what I mean here, recall the first claim that Barry wants to defend: there exist universal criteria for evaluating societies and polities that are arrived at by reasoning alone and that can be applied regardless of the beliefs of individuals who live in those societies and polities. This seems to me to be the same sort of comprehensive liberalism found in Rawls's earlier work. As such, it is subject to the

same criticism that Rawls makes of his own earlier theory of justice—namely, that it cannot realistically be applied in a society characterized by reasonable pluralism. Let us walk through this a bit more slowly. If Barry is right and the liberal commitment to equality stands alone at the center of liberal political theory, it must be the case that all individuals should be treated the same. In order to justify differential impact which occurs to those on whom laws may place heavier burdens, liberal principles must be viewed as universal. If they were not, then liberal principles could not be used to justify differential outcomes. The difficulty of this position comes down to the viability of making universalist claims which govern societies marked by diversity. As Chandran Kukathas states, “there is, after all, a truth of the matter, and Barry has it in his possession” (Kukathas 2002, 193). It may be that there is a truth of the matter, but it seems reasonable to suggest that it has not been found—by Barry or anyone else. As Bhikhu Parekh argues,

Since moral values cannot be derived either from human nature or from individual choices, Barry has no grounds on which to commend them to others, let alone claim universal validity for them. Equality, his central value, is not an uncoerced choice of many. And nor is it part of human nature. (Parekh 2002, 147)

When it comes to conceptions of liberalism, there is good reason to doubt that there is a truth of the matter, especially given that even liberals disagree about what form liberalism should take.

Barry’s second claim that we should adopt the view of a modern state in which all individuals are related to the state in an identical way is subject to a similar criticism. Part of what is at stake in any attempt to consider the claims of minorities is their relation to the state. It is reasonable to think that what many minorities are claiming is that they are *not* identically related to the state. If this is the case, Barry’s goal of somehow

equalizing this relationship by simply applying the principle of equality is not going to adequately address the concerns of minorities. We may not want to address those concerns by appeal to rule-and-exemption policies, but neither may we want to adopt policies which merely impose the liberal ideal on minorities in the way that Barry's egalitarian liberalism threatens to. Consider Judith Squires on this point:

Barry is rather inattentive to the reasons why demands for recognition emerge. Such demands are usually a response to experiences of social and political discrimination, inequality and vulnerability...the demand for recognition is usually motivated by a sense of democratic exclusion that can only be addressed by reformed democratic practices.... The bullish defence of a uniform application of a liberal theory of justice does nothing to address these real grievances concerning democratic exclusion. (Squires 2002, 125)

The point of Squires's criticism here is to call attention to the fact that blanket applications of a particular liberal theory should be avoided as much as possible. Simply advocating equality of opportunity does not get at the real issues at play in a society marked by diverse ways of life. David Miller echoes this concern in calling attention to the limitations of a conception of liberalism which posits that the demands of justice are satisfied merely by uniform laws. He states, "If liberalism of this kind becomes the ruling creed, there is very little that minority groups can do to advance their arguments, except perhaps in those comparatively rare cases where an existing law restricts everyone's opportunity, and so a general appeal to individual freedom gives grounds for abandoning it" (Miller 2002, 59).

All of this is just to say that Barry's egalitarian liberalism requires certain commitments that many are unwilling to countenance. More importantly, this is true not only for multiculturalists—who clearly would object to Barry's project—but also for other liberals. The spirit of Barry's project has some initial intuitive appeal: recognize

everyone as equals by making them subject to the same laws and grant them the same rights and opportunities as the best way of meting out justice. Once some of the implications of this theory are thought through, however, it loses that initial appeal as a result of the unrealistic demands it places on individuals. To be sure, Barry is careful to distance himself from any project of assimilation. He states:

My view is, then, that liberalism would be hopelessly oppressive if it were construed as implying that every association must be made to conform to the principles of freedom and equality. This would be as unjustifiable in a liberal society as in any other. Conversely, however, intervention in minority practices can be justified in a liberal society only on a basis that liberals are prepared to say is equally valid in all societies. (Barry 2002, 233)

My concern in this chapter has been to call attention to the difficulty of maintaining a position that makes any claims which are thought to be “equally valid in all societies.”

There is simply too much disagreement over what counts as valid for Barry to be able to sustain a theory that claims to capture the truth of the matter. It may be the case that not all of those who disagree hold reasonable positions, but the fact that some of them do should caution us against making policy recommendations on the basis of only one among many competing conceptions of liberalism.

CHAPTER V

LIBERAL MULTICULTURALISM: POLITICAL NOT METAPHYSICAL

Introduction

The purpose of this chapter is three-fold. In the first several sections, I will discuss the basic framework of liberalism—both in its comprehensive and political variants. The purpose of this portion of the chapter is to set up the general political liberal framework within which Chandran Kukathas builds his own liberal theory. To establish the boundaries of this framework, it will be necessary to detour through a discussion of John Rawls’s political liberalism. Kukathas, although a self-described political liberal, takes decisive steps away from Rawls’s political liberalism, and this departure requires some justification. In this justification, Kukathas’s theory emerges as a viable liberal theory which enables liberalism to respond more successfully to issues which arise from diverse political societies. The importance of this position in this dissertation cannot be overstated. In a move away from contemporary, comprehensive liberalism, Kukathas turns to a *political* liberalism¹ by which he means a liberalism that is based on a minimal moral ideal and that attempts to resolve conflicts arising as a result of diversity by fostering an attitude of tolerance. In the end, this leads Kukathas to a conclusion that is, at several junctures, controversial. It also leads him to a conclusion that responds to

¹ To be sure, Kukathas’s understanding of political liberalism is not exactly parallel to John Rawls’s. I will detail this distinction further into the chapter. However, it is important to note at the outset that the most significant point of difference hinges on Kukathas’s rejection of a need for what Rawls calls an “overlapping consensus”—the idea that all will assent to a political conception of liberalism from within their own comprehensive doctrines. Kukathas does not endorse such an expectation but instead pushes for what I will call an “ultra-minimal” political liberalism.

diversity without running counter to (characteristically) liberal values. In the final sections of this chapter, I will argue for the significance of Kukathas's position. Briefly stated, Kukathas's liberal theory can be characterized in the following way. If liberalism is taken to be based on a thick conception of its basic principles, it must do so at the expense of accommodating any group-based claims. It should be clear from the last chapter that this is the view represented by incompatibilism. For Kukathas, however, if group-based claims (or some subset of them) are viewed as legitimate, liberalism can accommodate them only to the extent that a thin conception of liberal principles is adopted. In other words, liberals can be multiculturalists, but only by rejecting a thick conception of basic liberal principles; if they are to accommodate multiculturalism, liberals must adopt what I will call an "ultra-minimal" conception of liberalism. This, I take it, is the value of Kukathas's liberal theory. I will conclude this chapter with a few preliminary thoughts on the implications of Kukathas's view, indicating the ways in which his theory represents a significant step forward in liberal political theory.

Before delving into the thick of Kukathas's account of the relationship between liberalism and multiculturalism, it will be helpful to briefly review some key elements of liberalism and how comprehensive and political versions of liberal political theory differ. There are several ways this could be accomplished, but for my purposes here it will be most beneficial to examine the common elements of the theories discussed so far as based on a more general account of liberalism. From there, I will move on to discuss Kukathas's response. The value of this review will manifest itself soon enough. For now, I wish to say that it is necessary to fully grasp the extent to which Kukathas's theory

differs from and offers an extension beyond the work put forward by Kymlicka, Taylor, and Barry.

Despite the various ways in which Kymlicka, Taylor, and Barry respond to the issues raised by group based claims, there is a common thread which ties them to a particular kind of response to the question of how group claims might be accommodated by liberalism. This is more evident of Kymlicka and Barry than of Taylor, though his own response retains enough of a family resemblance to be considered part of the same kind of response. The basic idea is that each of these thinkers begins with a conception of liberalism that “describes a set of standards or principles by which a community or society should live” (Kukathas 2000, 98). While different thinkers order or emphasize these standards differently,

the important thing is that liberal values are upheld. To put the matter in another way, a liberal society is one which is governed by a liberal conception of justice. (Kukathas 2000, 98)

In other words, the liberal theories of Kymlicka, Taylor, and Barry begin by trying to find the liberal boundaries of society and then proceed by attempting to determine how society might be made to fit those boundaries.

At first glance, this distinction does not get us any closer to understanding how, if it is to be a liberal theory, Kukathas’s response differs from those that come before it—at least in terms of their points of origin (differences in conclusion are easy enough to grasp). After all, any liberal theory must be grounded in so-called “liberal terms.” Where liberals differ, however, is with respect to what they take to be primary among these liberal terms and to what they take to be the justification for that primacy. For Kymlicka, Barry, and (to a lesser degree) Taylor, liberal terms are just terms. This kind of liberal understanding begins by identifying the values which underlie liberalism and

attempts to “construct (or justify) political institutions which preserve an order in which people who differ may coexist” in the good society on the basis of just terms (Kukathas 2000, 101). Stemming from the Enlightenment ideals of Kant and their development in Wilhelm von Humboldt and John Stuart Mill, liberalism maintains that “a good society protects individual liberty and, especially, the individual’s freedom to develop and flourish to his or her full potential as a human being” (Kukathas 2000, 101). This understanding of liberalism gets its fullest modern expression in Rawls’s *A Theory of Justice* (1971, 1999). The key of Rawls’s theory is that it provides a way of constructing a society which can accommodate disagreement by establishing a theory of justice to which all can (theoretically) agree, despite differences of opinion about what constitutes a good life. Kukathas capture this well,

in this version of liberalism, people who differ or disagree may go their separate ways and live differently provided they respect the principles (or abide by the laws) of liberal justice. And this is more than just possible; it is possible, the proponents of this view argue, to such a degree that it can provide the basis of ‘social unity.’ In this version, liberal justice is the basis of political authority. (Kukathas 2000, 101)

All of this is not to say that Kymlicka, Taylor, and Barry owe their own developed theories entirely to Rawls or that each theory is merely a response to Rawls (though each certainly, and unavoidably, has something to say about Rawls). It is to say that there is a commonality—at least at the level of each thinker’s understanding of liberalism—that defines the space within which each can argue for his particular response to diversity of individual understandings of the good life found in modern societies. To make this clear, I turn now to a consideration of the common elements found among various liberal political theories.

Priority of the Right over the Good in Comprehensive Liberalism

One of the distinguishing features of liberal political theory is its prioritization of the right over the good. This commitment amounts to liberalism (purportedly) remaining neutral with respect to various conceptions of the good life. It is thought that by viewing the right as prior to the good, liberalism can accommodate different conceptions of the good life without endorsing any particular one of them. This prioritization traditionally has been justified by the idea that individuals are prior to their ends and, as such, should be viewed as the primary source of consideration from a political point of view. Such an understanding of the individual is clear when considered as an off-shoot of Kant's moral theory. There, because an individual's autonomy is viewed as prior to the actual choices that he or she makes, what is right must be based on rational considerations only—not on the various ends or goods that people actually choose. In other words, whatever is viewed as good must meet the standard of what rationality determines as what is right. From a liberal political standpoint, this prioritization means that the rights and freedoms of individuals trump the various component elements of the good life. Moreover, it means that justice, as representative of the right, limits the kinds of views which can be legitimately taken as good. Traditionally, this has been played out in describing this kind of liberalism as deontological (following Kant). The idea behind deontological liberalism is that the right is prior to the good given that individuals are prior to their ends.

According to Rawls,

We should not attempt to give form to our life by first looking to the good independently defined. It is not our aims that primarily reveal our nature but rather the principles that we would acknowledge to govern the background conditions under which these aims are to be formed and the manner in which they are to be pursued. For the self is prior to the ends

which are affirmed by it; even a dominant end must be chosen from among numerous possibilities. (Rawls 1999a, 491)

Liberalism is a theory which has at its core a commitment to individual liberty. If individuals are most free when viewed as prior to their ends, it follows that a theory which aims to protect freedom should proceed according to that same prioritization. It is for this reason that the right is taken as prior to the good.

The basic framework within which the liberal theories so far discussed in this dissertation emerge is that of comprehensive liberalism. Rawls's liberalism in *A Theory of Justice* is comprehensive because it depends on the assertion that it is an individual's autonomy—his or her ability to choose rationally from behind the veil of ignorance—that makes him or her the legitimate source of priority for political theorizing. In this way, Rawls's comprehensive liberalism represents an application of Kantian moral theory to the questions raised by political theory by claiming that the principles of justice as set forth in *A Theory of Justice* are justified by appeal to what amounts to the same reason for all individuals involved. Alternatively stated, Rawls's liberalism is comprehensive because the legitimacy of its principles is established by their arising from a particular conception of the human being—namely, a Kantian one. Rawls states,

The desire to express our nature as a free and equal rational being can be fulfilled only by acting on the principles of right and justice as having first priority.... It is acting from this precedence that expresses our freedom from contingency and happenstance. Therefore, in order to realize our nature, we have no alternative but to plan to preserve our sense of justice as governing our other aims. (Rawls 1999a, 503)

This is clearly a comprehensive conception of liberalism given that it is intended to govern not just our political lives but our lives as a whole. Michael Sandel puts it in the following way: "In *A Theory of Justice*, the priority of the self to its ends supports the priority of the right to the good" (Sandel 1998, 187). When conceived in this way,

liberalism proceeds on the basis of a belief about what is most true about *human beings*—namely that having the capacity to choose lies at the center of whatever we view as good, and that whatever is good is a result of having been freely chosen. Rawls uses this argument to claim that individuals endorse the principles of justice because they best promote autonomy. As Rawls states,

An essential feature of a well-ordered society associated with justice as fairness is that all its citizens endorse this conception on the basis of what I now call a comprehensive philosophical doctrine. They accept, as rooted in this doctrine, its two principles of justice. Similarly, in the well-ordered society associated with utilitarianism citizens generally endorse that view as a comprehensive philosophical doctrine and they accept the principle of utility on that basis. (Rawls 1996, xvii)

This illustrates how a doctrine's being comprehensive is a matter of scope. With respect to utilitarianism, it is clear that it is comprehensive since "the principle of utility...is usually said to hold for *all kinds of subjects* ranging from the conduct of individuals and personal relations to the organization of society as a whole as well as to the laws of peoples" (Rawls 1996, 13). The important thing to take away from this is that whatever the fundamental principles are (utility, individuality, autonomy, etc.), they are meant to serve as a comprehensive philosophical foundation for liberalism. Michael Sandel states it simply: "Comprehensive liberalism affirms liberal political arrangements in the name of certain moral ideals, such as autonomy, individuality, or self-reliance" (Sandel 1998, 189).

Emergence of a Political Liberal Conception

With the publication of Rawls's "Justice as Fairness: Political not Metaphysical" (1985) and *Political Liberalism* (1996) came a significant shift in political theory. Recognizing that reasonable individuals differ over conceptions of the good means that there is no

single conception of the good to which all reasonable members of a political society will assent. Rawls recognized this fact in making the shift from the comprehensive liberalism of *A Theory of Justice* to political liberalism. With respect to political liberalism, Rawls argues that the principles of justice are the same—and that, therefore, the right is still viewed as prior to the good—but that the justification of those principles must be changed if they are to garner the assent of all. In other words, Rawls appealed to a robust theory of human nature in *A Theory of Justice* to tell the justificatory story of why all should assent to the two principles of justice—namely that doing so was a function of rational choice. In his political liberalism, Rawls appeals to reasons for assent that are purely political. That the right is prior to the good is justified by an appeal to the fact of reasonable pluralism: people disagree about what constitutes the good life, so principles of justice should be constructed which transcend such disagreement and can be assented to from within and as a natural extension of various comprehensive doctrines.

