

Singapore Management University Institutional Knowledge at Singapore Management University

Research Collection School of Social Sciences

School of Social Sciences

1-2002

Survey article: Multiculturalism as fairness: Will Kymlicka's multicultural citizenship

Chandran KUKATHAS

Singapore Management University, kukathas@smu.edu.sg

DOI: <https://doi.org/10.1111/1467-9760.00041>

Follow this and additional works at: https://ink.library.smu.edu.sg/sooss_research

 Part of the [International Relations Commons](#), and the [Models and Methods Commons](#)

Citation

KUKATHAS, Chandran.(2002). Survey article: Multiculturalism as fairness: Will Kymlicka's multicultural citizenship. *Journal of Political Philosophy*, 5(4), 406-427.

Available at: https://ink.library.smu.edu.sg/sooss_research/2946

This Journal Article is brought to you for free and open access by the School of Social Sciences at Institutional Knowledge at Singapore Management University. It has been accepted for inclusion in Research Collection School of Social Sciences by an authorized administrator of Institutional Knowledge at Singapore Management University. For more information, please email libIR@smu.edu.sg.

Survey Article:
Multiculturalism as Fairness:
Will Kymlicka's *Multicultural Citizenship**

CHANDRAN KUKATHAS
(Politics, ADFA, University of New South Wales)

According to Will Kymlicka's book *Multicultural Citizenship: A Liberal Theory of Minority Rights*, 'the liberal ideal is a society of free and equal individuals'.¹ But what, he goes on to ask, is the relevant 'society'? The answer he says most people would give is 'their nation'. 'The sort of freedom and equality they most value, and can make use of is freedom and equality within their own societal culture'. Indeed, most people 'are willing to forgo a wider freedom and equality to ensure the continued existence of their nation' (93). Thus few favour open borders which allow people freely to settle, work and vote in whatever country they wish, for while this would greatly expand the domain of freedom and equality, it would also increase the likelihood of their country being overrun by settlers from other cultures, thereby endangering their own survival as a distinct national culture. Most people favour 'decreased mobility but a greater assurance that people can continue to be free and equal members of their own national culture' (93). Kymlicka concurs, and he also suggests that 'most theorists in the liberal tradition have implicitly agreed with this' (93). Like John Rawls, liberal theorists (according to Kymlicka) assume that people are born and are expected to lead a complete life within the same society and culture, and assume that this defines the scope within which people must be free and equal.² To put it more bluntly, 'most liberals are liberal nationalists'.³

Multicultural Citizenship is the work of a liberal nationalist. It is also the work of a philosopher who is concerned that, at present, 'the fate of ethnic and national groups around the world is in the hands of xenophobic nationalists, religious extremists, and military dictators' and who believes that, if liberalism is

* I would like to thank Robert E. Goodin and two anonymous referees for comments on an earlier version of this paper.

¹Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Clarendon Press, 1995), p. 93. All numbers in parentheses in the text refer to pages in this work.

²Kymlicka's references here are to Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), p. 277.

³Yael Tamir, *Liberal Nationalism* (Princeton, N.J.: Princeton University Press, 1993), p. 139; quoted in Kymlicka, *Multicultural Citizenship*, p. 93.

to take hold in these countries (as it should), it must ‘explicitly address the needs and aspirations of ethnic and national minorities’ (195). The task undertaken by Kymlicka in *Multicultural Citizenship* is to develop a theory of minority rights starting from the position of liberal nationalism expounded most influentially in recent times by John Rawls. Starting, as does Rawls, from the standpoint of a closed society, he asks what kinds of rights minorities should be granted under the terms of a just—or a free and equal—settlement. Rawls’s answer, concerned as it had been with the well-being of the worst off, offered the theory of ‘justice as fairness’. Kymlicka’s answer, critical though it has been of Rawls’s lack of sensitivity to questions of cultural disadvantage, is essentially an attempt to re-fashion the political theory of Rawlsian liberalism to accommodate the concerns of cultural groups. It is, for this reason, describable as a theory of ‘multiculturalism as fairness’.

Yet while it is one thing to identify a theory’s pedigree, it is altogether another matter to assess its coherence and philosophical worth. It is the purpose of this essay to take up that task. Its argument, in the end, is that the worth of Kymlicka’s theory is undermined by assumptions which derive from its inheritance. To pursue this task, I begin by outlining Kymlicka’s argument, drawing attention to the key elements in his theory. From here I shall proceed to offer some criticisms of this view, and then turn to explain why its difficulties stem from Kymlicka’s commitments to Rawlsian liberalism.

