



RECOGNITION

The Moral Foundations
of Minority Rights

ALAN PATTEN

Equal Recognition

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Alan Patten

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PREFACE

To many of my American friends and acquaintances, the subject matter of this book needs some explaining. The United States has always been a culturally diverse society, and new waves of immigration add to this diversity every day. To mention just one measure, a startling one out of five Americans reports using a language other than English at home. To most Americans, however, the country's cultural diversity is not deeply consequential for its political morality. Cultural diversity is one more source of the differences that are pursued and expressed in the private realms of family, neighborhood, market, and civil society. The enjoyment of these differences is appropriately safeguarded by the liberties entrenched in the American constitutional tradition. But many believe that these generic protections of private life are all that is called for in the way of respect or accommodation of cultural diversity. Most Americans would have little sympathy for the idea that public institutions ought officially to protect or accommodate the cultural differences that exist in their country.

Attesting to this general skepticism about public claims based on culture is the relative absence of any major social movement devoted to preserving or promoting distinct cultures within the United States. In recent decades American society has been reshaped in dramatic ways by social movements defined around issues of race, class, gender, disability, and sexuality. There are also some signs today of a nascent movement to assert the rights of irregular migrants. But for the most part, these are all movements geared toward a goal of integration. They aim for the full inclusion of marginalized or subordinated groups into a unified American citizenship. What one does not observe is any large-scale campaign in favor of the rights of minority cultures to remain different. There are no large-scale organized efforts to extend equal status to Spanish alongside English in public institutions. Nor are there claims to self-determination or demands for self-government by national minorities. In general, one finds little feeling among Americans that the United States is imperfectly just by virtue of the ways in which it does or does not respect and accommodate its linguistic, cultural, and national minorities. Of course, southern secessionism played an enormous role in American political development, and echoes of these secessionist sentiments can still be heard now. But for most Americans—even in the South—these sentiments are the proverbial exception that proves the rule.

To many readers, then, my topic will seem, if not exotic, then at least awfully Canadian. It is true, I should disclose from the start, that my interest in the questions addressed in this book was nurtured by an upbringing in Canada.

Many of my formative political memories as a child and a young adult were a product in one way or another of Canada's struggles with cultural diversity. Indeed, one of the very first memories of my childhood is walking hand in hand with my father up Redpath Place in Montreal to see the soldiers guarding the home of a prominent resident during the October Crisis of 1970. My father, a New Englander with liberal inclinations on most issues, maintained a lifelong admiration for Pierre Trudeau's decision to declare martial law in response to the kidnappings by the Front de Libération du Québec. "Just watch me," he was fond of saying, quoting a line from one of Trudeau's press interviews at the time. An even more vivid childhood memory is watching the returns from the 1976 Quebec provincial election in a glum room full of my mother's family. My mother's parents had fled Nazi Germany in the 1930s and raised their six children in the 1950s and 1960s as members of Quebec's Anglophone community. They could not help but see the election of the strongly nationalist Parti Québécois as a disturbing return to the bitter European conflicts they had left behind.

Subsequent events would keep nationalism, language, and culture at the center of Canadian political life. These included the adoption of Bill 101 by the Quebec National Assembly in 1977 to promote and protect the French language; the referendum in Quebec in 1980 on "sovereignty association"; the "patriation" of the Canadian Constitution in 1982; the failures of the Meech Lake Accord of 1989 and the Charlottetown Accord of 1992, each of which sought to secure Quebec's assent to the 1982 Constitution; and the bare defeat, by a 50.6 to 49.4 percent margin, of a second referendum on the secession of Quebec in 1995. Meanwhile, Canadians bitterly debated free trade with the United States, with opponents arguing *inter alia* that the Free Trade Agreement of 1987 and the North American Free Trade Agreement (NAFTA) of 1994 would hasten the demise of a distinct Canadian culture.

My earliest interest in the topics addressed in this book was certainly stimulated by an upbringing amid these Canadian events and debates. They raised fascinating questions about justice and the nature of liberal democracy. Trudeau's vision of liberalism approved of federalism, official bilingualism, and Canadian nationalism but disapproved of secessionism, demands for "special status," and Quebec's public privileging of French over English. Was Trudeau's the correct interpretation of liberal principles, or could they, perhaps should they, be understood in some different way?