In trying to separate his theory from any particular comprehensive doctrine, Rawls states the following:

The distinguishing features of a political conception of justice are, first, that it is a moral conception worked out for a specific subject, namely the basic structure of a constitutional democratic regime; second, that accepting the political conception does not presuppose accepting any particular comprehensive religious, philosophical, or moral doctrine; rather the political conception presents itself as a reasonable conception for the basic structure alone; and third, that it is formulated not in terms of any comprehensive doctrine but in terms of certain fundamental intuitive ideas viewed as latent in the public political culture of a democratic society. (Rawls 1999b, 450)

In other words, political liberalism separates its conception of justice from comprehensive doctrines by limiting the scope of justice. It is a principle that covers only individuals' public, political lives, and even then specifies only what the "basic structure

of a constitutional democratic regime” should look like (Rawls 1999b, 450). It therefore does not promote any particular philosophical, moral, or religious doctrine, and it says nothing about the more specific policies of liberal political societies.² For reasons that will become clear later, it is important to note that Rawls does not view his political liberalism as endorsed by all comprehensive doctrines. To be sure, no liberalism—political or comprehensive—can accomplish this level of agreement, because some people hold anti-liberal and anti-democratic comprehensive doctrines. Rawls seeks agreement among only those comprehensive doctrines that are “reasonable”—that is, those doctrines that do not “reject the essentials of a democratic regime” (Rawls 1996, xviii). The aim, in other words, is to articulate a conception of liberal justice to govern the basic structure of society that all reasonable comprehensive doctrines can endorse. This idea is central to Rawls’s conception of political liberalism.

Now, although the above distinction moves us part of the way toward understanding the significance of Rawls’s restructuring of his theory of justice as a political conception, it would be remiss not to include a correlative motivation for this shift. The motivation I have in mind is Rawls’s conception of the aim of political philosophy. To fully appreciate this aim, consider Rawls’s recognition that

a modern democratic society is characterized not simply by a pluralism of comprehensive religious, philosophical, and moral doctrines but by a pluralism of incompatible yet reasonable comprehensive doctrines. No one of these doctrines is affirmed by citizens generally. Nor should one expect that in the foreseeable future one of them, or some other reasonable doctrine, will ever be affirmed by all, or nearly all, citizens. (Rawls 1996, xviii)

² By ‘specifics,’ I have in mind differences between liberal political societies that manifest after the basic structure is in place. For example, most European liberal democratic states have outlawed capital punishment. Such legislation is not required by the principles of justice, but the basic framework within which those laws are written is. I thank Robert Talisse for pointing out this important distinction.

This is what Rawls calls the fact of reasonable pluralism. The fact of reasonable pluralism sets the problem for Rawls:

the problem of political liberalism is: How is it possible that there may exist over time a stable and just society of free and equal citizens profoundly divided by reasonable though incompatible religious, philosophical, and moral doctrines? Put another way: How is it possible that deeply opposed though reasonable comprehensive doctrines may live together and all affirm the political conception of a constitutional regime? (Rawls 1996, xx)

Contrast this question with the question that comprehensive liberalism attempts to answer—namely, what is the philosophical foundation of liberal politics? The comprehensive liberal question is an attempt to decide upon and enforce a single comprehensive doctrine as the foundation of liberal politics. What Rawls comes to recognize is that such a question has no answer because reasonable people can disagree about what that philosophical foundation should be. Thus, because there can be no agreement among reasonable people on a single comprehensive doctrine, a political society based on a single comprehensive doctrine is necessarily oppressive. Rawls states:

A continuing shared understanding on one comprehensive religious, philosophical, or moral doctrine can be maintained *only by the oppressive use of state power*. If we think of political society as a community united in affirming one and the same comprehensive doctrine, then the oppressive use of state power is necessary for political community.... A society united on a reasonable form of utilitarianism, or on the reasonable liberalism of Kant or Mill, would likewise require the sanctions of state power to remain so. (Rawls 1996, 37 my emphasis)

If liberalism is to be justified in a non-oppressive way, it must be justified on the basis of something to which all individuals *can* agree. And since no comprehensive doctrine enjoys this status, none can serve as the basis for justification. Liberalism must therefore be justified by appeal to terms of agreement the specifics of which are viewed as agreeable from within reasonably plural comprehensive doctrines.

This recognition of the inadequacy of a justification based on a single comprehensive doctrine captures the thrust of Rawls's move to a specifically political justification for his two principles of justice. As stated above, the liberalism found in *A Theory of Justice* justifies its basic principles by appealing to a comprehensive doctrine that is intended to garner the assent of all. Now, however, Rawls recognizes that such a view is seriously flawed. He states,

since the principle of justice as fairness in *Theory* requires a constitutional democratic regime, and since the fact of reasonable pluralism is the long-term outcome of a society's culture in the context of these free institutions, the argument in *Theory* relies on a premise the realization of which its principles of justice rule out. This is the premise that in the well-ordered society of justice as fairness, citizens hold the same comprehensive doctrine, and this includes aspects of Kant's comprehensive liberalism, to which the principles of justice as fairness might belong (Rawls 1996, xlii).

We see here the crucial move in turning to a political justification for the principles of justice. Maintaining their priority by appealing to a single comprehensive doctrine can only be accomplished by the oppressive use of state power, once the fact of reasonable pluralism is taken into account. Given that liberalism precludes the use of state authority to promote a single comprehensive doctrine, the justification for the basic principles of liberalism must come from another source. For example, consider a case where political principles are justified by their expressing the fundamental beliefs of Christianity. This is clearly *not* a liberal arrangement because those beliefs are not beliefs to which all can agree. The only way of sustaining them as justification for the ordering of political society is to oppress dissenters. Returning to the composition of a liberal political society marked by reasonable pluralism, Rawls states, "Our individual and associative points of view, intellectual affinities, and affective attachments, are too diverse, especially in a free society, to enable those doctrines to serve as the basis of lasting and reasoned political

agreement” (Rawls 1996, 58). Because there is not now nor can there ever be universal assent among all reasonable citizens to a single comprehensive doctrine in a society marked by the fact of reasonable pluralism without the oppressive use of state authority, some other account must be given as to why citizens should generally accept Rawls’s two principles of justice.

We are now in a better position to appreciate the move that Rawls is making in *Political Liberalism*. Concerning the aim of political liberalism, Rawls asks the following question: “How is it possible for there to exist over time a just and stable society of free and equal citizens, who remain profoundly divided by reasonable religious, philosophical, and moral doctrines” (Rawls 1996, 4)? The answer to this question, which constitutes the practical implications of Rawls’s political liberalism, is that stability over time is possible in a society marked by reasonable pluralism just to the extent that individuals are able to affirm the principles of justice as a result of a general agreement. To be sure, comprehensive liberals say this too. The difference is that, according to comprehensive liberals, such agreement is the result of rational agreement (or, better, convergence on a single comprehensive doctrine) *regardless* of what individuals ascribe to within their own various comprehensive doctrines. According to political liberals, on the other hand, the basis of general agreement will result from individuals viewing justice as the proper political principle on the basis of their own comprehensive doctrines. Rawls states,

The aim of justice as fairness, then, is practical: it presents itself as a conception of justice that may be shared by citizens as a basis of a reasoned, informed, and willing political agreement. It expresses their shared and public political reason. But to attain such a shared reason, the conception of justice should be, as far as possible, independent of the

opposing and conflicting philosophical and religious doctrines that citizens affirm (Rawls 1996, 9).

Regarding the latter part of this passage, Rawls says that being independent of any particular comprehensive doctrine makes political liberalism “freestanding.” And yet, despite being set apart from any particular comprehensive doctrine, Rawls maintains that the attractiveness of his theory is that it can be affirmed *from within* the various comprehensive doctrines held by individual citizens.

It is this last consideration that distinguishes Rawls’s political liberalism as a significant move forward in political thinking. It is a significant step forward insofar as it does not require all citizens to assent to the principles of justice on the basis of a shared comprehensive doctrine. Instead, citizens are able to agree to the principles of justice through an “overlapping consensus.” Rawls states:

While in a well-ordered society all citizens affirm the same political conception of justice, we do not assume they do so for all the same reasons, all the way down. Citizens have conflicting religious, philosophical, and moral views and so they affirm the political conception from within different and opposing comprehensive doctrines, and so, in part at least, for different reasons. But this does not prevent the political conception from being a shared point of view from which they can resolve questions concerning the constitutional essentials. (Rawls 1999a, 32)

By an overlapping consensus, citizens recognize in liberal justice the most reasonable political expression of their deeply held comprehensive doctrines.

To be sure, this overlapping consensus is still a stringent demand on citizens, even if it is not a demand that the principles of justice be accepted on the basis of a shared comprehensive doctrine. The stringency I have in mind is that Rawls’s conception of an overlapping consensus remains grounded on the belief that justice can and will be the site of widespread agreement. In other words, it is assumed by Rawls that all (and only) reasonable individuals will consent to the principles of justice, politically construed.

Furthermore, overlapping consensus is necessary to ensure that political society remains stable. Rawls states:

A society can be well-ordered by a political conception of justice so long as, first, citizens who affirm reasonable but opposing comprehensive doctrines belong to an overlapping consensus: that is, they generally endorse that conception of justice as giving the content of their political judgments on basic institutions; and second, unreasonable comprehensive doctrines (these, we assume, always exist) do not gain enough currency to undermine society's essential justice. (Rawls 1996, 38-9)

Even though this does not represent the “unrealistic—indeed, the utopian—requirement that all citizens affirm the same comprehensive doctrine,” it does represent more than just a balance between competing comprehensive doctrines (Rawls 1996, 39). It requires that individuals come to some mutual agreement on the principles of justice. It is for this reason that Rawls rejects the possibility of creating stability among competing comprehensive doctrines on the basis of a *modus vivendi*. Rawls says of a *modus vivendi* that the parties involved will abide by it so long as it is in their interest to do so, but that, should conditions change, either is ready to abandon it. This is apparent from a situation in which two states have agreed to a treaty that represents “an equilibrium point: that is, that the terms and conditions of the treaty are drawn up in such a way that it is public knowledge that it is not advantageous for either state to violate it” (Rawls 1996, 147). The reason for Rawls's rejection of *modus vivendi* arrangements in these cases is that cannot secure lasting stability in the relation between two states. In a similar way, a *modus vivendi* between competing comprehensive doctrines within a state can only achieve fleeting stability. Rawls states, “social unity is only apparent, as its stability is contingent on the circumstances remaining such as not to upset the fortunate convergence of interests” (Rawls 1996, 147).

By way of contrast, an overlapping consensus can guarantee genuine stability. It does so for two reasons:

First, the object of consensus, the political conception of justice, is itself a moral conception. And second, it is affirmed on moral grounds.... An overlapping consensus, therefore, is not merely a consensus on accepting certain authorities, or on complying with certain institutional arrangements, founded on a convergence of self- or group-interests. All those who affirm the political conception start from within their own comprehensive view and draw on the religious, philosophical, and moral grounds it provides. (Rawls 1996, 147)

The importance of this aspect of Rawls's political liberalism cannot be overstated. He is interested in securing stability, and doing so in a society marked by the fact of reasonable pluralism. In order to achieve such stability, it must be the case that the reason why individuals assent to or affirm the principles of justice is more than just that those principles have some authority or are advantageous to individual or group interests. If that were the reason for agreement, stability could only ever be fleeting and cursory. But if the reason for agreement is the result of an overlapping consensus—the exercise of shared public reason that facilitates individual assent to the principles of justice from within their various comprehensive doctrines—stability will be firm and lasting.

A Deeper Look at Rawls's Political Liberalism with Criticisms

In this section, I will discuss briefly the idea of political liberalism as understood by Charles Larmore, and begin to move toward explaining how Chandran Kukathas understands political liberalism. The purpose in discussing Larmore's ideas is to get a better handle on the basic idea of political liberalism, specifically its justification. It is this justification which Kukathas takes as central to his own version of political liberalism, so a fuller understanding of it is essential to understand how Kukathas utilizes

political liberalism to extend beyond Rawls's own conception in his development of what I will call a "political multiculturalism."

According to Larmore, liberalism in general is an attempt to address two problems:

The first has been to fix some moral limits to the powers of government....
The second problem has stemmed from the increasing awareness that reasonable people tend to differ and disagree about the nature of the good life. (Larmore 1990, 340)

It is clear from this characterization of the liberal project that solving the second problem complicates the solution to the first problem. In fact, it is the first problem that is central to Rawls's work in *A Theory of Justice*. But as has already been stated, a comprehensive solution to that problem proves fatal to the theory of justice as laid out in Rawls's earlier work because it leads to the fact of oppression. According to Larmore,

To solve both problems together, their [liberal thinkers for whom agreement based on a shared comprehensive doctrine is unlikely] aim has been to circumscribe the role of the state by means of a *minimal moral conception*. There must be devised political principles expressing some idea of the common good. Yet this moral conception must be less comprehensive than the views of the good life about which reasonable people disagree. More precisely, it must be a conception that as many people as possible can affirm, despite their inevitable differences about the worth of specific ways of life. (Larmore 1990, 341)

The result of this justification of liberal limits placed on the state is that it shows how the "principles of a political liberal order aim to be 'neutral' with respect to controversial ideas of the good" (Larmore 1996, 125). To be sure, being neutral does not mean that liberalism is neutral with respect to morality, nor does it mean that being neutral entails applying a "common denominator of value" equally to all individuals (as would be the case under the utilitarian interpretation of neutrality) (Larmore 1990, 341; Larmore 1996, 125). Instead, according to Larmore, "a more promising account is that neutral principles

are ones that we can justify without appealing to the controversial views of the good life to which we happen to be committed” (Larmore 1990, 341).

Of course if this account is to be successful in explaining why liberal political principles are the best response to the composition of contemporary societies, it too must be justified. Here again, we see the break from comprehensive conceptions of liberalism toward a political conception. Following the difficulties of such comprehensive positions made prominent by Rawls’s early work, Larmore describes political liberalism in the following way:

In [the political liberal approach], the principle of political neutrality still has a moral justification, but it is one intended to be far less controversial than the Kantian and Millian ideals of autonomy and individualism.... The task of liberal theory today is to see how the principle of state neutrality can be justified without having to take sides in the dispute about individualism and tradition. (Larmore 1990, 345-346)

It is thus an ideal of neutrality that grounds political liberalism. But neutrality with respect to what? There are many legitimate ways in which a theory may be neutral and, to be sure, among those ways are conceptions that are decidedly comprehensive. The relevant sense of neutrality here, however, represents what Larmore calls “a point between two extremes” (Larmore 1990, 346). Continuing from this, Larmore argues,

One extreme lies in basing political neutrality, as Kant and Mill did, on individualist ideals claiming to shape our overall conception of the good life, and not just our role as citizens. The other extreme consists in basing political neutrality on solely strategic considerations. (Larmore 1990, 346)

In stating his conception of neutrality thus, Larmore is arguing first that, as has already been discussed, the notion of neutrality cannot come from any comprehensive doctrine as the sole basis of policy. Second, Larmore also extends his discussion of neutrality here

by echoing Rawls's concern that neutrality cannot stem from what is easily recognized as a *modus vivendi*.³ This basis of neutrality is dismissed because

It seems inherently unstable, since it is hostage to the shifting distribution of power.... Also, the attempt to explain the special authority of moral principles in terms of prudence (maximization of individual preference-satisfaction) has never yet succeeded, so there seems little reason to suppose it ever will. (Larmore 1990, 346)

Thus, even as a *minimal* moral conception, Larmore's idea of a political liberalism retains more normative force than a "mere *modus vivendi*" (Rawls 1999b, 470), but does not go so far as to say that there is one moral ideal which alone should shape every aspect of individuals' lives. Is this realistic? Thinking through how even a minimal moral conception facilitates an overlapping consensus raises a worry regarding the extent of diversity present in modern societies. The worry is that there is no minimal moral conception available that can both avoid philosophical controversy *and* underwrite a political liberal conception of justice.