I. KYMLICKA’S ARGUMENT

It is worth beginning our consideration of *Multicultural Citizenship* by looking at the illustration on the jacket of the book. It is a painting, ‘The Peaceable Kingdom’ (ca. 1834) by Edward Hicks, depicting the signing of a 1682 treaty between a group of Quakers and three Indian tribes to allow for the establishment of a Quaker community in Pennsylvania. In the foreground is a gathering of animals, both wild (and carnivorous) and tame, the lion and the wolf beside the lamb, resting peacefully as children play among them.⁴ Kymlicka chose this painting because it portrays and celebrates a form of multiculturalism he thinks has been ignored. Most discussions of ‘multiculturalism’ focus on immigrants and the problem of accommodating their ethnic and racial differences—to the neglect of indigenous peoples and other non-immigrant ‘national minorities’ whose homelands have been ‘incorporated into the boundaries of the larger state, through conquest, colonization, or federation’ (vii). Kymlicka proposes to take more seriously not only the claims of indigenous peoples but also the treaty model of intergroup (and, in particular, majority–minority) relations.

⁴Interestingly, this painting also graces the cover of Jan Narveson’s *The Libertarian Idea* (Philadelphia, Pa.: Temple University Press, 1988).

It is this conviction about the importance of indigenous claims that leads Kymlicka to distinguish at the outset two broad patterns of cultural diversity. In the first case this diversity arises from 'the incorporation of previously self-governing, territorially concentrated cultures into a larger state' (10). These incorporated cultures are called 'national minorities' and include 'American Indians', Puerto Ricans, Chicanos and native Hawaiians in the United States; the Québécois and various Aboriginal communities in Canada; the Maori in New Zealand; and the Aborigines of Australia. In the second case diversity arises out of individual and family migrations of people who form 'ethnic groups' in the larger society. While such migrants may want recognition of their ethnic identity, however, they differ from 'national minorities' inasmuch as they seek only the accommodation of their cultural traditions, and do not wish to become separate, self-governing nations. A modern state may thus be 'multicultural' in either (or both) of two senses of the term. It may be multicultural because it is 'multinational', since its members belong to different nations; or it may be multicultural because it is 'polyethnic', since its members emigrated from different nations (18).

This distinction matters for Kymlicka's theory because his concern is to develop a theory of minority rights, and because he is convinced that failing to distinguish between the two kinds of minorities—national and ethnic—can lead to misunderstanding, and to unwarranted criticism of multicultural policy. In Canada, for example, the failure to recognize this distinction meant that French Canadians feared that multiculturalism would reduce their claims of nationhood to the level of immigrant ethnicity, while other Canadians feared that it would mean treating immigrant groups as nations (17). But once the distinction is adopted, it becomes possible to offer a more nuanced—and plausible—account of minority rights. In his theory of the accommodation of national and ethnic differences, then, Kymlicka argues for three forms of group-differentiated rights: 1) self-government rights; 2) polyethnic rights; and 3) special representation rights. National minorities require self-government rights which, in effect, devolve political power 'to a political unit substantially controlled by the members of the national minority, and substantially corresponding to their historical homeland or territory' (30). Immigrant groups, however, cannot claim self-government rights, but can enjoy 'polyethnic rights', which are group-specific measures 'intended to help ethnic groups and religious minorities express their cultural particularity and pride without it hampering their success in the economic and political institutions of the dominant society' (31). Language rights would be one example of such a measure; exemption from some legal requirements (such as wearing motorcycle helmets for Sikhs) would be another. Both kinds of groups may also, in some circumstances, be entitled to special political representation as a temporary measure to deal with the systematic disadvantage or oppression they suffer in their societies.

But would such group-differentiated rights be consistent with liberalism—or, more precisely, with ‘liberal democracy’s most basic commitment . . . to the freedom and equality of its individual citizens’ (34)? Kymlicka argues that it is a mistake to think that group-differentiated rights reflect a collectivist or communitarian outlook rather than a liberal one. There are two kinds of rights-claims a group might assert. The first is a claim by the group against its members, and is essentially a right to suppress *internal dissent*; the second is a claim by the group against the larger society, and seeks protection of the group from the impact of *external decisions*. Kymlicka’s argument is that ‘liberals can and should endorse certain external protections, where they promote fairness between groups, but should reject internal restrictions which limit the right of group members to question and revise traditional authorities and practices’ (37). What group-differentiated rights are granted, then, depends on whether the particular multinational, polyethnic or special representation rights in question supply ‘external protections’ or enforce ‘internal restrictions’.

All this is, in Kymlicka’s view, quite consistent with the liberal tradition, which is a tradition with a strong commitment to the protection of minorities. Two major claims underlie a liberal defence of minority rights: ‘that individual freedom is tied in some important way to membership in one’s national group; and that group-specific rights can promote equality between the minority and majority’ (52). These two claims require more careful explication, since they take us to the heart of Kymlicka’s theory. In that theory, freedom means freedom of choice, and freedom of choice has certain cultural preconditions. The modern world, according to Kymlicka, is divided up into ‘societal cultures’. A societal culture is a culture which provides its members with meaningful ways of life across the range of human activities—from the economic to the educational and religious. ‘These cultures tend to be territorially concentrated, and based on a shared language’ (76). These are ‘societal’ cultures because they comprise not just shared memories or values but also common institutions and practices. A ‘societal culture’ is *embodied* in schools, in the media, in the economy and in government. National minorities are, typically, groups with societal cultures—albeit societal cultures which they have struggled to maintain in the face of conquest, colonization and attempts at forcible assimilation. Immigrants, however, have no societal culture (though they may have left their own societal cultures to move to a new land). Societal cultures tend to be national cultures; and nations are almost always societal cultures (80). In the modern world, cultures which are not societal cultures are unlikely to survive, largely given the pressures towards the creation of a single common culture in each country.

