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Andrew Fagan
University of Essex

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Challenging the Right of Exit 'Remedy' in the Political Theory of Cultural Diversity

Introduction

This paper aims to expose and challenge a pervasive error consistently found within the political theory of cultural diversity. Culture, in its anthropological sense, has become an established feature of contemporary political theory. Many political theorists now accept the view that some people residing within complex societies consider a sense of cultural belonging and cultural recognition to be essential constituents of their well-being. Many of these theorists also acknowledge that some cultures contain the potential for significantly harming some of their members. The solution commonly proposed to this problem is the so-called right of exit. There exists a widespread consensus among political theorists of cultural diversity, spanning communitarian, perfectionist liberal and anti-perfectionist liberal perspectives that the potential for culture to harm people can be offset, albeit to varying degrees, by maintaining a legal right of individual exit from any cultural community. Through an examination of the writings of three currently influential theorists of cultural diversity this article analyses both the development of the concept of the right of exit and its most ambitious formulation, which presents the right of exit as both sufficient and necessary for preventing some cultural communities' systematic oppression of some of their members. This article critically scrutinises this claim.

Formulations of the right of exit typically rest upon an assumption that all individuals possess a broadly similar, if not equal, capacity for choosing to exit communities within which their identities have developed but with which they have grown fundamentally dissatisfied. The possibility of *exercising* a right of exit, as opposed to merely *possessing* it entails individuals maintaining the capacity to deliberate upon and act against the dictates of the culture within which their identities have been formed. By reference to empirical examples of the plight of some communities of women, I argue that not all individuals can be considered similarly or equally capable of exercising their right of exit as a consequence of the very nature of the cultures to which they belong and the prevailing character of the relationship which exists between them. Indeed, for some women the option of exiting their community does not, effectively, exist. Critiques of the ethics of cultural diversity based upon studies of the life conditions of women are not new. This paper aims to extend upon critical analyses of current formulations of the political theory of cultural diversity through the development of a schema of cultural constraint against which the plight of women will be considered. Applying this schema of cultural constraint to an analysis of contemporary culturally diverse societies serves to expose the limitations of the right of exit as it is currently understood. Identifiable obstacles to some individuals' exercise of this right contradict claims that it is both necessary and sufficient for preventing some cultural communities' oppression of their women. Current understandings of the right of exit require significant revision if the right is to offer the

genuine protection it promises to vulnerable individuals and communities of women.

Conceptions of Culture in the Political Theory of Cultural Diversity.¹

Cultural diversity is a fundamental characteristic of many contemporary, complex societies. The implications and potential consequences of this degree of ethnic, cultural, and religious diversity for the formulation of democratically legitimate political constitutions has become a central object of contemporary political theory.² The pursuit of the normative basis for a common, public moral discourse capable of legitimately regulating relations between such a diversity of cultural communities is arguably the most prominent feature of this concern. This confronts political theorists with the task of identifying and promoting those norms capable of securing sufficient approval from all who are subject to the legislative authorities of such societies. The pursuit of the grounds for a normative consensus has yielded numerous and conflicting responses from political theorists. There is a general consensus, however, amongst theorists who otherwise disagree, upon the value and role of maintaining a right of exit as the principal means for protecting individuals against oppressive cultures. As previously mentioned, this consensus extends to include communitarian, perfectionist liberal and anti-perfectionist liberal theorists. Thus, Bhiku Parekh, Will Kymlicka and Chandran Kukathas respectively all share a basic assumption that maintaining an individual right of exit is an essential mechanism for preventing individuals' exposure to oppressive cultures, despite real differences in their approaches to, and estimation of, the importance and value of cultural membership for individual well-being. The conceptual development of the right of exit can be traced through analysing its treatment by these three theorists. It is accorded most value by Kukathas, who, to date, attributes the greatest importance and weight to the concept. While all three conceive of the right of exit as providing a necessary condition for preventing cultural oppression, only Kukathas appears prepared to claim unequivocally that it is both necessary and sufficient in realising this end. Achieving a clear understanding of the development of the concept and an appreciation of the conceptual motivations for Kukathas's contribution requires analysing the principally relevant features of each of these theorists' writings on cultural diversity, beginning with Bhiku Parekh

Parekh endorses the view, espoused by communitarians generally, that membership of a cultural community is positively constitutive of the identities of its individual members.³ We are what we are as a consequence of the cultures we have grown up within and continue to identify with. Our values and deliberative frameworks are shaped by the cultures to which we belong. When we deliberate, it is argued, we utilise normative frameworks that derive less from some purportedly pure faculty of reason and more from the beliefs and values with which we are familiar. We do not and cannot deliberate and act within a cultural vacuum. Parekh writes, 'membership of a cultural community, then, has two major consequences. It structures and shapes the individual's personality in a certain way and gives it a content or identity. It also embeds him or her within, and identified with, a particular group of people.'⁴

This conception of culture has distinct effects upon subsequent evaluations of the importance of culture for individual well-being. Parekh condemns the conventional liberal view of culture as a voluntary association of individuals for being based upon a superficial and inadequate understanding of the sheer importance of culture in the development of individual selves.⁵ For him, a genuine commitment to recognising the value of culture cannot be based on a view of culture as essentially

detachable from any given individual's identity and sense of worth. He refers to that which is adequate to this task as a 'cultural community'. He writes. 'A cultural community performs a role in human life that a voluntary association cannot. It gives its members a sense of rootedness, existential stability, the feeling of belonging to an ongoing community of ancient and misty origins, and ease of communication.'⁶ Parekh attributes a greater degree of individual dependence upon the cultural communities to which they belong and this dependence necessitates a greater concern for protecting the integrity of individual cultures. Setting to one side allusions to 'ancient and misty origins' one can say that cultural identity consists of, amongst other things, certain communal ends, values, traditions, and practices, which are not reducible to the private interests of their individual members. Indeed, on this view, these cultural forms may provide an essential basis for determining what those interests might be.