It is at this juncture where Kukathas's political liberal theory becomes all the more philosophically interesting. As compared to Larmore's view—which Kukathas relies on heavily to inform his own understanding of Rawlsian political liberalism—Kukathas's political liberalism represents an even more minimal conception than that for which Larmore argues. Recall Larmore's definition of a minimal moral conception:

We must look to a core morality that is, as much as possible, common ground. It may be too hopeful to expect that this moral basis will escape every element of controversy. But it must certainly be neutral enough to accommodate people who value belonging and custom, for Romantic ideals have become an enduring part of our culture. At the same time, of course, it must be powerful enough to justify the principle of political neutrality. (Larmore 1996, 133)

³ It should be noted that Larmore is quick to clarify his understanding of a *modus vivendi* in comparison to that of Rawls. He footnotes that his own conception of a *modus vivendi* is actually very close to Rawls's position in "The Idea of an Overlapping Consensus" (1987).

According to Kukathas, the problem is that views such as Larmore's are simply not minimal enough to address the extent of diversity found in contemporary societies. Disagreement is not simply over comprehensive moral, philosophical, and religious doctrines but extends all the way to conceptions of political neutrality and justice. Larmore's minimal conception still requires too much in demanding that the core morality is powerful enough to justify political neutrality. Kukathas is not trying to find some mean between the extremes of comprehensively justified liberalism and liberalism based on a prudential agreement or *modus vivendi*. Such a prudential agreement is the best liberalism can hope to achieve in a society so marked by diverse conceptions of the good life. Kukathas states,

While diversity seems quite incompatible with unity, these two might exist in combination if that unity is a shallow unity, founded not on a shared conception of justice [even as the result of an overlapping consensus] but on agreement to coexist: to abide by the terms of a *modus vivendi* that does not expect to see any deeper form of community—or identity—endorsed. (Kukathas 2003, 189)

More importantly, Kukathas views societies marked by this sort of deep diversity as constituted by individuals whose conceptions of the good life include reasonably diverse approaches to moral conceptions that are even as minimal as Larmore proposes. To say that people will agree to a minimal moral conception that justifies political neutrality is to assume—wrongly—that no reasonable individuals hold a contrary view. Hence we may call Kukathas's version of political liberalism “ultra-minimal.”

Part of the reason for rejecting the demand for this sort of agreement stems from Kukathas's contention that political theory should abandon the aim of securing stability and social unity in a diverse society. Diversity and social unity are mutually exclusive concepts, and, as a result, if political theorists are *really* going to value diversity, they will

have to do so at the expense of social unity. In *Rawls: A Theory of Justice and its Critics* (Chandran Kukathas and Philip Pettit 1990), it is argued that Rawls really cannot abandon all of his ties to comprehensive doctrines—and that part of the reason for this is a result of his maintaining the importance of securing social unity. After arguing that Rawls’s version of political liberalism is an attempt to secure peace through adopting an attitude of tolerance toward competing comprehensive doctrines, Kukathas and Pettit claim that even here Rawls cannot fully escape his own reliance on comprehensive doctrines (Kukathas and Pettit 1990, 140). To illustrate how this is the case, consider Rawls’s treatment in “The Priority of the Right and Ideas of the Good” (1988) of education among certain religious groups which wish to curtail the extent of mainstream cultural influence on their children by limiting the duration of those children’s education. Clearly, political liberalism will reject state imposition of educational requirements necessary to instill the values of autonomy (as a Kantian liberalism might). But what is required by a political liberal theory?

For Rawls, political liberalism will require only that children have a basic understanding of their constitutional rights as citizens. “Moreover, their education should also prepare them to be fully cooperating members of society and enable them to be self-supporting; it should also encourage the political virtues so that they want to honour the fair terms of social cooperation in their relations with the rest of society” (Rawls 1999b, 464). In response to this, Kukathas and Pettit call attention to the fact that the state, even under Rawls’s political liberal conception, “will require the inculcation of certain values which bear noteworthy resemblance to the values of the comprehensive liberalisms of Mill and Kant” (Kukathas and Pettit 1990, 141). The point here is that by becoming

increasingly concerned with stability, Rawls is forced to make some tough calls when it comes to issues such as the one sketched above. To be sure, these less-than-comprehensive requirements go a long way toward ensuring a significant level of stability and social unity within a state. The tradeoff, however, comes at too great a cost.

The reason for this failure is that Rawls underestimates the depth of reasonable pluralism. Individuals in a diverse society do not differ merely with respect to which comprehensive doctrines they happen to hold. Holding those various comprehensive doctrines often entails disagreement even at the level of politicized conceptions of justice.⁴ A good example of this can be seen in disagreements between Supreme Court justices in “cases involving religious liberty, freedom of speech, privacy rights, voting rights, the rights of the accused, and so on” (Sandel 1998, 204). For this reason, in the above example, it is not enough to say that political liberalism does not require as much as comprehensive liberalism. Respecting individual freedom (particularly freedom of conscience) means more than that requirements imposed on citizens are not so strong as to foster or inculcate only those values inherent to the comprehensive liberal theory (e.g. autonomy or individualism). This entails, first, that political liberalism must recognize that the disagreements which stem from reasonable comprehensive doctrines are intractable—even by attempting to achieve an overlapping consensus. Second, it entails an abandonment of a robust sense of stability and social unity as the aim of political

⁴ This is a standard line of objection. See, for example Michael Sandel in *Liberalism and the Limits of Justice* (1998): “the asymmetry between the right and the good depends on a further assumption. This is the assumption that, despite our disagreements about morality and religion, we do not have, or on due reflection would not have, similar disagreements about justice. Political liberalism must assume not only that the exercise of human reason under conditions of freedom will produce disagreements about the good life but also that the exercise of human reason under the conditions of freedom will *not* produce disagreements about justice” (Sandel 1998, 203).

liberal theories. And finally, respecting individual freedom entails that something like a *modus vivendi* is the only arrangement possible in a society that is deeply diverse.

A “New” Political Liberalism

The criticism that Kukathas offers of Rawls’s political liberalism means that political theorists must seriously reconsider their commitments to diversity and freedom. This, I take it, was Kukathas’s purpose in *The Liberal Archipelago*. Before returning to some of those ideas as the proper extension of political liberal ideals, it should be asked whether Kukathas’s criticism can stick.

Recall that Kukathas’s criticism is based largely on Rawls’s commitment to stability as the proper aim of political philosophy. Because of this commitment,

Rawlsian philosophy can no longer see itself as just one among many competing political philosophies. Its aim, ultimately, is not to challenge or repudiate such competitors but to *subsume* them, by formulating a standpoint which will command their allegiance.... For the sake of social stability [Rawlsian political liberalism] proposes to deal with the intractable moral and political disputes which characterize modern social life by instituting a practical agreement bring the conversation about the most important matters to an end. (Kukathas and Pettit 1990, 149)

By postulating a conception of justice that can command the assent of all on the basis of an overlapping consensus, Rawls retains the effect of demanding that individuals converge on a single moral conception without taking into account the possibility that there is disagreement over what that conception is. This is an unfortunate outcome specifically because it places undue emphasis on the importance of stability and social unity. As a result, it becomes a “conciliatory” enterprise that neither can be fulfilled by means of an overlapping consensus nor represents “the proper job of political philosophy” (Kukathas and Pettit 1990, 149). More often than not, what is most

important about political philosophy is the conflict between comprehensive doctrines which it brings to the surface. If political philosophy—and liberal political philosophy in particular—is genuinely concerned with freedom in the midst of diversity, it is only right that it should recognize the ineradicability of the disputes which arise from different and competing comprehensive doctrines. Recognizing that the individuals who live by those doctrines have a fundamental freedom of conscience means not that we should accommodate them by special provisions in light of their cultural membership in order to ensure adequate contexts of choice, nor that we should adopt an attitude of openness to the possibility that their cultures might have something valuable to add to our own. It also does not mean that we should merely reassert the authority of egalitarian liberalism as a panacea for the difficulties which arise in diverse societies.

Rawls's political liberalism is a significant step forward in this regard, given his leaving behind the comprehensive basis of his earlier work. But that advancement is limited by Rawls's unwillingness to allow that liberalism is one among many competing conceptions of political principles. To make such an allowance would be to disavow the aim of stability—and to thus remove the possibility of transcending conflicts between competing comprehensive doctrines, thereby making it impossible to command general agreement in the form of an overlapping consensus. By Kukathas's account, we should not opt instead for a total anarchic state. In fact, much of his theory is devoted to the idea that the role of the state is to ensure that anarchy does *not* result from competing ways of life. But to guarantee the peaceable coexistence of competing ways of life means that often times different points of view and different ways of life must come into some form of conflict. According to Kukathas and Pettit,

These conflicts are real and may be worth debating. By giving the conflicting ideals theoretical expression, political philosophy need not be concerned to transcend but rather to advance the debate among them. The point may be to bring conflict to the surface by formulating the claims of particular moral or political standpoints and thereby to facilitate conversation between those standpoints. (Kukathas and Pettit 1990, 150)

To be sure, the goal of bringing these conflicts to the fore is not always to remove the conflict entirely. Rather, the goal of political philosophy ought to be that of facilitating peaceable disagreement to occur and enabling the coexistence of those who hold conflicting ideas of the good life. To accomplish this goal, liberalism must become even more political and more minimal than Rawls's and Larmore's theories. Because Kukathas's political liberalism represents just such a view, I contend that it represents as significant a step forward with respect to Rawls's political liberalism as that theory represents with respect to Rawls's earlier work.

A better way of understanding how Kukathas's ultra-minimal political liberalism moves a step beyond Rawlsian political liberalism is to consider how Kukathas's political theory represents what might be called political multiculturalism. Summarizing the advancements which result from political liberalism, John Tomasi argues that "the politicization of justice allows liberals to achieve legitimacy, and the crisis in legitimacy to which it is a self-conscious response seems to be to represent a standing challenge to anyone who would continue defending any version of the earlier, more comprehensive versions of liberalism" (Tomasi 2000b, 115). This idea is echoed in Kukathas's conclusion to *The Liberal Archipelago*, where he states,

It is this idea [of a comprehensive liberalism], or this way of thinking that is rejected here. This conception of a political order, as a social union which enables individuals to know a good in common that they cannot know alone, expresses a wish for a degree of social unity which is simply inconsistent with the extent of diversity, mobility, and disagreement in the

modern world. It can only be achieved, in the end, by suppressing diversity, or reducing freedom of movement, or stifling dissent. (Kukathas 2003, 258)

To be sure, Rawls himself recognizes and attempts to account for this problem by shifting justification of liberal principles to specifically *political* reasons for accepting a liberal conception of justice. Nevertheless, as is made clear above, Rawls retains the explicit (and primary) desire to construct a political theory which has as its aim stability, now shaped by the fact of reasonable pluralism. The point to be made here is that such a strong presence of stability is not necessary for political society to secure basic human freedom. Kukathas states, “The fact that we do not have such an order [of stability] suggests that we can have valuable and meaningful plans or lives without a single conception of justice governing us all” (Kukathas 2003, 258). It is for this reason that political theorists should move beyond the goal of constructing theories that attempt to secure such stability. But there is a further reason for re-casting earlier forms of liberalism—including Rawlsian political liberalism. This reason is that

people do in fact think very differently about justice and morality no less than about other matters...and we should resist attempts, or the temptation, to bring this diversity under control or into order under the rubric of some particular conception of right (Kukathas 2003, 258-259).

It should be clear from merely observing what goes on in political debates that people think very differently about justice—more importantly that, among these different opinions, many stand out as reasonable. This is no less true in public discussions of affirmative action, health care, or free speech than in disagreements between Supreme Court justices (Sandel 1998, 204). It is for this reason that political theorists must move beyond a Rawlsian conception of political liberalism and think more seriously about how

to address the problem of coming up with a “principled basis of a free society marked by cultural diversity and group loyalties” (Kukathas 2003, 3).

Kukathas’s approach to this problem is but one possible answer. It is my contention, however, that it is a model which should be taken seriously and emulated by others who claim to value diversity *and* freedom—specifically because it is a way of politicizing multiculturalism that moves beyond the politicization of justice. The justification for this politicization stems from the first of two conclusions which come at the end of *The Liberal Archipelago*. Kukathas states: “In a social order in which diversity is to prevail rather than be suppressed, the most important thing that rules or institutions that govern it do is permit people to go their separate ways” (Kukathas 2003, 259). This level of freedom of association means that diverse cultural groups and individuals with different group loyalties will have to be tolerated—not because it makes individuals happier or because such toleration is the only way to guarantee the fullest expression of their autonomy, but because it is the only way to ensure individual freedom without suppressing diversity. More specifically, toleration is necessary for protecting an individual’s freedom of conscience—a freedom “of fundamental importance for human beings to live good lives”—whatever those lives may be (Kukathas 2003, 131).

It is true that Rawlsian political liberalism is an attempt to address the problems of freedom and diversity (or, in that case, “reasonable pluralism”). Thus it cannot be said that Rawls fails to recognize the complications which arise from a diverse society. What can be said is that Rawls fails to recognize the extent of that diversity. By not recognizing that diversity goes all the way down—into issues including conceptions of justice and the right—and by maintaining that the goal of political philosophy is to bring

order and social unity to an otherwise diverse arrangement of personal convictions, Rawls is unable to motivate a political liberalism that does not, in the end, result in the suppression of the very diversity it attempts to allow.