But while my interest in questions of nationalism and culture has its origins north of the border, the questions have much broader relevance. In important ways, the rest of the world looks much more like Canada than it does the United States. Many of the world's leading democracies are home to established linguistic and national minorities, which organize themselves to assert their own rights and status. To be sure, each of these countries has its own history, its own political traditions, and its own peculiar sociodemographic

profile. There is no Canadian model readily available for export around the world because Canada's approach, even were it generally regarded as a success, is adapted to its own specific circumstances. Nevertheless, there is a set of problems and puzzles concerning the nature and value of culture that is familiar from the Canadian experience and that arises in some shape or form in every region of the world.

Moreover, if one thinks long enough about these problems and puzzles, one starts to see their relevance even for the United States. In part, this is for the obvious, "Wilsonian" reason that the United States is an international actor with global power. It is expected to take a position on demands for cultural recognition and self-determination that are regularly made on the world stage. How should the United States have responded to the cultural claims of national groups as Yugoslavia and the Soviet Union were breaking up? Insofar as the United States used its influence to secure language rights or self-government rights for national minorities, was there a consideration of principle at stake? Is the threatened destruction of Tibetan culture itself a reason for the United States to oppose China's occupation of Tibet? How should the United States respond to secessionist movements in Scotland and Catalonia (not to mention Quebec)?

The questions explored in this book are also relevant to an American reader because the right approach to cultural minorities within the United States is not fully settled. Some ongoing debates occur on the fringes of American political life. They concern the claims of Native Americans, for instance, and the status of Puerto Rico. Other debates are likely to become more central, as growing numbers of Spanish-speaking immigrants populate regions of the country. As this population grows in size, confidence, and level of self-organization, it may prove hard to keep questions about minority cultural rights off of the agenda.

A further perspective on the issues to be studied in this book is gained by considering the rights and claims of cultural minorities from the standpoint of national majorities. Questions about what minorities may legitimately demand have as their obverse a set of questions about nationalism and the permissible use of state power by the controlling majority. To what extent can a national or cultural majority use the instruments of state power to impose its values, traditions, and narratives onto the society as a whole? May the national majority think of the state and its territory as its own "homeland" and inscribe its identity in more or less modest ways into public institutions and public spaces? These questions about what if any forms of nationalism are acceptable arise in every state. They are connected, in the United States and elsewhere, with questions about religious establishment, since the national majority will often think of its identity in partly religious terms. But they also arise with respect to a range of nonreligious issues, such as the designation of an official language, decisions about education curriculums, the choice between unitary

and federal systems of government (and the allocation of powers in the context of the latter), and the selection of flags, symbols, anthems, place names, and other conspicuous markers of public identity. The importance of these and other questions about majority nationalism is hard to deny.

As we shall see in chapter 1, theories of liberal democracy do not speak with one voice about minority rights or majority nationalism. In the post–World War II decades, the major statements of liberalism were articulated by American theorists writing first and foremost for an American readership. For the reasons mentioned at the outset, questions about nationalism and minority rights did not figure very prominently in these accounts. It was not so much that this or that position on these questions was rejected, but that claims about justice were not made to depend one way or another on how the state deals with minority-majority dynamics.

Beginning in the 1980s, however, a new generation of theorists started to challenge this incurious agnosticism about problems of culture. One group of philosophers began to argue that the principles of liberal democracy mandate the recognition and accommodation of minority cultures. Many of these same thinkers also embraced liberal forms of nationalism. Both minority rights and liberal nationalism were regarded as remedies to overly thin and antiseptic versions of liberalism that ignored the cultural dimensions of liberal political community. In general, the suggestion was that national minorities ought to enjoy the same opportunities to engage in liberal forms of nation building as were already the legitimate prerogative of national majorities.

Soon after these theories of liberal multiculturalism and nationalism were formulated, a group of liberal critics began arguing that the earlier, orthodox statements of liberal theory did not neglect the claims of culture simply out of oversight. According to these critics, there are deep reasons of liberal principle for rejecting many of the claims associated with multiculturalism and nationalism. For these thinkers, a key point is that human diversity goes all the way down to the individual. Insofar as liberals take liberty and individuality seriously, they should resist schemes of cultural and national recognition that impose a false homogeneity onto a fluid and diverse human experience.