Culture is important, from a liberal point of view, because it is necessary for freedom. Freedom involves making choices, ‘and our societal culture not only provides these options, but also makes them meaningful to us’ (83). For meaningful choice to be possible we need not only access to information, the

capacity to evaluate it, and freedom of expression and association, but also access to a societal culture. It is the purpose of group-differentiated rights to 'secure and promote' this access (84). People generally have strong bonds to their own cultures and, whatever the reasons for this, it has to be accepted. Indeed, says Kymlicka, there is no reason to regret it (90). What liberals demand, he says, is freedom for individuals; and this means 'not primarily the freedom to move beyond one's language and history, but rather the freedom to move around within one's societal culture, to distance oneself from particular cultural roles, to choose which features of the culture are most worth developing, and which are without value' (90–1).

Despite any appearances to the contrary, Kymlicka insists, this view is not a communitarian one. Communitarians, he thinks, doubt that a politics of the common good can be pursued at the national level. So they emphasize the importance of attachments to sub-national groups—from churches to neighbourhoods. The liberal view, however, 'objects to communitarian politics at the subnational level' because to 'inhibit people from questioning their inherited social roles can condemn them to unsatisfying, even oppressive, lives' (92). Thus:

at the national level, the very fact which makes national identity so inappropriate for communitarian politics—namely, that it does not rest on shared values—is precisely what makes it an appropriate basis for liberal politics. The national culture provides a meaningful context of choice for people, without limiting their ability to question and revise particular values or beliefs (92–3).

The implication Kymlicka draws from all this is that liberals should care about the viability of societal cultures; though when such cultures are illiberal, efforts should be made to liberalize them. Immigrants, on the other hand, as (in most cases) voluntary entrants into the national society should not be enabled to develop their own societal cultures, but should be given the resources to integrate (though not necessarily to assimilate) into their host society without having to abandon their own cultural traditions. The liberal commitment to freedom requires nothing less, or more.

But group-differentiated rights are also required by liberal *justice*, and particularly by the liberal commitment to equality. The problem for minorities is that the cultural market-place leaves them at a disadvantage, since their societal cultures may be undermined by the economic and political decisions made by the majority. They may be outbid on resources, or outvoted on issues of policy. Group-differentiated rights of territorial autonomy or representation or language-use can alleviate this problem. They provide 'external protections' whose 'fairness' ought to be recognized, and which are clearly justified 'within a liberal egalitarian theory, such as Rawls's and Dworkin's, which emphasises the importance of rectifying unchosen inequalities' (109).

The view Kymlicka rejects—and attacks—is the view that the state should not interfere in the cultural market-place, and should neither promote nor inhibit the maintenance of any particular culture. This response of ‘benign neglect’ to ethnic and national differences is, he argues, not only mistaken but also incoherent, reflecting ‘a shallow understanding of the relationship between states and nations’ (113). The problem is that there is no way to avoid supporting particular societal cultures, ‘or deciding which groups will form a majority in political units that control culture-affecting decisions regarding language, education, and immigration’ (113). The question of how fairly to recognize languages, or draw boundaries, or distribute powers, must be addressed. And the answer is that ‘we should aim at insuring that all national groups have the opportunity to maintain themselves as a distinct culture’ (113); and at providing some group-specific rights for ethnic minorities (for example, by granting certain exemptions to Muslims or Jews when working-weeks or public holidays favour Christians. (Public holidays, Kymlicka insists, are yet another ‘significant embarrassment’ (114) for the ‘benign neglect’ view.)

It is worth reiterating that, in presenting this argument, Kymlicka maintains that his position, far from requiring a revision of liberal theory, is in fact entirely consistent with it. In part this is because the liberal tradition has a history of endorsing group-differentiated rights. But there is a more important reason. Most liberal theorists, Kymlicka suggests, accept unquestioningly that the world is made up of separate states, each of which has the right to determine who may enter and acquire citizenship. Kymlicka believes ‘that the orthodox liberal view about the right of states to determine who has citizenship rests on the same principles which justify group-differentiated citizenship within states, and that accepting the former leads logically to the latter’ (124). The reason is that citizenship, or state-membership, is itself a group-differentiated notion, and liberalism is a view which reserves rights to *citizens*. Of course, sometimes liberal theorists present their arguments in terms of ‘respect for persons’, or the ‘equal rights of individuals’—implying that all persons have an equal right to enter a state and enjoy the goods this might afford. But, in fact, states can refuse entry; and liberalism assumes this is justified, for it does not require open borders. If, however, liberalism required treating people only as individuals, without regard to their group membership—that is, their citizenship—open borders would clearly be ‘preferable from a liberal point of view’ (125).⁵

Kymlicka thinks that liberalism is premised on the existence of states and citizens; accordingly he believes that limits on immigration can be justified. The justification is that liberal states exist not just to protect individual rights and opportunities, but also to protect people’s cultural membership. This justification is the same justification offered for the defence of group-differentiated rights

⁵Kymlicka’s use of the word ‘preferable’ here is too weak; the logic of the version of liberalism he is rejecting demands the use of a word like ‘required’.

within states. What this point brings sharply into focus is the extent to which Kymlicka is, essentially, a liberal nationalist. His theory of multiculturalism is fundamentally a theory of fairness within the liberal state. The question is, how sound is this theory?