On the other hand, by thinking through the issues of group membership and diverse cultural association through the lens of individual freedom of conscience (and hence freedom of association), Kukathas is able to conceive of a political liberal theory that understands groups and cultures as *political* entities—a conception that sees

a society not as a social union held together by justice but as a looser network of associations held together by a form of civility. In this understanding of the good society, the state is not regarded as a form of association with a unique moral standing or ethical significance. (Kukathas 2003, 261)

In this conception, different groups and cultures are to be recognized—and tolerated—because they are the vehicles through which individual freedom is expressed. Kukathas states, “Tolerating different beliefs and practices, and so the ways that conscientious beliefs are expressed in the associations and communities that people form, join, or seek to remain within, is a way of protecting conscience” (Kukathas 2003, 131). Traditional liberal values such as justice are not dropped entirely, but the level of emphasis placed on them is replaced by the liberal value of toleration. This is important because, if one *really* wants to address diversity, it must be recognized that people differ and disagree not only with respect to moral and religious convictions but also over justice—and thus also over what “inclusion” is, why it should be pursued, how culture figures in to the good life, etc. Given this level of diversity, then, it is impossible to construct a liberal theory, and the state that follows from its implementation, on the basis of a single conception of

justice. The state which emerges from Kukathas's political multiculturalist theory is based on the recognition that

there is no single underlying form of rationality which accounts for the complex range of institutions, practices, and attitudes to be found in a modern liberal state. This is not a relativist position: it is not saying that all forms of rationality are equally good or true, or that they cannot be compared and criticized—*only that they cannot all be reconciled*. What we find in the state—or what we find the state amounts to—is not a single, stable entity but a site of contesting tendencies. (Kukathas 2003, 267 my emphasis)

Once this is recognized, the inevitable conclusion for a liberal political theory is to look for ways to set up a regime of toleration that garners its legitimacy from the willing acquiescence of its constituents and which remains authoritative only for as long as those constituents continue generally to view the state as conducive to their diverse associations and the ways of life which are informed by those associations. Only by recognizing this fact, by seeking not an overlapping consensus or common ground but by seeking the peaceful coexistence of different ways of life through a form of a politicized liberal multiculturalism, can liberalism remain relevant in societies that are—and are becoming increasingly—diverse.

A Forward-Looking Conclusion

At this juncture, I want to recount the above argument as a way of setting the stage for what I take to be the significant contribution Kukathas makes to liberal theory. From what has been said thus far, I take it that Kukathas's differences from mainstream liberal political theory are clear. He is aiming at a different end, and sets out to get there by employing a different set of means. In so doing, I maintain that Kukathas more accurately recognizes the impact of diversity on liberal theory—and that whatever

response liberal theory makes to that diversity must be altered if it is to adequately address the problems that diversity presents.

The core of Kukathas's response lies with his argument that the whole idea of political society must be re-thought. No longer can political society enjoy the privileged status of being that community which represents the "right" moral standards and strives to promote them at every opportunity. The idea that a political society represents a community is, at least within the confines of this dissertation, unique to Kukathas, and thus represents a significant departure from the best examples of contemporary liberal political theory. Even Rawls, who made great strides toward recognizing the negative impacts of the narrowly construed, comprehensive doctrine based "justice as fairness" principle, argues in *Political Liberalism* (1996) that a political society cannot be a community. According to Rawls, the very idea of a community indicates a shared comprehensive doctrine—something that a pluralistic or diverse political society cannot possibly maintain. Conversely, Kukathas sets out to show that Rawls's position retains too limited a conception of what constitutes a community; in other words that Rawls is too reluctant to let go of the idea that communities are held together by a high degree of unity and solidarity. By showing that all communities are only ever "partial" communities (i.e. that no community has complete sway over an individual's identity), Kukathas opens the door to recognizing a role for the state which protects core liberal values while at the same time avoids the pitfalls of the other theories considered above.

In every instance, this snag can be avoided by letting go of the idea that the role of the state is to uphold some particular substantive conception of justice—no matter how

accommodating it may appear—and cleaving instead to the idea that the liberal state can better serve individual freedom as an “umpire.” In Kukathas’s own words,

The source of difficulties for theorists like Kymlicka and Rawls is that they are concerned about how standards of justice which are hospitable to diversity can be made compatible with some strong form of social unity.... Yet the truth of the matter may just be that this combination seeks too much: justice, diversity, and social unity simply cannot all be had together. (Kukathas 2003, 189)

Thus, rather than striving for a combination of justice and diversity at the expense of diminished social unity or for a combination of justice and social unity at the expense of decreased diversity, Kukathas argues for a combination of diversity and unity where the unity in question is a shallow unity, founded on a kind of *modus vivendi* agreement to coexist rather than on a shared conception of justice. In recognizing that, in a diverse society, even conceptions of justice are points of disagreement, Kukathas proposes a theory of liberal political society in which freedom is protected by a state which takes as its sole purpose protecting individuals’ abilities to associate with whomever they choose according to the dictates of their individual consciences.

It should be clear that Kukathas’s liberal political theory is not without problems of its own, some of which will be raised in the next chapter. It should also be clear to the careful reader that there is a sense of incompleteness in his proposed theory to the extent that his conception of a liberal order can only be part of the solution. The part that it represents, however, illustrates a significant move forward insofar as it begins not by offering a response as to how the problem of justice is to be addressed, but rather by suggesting that the real question is how to deal with diversity. He states, “[the question] is not what is to be done within an existing political order to deal with one particular (and particularly vexing) issue [namely, justice], but what kind of political order there should

be give the fact of one particular (and particularly vexing) feature of the modern world [namely, diversity]” (Kukathas 2003, 256). The extent of diversity precludes liberal theory from holding fast to the hope that some solution can be found which is amenable to all those affected by its implementation. As a result, it is no longer feasible for liberal political theory to begin with the assumption that there is some way to reconcile diversity.

Holding Kukathas’s theory together is the following linchpin:

The tendency to pursue collective purposes, and to seek to establish a degree of social unity, is only that: a tendency; and one which exists in tension with the other tendency of the liberal state: to pursue no collective purposes—to share no common enterprise—but to offer only the framework within which its members may pursue their own ends separately. (Kukathas 2003, 268)

Rather than point toward an abandonment of liberalism on the grounds of deep internal inconsistency, Kukathas’s theory points toward a more optimistic end. To be sure, there remains much work to be done. By freeing liberalism from the impotency of accommodating “those who reject the liberal theory of the good,” Kukathas implicates liberalism in a different quandary: it now “will accommodate those who are themselves illiberal, since it allows for a wide diversity” (Kukathas 2003, 269). As indicated above, there is no shortage of objections to this result. In fact, there is a very real concern that an ultra-minimal political liberalism is impossible to implement in any actual society. Adopting this ultra-minimal conception allows Kukathas to bring liberalism and multiculturalism together in theory, but may prove untenable beyond the theoretical realm.

My aim in this chapter has been to show how it is theoretically possible for liberals to be multiculturalists. In the next chapter, I will pick up with a more critical

assessment of political multiculturalism, asking whether it is practically possible. This is a difficult question, and one that has no readily apparent answer. It is a fundamental problem of liberalism to try to implement a commitment to individual freedom on the one hand and the conditions which make that freedom possible on the other. As will become clear in the next chapter, those commitments are not always easy bedfellows. The fact that Kukathas's theory does not solve all of liberalism's problems does not mean that political multiculturalism should be abandoned. It does mean, though, that we need to re-examine some of the problems it faces because they are problems that any liberal theory must address. I turn now to look at several of those problems.

CHAPTER VI

CONCLUSION

In the preceding chapters, I have discussed four distinct approaches to the question of whether liberals can be multiculturalists. The purpose of those chapters was to consider the question from a strictly theoretical point of view, dipping into practical concerns only so far as was necessary to clarify the viability of each position. In this chapter, I will consider some of the practical implications of political multiculturalism as characterized by Chandran Kukathas's theory of liberal toleration. To be sure, the point is not so much to decide with any finality what Kukathas's position would look like in practice as it is to ask about the plausibility of its meaningful implementation.¹ Nevertheless, I will apply Kukathas's own admonition found in "Cultural Rights Again: A Rejoinder to Kymlicka" (1992b): "it seems strange, if not downright implausible, to claim that one is articulating fundamental principles but cannot be held to account for the practical implications of those principles because putting them into practice involves another question" (Kukathas 1992b, 678-9). I expect that Kukathas would demand this of his own theory, and therefore I will address a series of critical points regarding the practical implications of political multiculturalism. The purpose in considering these critical points is, again, not to determine conclusively the success or failure of Kukathas's political multiculturalism but to point out what the implications are of pairing liberalism and multiculturalism.

¹ In fact, it may be unrealistic to expect that Kukathas's theory can be implemented as it stands from a theoretical point of view. Kukathas himself states, "in practical terms, [political multiculturalism] is a position that is unlikely to ever be found in the real world of politics.... The world described by classical liberal multiculturalism is a world in which there is, literally, no political regime" (Kukathas 2002, 20).

In the interest of moving toward a critical evaluation of political multiculturalism, recall briefly the findings of the preceding chapters. Neither strong compatibilism represented in this dissertation by Will Kymlicka's theory nor weak compatibilism as characterized in Charles Taylor's theory is sustainable because of internal inconsistencies in each theory which render them incoherent. Incompatibilism, as it arises out of Brian Barry's egalitarian liberalism, is coherent but suffers from a different kind of problem—it cannot countenance rival versions of liberalism. In Chapter 5, political multiculturalism as it manifests in Kukathas's ultra-minimal political liberalism was also shown to be coherent. In fact, I argued in that chapter that there are good reasons to prefer it to Barry's incompatibilist position, particularly with respect to the protection of individual liberties and the question of whether liberals can be multiculturalists. That is not to say, however, that there are no problems with Kukathas's position. Without a clear reason to opt for incompatibilism over political multiculturalism, the only conclusion that can be drawn represents a kind of aporetic standoff. Though the more specific reasons for such a conclusion will have to wait for further development throughout this chapter, it is crucial to understand at the outset why this is the only conclusion that can be reached.

Incompatibilism makes a case for dismissing group-based claims and maintaining the authority of liberal state, therefore precluding the possibility of liberals being multiculturalists. Political multiculturalism (as it emerges from Kukathas's work) also has no place for the explicit recognition of group-based claims, but urges a strong sense of toleration and an ultra-minimal liberal state. The problem for incompatibilism is that there are good reasons for taking a closer look at the kinds of demands groups are making—not the least of which is that those demands are increasingly difficult to ignore.

As for political multiculturalism, the problem is that indifference and toleration come at the expense of a conception of liberalism that is extremely thin and which goes against some of the most basic liberal intuitions and commitments. Trying to resolve this opposition remains an open question. In what follows, I wish only to take stock of what is left after Kukathas's theory is put under a more critical lens. The point of doing so is to specify what one must accept if one wants to be both a liberal and a multiculturalist.

In this final chapter, I will criticize Kukathas's political multiculturalism on three separate but related grounds. First, I will pick up on a concern expressed by Brian Barry that the wide berth political multiculturalism gives to groups to conduct their own affairs is far too extensive to prevent even minor mistreatment of individuals by the groups of which they are parts—a point that political multiculturalism clearly must address. Though Kukathas recognizes that some such practices will occur, he offers a response to this problem which relies on two preventative measures: (1) local laws and customs to curtail possible mistreatment of individuals (including children), and (2) the individual's ability to freely associate (and dissociate with whomever he or she chooses). I will address these responses in turn, focusing first on whether such laws and customs are themselves enough to support the kind of individual freedom of conscience Kukathas proposes as fundamental. The focus in this section will be on what the state must tolerate once the principles of an ultra-minimal political liberalism are adopted.

The second critical point picks up at this juncture. I will grant for the sake of argument that local laws and customs may have enough power to curtail most

mistreatment of individuals by the groups of which they are parts.² Once this much is granted, however, the question becomes whether there is enough in Kukathas's ultra-minimal political liberalism to support a meaningful conception of the freedom of association—specifically when it comes to an individual's ability to exit a group. In other words, there is a concern that Kukathas's conception of exit options does not take seriously enough what is necessary for an individual to have the full freedom to associate with whomever he or she chooses. Part of what is under scrutiny in this section concerns the role of education in enabling individuals to move between groups meaningfully—that is, being informed about what exiting would cost and having at least some skills that would make such a transition possible. It will be crucial to examine cases dealing particularly with education to determine exactly the extent to which the state may intervene when it comes to public schools. These cases are interesting because they speak both to the issue of freedom of association—addressing when the state is justified to interfere in the relationship between individuals and the groups of which they are members—and to the issue of what it means to have a meaningful exit option.

Finally, I will raise a concern that the ultra-minimal moral conception which stands at the center of Kukathas's theory can support no more than a minimal democracy, an outcome that not only many liberals reject but that may be too thin even for Kukathas's purposes. The central issue in this final section is whether a minimal democratic state—which Kukathas seems committed to supporting—can uphold the kind of *modus vivendi* agreement between individuals that Kukathas proposes. If individuals

² I should pause for just a moment to clarify what is meant by “mistreatment” in this context. I take it primarily to indicate actual harms inflicted on individuals by the groups of which they are parts. It must also mean, however, restrictions placed on individuals by their groups, such as those that would make it impossible for them to exit. It is this second meaning that I take up in the second set of critical evaluations of political multiculturalism.

are going to agree to disagree (that is, to tolerate difference by adopting an attitude of political indifference), then the terms of such agreement must be established by a process that is fair to both. Despite Kukathas's statement that "tolerators need not sit down with the tolerated" (Kukathas 2003, 23) in order to coexist peacefully with them—what Kukathas calls elsewhere the "politics of indifference" (Kukathas 1998)—it is hard to see where the terms of agreement would come from otherwise. To be sure, individuals need not celebrate the beliefs and practices of others, but they must do more than be indifferent to them when it comes to establishing the terms of peaceful coexistence democratically. The terms cannot come from the state; it is clear that the state must remain indifferent to the various ways of life present within its borders. Neither will the terms simply arise as a result of people living in close proximity with one another. If coexistence is to be and remain peaceful, individuals will have to decide upon what will count as authoritative when disputes do arise. This requires a stronger sense of democracy than what Kukathas's political multiculturalism originally seems to support.

Too Much of a Good Thing?

Turning now to the first challenge facing Kukathas's political multiculturalism, it should be noted that it is possible to be critical of Kukathas's theory at a number of points—take his thin conception of liberty of conscience as one example. Here, it could be objected that this does not capture the fullness of human experiences, and that there are more important things to individuals than their being able to live lives that they do not in good

conscience reject. This kind of objection is not my concern here.³ Rather, my aim here (as it has been throughout) is to evaluate the possibility of pairing liberalism and multiculturalism. Political multiculturalism looks to be a plausible—indeed the only plausible—way of coupling liberalism and multiculturalism. Nevertheless, there are some significant challenges to liberal commitments that make the possibility of such a coupling doubtful. One significant consequence of these challenges, if successful, is that groups are given almost absolute authority over the lives of their individual members, tempered first by those individuals having the freedom to disassociate with the group if the relationship becomes one that they cannot in good conscience sustain and second by what Kukathas calls the “norms or conventions or the laws of the communities to which they belong” (Kukathas 2003, 144). Does this view provide enough protection for individuals?

This question is taken up by Brian Barry as a reason for rejecting Kukathas’s theory. Barry argues that, as a result of advocating a maximally tolerant regime, Kukathas’s theory makes it difficult—if not impossible—to determine what should and should not be tolerated. Despite agreeing with Kukathas that groups should not be granted any special rights, Barry argues that “states...can give groups power over their members by omission as well as commission, and there is nothing presumptively more benign about doing it by omission” (Barry 2001, 141). In other words, Barry contends that it is not enough merely to refuse to grant groups outright power over their members. When groups are approached with an attitude of indifference, there is just as much room

³ To be sure, this is a worthy criticism and should not be viewed as somehow unimportant. I take, however, that my treatment of Kukathas’s theory in the last chapter demonstrated at least the theoretical coherence of political multiculturalism with respect to its own principles. Arguing that those are the *wrong* principles does not diminish the theory’s internal coherence. In this chapter, I am considering only those aspects of Kukathas’s political multiculturalism that pertain to its practical effects.

for injustice as when groups are granted special authority over the lives of their members. To be sure, Kukathas is aware of this danger, but opts for a division of authority amongst component subgroups over a centralized authority exercised by the state over all. The dividing issue here, it seems, is exactly the one that Kukathas poses at the beginning of *The Liberal Archipelago*; namely “the question is taken to be, not ‘what should the state or government—that is, authority—do’? but ‘who should have authority’?” (Kukathas 2003, 5). For Barry, authority should rest with the state. According to Kukathas, the dangers of locating authority with the state far outweigh the potential dangers of dividing authority among multiple subgroups. The question now is which location is more viable.