In general this book sides with the multiculturalist interpretation of liberalism. I argue that, under a fairly broad spectrum of empirical circumstances, liberal principles do mandate specific minority cultural rights, including language rights, self-government rights, and rights to other forms of equal recognition by public institutions. At the same time, the account to be developed here differs from existing theories of liberal multiculturalism in two major respects. First, for reasons that will be explained, I find many of the criticisms of liberal multiculturalism to be quite convincing. Theorists of multiculturalism have not done a good job of responding to the charge that they “essentialize” culture, nor have they adequately formulated the connection between foun-

dational liberal principles and minority rights. The first and most important aim of this book is to rebuild the foundations of liberal multiculturalism on a more solid basis.

A restatement of the moral foundations of minority rights leads to a second major difference with the existing multiculturalist literature. In my view, theorists of multiculturalism have been too quick to embrace liberal nationalism. It is true that many minorities have nationalist aspirations. They seek to control the territory that they regard as their homeland with their own institutions. But not all minorities fit this pattern. Even setting aside immigrant minorities, there are small and scattered minorities who could never aspire to significant forms of self-government, and “internal” minorities (minorities within minorities) whose aspirations to self-government conflict with the self-government of the national minority that constitutes the local majority. An account of minority cultural rights ought to be able to illuminate these cases as well, and not be too closely tethered to a vision of cultural minorities as nations. More important, from the fact that spokespersons for cultural minorities often articulate nationalist demands, it does not follow that, as a matter of liberal justice, these demands ought to be met. Which of the claims made by cultural minorities ought to be met, and to what extent, depends on the reasons that justify cultural rights in the first place. In the view developed in this book, minority cultural rights are ultimately based on an idea of liberal neutrality. The liberal state ought to be neutral in its treatment of majority and minority alike, a principle that will sometimes mean extending equivalent culturally specific resources and facilities to each. There is nothing in this rationale that supports the liberal nationalist notion that national minorities should enjoy all the traditional prerogatives of the nation-state within some restricted territory. National majority and minorities alike are entitled to equal recognition, on the account I propose, and this will typically have implications for how internal boundaries are drawn. But however those boundaries are configured, the claims of equal treatment that can be made by all citizens do not disappear. On the proposal to be developed in this book, then, liberal multiculturalism stands in some considerable tension with *both* orthodox, noncultural forms of liberalism *and* liberal nationalism.

I wish I could say that the philosophical claims I defend in the book lead back to a specific set of conclusions about the particular controversies that originally stirred my interest in this topic. But long-running scholarly projects are rarely this tidy. One of the things I have learned in years of thinking about the topic is how complex and difficult it is. The competing claims of majorities and minorities have a legal and constitutional character specific to the national context in which they are made. These claims are also made against a backdrop of fiercely contested historical narratives. Specialized literatures in law, history, literature, and other disciplines try to make sense of majority nationalism and

minority rights using their own approaches and methods. In addition, many of the questions that arise in contemplating these issues are appropriately referred to the social sciences. What causes majority nationalism and minority mobilization, and when are such movements likely to be successful? What social effects will alternative regimes of accommodation and recognition each have under various possible conditions?

I do not offer a general theory of multiculturalism or nationalism here, nor a complete recipe for solving particular conflicts. I try to think rigorously about the philosophical issues with the confidence that they are one dimension of the overall problem. The conclusions I argue for illuminate normative policy choices by suggesting what questions to ask and what criteria to apply, but they do not fully determine those choices since there are crucial factual issues that need to be studied rigorously in another forum. The philosophical inquiry of the present book can indicate what *kinds* of facts are relevant to policy choices, but it will not reveal what those facts are.

It is not that, as a rule, political philosophers shy away from making all-things-considered judgments or offering specific remedies to particular real-world problems that interest them. In fact, some of the very best recent work on multiculturalism is highly contextual and not at all reluctant to advocate solutions to particular problem cases. Some parts of the book, especially in the final three chapters, do get fairly close to important policy questions, but much of the book has a more theoretical ambition. As valuable as the more case-driven and policy-oriented contributions have been, I worry that they are too impatient with, and inattentive to, some of the underlying philosophical issues of a more foundational character. The contextual theories produce polished conclusions that will have great intuitive appeal to people who are already sympathetic with the projects of liberal multiculturalism and nationalism. But they are less well equipped for responding to the deeper, more principled challenges that critics of these projects sometimes articulate.