II. CRITICISMS OF THE THEORY

The distinction which lies at the core of Kymlicka’s theory is the distinction between national minorities and (immigrant) ethnic groups, and any assessment of that theory’s plausibility must consider whether this distinction is workable, or capable of bearing the considerable weight that is placed upon it. I want to suggest that, despite its intuitive plausibility, it is not going to be up to the task. In the end, it masks rather than illuminates the complexity and fluidity of cultural diversity in the modern world, and offers an unduly rigid, static set of categories through which to assess the various claims and concerns of cultural communities, and of the individuals who comprise them.

A. VOLUNTARINESS, ETHNICITY AND NATIONALITY

At its simplest, Kymlicka’s distinction supplies a contrast between ethnic groups who are voluntary immigrants in a polyethnic society, and national minorities who are involuntarily incorporated communities in a multinational society. Yet, as Kymlicka himself recognizes, matters are not always clear cut; and the fact that they are not is of greater importance than he concedes. Using the basic categories implicit in his theory we can identify at least four different kinds of groups or categories of people, which are distinguished in the matrix in Figure 1.

First, there are those who are voluntary members of minority ethnic groups. Many immigrants come into this category, since they acquire their minority

	Ethnic Group	National Minority
Voluntary	Adult economic migrants	Some adult Aboriginals Québécois Afrikaaners
	Migrant children Refugees Persecuted migrants	Remote Aboriginals Aboriginal children

Figure 1

status as a result of a deliberate decision to move to a new society in which they will belong to, or be identified as a part of, a smaller ethnic group. Not all migrants, however, come into this category. Many migrants—possibly the majority of them—are not voluntary migrants or voluntarily members of a minority (though much, here, turns on what is understood by ‘voluntary’). Some migrants are obviously not voluntary settlers. The convicts who settled Australia in the 18th century came involuntarily, as did the Africans who were brought to America as slaves. Similarly, refugees are involuntary migrants who become ethnic minorities not because they wish to acquire that status but because they are fleeing war zones or trying to escape persecution. More controversially perhaps, some members of migrant families are not voluntary migrants: children (almost invariably) and spouses, usually wives, (often) migrate because they have no choice but to accompany the decision-maker. And, of course, if we ask how many migrants emigrated reluctantly because driven to do so by economic necessity, a good deal more would be classified as involuntary settlers. Some migrants are involuntarily members of ethnic minorities simply because they are regarded as foreigners: Turkish guestworkers, Fijian Indians, and Jews in Europe for much of their history. Had they known how they, or their children, were going to be treated they might not have emigrated in the first place.

Yet while many migrants are involuntary migrants—and involuntarily members of ethnic minorities—not all ‘national minorities’ are involuntarily in their position. Some indigenous peoples are members of national minorities by choice. In some cases this is because they can exit their communities at low cost and low risk to live as (cosmopolitan) members of the wider society. This is true for many (though by no means all) people of mixed descent. It is also true of many members of national minorities who have become urbanized, and whose identities have been shaped by a greater variety of influences than those of their more remote (and less assimilated) fellows. Similarly, many Québécois are in a position to live either as French Canadians or as Canadians, but choose voluntarily to hold on to a treasured heritage. (Though in some cases, they are people who have chosen to acquire this heritage by immigrating to French Canada; indeed, as Kymlicka points out (23), Quebec actively seeks francophone immigrants.)

More interestingly, there are many groups who are in the position of the Ngarrindjeri people of South Australia, who are forced to make a choice between adopting traditional ways and assimilating into mainstream society. In the case of the Ngarrindjeri, all surviving members of the people are of mixed (that is, European and Aboriginal) descent, and more is understood of the group’s traditions by white anthropologists than by the members. The task for the Ngarrindjeri who want to live by their culture is to learn it, and to discard the traditions by which they have largely been raised: those of Christianity and Australian capitalism.

For some, of course, membership of national minorities is not a matter of choice. Many who are raised within their particular cultural communities will not find it so easy to leave, and to cease being members of particular national minorities. Children, most obviously, are involuntary members. But so too are those adults who have lived in communities which have been remote from the life of the wider society, or who have learnt to live by traditions which leave them ill-equipped for life elsewhere. Like the Hutterites of North America (who qualify in Kymlicka's terms as an immigrant ethnic group), the Orang Asli of Malaysia, and some Aboriginal people in Australia are national minorities who are in this position. They cannot easily take up the cosmopolitan alternative—though, as we have seen, many people can, do, and, sometimes, must.