In contrast to Parekh, the perfectionist liberal theorist Will Kymlicka recognises and evaluates culture as a context for, rather than a basis of, individual action and deliberation. Our capacity for free deliberation and action is presented as pre-existing the cultural communities with which we identify: culture does not create this capacity but provides a necessary context for its exercise. He states, 'cultures are valuable, not in and of themselves, but because it is only through having access to societal culture that people have access to a range of meaningful options.'⁷ Kymlicka (in keeping with, most notably Joseph Raz) espouses a view of cultural membership as valuable to the extent that it positively contributes to the promotion and protection of personal autonomy.⁸ For Kymlicka our exercise of autonomy requires the existence of sufficiently diverse and valuable cultural options through which we develop our identities through a process of reflexive interaction with our cultural surroundings. He accepts the claim that culture plays an indispensable role in the development and expression of autonomous individual identities but therefore refrains from the view that cultural constituents necessarily "go all the way down" to entirely furnish our selves. On this view separate and individual cultures possess no normative value independent of the instrumental role they play in promoting the autonomy of their members and they are to be considered valuable to the extent that they do so contribute.

Both Parekh and Kymlicka conceive of the right of exit as a necessary attribute of their respective perspectives and as a means for protecting individuals against their cultures. Of the two, Parekh pays least attention to the concept as a consequence, perhaps, of his account of culture. The value of culture, for him, consists in its ability to furnish the basic conditions for its members' enjoyment of the 'good life', as this is generally understood within the culture itself. He insists that personal autonomy cannot be considered a universal value and therefore does not consider it to be a necessary attribute of a purportedly universal account of the 'good life'. He writes, 'if a cultural community respects human worth and dignity, safeguards basic human interests within the limits of its resources, poses no threat to outsiders and enjoys the allegiance of most of its members, and thus provides the basic conditions of the good life, it deserves to be respected and left alone.'⁹ On these grounds a right of exit is justified in those cases where individuals feel that their culture does not and cannot provide for these basic conditions but the exercise of autonomy is not viewed as essential to this process. Kymlicka takes a rather different view.

Kymlicka prioritises the ideal of personal autonomy and this is central to his formulation of the right of exit. For Kymlicka liberals are necessarily committed to espousing the ideal of personal autonomy. He contends that '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.’¹⁰ A commitment to autonomy entails adopting a more substantively wide-ranging view on the extent to which cultures may constrain their members. Kymlicka distinguishes between two forms of cultural constraint, which he refers to as internal and external restrictions.¹¹ The latter are directed towards members of other cultures and the wider society and entail imposing some limitations upon outsiders’ opportunities to benefit from or participate in the fundamental resources and institutions of the culture in question. An obvious example is the land rights possessed by some indigenous North American peoples, which restrict ‘outsiders’ access to title. In contrast, internal restrictions are directed solely towards ‘insiders’ as members of the culture. These restrictions principally aim to constrain members’ opportunities to pursue options considered unacceptable or intolerable by those who uphold authority within the cultural community. Individuals cannot insist that whole cultures change to better suit their will but neither can cultures insist that individuals repress their will and remain unconditionally ‘wedded’ to their culture. The exercise of autonomy must allow for the possibility of individuals pursuing options even where their successful realisation will entail individuals’ estrangement from their cultural community. Kymlicka insists that liberals are normatively bound to reject the imposition of internal restrictions. To allow for such restrictions would fundamentally contradict a commitment to autonomy.

Kymlicka and Parekh argue that individuals must not be prohibited from leaving oppressive cultures. Maintaining a right of exit is thus essential for both political theorists. Kymlicka views the right of exit as a fundamentally liberal political ideal and thus an instrument for securing autonomy. For him the right of exit provides not just a means for protecting individuals from oppressive cultures but goes further in providing a means for attempting to liberalise ‘illiberal’ cultures; cultures which fundamentally fail to respect the value of personal autonomy.¹² Parekh rejects this agenda but insists upon the need to protect individuals from cultures which systematically fail to provide the minimum conditions for the ‘good life’. However, despite its importance for both positions, neither offers a fully detailed formulation of the right of exit remedy. Neither theorist accords it principal importance within their respective political theories. One theorist who does place the right of exit at the centre of his political theory of cultural diversity is the anti-perfectionist liberal Chandran Kukathas.¹³

Kukathas’s theory attempts to tread an interesting intellectual path. He accepts the communitarian-inspired claim that cultural diversity must be accepted and adequately accommodated. However, he rejects the accompanying vision of individuals’ relation to their cultural communities in favour of an emphasis on individual liberty and toleration. However, he also rejects Kymlicka’s account of liberalism for the emphasis it places on the ideal of personal autonomy as the most appropriate reading of individual liberty on the grounds that personal autonomy is not universally endorsed by all the constituents of a culturally diverse society.¹⁴ At the core of Kukathas’s theory lies an account of the right of exit not incumbent upon either autonomy or a constitutive relationship between individuals and culture. The right of exit provides *the* normative foundation of Kukathas’s theory. His position represents an important development in the political theory of cultural diversity and may be thought of as an attempt to move forward, in a quasi-dialectical fashion, the existing dispute between the likes of Kymlicka and Parekh.