A more specific point of reference will help bring this distinction to the fore. It is one thing, Barry argues, to tolerate practices that (1) harm only adults who have freely consented to remaining part of the offending group, and (2) take place without posing a threat to individuals outside the group in question. It is entirely another thing to tolerate parents who abuse their children (either directly or by withholding medical care). Barry states,

The state, according to [Kukathas’s] view, has no business saving adults from themselves. It is quite another matter to hold, as Kukathas does, that it is no business of the state to save children from their parents.... What is miscalled liberty is actually in this case power: the power of parents to beat, mutilate and (by withholding life-saving medical treatment) kill their children. (Barry 2001, 142-3)

This may seem, at first glance, extreme. Nevertheless, it follows directly from Kukathas’s discussion in “Cultural Toleration” (1997) of what must be tolerated according to his view. Among these tolerable practices are “group or community customs which restrict the opportunities of women...customs of childrearing which restrict the opportunities of the child to prepare for life outside the original

community...practices which reject conventional medical treatment...[and] clitoridectomy and ritual scarring” (Kukathas 1997, 70). To be sure, Kukathas views these practices as morally objectionable. Nevertheless, it should be clear that Kukathas must advocate a strong principle of “hands off” when it comes to the question of state intervention in these and similar cases. These are the very kinds of things about which the state must say—and do—nothing.

The difficulty of this position should be clear. Barry summarizes the issue in the following way: “By granting immunity to parents to do things to their own children that would be illegal if they did them to any other children, the state is handing over power to parents in a particularly brutal and uncontrolled way” (Barry 2001, 143). Kukathas’s response to this is both revealing and troubling. He argues that it is false to think that toleration “gives no scope to wrong” (Kukathas 2003, 142). Moreover, toleration

does [not] give as much scope to it as Barry suggests. The reason is that Barry is mistaken in thinking that, in the end, what this view of toleration countenances is a social order in which power is devolved to such a degree that any household is beyond the reach of public censure and sanctions. (Kukathas 2003, 142-3)

In other words, Kukathas holds that those parents who are wont to abuse their children will have to answer to the norms of the various groups of which they are parts. This means that, because all associations are partial associations, households are subject to the moral (and legal) evaluation of a number of groups. Of course, one could easily imagine a situation in which parents are members of groups that actually condone practices that Barry would view as beyond the pale, such as child abuse. For example, Christian Scientists and Jehovah’s Witnesses both reject life-saving medical care for their children (such as blood transfusions). For Kukathas, even though these parents might answer most immediately to their local congregations, those congregations represent

“associations [that] are themselves bound by the authority of larger communities or associations of which they are a part” (Kukathas 2003, 143). This is an important response for Kukathas because it reveals how, by his view, society tends to take care of itself. It is true that freedom of association is fundamental, and that, as a result, individuals are free to leave associations that run counter to the dictates of their consciences. However, Kukathas claims that it is nearly impossible for individuals to remove themselves from any authority whatsoever. He states,

Unless individuals or groups intend to live in isolation, which in the modern world is not an option readily available, they will have to coexist with others, and find some *modus vivendi*. To the extent that they will have to interact, they will have to abide by mutually accepted laws, and to accept the authority of some third party who will adjudicate disputes.... The point of all of this is to say that, in a society governed by toleration, it is not going to be possible for individuals or groups easily to arrogate themselves the power to do entirely as they wish with others—including their children. (Kukathas 2003, 143-4)

The question that must be asked now is whether the supposed impossibility of groups to assume complete power is adequate to address Barry’s worry. Kukathas contends that it is, arguing that it is less troubling to rely upon social norms of association to correct for extreme injustice than to grant complete authority to the state.

The crucial—and troubling—move here is Kukathas’s willingness to rely on what individuals establish as laws and norms when left to devise their own *modus vivendi*. For Barry, there are certain practices that should simply be outlawed by the liberal state.

Kukathas rejects this line of thinking, relying instead on the belief that the state knows no better than individuals do what is best or right or true. He states,

within liberal societies, there is no settled consensus on a great range of questions about such things as proper medical practice, physician-assisted suicide, or abortion—or about what children should properly be taught about the world and their place in it. More than this, these questions are hotly debated, even among liberals.... To say that the interests of the

child should be protected by the state assumes that it is in a position to know what those interests are when members of society do not agree. (Kukathas 2003, 145)

This makes some sense. After all, how is it possible for the state to know the right course of action when individuals themselves differ—when, in fact, a single individual may not know the right course of action? Kukathas’s answer is clearly that it cannot. Moreover, since the state cannot know what is right, it is better to leave individuals to decide things for themselves in the interest of protecting their freedom than to mandate that certain beliefs are right and should be adopted by all.

Nevertheless, there is something counter-intuitive about Kukathas’s position. The problem is that we are faced with trying to draw a line between individual freedom and state intervention when it is not clear where it should be drawn. Barry accuses Kukathas of drawing that line in the wrong place by allowing for too much authority to fall into the hands of parents and the groups of which they are a part. Kukathas responds by arguing that Barry’s position tips the scales too far in the other direction, giving too much authority to the state. The motivation for such a claim is clear once it is remembered that one of Kukathas’s main points is that the state cannot know any better what is best for its citizens than the citizens do for themselves. Once the state says what is beyond the pale with respect to how parents treat their children, it is an easy step to say that it is in the best interest of children that they be educated according to a certain curriculum, another easy step from there to say that it is in children’s best interest to avoid fatty and sugary foods and to limit television viewing, and from there to saying that certain children would be better off if raised by parents who are in a higher socio-economic bracket (Kukathas 2003, 146). The issue now, Kukathas argues, is that the state is not so much representing the best interests of children as it is prescribing “a very full conception of what are a

person's interests" (Kukathas 2003, 146). The problem here is that the state cannot know what a person's best interests are. When the authority of the state is used to make decisions that are based in a single conception of the good (which is what is happening when the state prescribes what is in the interests of its citizens), there is a very real danger of horrifying consequences. Even when such horrifying consequences do not occur, the state remains unjustifiably involved in the lives of its citizens. To counter this inevitable result of state intervention, Kukathas opts for near complete state *un*involvement.

At this point, a significant dilemma is reached. As Kukathas states,

The tolerationist view seems to give groups (and so, in some cases, parents) *carte blanche* to do as they wish in the case of children. The Barry view seems to give the state *carte blanche* to intervene, to require children to be raised as *it* sees fit, and to remove children from their parents and communities. (Kukathas 2003, 147)⁴

It seems, then, that we are faced with an extremely difficult decision. How is it possible even to begin to decide which of these options is preferable? Kukathas maintains that the state simply cannot be given final authority because the state is in no better position to know what is best in matters over which individuals themselves disagree. This is essentially a pessimistic attitude (though not unfounded) that states are not very good at accomplishing what they set out to do. Kukathas opts for the conclusion that the state should have authority only to intervene when individuals' freedom of association is threatened because this is the only way to respect freedom of conscience. He recognizes that this will sometimes mean that "under a regime of toleration some associations will

⁴ Though Barry does not advocate taking children away from their parents (except maybe in situations where they are being abused by their parents), Kukathas wants to get across that such a practice would not be ruled out by Barry's egalitarian liberal position. Kukathas recalls on the page prior to the above quote that "this...example is not as far-fetched as it might seem, since it was for a number of years the policy of Australian states to take Aboriginal children of mixed descent away from their natural Aboriginal parents (inevitably, mothers) to be raised in white foster-homes" (Kukathas 2003, 146). Though this practice has been abandoned, and the policies driving it recognized as ill-founded, it illustrates what can happen when the state is given such authority.

condone or uphold practices which are harmful to children—and to others in those groups who are weak or vulnerable” (Kukathas 2003, 147). Nevertheless, Kukathas has reason to think that these potential harms are limited by the necessity of making certain modifications in group practices in order to interact with others. He states,

Interaction has been made necessary by a range of circumstances from the need for trade, to the desire to marry outsiders—members of other communities. This has required the development of standards to regulate inter-communal conduct; but it has also produced changes within communities which have had to develop norms or laws regulating relations with welcome intruders—be they merchants or sons-in-law. Communities have thus to strike a balance between retaining their own practices and moral ideals and compromising them in order to enter the public realm of civil life. (Kukathas 1997, 85)

Kukathas’s point here seems to be that, although civil association cannot guarantee the absence of otherwise objectionable practices, there is no good reason to think that those practices would be abolished by granting ultimate authority to the state. In fact, there is some reason to think that it is a less preferable state of affairs to allow the state to intervene in more than just disputes over freedom of association. Moreover, from a strictly theoretical point of view, and assuming that Kukathas’s conception of liberalism is correct, the liberal state cannot be at all concerned to promote any moral claims of its own—no matter how much it may appear that those claims are made in the interests of its citizens.

It should be apparent that there is no easy way of deciding whether ultimate authority should lie with the state or with groups. Taking sides with Kukathas gives reason to think that it should lie with groups—after all, the main purpose of liberalism is to maintain a framework within which *individuals* can live lives that are not conscientiously objectionable. This means that individuals should be able to associate (and disassociate) with whomever they see fit. Insofar as individuals live according to

the dictates of conscience, it seems clear that groups, as the associations of individuals, should have authority only as far as they reflect the wishes of their individual members. Granting the state ultimate authority necessarily means limiting individual freedom. On the other hand, there are very real worries about what can happen when there is only a very thin conception of what counts as intolerable. Barry clearly expresses this worry and argues that ultimate authority must lie with the state, grounded in commitments to equality of opportunity and freedom of exit. He is willing to sacrifice the kind of radical freedom espoused by Kukathas in favor of protecting individuals from harm. The problem, as is well documented by Kukathas, is that the state simply cannot know what is in the best interests of its citizens, specifically because those citizens do not agree themselves. We are thus faced with the option of viewing the state as “umpire”—as setting up and maintaining a framework of coexisting but irreconcilable conceptions of the good life—or as the upholder of a set of principles to which all should agree and which therefore dictate the limits of what is tolerable. It seems unsatisfactory to say that both options are equally viable and that a determination must be made on some other grounds than those presented here, and yet it is unclear that anything more can be said. If one really values the kind of radical freedom to which political multiculturalism is committed, one must go down the path of maximal toleration, even at the expense of allowing some practices that seem objectively wrong. If one is unwilling to allow such practices, then one must side with Barry and insist that there are justifiable principles to which all must agree as a prerequisite for toleration. Liberals who opt for the second set of commitments can appeal to justice or individual rights (or some other liberal principle—maybe even truth) as justification for what the duties and obligations of

citizens are with respect to toleration. To do so, they must bite the bullet that sacrifices the full range and extent of the diversity of beliefs about what constitutes the good life. Political multiculturalists must bite a different bullet. They must adhere to the belief that there is nothing beyond local laws and customs⁵ and the freedom of association that motivates toleration. Doing so makes it possible to be a liberal multiculturalist, but at the expense of an ability to intervene in situations where groups condone practices that seem not only illiberal, but objectively and seriously wrong.

Freedom of Association and the Exit Option

In this section, I will grant for the sake of argument that local norms and customs, to a large extent, may temper the frequency and extent of harms inflicted on individual group members (including children). Even when they do not, however, the state is limited in its ability to intervene according to a strong commitment to freedom of association found in political multiculturalism. This aspect of Kukathas's theory is crucial because it answers the hard questions about when the state *is* justified to intervene. He states,

If there are any fundamental rights, [the right to exit the community] has to be that right. It is an inalienable right, and one which holds regardless of whether the community recognizes it as such. It would also be the individual's only fundamental right, all other rights being either derivative of this right, or rights granted by the community. (Kukathas 2003, 96)

The fact that on Kukathas's view freedom of association is the individual's only fundamental right is extremely important because it dictates what the positive role of the state is. In nearly all other affairs, the state has no role except to maintain a space for peaceful coexistence. Nevertheless, in order for that space to be meaningful and, more

⁵ It should be noted here that local laws and customs are sometimes—if not always—based on a thin form of a pragmatic conditional that may be put in the following way: “If I want to interact with these people, then I will have to tolerate them and possibly alter some of my own beliefs and practices.”

specifically, for liberty of conscience to be meaningful, individuals must be able to move between groups according to the dictates of their consciences. The state, then, has this one positive role: to protect an individual's freedom of association—regardless of what the internal demands of any group may say to the contrary. In some cases this may mean that the liberal state will have to tolerate those groups whose internal practices are decidedly illiberal. In the interest of freedom of association however, the state's only concern is whether individual's may freely associate with (and dissociate from) such groups.

Freedom of association is central to political multiculturalism because it alone upholds the commitment to an individual's liberty of conscience. Being able to live a life to which one does not conscientiously object means being able to join and leave any association as he or she sees fit. In very general terms, this means that no one may be forcibly prevented from dissociating with a group of which he or she is a member. In short, "no one can be *required* to accept a particular way of life" (Kukathas 1992a, 125-6). Interestingly, freedom of association does not mean that groups must tolerate dissenters *within* their ranks or that every group must admit anyone who wishes to become a member. The internal workings of a group are beyond the jurisdiction of the state. Kukathas raises several relevant examples which illustrate this point and which may be helpful to recount in turn. Consider the case of a Pueblo Indian community in which some of its members had converted to Christianity. Kukathas states, "The problem arose when some members of this culture, following conversion to Christianity, chose to withdraw from certain communal functions while continuing to demand their 'share' of community resources" (Kukathas 1992a, 121). The outcome of this situation was that the

Pueblo community ostracized those dissenting members, not granting them their “share” of community resources. Can this be justified? According to Kukathas, since those members were not forced to change their views about Christianity, the Pueblo community was fully justified in ostracizing the Christian converts. The community may choose what will be the basis of its own constitution—however liberal or illiberal that may be—provided only that it respect dissenters’ abilities to exit. Kukathas states,

In the case of the Pueblo Indians, [maintaining freedom of association through indifference] means that if the community refuses to accept the conversion of some of its individual members to Protestant Christianity, those individuals have to choose between abiding by the wishes of the community or ceasing to be a part of it. They may, of course, seek to change the Pueblo stance from within, but they may not appeal to any outside authority. (Kukathas 1992a, 126-7)

This is interesting specifically because, since there was no impediment to the ability of the Christian dissenters to leave, the state cannot force the Pueblo community to tolerate dissent. Similar conclusions are drawn in other examples, such as a Muslim who wishes to deny the basic beliefs of Islam. He may do so, as is guaranteed by his right to free speech, but the state has no authority to demand that his *Muslim community* respect his freedom of speech. Here Kukathas drives the point home:

The individual would therefore have to choose between being a part of the Muslim community and retaining his right of free speech. The community would be entitled to ostracize the individual who refuses to conform to its norms; it would not, however, be entitled to inflict any greater penalty. (Kukathas 1992a, 127)

According to this line of reasoning, individuals must make a choice when it comes to membership in various groups. Unless those groups are forcibly preventing exit—by genuine threat of physical harm, for example—the individual has no recourse to the state as a means for adjudicating grievances. When it comes to groups other than the state, the individual must either accept the group’s internal norms or exit the group.