It is in restating the philosophical foundations of minority cultural rights that I hope to make my chief contribution. In a sense, then, I haven't lost my fascination with the particular controversies that fueled my original interest in the book's topic. I have come to realize, however, that there is more than one way to make progress in thinking about these issues. I try to do so, not by confronting the policy questions head on, but by seeking to illuminate them more indirectly through an exploration of the key underlying philosophical questions.

Work on this project dates back to the mid-1990s when I first started working on some papers about liberalism and cultural rights. The book's completion took much longer than I wanted, and probably much longer than many of my friends or family ever imagined any professional project could take. I look

forward to Thanksgiving dinners when I don't have to explain why the book is still not completed.

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policies, including Alan Patten, “Political Theory and Language Policy,” *Political Theory* (Sage Publications, 2001); Alan Patten, “Liberal Neutrality and Language Policy,” *Philosophy & Public Affairs* (Wiley, 2003); Alan Patten and Will Kymlicka, “Introduction: Language Rights and Political Theory: Contexts, Issues, and Approaches,” in *Language Rights and Political Theory*, edited by Will Kymlicka and Alan Patten (Oxford University Press, 2003); Alan Patten, “What Kind of Bilingualism?” in *Language Rights and Political Theory*; and Alan Patten, “Survey Article: The Justification of Minority Language Rights,” *Journal of Political Philosophy* (Wiley, 2009).

This book is dedicated to my wife, Matilda, and to our three wonderful children, Felix, Agatha, and Raphael.

Equal Recognition

Introduction: Liberalism and the Accommodation of Cultural Diversity

1.1 Competing Interpretations of Liberalism

Conflicting claims about culture are a familiar refrain of political life in the contemporary world. On the one side, majorities seek to fashion the state in their own image. They want to see their own values, traditions, norms, and identity expressed in meaningful ways in public institutions. From the majority's perspective, the expression of their culture in collective decisions is simply a matter of majority rule or democracy. It is normal for states to be shaped by the majority's culture, and there is nothing objectionable about such shaping so long as certain liberal limits are observed on how it is done.

On the other side, cultural minorities often press for greater recognition and accommodation by the state. They want public institutions to be designed in such a way as to leave them spaces in which to express and preserve their own distinct cultures. For minorities, these demands for recognition and accommodation of their distinctiveness are consonant with liberalism's concern about tyranny of the majority, its commitment to tolerating difference, and its ideals of equal citizenship.

We can observe these different claims in a variety of contexts. One important area is language policy. Majorities frequently prefer to establish their own language as the principal medium of public communication—the language in which services are offered to the public and in which public business is conducted. Minorities, by contrast, ask the government to provide services in their languages and to make it possible for them to use their own languages when they participate in public institutions. Another area in which claims of culture are voiced is in the design of democratic institutions. Statewide majorities tend to be comfortable with a unitary state, which reflects their sense of political community and which allows their preferences to predominate. Minorities, by contrast, typically want institutional and jurisdictional spaces to be carved out in which they can enjoy a measure of autonomy and self-government. Other flashpoints include the school curriculum, the use of

public space, and the designation of symbols, flags, anthems, and other conspicuous markers of identity.

We might think of the differing claims about these issues as claims of *majority nationalism*, on the one hand, and *minority rights*, on the other. These claims are in considerable tension with one another. Suppose we understand the majority nationalism claim as saying that no injustice is produced when state institutions and policies are made to reflect the values, traditions, narratives, and identity of the majority, so long as standard liberal constraints are satisfied. And let us take the minority rights claim to be insisting that, as a matter of justice, the state ought to recognize and accommodate the cultures of minorities by leaving spaces in which at least some institutions and policies can reflect minority values, traditions, narratives, and identity. Without significant further qualification, these assertions cannot both be true. If it is consistent with justice for the majority to shape the state's institutions and policies according to its own culture, then it cannot be a requirement of justice that some of the state's institutions and policies be shaped by minority cultures. For instance, if there is no injustice in the statewide majority declaring its own language to be the sole official language of public communication, then it cannot be true that providing minority-speakers with rights to the public use of their language is a matter of justice. If it is not wrong for the statewide majority to establish a unitary system of government that corresponds to its sense of political community, then an autonomy scheme designed to empower some cultural minority cannot be considered a requirement of justice. And so on.