Kukathas explicitly acknowledges the influence of liberal theorists such as Charles Larmore and (the

later) John Rawls upon the philosophical orientation of his theory.¹⁵ Like them, he argues that the fact of cultural diversity (or pluralism) presents political theorists with a fundamental challenge. He argues that liberalism must refrain from seeking to promote the existence of a single political community united by a shared commitment to any purportedly foundational, substantial moral doctrine or conception of the good.¹⁶ The normative fabric of culturally diverse societies is, it is claimed, ultimately not reducible to any such substantive foundation. Not all of the constituent cultures of contemporary culturally diverse societies, for example, value the ideal of personal autonomy. A political ethic capable of sustaining legitimacy under such conditions must not, therefore, prioritise the vision of an autonomous life as capable of legislating for all. In contrast to a vision of the ‘good liberal society’ being based upon a common commitment to a single normative perspective, Kukathas utilises the image of an ‘archipelago’ to represent his vision. For him, the free society is ‘a collection of communities (and, so, authorities) associated under laws which recognize the freedom of individuals to associate as, and with whom, they wish.’¹⁷ Taking up the archipelago metaphor he states, ‘the islands in question here are different communities, or better still, jurisdictions, operating in a sea of mutual toleration.’¹⁸

Kukathas recognises that many individuals in contemporary societies are fundamentally committed to the continuation of their own cultural values and traditions. As stated above, he also recognises the existence of cultures which do not espouse the value of autonomy for all of their members. He insists that his vision of the ‘liberal archipelago’ therefore cannot be based upon personal autonomy as a ‘master ideal’. He argues that not only is autonomy not a universally endorsed ideal but that, even in autonomy-supporting cultures, it is not as central to our lives as many assume. He writes, ‘many of our activities – including those we cherish most – are not activities which are the result of careful consideration and self-direction. They are the product of whimsy rather than reflection; caprice rather than deliberation; random selection rather than choice; accident rather than intention.’¹⁹ Openness towards cultural diversity combined with a distinctly non-existentialist understanding of human action underlies Kukathas’s evaluation of the value of autonomy for his theory.

Kukathas’s position is not motivated by mere pragmatism. He explicitly identifies his normative vision as liberal in character to the extent that it is based upon the twin values of mutual toleration and freedom of association. Echoing a long-established tradition in liberal theory, Kukathas insists that liberals must espouse the value of mutual toleration. The liberal archipelago is united by a common disposition of mutual toleration. We allow others to live in accordance with the lights of their conscience and ask only that they adopt the same attitude towards us. We must resist an inclination to ‘liberalise’ them, as Kymlicka proposes, since this violates the toleration principle. However, this does not commit the liberal state to simply turning a completely blind eye to the practices of cultural communities under its jurisdiction. While Kukathas insists that the liberal state must not seek to liberalise non-liberal communities, he positively insists, with no less vigour, that the liberal archipelago is also based upon the principle of individual freedom of association. He writes that ‘the fundamental principle describing a free society is the principle of freedom of association. A first corollary of this is the principle of freedom of dissociation.’²⁰ Kukathas proceeds to present the freedom of dissociation, the right of exit, as a fundamental right within the liberal archipelago. For him, the individual’s right to leave the community ‘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.'²¹ The intent and meaning are clear. The constituent communities of the archipelago do not have to value individual freedom as a morally valuable ideal in order to secure their legitimacy. They cannot be forced to be free. However, they must not attempt to restrict individual members from seeking to leave the community when they so desire. The individual's mere desire to leave the community is considered by Kukathas as a sufficient basis for exercising the right of dissociation. He views the right of exit as both sufficient and necessary for preventing individuals being oppressed by their own cultural communities. The state may not intervene in the internal affairs of the associations which comprise the political community and must not form independent judgements upon the respective value of these associations. This prerogative is restricted to individuals alone. Their possession of a right of exit provides them, Kukathas insists, with an effective remedy against associations and cultures that turn against some of their members. He writes,

The right of exit is, in fact, nothing more or less than the right to repudiate authority. It arises out of what might be called the "no-right" of any authority to coerce people into becoming or remaining members of any community or association. No authority has the right to prevent anyone from dissociating from the community and seeking to leave it.²²

Kukathas differs from Kymlicka by his insistence that the liberal cultural ideal of personal autonomy cannot legislate for all communities and that autonomy is not prerequisite to desiring to leave one's community. He differs from Parekh in his claim that individuals' relationship with various cultural communities is far more 'fluid' and 'dynamic' than many communitarians acknowledge. The right of exit possesses a higher profile in Kukathas's theory than in those of Parekh and Kymlicka. To this extent it represents the most ambitious formulation of the right of exit presently found within the literature. Despite their differing conceptions of culture they all share a basic and the differing importance they attribute to the right of exit, their formulations do share some common assumptions. All three theorists assume that the legitimate exercise of the right of exit entails an individual raising objections to her culture on her own behalf, rather than having these objections attributed to her by some self-appointed (and allegedly more enlightened) representative. The right of exit is not understood as a paternalistic instrument by any of the theorists. Vulnerable individuals are thus assumed, at the very least, to retain the capacity for articulating deep concerns over the way their cultures treat them. In addition, formulating this instrument in the terms of rights suggests a necessary commitment to the underlying principle of equality upon which the moral discourse of rights rests. All individuals may be said to possess the legal right of exit to an equal degree. Following on from this, the assumption appears to be that possessing the right to an equal degree is sufficient for satisfying the requirements of the right of exit and that all (relevant) individuals have a similar if not equal opportunity to exercise the right when the need arises. Both of these assumptions are subject to empirical scrutiny.

Forms of Cultural Constraint as Impediments to the Right of Exit

Aggrieved individuals cannot demand of their cultures that they change their practices and customs to suit their desires. Many also object to the proposal to intervene in the internal affairs of cultures in an attempt to force them to adhere and conform to ideals and values considered legitimate by the wider society: too many minority communities have fallen victim to this particular form of

oppression. However, all three of the theorists considered above recognise that some individuals may be exposed to the internally oppressive effects of their cultures and that this ought to be prevented.