Already, then, it should be clear that national minorities and ethnic groups are not easily distinguishable—particularly if voluntariness of membership in the community or wider society is the yardstick. The effluxion of time increases the difficulty, as groups mingle, grow or contract; and as migrant generations find their ancestry more in their land of birth than in the homelands of their grandparents. The 'Indians' of Fiji and the West Indies cannot return to their ancestral homeland which is now largely foreign to them. Malaysians of Chinese and Indian descent cannot return to China or India; nor have the Nonya people of Malacca anywhere else to go. And those of mixed descent, such as the offspring of Malays and their 16th century Portuguese colonizers, are, if not classifiable as 'national minorities', simply immigrants from nowhere.

In many cases the differences within national minorities may turn out to be greater than the differences between some members of national minorities and those of immigrant ethnic minorities. Urban Aborigines in Australia can find themselves with little in common with Aborigines in remote rural areas—even though there may be much they share with immigrant cultural minorities who are neither fully assimilated into, nor entirely independent of, the mainstream society. Equally importantly, national minorities (and, for that matter, ethnic groups) may turn out to be united less by cultural similarity than by political imperatives which create particular groups. In Australia, for example, Aboriginal interests are addressed as if there were a single, homogeneous, Aboriginal society; and Aborigines have constituted themselves as a minority group with a common interest. Yet this Aboriginal identity masks not only the important cultural differences among the various Aboriginal societies, but also the conflicts among them. Aborigines have a common cause, but not a common culture.⁶

⁶Here it is important not to overstate the case. Culture is not something around which it is possible to draw clear and exclusive boundaries. Indeed, even very different cultural traditions can share a great deal. (I have addressed this issue in greater detail in 'Explaining Moral Variety', *Social Philosophy and Policy*, 11 [1994], 1–21.) My point here is simply that a group's political unity may not reflect cultural homogeneity.

The more general point to which all this leads is that group identity is a political (because a legal and institutional) construct rather than simply a cultural one—when it is cultural at all. Ethnic groups tend to shed some of their cultural peculiarities in urban environments, where ethnic identity—which is often expanded to make them more competitive politically—is perpetuated through common residence and common political interests.⁷ But even when membership is not confined to urban centres, groups may redefine themselves, or be constructed anew, because of political interests held in common.⁸

All this makes it difficult to distinguish national minorities and ethnic groups, since many national minorities are internally diverse and turn out to be political alliances rather than cultural communities—and often alliances shaped by elites whose perceptions differ significantly from those of the masses. It is also difficult to distinguish them by appealing to Kymlicka's notion of a 'societal culture'—which national minorities enjoy and ethnic groups lack. The Chinese of Malaysia, for example, have much more of a 'societal culture' than the Ngarrindjeri people of South Australia. The Chinese here have a culture which is embodied in schools,⁹ in their print and broadcast media, and in their economic organizations. The Ngarrindjeri, by contrast, have shared memories and values, but little deep understanding of their cultural heritage and traditions, and no institutional embodiment of them. As an immigrant people, the Chinese must be regarded as an ethnic group, while the 'indigenous' Ngarrindjeri are a national minority. Yet, if possession of a societal culture is the measure, it is the immigrant Chinese who are the national minority.

Even if a rough distinction may be drawn between 'national peoples' and 'minority peoples', as Ted Robert Gurr—to whom Kymlicka appeals (25, 201*n.*18)—suggests, that distinction has its limitations. Aside from the fact that group identification is political more than cultural, the distinction is a rough one also because members of minority peoples shift strategies and change objectives depending on opportunities and circumstances. As Gurr points out, although national peoples generally seek separation or autonomy from the states that rule them, while minority peoples seek greater access or control, sometimes minority peoples who are denied equal access and protection shift strategies and try to exit (as did Soviet Jews); just as, at other times, national peoples may decide to seize

⁷On this see Victor C. Uchendu, 'The Dilemma of Ethnicity and Polity Primacy in Black Africa', *Ethnic Identity: Cultural Continuities and Change*, ed. George De Vos and Lola Romanucci-Ross (Chicago: University of Chicago Press, 1982), pp. 266–75 at p. 263.

⁸The Pueblo Indians are an interesting case in point, being a group whose linguistic and cultural diversity has seen it united only twice in 300 years. After 1680, the Pueblo did not unite again until 1920, when they set out to defeat a Congressional bill threatening to allow non-Pueblo squatters on Pueblo land. But otherwise, their linguistic diversity (several of their languages being mutually unintelligible), and their differences of social, ceremonial and political organization, made them, in effect, different peoples. See Edward P. Dozier, *The Pueblo Indians of North America* (New York: Holt, Rhinehart and Winston, 1970).