There is no single view among liberals about the merits of these competing claims. In practice, many liberal democracies around the world do offer some recognition and accommodation of cultural minorities. A list of states extending significant language rights to minority language speakers would include dozens of entries. Canada, Belgium, Switzerland, Spain, the United Kingdom, India, Israel, and South Africa are just a few of the most prominent examples. Many states have also incorporated arrangements into their constitutions, such as regional and other forms of autonomy, that are aimed at giving cultural minorities a measure of self-government. Federalism in Canada, Belgium, India, and Iraq can be understood, in part, through this lens, as can Scottish and Welsh devolution in the United Kingdom, the Swiss system of cantons, Spain's autonomous regions, and various experiments around the world with indigenous self-government. Examples of states providing accommodations and exemptions for cultural and religious groups are also quite prevalent. Some well-known cases include special hunting and fishing rights for members of indigenous groups; exemptions from workplace helmet requirements for Sikhs; requirements that publicly funded cafeterias (e.g., in public schools) be sensitive to the religiously and culturally based diets of those they serve; and exemptions from sport, school, and workplace dress codes.

While the practice of extending recognition and accommodation to cultural minorities is widespread, it is certainly not universal. The political traditions and reigning ideologies of many states remain deeply suspicious of minority rights. In France, and in countries influenced by the French republican model, there is a tradition of identifying equal citizenship with the notion of a common public culture and with the relegation of particular cultural and religious identities to the private sphere. Inevitably the common public culture is aligned in certain respects with the majority culture: it is the majority's language that serves as the common language of the republic; it is the majority's sense of political community that determines the boundaries and internal constitution of the republic; and it is the majority culture that influences the choice of public symbols and norms. While harder to encapsulate in a single model than the French tradition, the American case has also been an important example of a successful state built around a single, common language and a strong and generally shared sense of national identity. Although the United States is notable for its tradition of accommodating religious differences, Americans remain reluctant to extend significant language or self-government rights to cultural minorities. Indeed, if anything, the political impetus has been pushing in the opposite direction, with English-only and English-first laws and ordinances finding support in many states and municipalities, and with politicians rarely missing an opportunity to remind immigrants of their obligation to learn English.¹

So practices of both minority rights and majority nationalism are well established in liberal democracies around the world. Something of this same mix of attitudes is discernible among the political theorists who have thought and written about claims of culture from within the broadly liberal tradition. Over the past quarter-century or so, one of the remarkable developments in political theory has been the groundswell of interest in questions relating to culture, identity, and difference. A group of theorists, including Will Kymlicka, Joseph Raz, Charles Taylor, Yael Tamir, David Miller, and Joseph Carens, have sought to mobilize the resources of liberal political thought to make a principled case in favor of minority cultural rights.² Although the language and argumentation vary from person to person, the distinctive claim made by these theorists is that particular minority cultural rights are, *as such*, a requirement of justice conceived of in a broadly liberal fashion (I explain the “as such” qualifier below).

¹On language policy in the United States, see Schmidt 2000; Schildkraut 2005; Rodríguez 2006. Puerto Rico is an important exception to the privileging of English.

²Kymlicka 1989b; 1995; 2001a; Raz 1994; Taylor 1994; Margalit and Raz 1990; Tamir 1993; Miller 1995; Carens 2000. Other notable contributions to this literature include Spinner 1994; Margalit and Halbertal 1994; Tully 1995; Parekh 2002; Gans 2003.

Kymlicka has called this thesis “liberal culturalism.”³ Liberal culturalism, he says, is “the view that liberal-democratic states should not only uphold the familiar set of common civil and political rights of citizenship which are protected in all liberal democracies; they must also adopt various group-specific rights or policies which are intended to recognize and accommodate the distinctive identities and needs of ethnocultural groups.”⁴ As Kymlicka lays out the view, both “liberal nationalism” and “liberal multiculturalism” fall under the umbrella of liberal culturalism. Liberal nationalism calls for recognition and accommodation of the national cultures and languages—both majority and minority—that fall within the boundaries of a state. And liberal multiculturalism claims that nonnational cultural groups, such as immigrant groups and religious minorities, “have a valid claim, not only to tolerance and non-discrimination, but also to explicit accommodation, recognition, and representation within the institutions of the broader society.”⁵ Each of these views claims the mantle of liberalism in virtue of two main considerations. They are said to be derived from liberal ideas of freedom, equality, and justice. And they recognize a variety of limits that are motivated by liberal principles on what can and should be done to accommodate and recognize particular groups: liberal forms of accommodation and recognition do not violate standard rights and liberties; they operate with inclusive conceptions of membership; they do not impose membership in particular groups on individuals; they do not facilitate aggression by one group against another; and so on.⁶