Kukathas goes furthest of all in presenting the right as both sufficient and necessary for effectively dealing with the problem of internal cultural oppression. Exercising the right of exit clearly presupposes that an individual's exposure to the 'offending' culture has not, or cannot, fundamentally undermine her capacity to both deliberate upon the extent to which her culture harms her and to take effective action to remedy this state of affairs through actively leaving her culture. While it emerges as a response to the acknowledgement of cultural diversity and the effects of culture upon individuals' identities, the characteristic formulation of the right of exit suffers from an unduly idealised and overly abstract account of both the individual agent and culture. Not all individuals are similarly placed to exercise the right by exiting their cultures and not all cultures are similarly amenable to their members seeking exit. Substantiating this claim requires empirical validation. It also requires the formulation of a schema for identifying and distinguishing between differing forms of what I shall refer to as 'cultural constraint'.²³ This schema encompasses but ultimately goes beyond that which underlies the form and application of the right of exit considered above.

The following model of cultural constraint identifies three different forms, or manifestations, of cultural constraint, all of which, singly or in combination, (including overlapping incidences) can both be demonstrated by reference to empirical examples and serve to significantly affect an individual's capacity to exercise her right of exit.²⁴

- a) Where an individual is presented with an overly restrictive option set or faces a strict prohibition against her desired course of action.
- b) Where an option set is not itself restricted but where the individual's capacity for alternative courses of action is restricted by the foreseeable adverse consequences of choosing to act other than the way prescribed by the community; for example, where an individual is threatened with exclusion or banishment from the community.
- c) Where the option set is not itself restricted but where the exercise of choice implies a significantly altered sense of identity and self, so that acting in a way other than that prescribed by the community will result in a loss or radically altered sense of self.

Formulations of the right of exit implicitly cover and seek to offer redress for the first two forms of cultural constraint. Form (a) serves to constrain an individual's scope of action through the imposition of a direct prohibition. An example might be where the individual's right to medical treatment for some non-fatal medical condition is proscribed by the culture to which she belongs. She must therefore choose between foregoing the treatment and being ostracized (but not banished) from the community; either of which will cause her some significant harm.²⁵ Alternatively, this constraint could conceivably apply to a Muslim woman who wishes to marry a non-Muslim man, which is strictly forbidden by Islamic Shari'a law.²⁶ Form (b) may similarly serve to restrict an individual's scope for action and may also be a recognised cultural feature. The institution of arranged marriage provides an example of this form of constraint. It arises particularly in those

cases where the intended bride, perhaps as a consequence of her exposure to alternative cultural influences, strongly objects to having her spouse chosen for her and objects but thereby faces the prospect of banishment from her home and family. These cases are, regrettably, relatively commonplace and provide stock material for applications of the right of exit. However, they do not exhaust the range of potential forms of cultural constraint. By focusing upon a particular empirical case study of some women's status and conditions within a particular, long-established cultural community, I shall demonstrate the existence of the form (c) of constraint before proceeding to consider its implications for the right of exit.²⁷ Suffice it to say, for the moment, claiming this category as a form of constraint is controversial but essential if one is to achieve an accurate understanding of the circumstances which the right of exit cannot effectively protect vulnerable individuals from. These cases point to the problem of securing an individual's ability to exercise her right of exit from an 'oppressive' culture being significantly undermined by an inadequate recognition of the extent to which her personal identity may be constituted through an adherence to the central tenets of her community: the right of exit option simply underestimates the extent to which individuals may be ontologically dependent upon continuing membership of a community within which they nevertheless suffer but cannot realistically seek exit from. Unlike other women in other cultures, these women cannot be considered to enjoy similar opportunities to exercise the right of exit.²⁸

Women, Culture and the Right of Exit

The plight of women is a well established theme in some of the literature critical of overly abstract accounts of multiculturalism. Some have gone so far as to conclude that multiculturalism is positively bad for many women.²⁹ In response, others have argued that vulnerable women are not well served by representations of them as entirely passive victims of patriarchal culture and that effectively securing women's possession of the right of exit from oppressive cultures serves to dispel much of this concern.

Women's possession of this right is presented as evidence of their gradual empowerment. What follows, while not necessarily lending any overt support to the former position, should serve to raise important questions for the latter. The proceeding analysis certainly intends to challenge those political theories of cultural diversity that hold that women can ultimately avoid cultural oppression through simply possessing the right: the essential concern must be for their ability to exercise the right. Simply pre-supposing the existence of this capacity does not serve well those women whose cultures systematically thwart their resort to this instrument. The capacity for exercising the right of exit should not be pre-supposed. In some cases, many women simply cannot secure this supposed remedy. I substantiate this claim by an analysis of examples of form (c) of cultural constraint.³⁰

Sawitri Saharso³¹ has studied the status and conditions of married women within Hindu communities resident in the Netherlands. In essence, she argues that the potential 'exit costs' of physically and mentally abused married Hindustani women are extremely high given the fundamental norms and values which govern the role and status of married women within Hindu culture generally. Saharso argues that Hindustani women are generally brought up to believe that the wife must obey her husband unconditionally. Further, the principal object of achieving and securing one's status as a 'mature woman' within Hindu culture is dependent upon marriage. While Hindu women share the same legal opportunities to divorce their husbands as all other married

women, *de facto* opportunities for leaving the marriage are, in effect, non-existent since Hindu religion strictly forbids divorce and remarriage. Finally, women's returning to their families as a means of leaving the marriage is also generally obstructed by the shame and disgrace such families would be subject to.