⁹On this see Kua Kia Soong, *A Protean Saga: The Chinese Schools of Malaysia* (Kuala Lumpur: Resource and Research Centre, 1990), which makes clear also the depth and extent of this institution, as well as the political difficulties faced by the Chinese over the century in their attempts to preserve it.

power at the centre rather than seek autonomy or secession.¹⁰ In Australia, Aborigines (a national minority) have used a number of strategies to pursue a range of different goals, varying from autonomy and self-determination to ‘polyethnic rights’ involving special entitlements and exemptions. And the same is true of (predominantly Chinese) Singapore, before it eventually seceded from Malaysia in 1965.

B. WHICH GROUPS GET RIGHTS?

The difficulty of distinguishing national minorities and ethnic groups is important because it reveals the complexity and fluidity of cultural diversity, and this is of considerable moral significance. Because identity is itself so controversial it is not a straightforward matter to award rights to groups on the basis of identity categories. Establishing or announcing such rights will, in the first instance, give people with political objectives incentive to define and (re)present themselves in ways which entitle them to particular rights. It is not just that it is, as Kymlicka notes, ‘possible to settle immigrant groups collectively, and to empower them, so that they become in effect national minorities, just as it is possible to tear down and disperse national minorities so that they become indistinguishable from uprooted immigrants’ (101). Immigrant groups and national minorities will do such things for themselves. The world is full of immigrants who deny that they are anything but indigenous;¹¹ and of indigenous peoples who have uprooted themselves.

Political principles which try to distinguish immigrants from national minorities so as to establish group-differentiated rights will founder on the fact of the mutability, fluidity and political character of group identity. For such rights can only be identified and upheld either by denying or by ignoring the changing nature of groups, and then entrenching the claims of particular group formations. What is wrong with this is partly that it might close off the option of devolving political authority (or Kymlicka’s self-government rights) to regions such as the Tamil-dominated Jaffna peninsula in Sri Lanka—where, arguably, a devolution of power to the ‘immigrant’ community might have averted civil war.¹² But the other danger of entrenching particular group identities is that it ties the members’ interests to the

¹⁰Ted Robert Gurr, *Minorities at Risk: A Global View of Ethnopolitical Conflicts* (Washington D.C.: United States Institute of Peace Press, 1993), p. 15.

¹¹In New Zealand many Maoris regard non-Maoris as immigrant; Richard Mulgan, however, puts a powerful case for seeing European descendants as indigenous to New Zealand. See Mulgan, *Maori, Pakeha and Democracy* (Auckland: Oxford University Press, 1989), esp. pp. 20–1. In Singapore, before its secession from Malaysia, Prime Minister Lee Kuan Yew caused great consternation among many Malays when he argued that no people in Malaysia could claim to be more native because all had ancestors who came to the region less than a thousand years ago. See M. N. Sopheer, *From Malayan Union to Singapore Separation* (Kuala Lumpur: Penerbit Universiti Malaya, 1974), pp. 201–2.

¹²In this case, of course, whether or not the minority Tamils should be regarded as immigrants is something of an issue, since they have been on the island for a thousand years. But the support for Tamil separatists in the state of Tamil Nadu in southern India and the involvement of the Indian government in the issue suggests that the identity of the Jaffna Tamils is not unambiguously Sri Lankan.

views and interests of the elites who dominate it. In the case of ‘indigenous’ peoples, this sometimes means that self-government is pursued even though substantial numbers have no interest in (or are hostile to) self-determination.¹³

Nevertheless, distinguishing between national minorities and ethnic groups is a move which has had considerable political support to the extent that it distinguishes natives from immigrants. Many countries, such as Malaysia and Fiji, make a great deal of this distinction to limit the opportunities of some groups to become politically active or independent—or influential. But more generally there is a tendency in most political societies to view immigrant groups with suspicion, and to regard them as disruptive forces which threaten the stability and cohesion of the native society. Despite the fact that most modern states (from South America, to eastern Europe to the newly formed republics of central Asia) are made up of societies which have been shaped and formed by migrations, their rulers—and peoples—tend to invest the existing community and its traditions with a historical significance and permanence which belie its recency. Thus Uganda (under Idi Amin) expelled its Asians; Nigeria (in 1983) expelled its predominantly Ghanaian immigrant population; and Vietnam (in the late seventies and eighties) expelled, or encouraged to leave, large numbers of its Chinese population. And many other countries, while not disposed to expell newcomers, have been reluctant to accept them or their descendants as natives, even after two or three generations. People of Turkish descent in Germany, and of Korean descent in Japan are cases in point.

In this regard, it is odd that a philosopher with Kymlicka’s concerns should want to make this distinction the cornerstone of a liberal theory of minority rights. Yet, to be fair, Kymlicka is not unaware of the plight of immigrants in many societies; or, for that matter, of the conflict between immigrants and indigenous interests. Indeed, he takes great pains to argue that immigrants’ claims for cultural respect are not disruptive of liberal citizenship since they are seeking integration, whereas the claims of national minorities are more threatening to national unity and, so, to citizenship. His theory is a considered attempt to deal with the conflict, and one which, recognizing the importance of popular fear of multicultural policy, is the product of a search for a more nuanced and plausible model of minority rights.