So far, the examples discussed have dealt with religious dissent. I shall now turn to other examples that raise serious concerns about this minimal conception of freedom of association—namely, those that deal with education. Recall first the case of *Wisconsin v. Yoder*, in which an Old Order Amish family was sued by the state for withdrawing their children from public school at the end of their eighth grade year. Recall also that it was the judgment of the U.S. Supreme Court that the Yoder family was constitutionally guaranteed the right to do so on the basis of the free exercise clause of the First Amendment to the U.S. Constitution. According to Kukathas, this was the right finding, but for the wrong reason. He states, “[The Old Order Amish’s] right not to send their children to public schools beyond the eighth grade would be grounded not in the First Amendment guarantee of freedom of religion but in the principle of freedom of association” (Kukathas 1992a, 126). The idea behind Kukathas’s reasoning here is that the state, unlike individual associations or communities, may not promote its own ideals. As a “community of communities [the liberal state’s] concern is with the terms of association among the different groups and not its own claims as a group” (Kukathas 2003, 163). As a result, demanding that Amish children complete public school through a certain age or grade level is beyond the proper scope of state authority specifically because it conflicts with the freedom of association.⁶ In this case, the Old Order Amish family did not wish to remain a part of the mainstream society (as was the case in the Pueblo Christian converts case); rather, they wanted only to exercise their ability to dissociate freely. According to Kukathas’s conception of freedom of association, it is therefore only proper that the Amish be permitted to go their own way.

⁶ It would not be unfair to say that Kukathas would argue that requiring even as much as an eighth grade education goes beyond legitimate state authority in this case.

Compare this case with *Mozert v. Hawkins*. In this case, the Mozert parents, who were fundamentalist Christians, sought an exemption for their children from having to take part in those aspects of the public school curriculum that ran contrary to their religious beliefs. Two facets of this case make it particularly interesting. First, the Mozert parents did not wish to dissociate from the wider society in the way that the Amish parents did. They wanted their children to have a public school education, but be granted exemption from a particular curriculum requirement. This is crucial because it invokes the aspect of freedom of association that says that a group does not have to tolerate dissenters. In this case, freedom of association means that Hawkins County could legitimately say to the Mozert parents “follow this curriculum or send your children to private school.” To be sure, the state cannot mandate that the Mozerts partake of public education. Importantly, however, it cannot be appealed to as an authority that mandates that the school must tolerate Mozert dissention. In other words, on Kukathas’s analysis, the Mozert parents are faced with a decision similar to that of the Pueblo Christian dissenters and the Muslim man wishing to speak out against the basic beliefs of Islam: either remain part of the community that supports the public school curriculum to which the Mozert’s objected, or dissociate. Kukathas describes this choice in the following way:

If [the Mozert parents] had wanted to [shield their children from mainstream society’s corrupting influences] by withdrawing from the state’s influence (and, perhaps, reconstituted themselves in communities with other like-minded people) there is no reason to think that they have any less claim to do so than the Pueblo have to live separately. The fact, however, is that—as is always the case with the exit option—doing so carries opportunity costs and the likelihood of people thus withdrawing is small. The parents, in this particular case, did not seek to pay the price of withdrawal from the community but, rather, hoped to change the community’s rule in their favour. (Kukathas 2003, 162)

Here, because the Mozert parents did not wish to dissociate, the community was fully entitled to demand that they adhere to the curriculum as it was. In other words, the dissenting party was not prevented from exiting, and, since they chose not to leave, could be required by Hawkins County to adhere to the public school curriculum.⁷

It is interesting to note how easily Kukathas's treatment of the Mozert case can be misconstrued. I am thinking specifically of an argument raised against Kukathas by Matthew Festenstein in his recent book, *Negotiating Diversity* (2005). Festenstein claims that "Kukathas defends the exemption of gypsy (Roma) children from some schooling in the United Kingdom's 1944 Education Act" but that with respect to *Mozert v. Hawkins* "Kukathas argues [that] the liberal state is entitled to impose a particular conception of education on the fundamentalist parents of Hawkins County, since the latter on the whole wish to continue to 'live in mainstream society'" (Festenstein 2005, 108-9). This is clearly a misunderstanding of Kukathas's point. In the passage quoted from Kukathas, there is a footnote which reads "equally, I leave aside the issue of whether it is appropriate for the state to be involved in the business of education in the first place—*though it is my view that it is not*" (Kukathas 2003, 162 my emphasis). Elsewhere, Kukathas argues that "according to this understanding of liberalism, it is no part of the purpose of the state to educate or shape the character or thinking of its subjects" (Kukathas 2001, 322). I mention this to point out that we must be careful in what we take Kukathas to mean when he argues that the Mozert parents had no right to make an appeal to the state for special exemption. The state could not force the public schools of

⁷ It is important to note that the reason for the state upholding Hawkins County's authority here was not because it better promoted liberalism or some principle therein. It is simply a matter of acquiescence versus exit. If the parents chose not to bear the costs of exit, they would have to adhere to the practices of the group.

Hawkins County to accommodate Mozert dissention any more than it could force the Mozert parents to keep their children in public school or prevent them from leaving.

I want to consider one more case that points out how Kukathas's view is counterintuitive. Imagine a group of condominium homeowners who come together and decides that they want to form a condominium homeowners' association. In this situation, individual homeowners share ownership of some parts of the complex, such as garden and pool areas. The association is intended to serve several simple functions, such as a formalized agreement about house paint colors, kinds and sizes of yard plants, rules governing pet ownership, limitations on starting times for construction crews, etc. A vast number of condominium homeowners' associations across the United States are of this ilk. Now, let us imagine that someone in this community becomes blind and needs the assistance of a service animal that is on the banned list (say, a dog that will be over 75 pounds at maturity). Because this individual believes that he should respect the rules of the association, he calls a meeting of the association. At this meeting, a series of arguments is presented ranging from why the rule regarding pet ownership should be abolished, to why the rule should be changed to include pets over 75 pounds, to why this individual should be granted an exemption and be allowed to own such an animal. After much deliberation, the neighborhood association decides by vote that the rule will stay in place. At this point, the individual in question (just like the Pueblo Christian converts and the Muslim free-speaker) has a choice. He can stay in this community and not get the service animal that he needs or he can leave and get the service animal. It seems that by Kukathas's account, all is well in this situation. There is no injustice that the blind man may appeal to the state to rectify. He must either accept the norm, or exit the

community. It may be unfortunate or sad that the resident could not remain in the community and have the pet he needed, but the community would be fully justified to ask him to leave if he got the animal anyway.

In this case, it surely seems wrong to say that the individual in need of a service animal has no recourse to the state to intervene. In fact, it seems utterly clear that a community that would not accommodate such needs (even if it means making a single exemption) is not just uncouth but *unjust*. By Kukathas's account, however, the state is not in the business of ensuring that the internal structures of various sub-groups are just; rather, the state can only intervene when individuals are prevented from exiting groups to which they can no longer conscientiously acquiesce. Though consistent with the commitments of a political multiculturalist, this consequence seems so utterly counterintuitive that it borders on being *non-liberal*. To see this more clearly, consider the following extension of the above example.

Imagine that, after the discussion about the permissibility of service animals, the members of this homeowners' association decide that they (or at least the majority of them) do not want gays living in their complex. Is this a tolerable practice? It is certainly unjust, but justice cannot be forced on sub-groups by the state. What are we to make of this situation? The first thing to decide is what impact it will have. In other words, are there any gays living in the complex at the time? If there are not, it seems that Kukathas would have to say that it is perfectly tolerable that this complex closes its doors to any new gay members. The association may institute policy that governs the sale of property within the complex. After all, an association can determine how it will be structured internally limited only by the practicality of such structuring with respect to

interaction with other groups and by respecting an individual's inalienable right to leave.⁸ If there *are* gays in the complex, the situation is much more complicated. In this case, a determination has to be made as to whether the association is justified in asking them to leave. Short of physical removal, the association could hold regular events to celebrate heterosexuality and/or ask its non-gay members to post anti-gay signs in their lawns. Following Kukathas's discussion of the Pueblo Christian converts and the Muslim free-speaker cases, it seems that here, too, he would have to say that anyone facing exclusion on the grounds of their sexual orientation could not appeal to the state to intervene on behalf of a right to not be discriminated against on account of their being gay. Kukathas says the following about the Christian Pueblos: "As members of American society, they have freedom of religion; as Pueblo, they do not" (Kukathas 1992a, 127). As strange as this appears, something analogous would also apply in the case of the gay community members, namely: as citizens of a liberal society, gays have the right against discrimination based on sexual orientation, as members of this association they do not.

There has to be something wrong with this conclusion. To be sure, Kukathas might respond here by saying that the cases are not perfectly analogous insofar as the homeowners' association is not separated from mainstream society in the same way that the Pueblo are. It might therefore be better to look at this example as paralleling the situation of the fundamentalist parents in *Mozert v. Hawkins*. Although almost impossible to take seriously, drawing this analogy would mean that the gays could be free to live whatever lifestyle they wished by giving up their membership and participation in the homeowner's association, but that if they valued that membership to the point where

⁸ Thus, for example, Kukathas does not adhere to the same distinction between external protections and internal restrictions that form a large part of Will Kymlicka's argument for group rights.

leaving was not preferable they would simply have to abide by the rules of the association not to, say, make their sexual orientation public. Kukathas would apparently have no problem with this outcome. He would probably say that such an association is morally defunct, but nevertheless not subject to the authority of the state in this matter. This seems deeply counterintuitive from the point of view of liberalism. If there is any lingering doubt, change the parties facing forcible exclusion to African-Americans or Jews. Because Kukathas has opted for an ultra-minimal moral conception as the basis of his political multiculturalism, and has argued that this is the only true way to respect the liberal commitment to freedom of conscience, he has to accept that these kinds of situations are utterly allowable within the liberal regime as he conceives it. Moreover, groups that are so constituted must be tolerated, just so long as they allow dissenters to exit.

This kind of case raises a related issue concerning what it means to say that an individual is free to dissociate if he or she finds a way of life conscientiously objectionable. This is a question about the meaningfulness of an exit option. Consider Kukathas's own case of Fatima, a Malay woman that Kukathas uses as an example of what it means to be free. A little about her:

[Fatima] is a Muslim, a mother, and a wife; and her life is very much shaped by these aspects of her identity, and also by her membership of the village community, which reinforces the view—her view—that her life should be governed by her religion and by her duties as wife and mother. She has no desire to live elsewhere or otherwise. If she did wish to live in some other way she probably would have to live elsewhere, since it is unlikely that the village would tolerate—let alone welcome—any deviation. (Kukathas 2003, 113)

According to Kukathas, Fatima is fully free in this situation simply because she may leave the community if she chooses. Interestingly, Kukathas goes on to add, “by

implication, she is thus free if she does not have any wish to leave—even if she is ignorant of the possibility of leaving or living differently—and simply continues to live her life” (Kukathas 2003, 113 my emphasis). The emphasized clause in this passage is crucial. For Kukathas, all that is required for an individual to be free is that there is no external impediment to exit from the community of which he or she is a member. Individuals need not meet some *internal* condition, such as autonomy or the ability to deliberate over choices or even know that alternative lifestyles exist. All that is required is that each individual “may live a life she has not rejected and is not forced to live a life she cannot accept” (Kukathas 2003, 113). In this way, liberty of conscience is protected by an individual’s ability to remove him or herself from situations that are conscientiously objectionable.

This situation raises a serious concern about what it means to be free. Following Kukathas, it is clear that Fatima is in *some sense* free to exit the Muslim community—after all, no one is physically *holding* her in her home. It must be asked, however, whether that freedom is meaningful. Does her “choice” to remain part of her current community mean anything if she does not know that there are other options available to her? Furthermore, if Fatima did want to leave and become part of mainstream society, how well could she possibly do? These questions have led many liberals to maintain that a freedom of exit must be more robust than Kukathas’s account. Barry makes this point well:

If the possibility of exit were to be understood as no more than the absence of locked doors or chains, its value as a safeguard against oppression and exploitation would be extremely scant. (Barry 2001, 239-40)

According to Barry, merely being able to leave is not enough to ground a meaningful exit option. Such a freedom must be supplemented in ways that make it possible not just for

an individual to exit, but to be able to conceive of alternative lifestyles and to be able to thrive outside his or her original community. For Barry, what it costs for individuals to leave the community plays a role in determining how real or authentic the exit option is. To be sure, this is of some concern to Kukathas, though he downplays its significance when it comes to deciding when an individual truly is free to exit. Speaking directly to this concern, Kukathas states,

Exit may, indeed be costly; but the individual may still be free to decide whether or not to bear the cost. The magnitude of cost does not affect the freedom.... Cost may have a large bearing on the decision taken; but it has no bearing on the individual's freedom to take it. (Kukathas 2003, 107)

This is a strange notion, even if it is consistent with the rest of Kukathas's theory.

Clearly, Barry rejects such a minimal conception of what constitutes a legitimate exit option.

According to Barry, there are indeed some costs that, though regrettable, are beyond the regulatory authority of the state. These are what he calls "intrinsic costs"—costs that result from the nature of what is left behind in exiting the group. Intrinsic costs are those costs that an individual incurs upon exiting the group which cannot be separated from the individual's dissociation with the group. Using an example of excommunicated members of the Roman Catholic Church, Barry states:

If you believe that Jesus gave St. Peter the keys to heaven and that the current Pope has inherited them, [the intrinsic] cost could be described as infinite. Nevertheless, it is not one that can be detached from the phenomenon of excommunication itself: it cannot be altered by the state or anybody else. (Barry 2001, 151)

Steps to rectify these costs are illegitimate because such steps would require that the group restructure itself internally to prevent such costs from occurring for those who leave or are excommunicated. Because doing so means tampering with the group's

internal structure, these costs must be borne by exiting individuals. However, Barry insists that the state might take some action in limiting a second kind of costs, “associative costs,” which are those costs that result from the loss of association with the group. In other words, these are costs that might result in the loss of social relations with remaining members of the group one is leaving. Continuing with the above example,

if members of the congregation break off social relations with you as a consequence of your expulsion, this is something they are free to do. People in liberal societies cannot be prohibited from being narrow-minded in this way. (Barry 2001, 151)

When it comes to “external costs,” however, Barry argues that the state is both able and should be willing to address them. Again, using the example of the excommunicated individual, Barry states:

Suppose that your employer is a devout—indeed fervent—Roman Catholic, and that he fires you as a consequence of your being excommunicated. This is a gratuitous loss which the employer has no right to impose on you, so it counts as an external cost. Even if the firm is owned and operated by the Roman Catholic Church, it should not be allowed to dismiss you unless it can show to the satisfaction of a court that the job is one that must for some reason be done by a member of the church. (Barry 2001, 151)

The issue at stake with external costs is that they render one’s association essentially unfree because they make exit practically impossible.