Doubtless for the vast majority of Hindu women marriage serves to adequately express and secure their identification with their constitutive culture and will have no tangible adverse effects upon their well-being.³² Unfortunately, however, there exist numerous cases where Hindu women have been subjected to systematic physical and psychological abuse at the hands of their husbands throughout the duration of the marriage. Such forms of abuse are, of course, neither restricted to nor explicitly condoned by Hindu culture and religion. However, the option of preventing the abuse by leaving the marriage is severely restricted by the precise standing of marriage within Hindu culture. Leaving the marriage will most likely entail the woman's effective banishment from her cultural community. The ensuing 'costs' to the Hindu woman are, therefore, far greater than those typically incurred by her secular counterpart for whom marriage is not similarly constitutive of her identity and status. Thus, one Hindu woman characterised the role of married Hindu women in the following terms. 'My culture is like blood coursing through every vein in my body. It is the culture into which I was born and where I grew up, which sees the woman as the honour of the house. In order to uphold this false 'honour' and 'glory' she is taught to endure many kinds of oppression and pain in silence. In addition, religion also teaches that her husband is her god, fulfilling his every desire is her religious duty. A woman who does not follow this path in our society has no respect or place in it. She suffers from all kinds of slanders against her character; and she has to face much hurt entirely alone. She is responsible not only for her husband but also his entire family's happiness.'³³

The very existence of such testimonies indicates that some women are capable of reflecting upon and changing their life conditions. In certain cases the costs are, however, very significant. More to the point, the radically differing status of marriage across cultures prevents the establishment of a single, quantifiable 'scale' of measurement. The potential costs confronting an abused Hindu woman's desire to leave her marriage are qualitatively different to those confronted by her secular counterpart for whom divorce is both an option and, one can assume, will not necessarily entail banishment from her cultural community with which her identity has been deeply entwined. Here the opportunity to exit the community will also be constrained by the extent to which the woman's identity and sense of self may be perceived by the woman herself as having been constituted by and thus dependent upon her continuing membership of the community. Exiting the community will entail her developing a potentially radically altered sense of self, one which no longer requires involvement in and access to her prior culture.

The above example stands opposed to the widespread assumption that vulnerable women possess broadly similar opportunities for exercising a right of exit so as to avoid forms of abuse either condoned by their culture or where some other essential aspect of the culture effectively prohibits women's opportunities to avoid such abuse without having to leave the community. In so doing, this example also raises some objections to the view that representing women as mere passive victims of patriarchal cultures underestimates the extent to which their identity is subject to contestation. Both these positions, in their respective ways, object to the account of personal identity the current analysis rests upon. It might be argued that no one's identity is ever entirely, or fully constituted by the culture to which they belong. On this view, form (c) of cultural constraint

either does not exist, or could not genuinely exercise the degree of constraint I claim. Substantiating my central argument requires a consideration of this counter-claim.

Constituting Identity and the Right of Exit

Some might question whether my account of personal identity unduly trades upon that previously presented by Michael Sandel in his critique of the Rawlsian theory of justice and the conception of the self which, Sandel claimed, was espoused by liberals more widely. After all, I am arguing that those who advocate both cultural diversity and maintaining an individual's possession of the right of exit as a sufficient solution to the problem of oppressive communities have failed to fully appreciate the implications of their own recognition of the cultural basis of personal identity as a consequence of remaining committed to an overly-idealised account of the individual. Ultimately, the right of exit option tacitly appeals to a conception of the self that stands opposed to recognising the importance of culture as both a context for and a constituent of personal identity. The right of exit appears to rest upon a conception of the self that Michael Sandel refers to as an 'antecedently individuated self'.³⁴ On this view the capacity for exercising the will necessarily precedes the objects, or ends, which the will deliberates upon. Individuals are, therefore, presented as choosing which commitments and beliefs they wish to associate with. Even the most profound of religious or cultural beliefs and commitments can never be fully constitutive of the individual selves who identify with them and, even more pertinently, could never be legitimately thought of as constraining the exercise of the will. Kukathas, for example, accepts that an individual's capacity to exit her community may be affected by the specific forms of socialisation entailed by membership of the community. For him this is a concern about the substance or content of an individual's will and has little bearing upon the capacity to exercise one's will. He writes. 'A person's preferences have no bearing on whether or not he is free...Their freedom is a matter not of what preferences they have but of whether they may act in accordance with them.'³⁵ According to Kukathas, what preferences people have and how they came to have them is irrelevant to determining their capacity for acting freely. Individuals are construed as primarily instrumentally attached to their ends or commitments. No such ends or commitments could, therefore, go "all the way down" to constitute the very core of the self. As Sandel comments, 'no project could be so essential that turning away from it would call into question the person I am.'³⁶ From this perspective individuals' ends or commitments are always potentially revocable or repudiable. The ends of a given community can never be legitimately construed as integral to the personal identity of its members. This view is, obviously, essential to the right of exit option to the extent that it posits the presumed undiminished capacity of individuals to repudiate their cultural commitments. The capacity to dissociate from a community is thereby inscribed as an essential element of individual agency. On this view form (c) of cultural constraint could not really arise and certainly would not have the consequences I attribute to it.

Sandel counter-posed a radically different ontological vision to that founded upon the 'antecedently individuated self'. He argued that this vision was empirically false and fundamentally failed to discern the extent to which individuals' identities were, in many cases, constituted by the ends of the cultures they belonged to: we are what we are as a consequence of the cultures we grow up within and belong to. Sandel's thesis has been subject to extensive criticism and it is certainly not my intention to found my analysis on an ontological vision that has been subject to such an academic barrage, so let me clear. My argument does not rest upon an essential, ontological claim

that personal identity is wholly and in all instances culturally constituted. Nor do I reject the claim that many individuals do contest the roles and functions their cultures aim to impose upon them. Similarly, it clearly is the case that many individuals do successfully exit their initial communities and establish thriving lives in new cultural environments. However, the empirical example presented above demonstrates that one cannot simply assume that individuals generally enjoy similar opportunities to exercise this capacity. Regardless of claims over their 'essential' nature or character, some women may be said to experience their relationship with their cultures in Sandelian terms. For some women, the 'option' of exiting their culture is either entirely impractical or inconceivable as a consequence of their very sense of selfhood and identity.