In reaction to the wave of liberal-culturalist scholarship, another group of liberal theorists has argued that the older understanding of liberal political theory, typified by the principles of justice defended by John Rawls, is perfectly adequate for thinking about the claims of cultural minorities, even if it was not originally developed with those claims in mind.⁷ The theorists I have in mind include prominent political philosophers such as Jeremy Waldron, Brian Barry, Anthony Appiah, and Samuel Scheffler.⁸ These philosophers have challenged liberal culturalism on a number of points: they have drawn attention to various perverse effects that might be associated with the culturalist program; they have taken issue with the claims about freedom and equality made by liberal culturalists; and they have challenged the conceptualization of culture relied on by proponents of minority cultural rights. For the most part, these thinkers do not go out of their way to praise majority nationalism as an alternative to minority rights. But their understanding of liberalism does not

³Kymlicka 2001a, chap. 2.

⁴Ibid., 42. See also the formulation in Raz 1994, 172–73.

⁵Kymlicka 2001a, 41.

⁶Ibid., 39–42.

⁷Rawls 1999a; 2005.

⁸Waldron 1992; 2010; Barry 2001; Appiah 2005; Scheffler 2007. Other notable critiques of liberal arguments in favor of cultural rights include Danley 1991; Kukathas 1992; 2003; Blake 2002.

contain grounds for condemning majority nationalism, so long as core liberal principles are respected.

Although the debate was barely ten years old at the time, by 1998 Will Kymlicka was suggesting that a consensus had started to form in favor of liberal culturalism. Theorists continued to disagree about why, exactly, culture matters to people in ways that should elicit liberal attention. And they disagreed about how the principles of cultural justice should be applied and institutionalized in particular contexts. But, in Kymlicka's view, there was no clear competitor with liberal culturalism out on the field, and thus "liberal culturalism has won by default, as it were."⁹

As major parts of this book will reveal, I am generally very sympathetic with Kymlicka's theory of cultural rights. Indeed, part of my ambition in the book is to develop Kymlicka's theory further and to try to place some of its major claims on more secure foundations. It is a premise of this project, however, that Kymlicka's declaration of victory was somewhat premature. Of course, insofar as I seek to defend a version of liberal culturalism, I provide one more data point confirming Kymlicka's hypothesis that, in Nathan Glazer's phrase, "we are all multiculturalists now."¹⁰ But I think that Kymlicka's declaration both overestimates the strength of the existing arguments in favor of liberal culturalism and underestimates the coherence and plausibility of a rival, non-culturalist interpretation of liberalism. What is needed, and what I aim to provide in this book, is a restatement of the ethical foundations of liberal culturalism. Such a restatement needs to confront, and to take seriously, the powerful alternative conception of liberalism that retains a grip among many liberals.

Rethinking the foundations of liberal culturalism will have important implications for how that view is formulated. Kymlicka and other liberal culturalists are actually quite sympathetic with majority nationalism. They object to the idea that the *statewide* majority should be able to impose its preferences throughout the state. This would leave insufficient space for the legitimate cultural aspirations of minorities. But they do not reject the narrower claim that majorities should be able to impose their preferences *if* appropriate substate autonomy arrangements are established so that there are several majorities. Their central contention is that minorities ought to have the same opportunity to form (local) majorities and to use their majority power to express their culture as is enjoyed by the statewide majority at the national level. For these theorists, then, minority cultural rights are not opposed to nationalism but instead represent a demand to pluralize it: to give more than one group within the state the chance to have its own political community and to express itself culturally through the public institutions of that community.

⁹Kymlicka 2001a, 43; also 33.

¹⁰Glazer 1998.

In my view, this widely endorsed version of liberal culturalism is much too cozy toward liberal nationalism. Cultural groups do not always have a nationalist agenda and are not always in position to pursue one. Even where they do pursue such an agenda, it should be looked on with some suspicion whenever it affects a culturally diverse population. In reexamining the foundations of liberal culturalism, we shall discover that the best reasons for affirming such a view are also reasons for a more general rejection of nationalism. The idea of accommodating national minorities through substate autonomy arrangements is an important and worthy one. And there may be secondary, pragmatic considerations that counsel in favor of deferring to nationalist claims. But we should resist the suggestion that justice ultimately consists in majority and minority each enjoying the opportunity to culturally dominate some part of the state.