C. THE TREATY MODEL

The answer Kymlicka has come up with is the ‘treaty’ model of regulation of ‘the interaction between dominant groups and national minorities’ (vii). Treaties, he suggests, ‘reflect the idea that the two nations in a multination state treat each other as equals, and respect each other’s right to speak for and govern themselves’ (vii).

¹³Consider the case of the Ngarrindjeri ‘dissident women’, who found themselves confronting the full institutional force of the Aboriginal political elite (and its supporters) when they disputed the veracity of some politically sensitive cultural claims. On this see Chris Kenny, *Women’s Business* (Potts Point, NSW: Duffy & Snellgrove, 1996).

Yet, in the end, it is the treaty model which may be the problem. For this model presupposes what is most controversial in the relations between majority and minorities within a state: the identities of the protagonists. In the international arena, treaties are possible only to the extent that the separateness of states is taken for granted, and the autonomy of states is respected.¹⁴ But within states, the separateness of groups is much less clear than the separateness of states; and the autonomy of groups is far more problematic.

To see this we should turn to look more closely at Kymlicka's argument that liberals should endorse *external* protections which 'promote fairness between groups' but reject internal restrictions which 'limit the right of group members to question and revise traditional authorities and practices'. A liberal conception of minority rights, he contends, 'will not justify (except under extreme circumstances) "internal restrictions"—that is, the demand by a minority culture to restrict the basic civil or political liberties of its own members' (152). But it will accept external protections for groups, provided that the rights granted such groups do not enable one group to oppress or exploit or oppress others. Liberalism thus requires '*freedom within* the minority group, and *equality between* minority and majority groups' (152).

The problem with this stance, at first blush, is that it does not give the group the kind of autonomy to which the treaty model appears to aspire. While the treaty model suggests that the political order should be shaped by separate, autonomous groups, coming together in agreement as equals, Kymlicka's liberalism 'rejects' internal restrictions imposed upon the group by its authorities. Some groups, he notes, limit the freedom of individual members to revise traditional practices and restrict religious liberty or deny education to girls; and these sorts of internal restrictions, he insists, 'cannot be justified or defended within a liberal conception of minority rights' (153). Yet this stance (as he himself recognizes) leaves Kymlicka open to the objection that his reconciliation of liberal theory with minority rights qualifies these rights 'in such a way that they no longer correspond to the real aims of minority groups' (153). Even though he wants to regard groups as equals, interacting with one another like independent states, in the end his theory does not permit it.

D. GROUP AUTONOMY AND INTERVENTION

Obviously, Kymlicka is aware of this objection, and goes to some length to address it. He argues that those critics (including the present writer) who have

¹⁴This observation simplifies considerably the complexity of the international order as a moral and legal realm. Here I can do no more than concede that much more remains to be said about the nature of sovereignty. For a useful overview of the relevant literature see Michael Ross Fowler and Julie Marie Bunck, *Law, Power and the Sovereign State: The Evolution and Application of the Concept of Sovereignty* (University Park: Pennsylvania State University Press, 1995); and Thomas J. Biersteker and Cynthia Weber, eds, *State Sovereignty as Social Construct* (Cambridge: Cambridge University Press, 1996).

drawn the inference that his theory commits him to imposing a liberal regime on illiberal minorities have conflated two distinct questions: (1) ‘what sorts of minority claims are consistent with liberal principles?’ and (2) ‘should liberals impose their views on minorities which do not accept some or all of these liberal principles?’ (164). In fact, he maintains, he has two distinct answers to these two questions. To the first question his answer is that ‘any form of group-differentiated rights that restricts the civil rights of group members is . . . inconsistent with liberal principles of freedom and equality’ (165). To the second, however, his answer is that this view ‘does not mean that liberals can impose their principles on groups that do not share them’ (165). Just as it is not permissible for liberals to try to impose liberalism on foreign countries, so is it not permissible for them to impose it on national minorities (167).

In making this point Kymlicka goes on to argue vigorously against intervention in the affairs of national minorities, complaining that liberals have, inconsistently, ‘become more reluctant to impose liberalism on foreign countries, but more willing to impose liberalism on national minorities’ (167). There is, he says, ‘little scope for legitimate coercive interference’, and relations between majority and minority should be determined by peaceful negotiation—by agreement (167). If shared principles cannot be found, some other basis of accommodation such as a *modus vivendi* will have to be relied upon (168). Indeed, he goes so far as to suggest ‘that the standard assumption of American liberals that there must be one court within each country which is the ultimate defender of individual rights seems doubly mistaken, at least in the case of multination states’ (169).

So while ‘liberal principles tell us that individuals have certain claims which their governments must respect’, it is one thing to identify those claims, and quite another to say ‘who has the authority to step in and force compliance’ (165). And Kymlicka is not willing to grant that authority to anyone—not to any single state or agency in the international arena, nor to any central government or court within a state. The obvious question that must be asked here is, ‘why?’ Although he does not address this question in depth, he gives some important answers in explaining why third-party intervention is not justified either internationally or domestically to impose liberal standards. First, he says, both ‘foreign states and national minorities form distinct political communities, with their own claims to self-government’. Second, ‘attempts to impose liberal principles by force are often perceived, in both cases, as a form of aggression or paternalistic colonialism’. And third, these attempts often backfire, since external imposition makes liberal institutions unstable and transient’. Relations between majority and minority nations, he insists, should be determined by ‘peaceful negotiation, not force’, and this means ‘searching for some basis of agreement’ (167).