Any political theory which acknowledges the importance of culture upon individual well-being and accepts the fact of cultural diversity cannot risk basing its evaluative criteria upon an overly abstract conception of either individual identity or the forms which different cultures may take. To do so, runs the risk of neglecting a consideration of the differential issues and life-conditions some individuals face as a consequence of their continuing cultural membership. Paying due attention to actually existing cultural communities found within contemporary, complex societies reveals the extent to which some members of some cultures cannot, effectively, avail themselves of the principal, if not sole, means of avoiding the harm and oppression they are exposed to. Some individuals are far less capable, when not entirely incapable, of exiting their cultural communities because of, and not in spite of, who they are. Those who argue that the possession of the right of exit is sufficient for countering some cultures' oppression of individuals within these communities are guilty of fundamentally under-estimating this aspect of the constituents of some peoples' identity.

One may reject an ontological claim that cultural constituents do go "all the way down" to constitute the very core of our identity. However, counter-posing this with a no less general belief that the self is necessarily always only ever instrumentally attached to a culture's values and ends or, alternatively, a belief that identity is always only ever provisional; an expression of contested dialogues within over-lapping social and cultural spaces, offers little redress to those communities of women considered above. Not all of the constituent communities within culturally diverse societies share either or both of these conceptions of the self. Hindu culture and religion, for example, clearly do not view a conception of the self as instrumentally attached to the values, ideals and practices of the community as applying to Hindu wives. There is no reason to assume that this example exhausts the range of communities of similarly vulnerable women.

An accurate understanding of the effects of these cultural forms upon women entails recognising the sheer obstacles Hindu wives face in seeking to exercise their right of exit from their culture to avoid being harmed by it. One is bound to ask, exit into what? It may be false to claim that a culture found within our complex societies may be considered an entirely homogenous, self-enclosed entity. However, one should not thereby overlook the extent to which some cultures aspire to be and indeed may be increasingly motivated in this aspiration as a direct response to fear of their cultural identity evaporating in the 'melting pot' of multiculturalism. One ought to expect cultures such as these increasingly seeking to prevent their disaffected members from voting with their feet. Exercising the right of exit under these circumstances is likely to become even more difficult.

The ability of the right of exit to remedy oppressive or harmful cultural practices is further undermined by the onus it places upon the individual in its exercise. This is also liable to criticism

both on the grounds that it rests upon a failure to acknowledge the extent of some women's dependence upon their culture and, in so doing, that it serves to ignore the extent of the harm and oppression women are subject to. In effect, this view may be condemned for an undue assumption that the extent of such conditions is best determined by the number of women who testify against them. Simply assuming that women who do not seek to exit their cultures are thereby to be considered satisfied with them completely overlooks the debilitating effects some cultures can have upon agency and the capacity for challenging harmful or oppressive cultural conditions. Onora O'Neill makes precisely this observation when she writes, 'dissent becomes harder when capacities to act are less developed and more vulnerable, and when opportunities for independent action are restricted. Capacities to act are constrained both by lack of abilities and by commitments to others. Institutional arrangements can disable agency both by limiting capacities to reason and act independently and by increasing the demands to meet the needs and satisfy the desire of others. Apparent consent to such arrangements does not show that they are just. Whenever "consent" reflects lack of capacity or opportunity to do anything else, it does not legitimate.'³⁷ Evaluating culture requires recognising the existence of individuals whose suffering is an inherent feature of their culturally prescribed identity and a consequence of their culturally-imposed commitments to others. Simply securing a general right of exit in societies where such cultures may exist will not serve to alleviate the suffering of the most vulnerable precisely because the possibility of the individual articulating the desire to dissociate from the community is severely restricted as a consequence of the constitutive properties of the cultural forms which, while they may entail her enduring pain and suffering, simultaneously block her awareness of the existence of alternative options. One can neither assume that all women possess broadly equal opportunities for exercising their right of exit nor can one assume that their inability to exercise the right can be construed as an informed acceptance of their life conditions. The right of exit cannot satisfactorily perform the role attributed to it and, with the absence of any other proposed remedy, it would appear that communities of women will continue to be exposed to oppressive cultural conditions which they are in no position to rectify entirely by themselves.

Implications

Identifying an additional form of cultural constraint serves to call into question the faith which many theorists of cultural diversity have in maintaining the right of exit. Identifying forms of cultural constraint which penetrate to the core of an individual's identity requires acknowledging the possibility that, for some people, availing one self of the right of exit is either inconceivable or requires radically altering one's sense of self. How many of us are truly capable of achieving this? In these circumstances the right of exit itself appears to fall foul of the force of culture to affect, for good and ill, our lives. If the existence of this form of cultural constraint is accepted one may conclude that, at present, the suffering of many women is being unduly ignored. This surely, is an unacceptable state of affairs. What, then is to be done?

I am not, for my part, an advocate of pragmatism. Cultural diversity does need to be adequately addressed by contemporary political theorists. It has profound implications for establishing the grounds for normative legitimacy in our political societies. However, a normative line has to be drawn somewhere. Constitutionally democratic societies cannot formulate principles and fundamental procedures that inadvertently condemn individuals to oppressive communities. On the other hand, it is equally imperative that one restrict the scope of political authority to that which

may be reasonably accepted by those subject to the jurisdiction of the state. Advocating autonomy as a substantive conception of how individuals ought to lead their lives is confronted by the problem of securing the support of communities who do not endorse the ideal. It may be that we are bound to a characteristically reactive model in our responses to oppressive cultural conditions. On this view, resorting to maintaining a right of exit may appear a feasible compromise. On the face of it, it does not entail imposing 'our' values on others living under the same 'political roof'.