1.2 Why the Case for Liberal Culturalism Needs to Be Restated

One reason why a restatement is needed is that a number of the existing arguments in favor of liberal culturalism seem vulnerable to serious objections. One prominent strand of argument in liberal culturalist writings has appealed to the liberal value of autonomy or freedom. The claim is that culture is a necessary part of the background context in which individuals make a succession of choices about how to live their lives.¹¹ As Kymlicka formulates the claim, “freedom involves making choices amongst various options, and our societal culture not only provides these options, but also makes them meaningful to us.”¹² Since liberals plainly attach great value to protecting and fostering individual freedom and autonomy, they would seem to have a compelling rationale for supporting forms of recognition and accommodation that help to secure vulnerable cultures.

Commentators since the early 1990s, however, have consistently pointed out the problem with this argument.¹³ It may well be true that, in some sense, people rely on culture for a context of choice. But it does not follow that the culture they rely on has to be *their* culture if that means the culture in which they were brought up and with which they identify. Since people can (and regularly do) assimilate into new cultures, the autonomy argument does not, on its own, provide a special reason why any particular culture ought to be recognized and accommodated.

¹¹A number of the main liberal-culturalist authors have forwarded an argument of this form. See Kymlicka 1989b, chaps. 8–9; 1995, chap. 5; Tamir 1993; Raz 1994; Miller 1995, e.g., 86, 146. For a critical overview, see Patten 1999b.

¹²Kymlicka 1995, 83. See also Tamir 1993, 36, 84; Raz 1994, 175–78; Miller 1995, 86, 146.

¹³Waldron 1992; Margalit and Halbertal 1994; Tomasi 1995; Forst 1997. I discuss the problem in Patten 1999a; 1999b; and in chapter 3.

A second strand of argument in the liberal-culturalist enterprise is designed in part to address this shortcoming in the first. As many writers on cultural rights have observed, culture can be an important basis for individual identity. People often care about their culture and feel attached to it. Their cultural membership makes a difference in their practical reasoning in a variety of situations. Their culture is important to their sense of who they are, and the loss of the culture may even have psychologically devastating consequences. These considerations, it is suggested, help to explain why individuals have a legitimate interest in enjoying a context of choice in their own culture.¹⁴ More generally they mean that individuals have a valid claim on state recognition and accommodation of their culture.

Here I think that the argument suffers from something like the opposite defect of the previous argument. One can make out how strong “culturalist” conclusions might follow from the premises of the identity argument. But it is less clear what those premises have to do with liberal principles in the first place. Whereas the idea that liberals should protect and promote the conditions of individual autonomy is immediately intuitive, the notion that a liberal state has any obligation to ensure that people are able to realize the commitments that happen to be associated with their identity is not. Theorists who make the identity argument have not, in short, explained why, and in what ways, identity is something that liberals should care about.

A third strand of argument was absent from the earliest statements of liberal culturalism but has become increasingly prominent since the publication of Kymlicka’s *Multicultural Citizenship*.¹⁵ This argument appeals to the idea of neutrality or, to be precise, the inevitable nonneutrality of the state when it comes to culture and identity. The idea is to drive a wedge between the possible liberal responses to religious and cultural pluralism. Whereas the liberal state can handle religious diversity through a policy of disestablishment—a refusal to privilege or promote any particular religious faith—the same solution is not available for dealing with cultural diversity. The state cannot avoid decisions about language, internal boundaries, school curriculums, public symbols, and so on—all of which work to advantage some particular cultures and identities and not others. Because the state is necessarily not neutral in these areas, there is no fundamental objection to it pursuing various liberal forms of nation building based around the majority national culture. But then it follows that, as a matter of fairness, “all else being equal, national minorities

¹⁴Margalit and Halbertal 1994; Kymlicka 1995, 89–90; Forst 1997. Taylor (1994) also makes an “identity” argument of sorts.

¹⁵Kymlicka 1995, 107–15; 2001, introduction and chaps. 1–2; Moore 2001, 130–31; Norman 2006, 49–57. The limits of the liberal idea of neutrality in matters cultural are also emphasized by Young 1990; Spinner 1994; and Carens 2000.

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