This is a much more stringent requirement than what Kukathas proposes:

... in recognizing the right of exit, [cultural communities] would...have to abide by liberal norms forbidding slavery and physical coercion. More generally, they would be bound by liberal prohibitions on “cruel, inhuman or degrading treatment.” (Kukathas 1992a, 128)

To redress external costs of exit, Barry suggests, for example, that departees might be given some form of compensation for what is lost in leaving. Though the state cannot mandate that a group maintain business or professional relations with those exiting, it is

possible that the state require the group to compensate such losses. Barry argues as follows:

Compelling the members of the group to maintain professional or business contacts with a renegade would be a quite serious invasion of the group's ability to conduct its own affairs. Fortunately, however, it would be possible in this case to obviate the financial loss to the ex-member without infringing on the congregation's freedom not to associate. For we might suggest that, while they should be free to carry out their boycott without let or hindrance, this is not incompatible with requiring them to pay compensation to the victim. (Barry 2001, 153)

It is clear, then, that Barry's sense of what constitutes a legitimate exit option is much more robust than Kukathas's. The issue now is whether there is any good reason to accept one conception over the other. As was the case with respect to the extent of toleration, there are good reasons for both options. Being committed to an ultra-minimal political liberalism means that the most that can be offered as a legitimate exit option is that one not be made physically to stay against his or her conscience. Beyond that, whatever costs may be incurred are the responsibility of the departee to bear, and the liberal state should not get involved.

Recall that one of the questions raised with respect to Fatima's situation was whether her freedom to dissociate was at all compromised by her lack of knowledge regarding the possibility of other options as well as her ignorance of what the various costs of those options are. That is, we must ask whether ignorance renders the exit option meaningless; put yet another way, we must ask whether a free conscience must also be an *informed* conscience. According to Kukathas,

There are two ways in which ignorance might constrain choice. In the first instance, an individual without education might be ignorant in the sense that he or she does not know enough to be able to take up an option.... In the second instance, an individual without education might be ignorant in the sense that he or she simply does not know that there is

another feasible option—an option of exit into another society. (Kukathas 1992b, 677)

For Kukathas, the first instance of ignorance does not counter-indicate an individual's having the ability to make a meaningful choice. Instead, Kukathas argues that making a choice under this condition is “very costly or risky” (Kukathas 1992b, 677). In the second instance of ignorance, Kukathas argues that though it may appear that one does not have a meaningful exit option, so long as the individual is not living a life to which they conscientiously object, nothing more can be said (Kukathas 1992b, 677-8).

This is a difficult issue for Kukathas, especially as it binds him into a Gordian knot—particularly with respect to education. In fact, Kukathas recognizes that there are two irreconcilable goals at work here: “on one hand, to leave cultural communities alone to manage their own affairs, whatever we may think of their values; and, on the other hand, to champion the claims or interests of individuals who, we think, are disadvantaged by their communities' lack of regard for certain values” (Kukathas 1992b, 678). It may be true that a liberal state is not obligated to ensure that its citizens are aware of the multitude of life options open to them, as this would clearly be an infringement on the way that groups conduct their own affairs. More specifically, some individuals may value adherence to traditions and traditional authority figures over knowing what else is available. For the state to require that individuals know about alternative life options is for the state to conflict with the way that some groups are internally structured—a situation that we have already seen to be viewed as illegitimate according to Kukathas's view. Nevertheless, can the liberal state really remain indifferent to the fact that some cultural groups render their members incapable of surviving outside their communities? For example, suppose that Fatima did want to leave, having been exposed to other

cultures, but that her upbringing has made her unemployable; can the liberal state adopt the sort of sink or swim attitude that Kukathas's theory prescribes?

As was shown above, Kukathas supports almost complete uninvolvedness when it comes to education. To repeat, Kukathas holds that the state has no business interfering in the way that children are educated. At the same time, however, he supports an absolute right—in fact, the only absolute right—of individuals to be free to associate according to the dictates of their consciences. So the question now is whether, and to what extent, education is required for citizens to live according to conscience. For Kukathas to remain committed to an ultra-minimal conception of liberalism he must endorse an extremely thin conception of the state's role in education. It is for this reason that, contrary to much of the literature on education within the liberal state, Kukathas maintains that the liberal state should have no interest in the education of its citizens. Because the state exists “only to ensure that [citizens'] pursuit of their various enterprises is possible in a reasonably peaceful way,” the state should have no interest in what individual's learn or how they learn it (Kukathas 2001, 323). This is true whether liberal education is taken to have an inherent value in the lives of individuals or to be necessary for the creation of “liberal citizens” (Kukathas 2001, 323). Without going into the details of what is necessary to create liberal citizens, it should be apparent that Kukathas rejects this aim of a liberal education out of hand. With respect to the inherent value argument, however, we must look at whether Kukathas can (or should) endorse some such view.

Kukathas characterizes the argument for the inherent value of education as follows:

First is an interest in attaining some form of competence so that [the individual] can function in the world.... The second is an interest in

education, or knowledge, for its own sake, or for the sake of living well.
The third is an interest in becoming autonomous. (Kukathas 2001, 324)

Clearly, Kukathas will reject the second and third of these values, given his rejection of autonomy as a fundamental value and of any state regulated conception of what it means to live well. The first of these values, however, seems difficult for Kukathas to dismiss. Having a commitment to an individual's ability to exercise his or her freedom of association must mean that he or she has at the very least some knowledge of what it would take to function outside his or her current group. Furthermore, the decision to exit one group necessarily means entering another. For this decision to be free, it must at the very least be based on a rational calculation of the risks or costs of exiting the current group and entering the new one. But such a calculation must be *informed*; it must draw from some knowledge of the norms and demands of the new group. Thus, in order to fully exercise one's freedom of association, one must at the very least have access to the relevant terms of information regarding other ways of life *before* one decides to exit one's current group.

Kukathas represents a unique place among liberals. He is certainly unwilling to grant that the state has any authority to regulate education in the name of inculcating particularly liberal beliefs or a particularly liberal way of life. It is for this reason that the state cannot utilize education to enforce any particular comprehensive doctrine, such as one which says being autonomous is of more value than, say, adhering to tradition within one's culture. Kukathas also cannot appeal to a political liberal argument for public

education—a subject about which liberals are at pains to address.⁹ Amy Gutmann characterizes this argument in the following way:

Political liberals like Rawls and Macedo consistently rely on civic reasons for teaching mutual respect—a reciprocal positive regard among citizens who pursue ways of life that are consistent with honoring the basic liberties and opportunities of others—even against the religious claims of parents.... Without mutual respect, members of different groups are likely to discriminate against each other in many subtle and not-so-subtle ways that are inconsistent with liberal principles. (Gutmann 1995, 561)

To the extent that even these reasons lead to interference in the lives of individuals, Kukathas wants to abandon any close affiliation with state-run education. The reasons for his separating himself from such justifications of education seem to result from recognizing that it is simply impossible to teach civic virtue while at the same time remaining an ultra-minimal political liberal state. As Gutmann argues, “it is probably impossible to teach children the skills and virtues of democratic citizenship in a diverse society without at the same time teaching them many of the virtues and skills of individuality or autonomy” (Gutmann 1995, 563). Recognizing this inevitability, Kukathas resorts to his claim that there is no way for the state to know better what is in the interests of its citizens when citizens themselves disagree over such issues. Putting the state in control of education—for whatever reasons—means granting that the state knows what is best for its citizens, thereby granting a degree of power to the state that endangers individual freedom.

Regardless of this defense, Gutmann raises an important liberal consideration. She states: “Any defensible standard of civic education must be committed to prepare

⁹ See Amy Gutmann, *Democratic Education* (1987) and “Civic Education and Social Diversity” (1995); Stephen Macedo, *Diversity and Distrust: Civic Education in a Multicultural Democracy* (2000) and “Liberal Civic Education and Religious Fundamentalism: The Case of *God v. John Rawls*” (1995); John Rawls, “Priority of the Right and Ideas of the Good” (1988).

children for the rights and responsibilities of citizenship even over the opposition of their parents” (Gutmann 1995, 567). Even in an ultra-minimal liberal regime, where the only liberal value actively upheld by the state is an individual’s ability to dissociate from the various groups of which he or she is a part, citizens must be able to know what it will mean for them to dissociate. Again, to quote Gutmann,

Parental convictions that conflict with teaching children civic virtues must be tolerated but they should not be publicly subsidized by schools. A public commitment to teaching mutual respect does not prevent parents from fostering deep religious beliefs in their children. It only sets principled limits on the authority parents may claim over their children’s public education, even in the name of religious freedom. (Gutmann 1995, 577)

This is an interesting position because it seems that Kukathas would agree that parents who wish to remain members of the mainstream society must adhere to the content of education within public schools. It was along these lines that Kukathas was shown above to reject the Mozert parents’ claim on an exemption to portions of the public school curriculum because of their religious beliefs. It seems, then, that Kukathas comes to the same conclusion but by different means. It is not in the interest of mutual toleration or any other liberal value that the state can mandate the content of public school education. In fact, the state should have no hand in determining what that content looks like. So, regardless of whether a community chooses to teach history that includes only a pro-South conception of the American Civil War (“The War of Northern Oppression”) or science that supports only a flat-earth theory of geography or geocentric astronomy, the state may not step in and claim at any point that this curriculum is false or otherwise harmful. Once a local community decides on that content, individuals who choose to remain members of that community can only suggest changes, ask for exemptions, or leave.

The fact that the state can have no hand in determining the content of public school education—even in the interest of teaching toleration—is a difficult position for Kukathas to maintain. If individuals are going to have as their fundamental right the freedom to dissociate from groups, they must have a fuller exit option than merely the absence of physical coercion or obstruction. Kukathas, however, can countenance no such conception of the freedom of exit. This outcome, however troublesome, is what an ultra-minimal conception entails. Once again, we see that being committed to those principles that make political multiculturalism possible entails a conception of liberalism that is extremely thin. The cost of such a position is that individuals enjoy no more than a cursory freedom of dissociation. For liberalism to attempt to meet multiculturalist intuitions means that it must sacrifice a strong commitment to some of its own traditional intuitions—specifically those that are associated with education and informed exit options. It is unclear whether the ultra-minimal conception that underpins the sort of liberalism that can address multiculturalist concerns really provides individuals with much freedom at all.

Supporting Democracy

This last issue moves us toward a more troubling implication of Kukathas's ultra-minimal political liberalism. What I have in mind here will take us back a bit to Kukathas's notion of what the political sphere will look like under his conception of the liberal state. It is a *modus vivendi* arrangement, where individuals tolerate difference, not because of political bargaining or of mutual respect, but as the result of a desire to be left alone to

live their lives however they see fit. It is for this reason that Kukathas describes his view as the “politics of indifference.” Kukathas states,

Agreements or understandings reached between individuals and groups come to be accepted (or internalized) as more basic norms governing social relations. The product over time is a commons which acquires the character of a public space without a sovereign power—unowned but governed by norms which circumscribe behaviour within it. (Kukathas 2003, 132)

This passage is crucial to understanding what relations between individuals look like in a state that can be described as a “liberal archipelago.” Individuals tolerate differences in ways of life in the sense that they recognize their ability to dissociate from anyone to whom they cannot in good conscience relate. He continues to describe this commons as a space where individuals “share an interest in preserving...civility and civil life” (Kukathas 2003, 132). It is this conception of a moral commons that I want to address in this final section. I will do so by considering just what kind of conception of democracy Kukathas can uphold given his commitment to an ultra-minimal political liberalism. The purpose of this examination is merely to consider whether the conception of democracy that Kukathas is committed to overlaps with the conception necessary to sustain a state in which individuals peacefully coexist by means of a *modus vivendi*. I will argue that there is, in fact, some discrepancy here—in fact, enough discrepancy to pose a serious concern for the viability of maintaining a political multiculturalist position.

In his recent book *Is Democracy Possible Here?: Principles for a New Political Debate* (2006), Ronald Dworkin distinguishes between two main conceptions of democracy. On the one end of the spectrum is a “majoritarian” conception of democracy. The majoritarian conception of democracy is minimal with respect to what it requires of citizens. It essentially views democracy as a procedure that is exhausted once voters

have cast their ballots. On the other end of the spectrum is what Dworkin calls a “partnership” conception of democracy. Here, the idea of democracy is much thicker. Dworkin states that under the partnership conception, “people govern themselves each as a full partner in a collective political enterprise so that a majority’s decisions are democratic only when certain further conditions are met that protect the status and interests of each citizen as a full partner in that enterprise” (Dworkin 2006, 131). According to Dworkin, the real distinction between the two comes down to this:

The majoritarian conception purports to be purely procedural and therefore independent of other dimensions of political morality; it allows us to say...that a decision is democratic even if it is very unjust. But the partnership conception does not make democracy independent of the rest of political morality; on that conception, we need a theory of equal partnership to decide what is or is not a democratic decision, and we need to consult ideas about justice, equality, and liberty in order to construct such a theory. So on the partnership conception, democracy is a substantive, not a merely procedural, ideal. (Dworkin 2006, 134)

Given what we know about Kukathas’s ultra-minimalist liberalism, it seems clear the he would support a majoritarian conception of democracy. Because he is unwilling to grant that there can be a widely agreed to conception of principles such as justice, equality, or even liberty, it does not seem realistic to expect that Kukathas would champion a partnership conception of democracy. Moreover, by the partnership model, the state has a large part to play in the education of children—and necessarily so, if the state is going to be sustainable. It is for this reason that Dworkin has no qualms about making the following suggestion about public school curriculum:

[We should] make a Contemporary Politics course part of every high school curriculum.... The dominant pedagogical aim must be to instill some sense of the complexity of [the most contentious political controversies of the day], some understanding of positions different from those the students are likely to find at home or among friends, and some idea of what a conscientious and respectful argument over these issues might be like. (Dworkin 2006, 148-9)

It almost goes without saying that Kukathas would vehemently be opposed to such a suggestion. For Kukathas, the state should never be more than an umpire, exercising its authority only in matters where the terms of peaceful coexistence are challenged. Even here, the state does not establish the terms of coexistence; rather it upholds the framework within which those terms are established and supported by individuals. The state is a regime of maximal tolerance; it has no claims of its own and cannot exercise its authority except to uphold the terms of coexistence. With respect to his views about education, this much seems clear. However, once we begin to consider what it takes to create and sustain the peaceful coexistence between individuals with diverse views about what constitutes the good life, it becomes more difficult to see why the partnership model is objectionable. In a way, it seems that Kukathas should want to support the partnership conception, particularly in light of the following idea: “It is inconsistent with someone’s dignity ever to submit to the coercive authority of others in deciding what role religious or comparable ethical values should play in his life, so the partnership conception requires some guarantee that the majority will not impose its will in these matters” (Dworkin 2006, 146). With very little tampering, this reflects closely Kukathas’s idea that a commitment to the liberty of conscience precludes the state from being able to interfere in individuals’ abilities to associate with whomever they choose.