However, the implementation of the right of exit instrument is presently adversely affected by the model of constraint upon which it is generally based. The capacity for individual testimony and genuinely possessing the means for dissociating from one's cultural community are presently confronted by largely unacknowledged obstacles in some cases, particularly so in the case of some women in contemporary, culturally diverse societies. We must be wary of a representation of cultural diversity as simply and necessarily expanding the scope for individual choice. Paying due consideration to cultural diversity and the importance of cultural membership entails a greater consideration of the manner in which the specific character of some cultural communities may effectively obstruct some of their members' opportunities for seeking the only form of redress available to them.

Willingness to accept such claims is typically confronted by a concern for limiting state power and restricting the state's presumed inclination to paternalistically interfere in the affairs of its citizens. Contemporary liberal philosophy is, perhaps more so than at any other time, particularly concerned with preventing such interventions. However, absent from this debate and analysis has been both a sufficiently comprehensive recognition of the extent to which some individuals are far more exposed than others to the constraining effects of the cultural communities to which they belong and the extent of the effects of this exposure. The assumption that individuals' adherence to such communities must be construed as evidence of their consent to the ensuing conditions and treatment is central to the view that the right of exit is both sufficient and necessary for preventing cultural oppression. Extending recognition of the existence of cultural constraints serves to identify the limits to the successful application of this remedy. A continuing adherence to the right of exit, as it is typically conceived, ought to be conditional upon adequately addressing the concerns raised by this article. It is difficult to believe that contemporary political theorists would wittingly choose to ignore the existence of women who suffer at the hands of their cultural communities, from which they cannot, effectively exit.

The moral legitimacy of a commitment to the right of exit is to be measured by the extent to which it can genuinely offer protection to vulnerable individuals and sections of cultural communities. The above analysis indicates the extent to which formulations of the instrument are not sufficiently adequate to this end. It is not suggested that the right of exit instrument be abandoned. Rather, a more fully comprehensive appreciation of the concerns raised above needs to inform a reformulation of the right if it is to genuinely provide the protection it promises and which many women are in need of. This will require a much greater concern for identifying a set of conditions that are required if the right is to be genuinely and effectively exercised. Philosophically defending a right must extend to include a concern for how the right may be exercised, rather than simply possessed. Advocates of the right of exit must overcome their current complacency if the right is to be truly respected and protected.

Conclusion

Culture has become an important feature of contemporary political theory. Scholars such as Parekh, Kymlicka, and Kukathas have consistently drawn attention to the effects of culture upon individuals' lives. While the focus of attention has tended towards culture's positive characteristics, the capacity of culture to significantly harm people is acknowledged. In response, most argue that maintaining a right of individual exit is a sufficient means for preventing individuals becoming 'imprisoned' within oppressive cultures. Advocates of the right of exit tend to assume both a generally similar, if not equal, capacity to exercise this right and an account of identity as never being wholly constituted by an individual's cultural surroundings. I have argued that the first assumption is demonstrably false and that the second assumption ignores the extent to which some individual women cannot contest the cultural institutions that both constitute and constrain their identities. In support of these claims I have outlined a schema of cultural constraint that aims to identify and account for those cultural practices, traditions, and values whose effect upon some women has been unduly ignored by the majority of scholars writing in this field. The existence of these forms of cultural constraint and communities of women to whom they may be applied serves to identify the limitations of the right of exit remedy to the problem of cultural oppression. The right of exit must not be abandoned but requires a far greater concern for the extent of the obstacles some women necessarily face to their exercise of the right if its moral purpose is to be more satisfactorily realized.

Andrew Fagan
University of Essex

Notes

1. I prefer the term 'cultural diversity' to that of 'multicultural' since the latter has a stronger normative property than the former, which aims to describe society rather than commend it.
2. See, for example, BRIAN BARRY (1999) *Culture and Equality: An Egalitarian Critique of Multiculturalism* (Cambridge, Mass.: Harvard University Press); SEYLA BENHABIB (2002) *The Claims of Culture: Equality and Diversity in the Global Era* (Princeton, N.J.; Princeton University Press); JOHN HORTON (ed.) (1993) *Liberalism, Multiculturalism and Toleration* (Basingstoke, Macmillan); BHIKU PAREKH (2000) *Rethinking Multiculturalism: Cultural Diversity and Political Theory* (Basingstoke, Macmillan); AYELET SHACHAR, (2001) *Multicultural Jurisdictions: Cultural Differences and Women's Rights* (Cambridge: Cambridge University Press); IRIS MARION YOUNG (1990) *Justice and the Politics of Difference* (Princeton, N.J., Princeton University Press).
3. This category would include, amongst others, ALASDAIR MACINTYRE (1988) *Whose Justice? Which Rationality?* (London, Duckworth); MICHAEL SANDEL (1982) *Liberalism and the Limits of Justice* (Cambridge, Cambridge University Press); CHARLES TAYLOR (1985) *Philosophy and the Human Sciences (Philosophical Papers, Vol. 2)* (Cambridge, Cambridge University Press); BHIKU PAREKH (2000) op cit. For an insightful commentary on communitarianism see DANIEL BELL (1993) *Communitarianism and Its Critics* (Oxford, Clarendon Press).
4. Op. cit., p.156.

5. Op cit. p. 161.

6. Op. cit. p.162.

7. WILL KYMLICKA (1995) *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford, Clarendon Press), p.83. See also his earlier (1989) *Liberalism, Community and Culture* (Oxford, Clarendon Press). An important exchange occurred between Chandran Kukathas and Kymlicka on the issue of assimilating a concern for minority rights within liberalism. See CHANDRAN KUKATHAS (1992) Are there any cultural rights? *Political Theory*, 20:1, pp. 105-39. WILL KYMLICKA (1992) The rights of minority cultures: Reply to Kukathas, *Political Theory*, 20:1, pp. 140-46.

8. See JOSEPH RAZ (1986) *The Morality of Freedom* (Oxford, Clarendon Press). See also his (1994) *Multiculturalism, Ethics in the Public Domain: Essays in the Morality of Law and Politics* (Oxford, Clarendon Press).

9. Op. cit. p.177.

10. Op. cit. p.152.

11. Op. cit. p.35.

12. Op. cit. p.94.

13. CHANDRAN KUKATHAS (2003) *The Liberal Archipelago: A Theory of Diversity and Freedom* (Oxford, Oxford University Press) See also his The idea of a multicultural society, CHANDRAN KUKATHAS (ed.) (1993) *Multicultural Citizens: The Philosophy and Politics of Identity* (St. Leonards, Centre for Independent Studies) pp. 19-30.

14. This rejection can be traced back to their dispute in the pages of *Political Theory*, op. cit.

15. See JOHN RAWLS (1993) *Political Liberalism* (New York, Columbia University Press); CHARLES LARMORE (1984) *Patterns of Moral Complexity* (Cambridge, Cambridge University Press).

16. Op. cit. (2003), p.17.

17. Op. cit. p.19.

18. Op. cit. p.22.

19. Op. cit. p.60.

20. Op. cit. p.4.

21. Op. cit. p.96. This seems to be too strong a claim. On this basis, it would appear that many existing rights cannot be defended. Thus, there would appear to be no ultimate ban against, for example, torture, slavery, or arbitrary imprisonment in Kukathas's 'liberal archipelago'. I am

indebted to Michael Freeman for this insight.

22. Op cit. p. 97.

23. The schema aims to address ways in which an individual's identity may be affected by the practices, values, and traditions of a particular culture. I recognise that other factors might also affect individuals' exercise of a right of exit. Thus, for example, opportunities for leaving a very geographically remote community may be severely restricted as a consequence of the community's location.

24. I have outlined this schema previously. Challenging the bioethical application of the autonomy principle within multicultural societies, *Journal of Applied Philosophy*, Vol. 21, No. 1, (2004). I remain indebted to Lynn Dobson for her insightful observations on the application of this schema.

25. For a discussion of this issue see MICHAEL J WREEN (1991) Autonomy, religious values and refusal of lifesaving treatment, *Journal of Medical Ethics*, 17:3, pp. 124-30.

26. See Ahmed Farrag, Human Rights and Liberties in Islam, in UNESCO (1990) *Human Rights in a Pluralist World: Individuals and Collectivities*, (Westport: Meckler), pp.133-144. See also SHAHEEN SARDAR ALI (2000), *Gender and Human Rights in Islam and International Law: Equal Before Allah, Unequal Before Man* (The Hague: Kluwer). For a more general discussion of the relationship between Islam and the rights of women see MAHNAZ AFKHAMI (1995) *Faith and Freedom: Women's Human Rights in the Muslim World* (London: I.B.Taurus).

27. By focusing upon women I do not imply that men and indeed children may not also be subject to the effects of any of the cultural constraints I identify. Children are not, of course, generally considered legitimate bearers of an individual right of exit. The development of a body of literature on examining 'masculinity' has drawn attention to the extent to which some communities of men may be considered objects of oppression. See KENNETH C. CLATTERBAUGH (1990) *Contemporary Perspectives on Masculinity: Men, Women and Politics in Modern Society* (Boulder: Westview).

28. To some this might sound like an unduly essentialised and passive representation of women's identities and is likely to be criticised for an alleged failure to acknowledge the extent to which subordinating identities are contested by women. This position has been recently presented by Ayelet Shachar (op cit.) and Seyla Benhabib (op. cit.). I discuss the implications of my analysis for this position in the final section of the paper. Suffice it to say that I do not argue that vulnerable women never challenge their conditions. What I aim to do, on the contrary, is to promote this form of contestation by identifying conditions under which women are not capable of contesting their identities and the subordinate roles attributed to them.

29. See SUSAN MOLLER OKIN (1999) *Is Multiculturalism Bad for Women?* (Princeton, N.J., Princeton University Press). See also her (1998), Feminism and multiculturalism: some tensions, *Ethics*, 108: 661-84. See also GITA SAGHAL & NIRA YUVAL-DAVIS (1992) eds. *Refusing Holy Orders: Women and Fundamentalism in Britain* (London: Virago).

30. I shall focus upon the conditions endured by some Hindu married women. Another relevant

example is the issue of so-called 'honour killings', which has attracted attention in the British media recently. See VIKRAM DODD (2003) 'Kurd who slit daughter's throat in honour killing is jailed for life', *Guardian*, Tuesday September 30.

31. SAWITRI SAHARSO (2000) Female autonomy and cultural imperative: two hearts beating together, WILL KYMLICKA & WAYNE NORMAN (eds.) *Citizenship in Diverse Societies* (Oxford, Oxford University Press) 224-242.

32. The classical 'western' academic perspective on Hinduism can be found in LOUIS DUMONT (1980) *Homo Hierarchicus: The Caste System and Its Implications*, trs. M. SAINSBURY, L. DUMONT & B. GULATI (Chicago, Chicago University Press). See also E. NESBITT (1993) Gender and religious tradition: the role-learning of British Hindu children, *Gender and Education*, 5: 81-91.

33. Cited in G. SAGHAL (1992) Secular spaces: the experiences of Asian women organizing, in G. SAGHAL & N. YUVAL-DAVIS (eds.) *Op cit.* 163-90, p. 188. The woman whose words these are finally killed her husband after enduring ten years of physical abuse.

34. *Op. cit.* p. 62.

35. *Op. cit.* p. 109.

36. *Ibid.*

37. O.O'NEILL, Justice, Gender, and International Boundaries, in Martha Nussbaum & Amartya Sen (eds.) (1993) *The Quality of Life* (Oxford: Clarendon Press). pp. 303-23; p. 318. In the same piece she goes on to write "relations of dependence are not always or overtly coercive; but they provide structures of subordination within which it is all too easy to silence or trivialize the articulation of dissent." p. 320.