Let us imagine (in skeletal form, anyway) what it might look like for individuals with different ways of life to decide upon a moral commons that governs a shared public space. The first thing that they would have to establish is the terms of their *modus*

vivendi.¹⁰ These terms need not be the terms of justice (though they may be if those are the terms upon which the individuals in question mutually decide), but they must reflect an equality of bargaining position. In his “Response to Kukathas” (1997), Michael Walzer describes this encounter in the following way:

The different communities coexist, constantly negotiating and renegotiating the terms of their coexistence. These negotiations produce not one but a series of practical moral convergences, a series of “settlements,” each of which, in its time, determines everyday practices in this or that area of social life. (Walzer 1997, 105)

By this account, then, individuals coexist by means of agreeing to certain terms that, over time, come to be authoritative. Those terms are, of course, malleable, according to the changing desires of individuals, and can take on any number of forms provided that they do not impede an individual’s ability to exit from an association or group that he or she finds conscientiously objectionable. Furthermore, it is important to note that these individuals do not need to reach a Rawlsian “overlapping consensus” in order for the political or public sphere they create to be legitimate. Nevertheless, they must at least agree to allow each other to go their separate ways if so guided by conscience.

Now, the most important aspect of this arrangement is how the interaction between different communities takes place. This brings us back to Dworkin’s distinction between majoritarian democracy and partnership democracy. According to the majoritarian conception, authority is granted to a relatively small portion of society on behalf of the rest of society through a popular vote. This smaller portion would then have authority over the others to enforce what had been agreed to as common laws and customs. The partnership model—despite its advocacy of a strong state presence with

¹⁰ It should be noted that this already presupposes that individuals see each other as *equals*—a premise that Kukathas needs at this point, but might not be able to underwrite because of his “live and let live” conception of toleration.

respect to education—seems to appropriate more closely what the on-going process of a *modus vivendi* would look like. If this is true, however, it seems that more needs to be said about the role of education in sustaining the peaceful coexistence of individuals. Consider Stephen Macedo’s claim that “one of the most basic forms of respect that we owe to fellow citizens is to offer them reasons for the way that we seek to shape the terrible coercive powers of the state, reasons that they can share even while disagreeing with us” (Macedo 1995b, 67-8). To be sure, an ultra-minimal political liberalism such as that proposed by Kukathas is not going to require that we actually *respect* our fellow citizens (at least not to the extent of celebrating their differences); it will require that we leave them alone to pursue their own ways of life. Even this minimal requirement, however, demands more than that we cast our votes and let political elites hash out the rest. If there is to be no central authority beyond a state that serves as umpire when disputes arise over laws created in cooperation with others, individuals will have to “partner-up” to keep the *modus vivendi* from falling apart.¹¹ In order to partner-up, it seems inevitable that individuals must be taught the virtues of civic association, given that this process of partnering up will involve citizens *confronting* their differences. This is not to say that the state should determine what courses individual lives should take. It is to say, however, that the kind of democracy necessary to sustain a peaceful coexistence of individuals is one in which those individuals recognize that they have some obligations

¹¹ The possibility of political arrangement dissolving is a consequence that Kukathas seems fully prepared to accept. In fact, there is some textual support for this supposition. Kukathas states the following: “[This account of political community] recognizes that political communities exist, and that they exercise authority—indeed assert their sovereignty—over other forms of human association. And it accepts that this form of association may be useful, if unavoidable. But it still sees political association and, so, political authority, as something which is the product of accident and which amounts to a conventional settlement which we should respect on to the extent that ‘innovation’ threatens to produce something worse” (Kukathas 2003, 210). As an accidental, contingent arrangement, political society—and hence the state—may pass out of existence if there is significant loss of general acquiescence to its authority. This outcome is highly unlikely, but remains a possibility.

and duties as citizens. If they opt to remain citizens, then their interactions with others to establish the terms of the association will have to be more of a cooperative enterprise than merely voting. They will have to agree to put aside differences with others at least long enough to decide on the terms that will become authoritative, the norms that govern the archipelago.

It is not clear that Kukathas would be willing to accept this model of democracy; neither is it clear that he can avoid doing so. The state is not its own entity by Kukathas's account. It does not promote its own interests nor does it limit the internal structure of sub-groups beyond requiring that they recognize an individual's ability to exit. The state does represent, however, the collective will of those for whom it serves as umpire. The state upholds the laws that individuals agree upon; and because those laws are not fixed once and for all but are the product of an on-going process of re-organization, it seems as though the state should be characterized by a thicker conception of democracy.

Kukathas's reasons for resisting such a conception are clear. It is simply impossible to have both a refusal to interfere and a strong sense of freedom beyond that of association. Yet even attempts to remain committed to only freedom of association seem to lead toward a thicker conception of democratic activity. Matthew Festenstein states the issue well:

The public sphere in Kukathas's liberal state is conceived of as a minimal sphere of overlap among the different associations that exist in the state. Yet even this attenuated public realm needs a common conception of the overlapping interests that require protection from external harm.... What is required is surely an actual process of discussion and negotiation over how to coexist. However, any actual dialogue seems to require a more substantial conception of the public sphere than Kukathas is prepared to entertain. (Festenstein 2005, 109)

I suggest that this more substantial conception of the public sphere amounts to something like a partnership democracy. Nevertheless, to say that a partnership democracy is the only way to support peaceful coexistence results in a troubling paradox. The project of creating a space where individuals can live lives that are not conscientiously objectionable seems to require state practices that dictate the nature of associations of which individuals are parts. The ideal outcome is for there to be a middle way that maximizes both aspects of this paradox. In this case, though, there is no middle way.

All of this points toward a rather uneasy conclusion about the practical viability of an ultra-minimal liberalism. It certainly gives us a way of conceiving of how liberals might be multiculturalists, but it does so at the risk of looking more and more like a non-liberal position. The main concerns are 1) that political multiculturalism cannot provide a meaningful framework for an individual's freedom to dissociate or exit a group that he or she finds conscientiously objectionable, and 2) that a stronger form of democratic participation is necessary for creating and sustaining peaceful coexistence. In other words, there must be some threshold on the other side of which one is no longer a liberal—and Kukathas toes this line too closely. Staying well on the liberal side of that threshold (where Barry resides) creates a different set of problems. The incompatibilist response means that a liberal must reject the claims of multiculturalism. If one is willing to accept that consequence, then one cannot be a liberal multiculturalist. It is not clear, however, first that this is possible, given the prevalence of group-based claims in modern societies, and second that the principles grounding the policies which stem from Barry's egalitarian liberalism are widely enough accepted to serve that function. If one takes seriously the claims of multiculturalism, however, I see no other liberal alternative than

to commit oneself to an ultra-minimal conception of liberalism. It is not clear that one set of commitments is preferable to the other, or, more accurately, that the worst outcomes of one set of commitments are worse than those of the other. What is clear is that thinking through the theoretical aspirations and the practical implications of this issue is unavoidable, both because of how pervasive liberalism has become in the Western hemisphere and because it is constantly being stretched by increasing demands for recognition. Diversity is not a characteristic of modern society that is simply going to disappear. Political philosophy—and liberal political theory in particular—must continue to try to find a way of responding to that diversity that respects individual freedom and the ways that such freedom allows individuals to associate with each other.

WORKS CITED

- Arneson, Richard J. (2007). "Does Social Justice Matter? Brian Barry's Applied Political Philosophy," *Ethics* 117: 391-412.
- Benhabib, Seyla (2004). "Reclaiming Universalism: Negotiating Republican Self-Determination and Cosmopolitan Norms," The Tanner Lectures on Human Values delivered at the University of California at Berkeley.
- Barry, Brian (1995). *Justice as Impartiality* (Oxford: Clarendon Press).
- ____ (1997). "Liberalism and Multiculturalism," *Ethical Perspectives* 4(2): 3-12.
- ____ (2001). *Culture and Equality: An Egalitarian Critique of Multiculturalism* (Cambridge, Massachusetts: Harvard University Press).
- ____ (2002). "Second Thoughts—and Some First Thoughts Revived," in Paul Kelly (ed.), *Multiculturalism Reconsidered* (Cambridge: Polity Press), pp. 204-38.
- Dworkin, Ronald (1983). "In Defense of Equality," *Social Philosophy and Policy* 1: 24-40.
- ____ (2006). *Is Democracy Possible Here? Principles for a New Political Debate* (Princeton: Princeton University Press).
- Festenstein, Matthew (2005). *Negotiating Diversity: Liberalism, Democracy, and Cultural Difference* (Oxford: Polity Press)
- Forst, Rainier (1997). "Foundations of a Theory of Multicultural Justice," *Constellations* 4(1): 63-71.
- Galston, William A. (1995). "Two Concepts of Liberalism," *Ethics* 105: 516-34.
- Gilligan, Carol (1982). *In a Different Voice: Psychological Theory and Women's Development* (Cambridge, MA: Harvard University Press).
- Gutmann, Amy (1987). *Democratic Education* (Princeton: Princeton University Press).
- ____ (1995). "Civic Education and Social Diversity," *Ethics*, 105(3): 557-79.
- Kukathas, Chandran (1992a). "Are There Any Cultural Rights?" *Political Theory*, 20(1): 105-39.
- ____ (1992b). "Cultural Rights Again: A Rejoinder to Kymlicka," *Political Theory*,

20(4): 674-80.

- _____ (1997). "Cultural Toleration," in Ian Shapiro and Will Kymlicka (eds), *Ethnicity and Group Rights*, NOMOS XXXIX (New York: New York University Press), pp. 60-104.
- _____ (1998). "Liberalism and Multiculturalism: The Politics of Indifference," *Political Theory*, 26(5): 686-99.
- _____ (2000). "Two Concepts of Liberalism," in J. Espada, M. Plattner, and A. Wolfson (eds), *The Liberal Tradition in Focus: Problems and New Perspectives* (Lanham: Lexington Books), pp. 97-110.
- _____ (2001). "Education and Citizenship in Diverse Societies," *International Journal of Education* (35): 319-30.
- _____ (2002). "Theoretical Foundations of Multiculturalism," presented at Conference on Harmony and Reconciliation: Australian National University
- _____ (2003). *The Liberal Archipelago: A Theory of Diversity and Freedom* (Oxford: Oxford University Press).
- _____ and Philip Pettit (1990). *Rawls: A Theory of Justice and Its Critics* (Oxford: Polity Press).
- Kymlicka, Will (1989). *Liberalism, Community, and Culture* (Oxford: Clarendon Press).
- _____ (1992). "The Rights of Minority Cultures: Reply to Kukathas," *Political Theory*, 20(1): 140-6.
- _____ (1995). *Multicultural Citizenship: A Liberal Theory of Group Rights* (Oxford: Oxford University Press).
- _____ (1997). "Do We Need a Liberal Theory of Minority Rights? Reply to Carens, Young, Parekh and Forst," *Constellations* 4(1): 72-87.
- Larmore, Charles (1990). "Political Liberalism," *Political Theory* 18(3): 339-60.
- _____ (1996). *The Morals of Modernity* (Cambridge: Cambridge University Press).
- Macedo, Stephen (1995a). "Liberal Civic Education and Religious Fundamentalism: The Case of God v. John Rawls," *Ethics* 105:468-96.
- _____ (1995b). "Multiculturalism and the Religious Right? Defending Liberal Civic Education," in Yael Tamir (ed.), *Democratic Education in a Multicultural State* (Oxford: Blackwell Publishers).

- _____ (2000a). *Diversity and Distrust: Civic Education in a Multicultural Democracy* (Cambridge, Massachusetts: Harvard University Press).
- _____ (2000b). "Political Liberalism and Reasonable Diversity," in J. Espada, M. Plattner, and A. Wolfson (eds), *The Liberal Tradition in Focus: Problems and New Perspectives* (Lanham: Lexington Books), pp. 111-20.
- Margalit, Avishai and Joseph Raz (1990). "National Self-Determination," *Ethics* 87(9): 439-61.
- Mill, John Stuart (1974). "On Liberty," in Mary Warnock (ed.), *Utilitarianism, On Liberty, Essay on Bentham* (New York: New American Library) [1859].
- Miller, David (2002). "Liberalism, Equal Opportunities and Cultural Commitments," in Paul Kelly (ed.), *Multiculturalism Reconsidered* (Cambridge: Polity Press), pp. 45-61.
- Mozert v. Hawkins County Board of Education (1987). 827 F.2d 1058 (6th Circ.).
- Nussbaum, Martha (1997). "The Feminist Critique of Liberalism," in *Sex and Social Justice* (New York: Oxford University Press), pp. 55-80.
- Parekh, Bhiku (1994). "Superior People: The Narrowness of Liberalism from Mill to Rawls," *Times Literary Supplement*, 25 February 1994, pp. 11-13.
- _____ (1997). "Dilemmas of a Multicultural Theory of Citizenship," *Constellations* 4(1): 54-62.
- _____ (2002). *Rethinking Multiculturalism: Cultural Diversity and Political Theory* (Cambridge, Massachusetts: Harvard University Press).
- Rawls, John (1971). *A Theory of Justice* (Oxford: Oxford University Press).
- _____ (1980). "Kantian Constructivism in Moral Theory," *Journal of Philosophy*, 77: 515-72.
- _____ (1985). "Justice as Fairness: Political not Metaphysical," *Philosophy and Public Affairs*, 14(3): 223-51.
- _____ (1988). "The Priority of the Right and Ideas of the Good," *Philosophy and Public Affairs*, 17(4): 251-76.
- _____ (1996). *Political Liberalism* (New York: Columbia University Press).
- _____ (1999a). *A Theory of Justice*, revised edition (Cambridge, MA: Harvard

University Press).

_____ (1999b). "The Idea of an Overlapping Consensus," in Rawls, *Collected Papers*, Samuel Freeman (ed.) (Cambridge, MA: Harvard University Press), pp. 421-48.

_____ (1999b). "The Priority of the Right and Ideas of the Good" in Rawls, *Collected Papers*, Samuel Freeman (ed.) (Cambridge, MA: Harvard University Press), pp. 449-72.

Sandel, Michael (1998). *Liberalism and the Limits of Justice*, second edition (Cambridge: Cambridge University Press).

Shachar, Ayelet (2001). "Two Critiques of Multiculturalism," *Cardozo Law Review* 23(1): 257-98.

Squires, Judith (2002). "Culture, Equality, and Diversity," in Paul Kelly (ed.), *Multiculturalism Reconsidered* (Cambridge: Polity Press), pp. 114-32.

Taylor, Charles (1994). "The Politics of Recognition," in Amy Gutmann (ed.), *Multiculturalism: Examining the Politics of Recognition* (Princeton: Princeton University Press), pp. 25-73.

Tomasi, John (1995). "Kymlicka, Liberalism, and Respect for Cultural Minorities," *Ethics* 105: 580-63.

_____ (2001). *Liberalism Beyond Justice: Citizens, Society, and the Boundaries of Political Theory* (Princeton: Princeton University Press).

Vogel, Lise (1990). "Debating Difference: Feminism, Pregnancy, and the Workplace," *Feminist Studies* 16 (1): 9-32.

Waldron, Jeremy (1995). "Minority Cultures and the Cosmopolitan Alternative," in Will Kymlicka (ed.), *The Rights of Minority Cultures* (Oxford: Oxford University Press), pp. 93-119.

Walzer, Michael (1997). "Response to Kukathas," in Ian Shapiro and Will Kymlicka (eds), *Ethnicity and Group Rights*, NOMOS XXXIX (New York: New York University Press), pp. 105-11.

Wisconsin v. Yoder (1972) 406 U.S 205.

Wolf, Susan (1994). "Comment," in Amy Gutmann (ed.), *Multiculturalism: Examining the Politics of Recognition* (Princeton: Princeton University Press), pp. 75-85.