What is striking about all this is that, despite his insistence that liberals should reject internal restrictions placed by groups on the civil rights of their members, Kymlicka accepts that those groups may have considerable, if not

complete, authority over those members. The only circumstances in which intervention is justified internationally is in cases of systematic and gross abuse of human rights, such as slavery or genocide. And similarly strict limitations are imposed on governments wanting to intervene in minority communities within states (169–70). In fact, it is hard to see what work Kymlicka's liberal principles, emphasising the importance of autonomy, are doing here. Short of enslavement and murder, Kymlicka concedes, groups can do what they like to their members without sanction. Yet his insistence that 'internal restrictions' are not defensible in liberal terms sits uncomfortably with this concession. What, in these circumstances, does it mean to say that illiberal internal restrictions should be 'rejected' (37)? If it means no more than that they should be disapproved of but accepted by liberals, it seems hardly worth saying, since it has no practical bearing on the structure governing relations between majority and illiberal minority. If rejection means not-condoning or not-accepting, however, it must mean intervention.¹⁵ To be sure, the form and extent of intervention may be determined by practical considerations of the likelihood of success of one set of policies or another. But it would not be affected by the principle that negotiation is preferable to force, or that claims to self-government must be respected. The principle of rejection of illiberal internal restrictions, if it has any relevance here, must mean that no other *principles*—only practical difficulty—will be appealed to if the going gets tough and intervention has to be abandoned. There could be an *excuse* but no *justification* for non-intervention.¹⁶ I would argue that there is a justification for non-intervention, and that justification is the theory of liberalism. Kymlicka's position is that non-intervention is contrary to the principles of liberalism, but is nonetheless excusable.

In the end, Kymlicka's position appears as one of ambivalence. He is reluctant to grant groups the *right* to act illiberally, but unwilling to deprive them of the *authority* to do so.

¹⁵It is worth noting that a liberal society has many options it may take short of *direct* intervention, forcibly overturning an existing authority, if it wishes to influence the practices of illiberal societies, whether those illiberal societies be other states or internal minorities. Most obviously, it may (at the very least) offer sanctuary to dissenters. But it can also mount public campaigns criticizing illiberal practice, or withdraw resources it has made available, as well as take action forcibly to disempower the authorities of the illiberal society. Kymlicka is willing to take many of these options short of overriding—or overturning—established illiberal authorities.

¹⁶The terminology is Goodin's. As he puts it, 'Appeals to excuses admit that what is being done is in some sense wrong; they claim merely that, for some special sorts of reasons, the wrong is an excusable or forgivable one. Even if the wrong is in this way "excused", it is none the less morally unfortunate that it had to be committed at all. It would have been morally better for the conditions by virtue of which the wrong was excused to have been removed, so the excused wrong did not have to be committed in the first place. Appeals to justifications, in contrast, assert not only that it was "all right in the circumstances" for the actions in view to have been committed; they assert that it was right (good, morally desirable) for the circumstances to have been arranged that way and for the acts to have been committed.' See Robert E. Goodin, 'Commentary: The Political Realism of Free Movement', *Free Movement: Ethical Issues in the International Migration of People and of Money*, ed. Brian Barry and Robert E. Goodin (University Park: Pennsylvania State University Press, 1992), pp. 248–64 at p. 250 f.

E. GROUPS ARE NOT STATES

There is a larger issue raised by this difficulty—one which goes to the heart of the question of what is liberalism—to which I shall return presently. But, more immediately, it points to a problem with Kymlicka's attempt to argue for group-differentiated rights on the basis of the analogy with states, and to commend the treaty model. The problem is that groups do not form distinct, and clearly demarcated communities and jurisdictions. Groups are sometimes cultural communities, but they are sometimes (more or less open) political alliances, and are often the institutional products of legal and political imperatives. Groups within the state are not entirely independent, sovereign, entities. Indeed, they vary considerably in character: in some cases they are highly organized, separate, and self-governing cultural groupings (such as the Amish); in others they are diverse, scattered, and partially organized interests (such as the Australian Aborigines), within which are contained communities which enjoy varying degrees of independence or sovereignty. Even within the world of states it is not easy to draw clear boundaries distinguishing one sovereign community from another, and there are limits to the extent to which states can act as they please. To varying degrees, they are governed by their memberships of international organizations (such as the United Nations) or international communities (such as the European Community, or ASEAN); and by international law governing the global commons (such as the law of the sea). And their own military and economic power bear significantly on whether they can assert and pursue their interests internationally, or control their own domestic populations. Groups, however, are even more porous than states, and less clearly discrete as singular entities within determinate boundaries.

In such circumstances the treaty model is troubled by the fact that groups cannot easily be identified, and separated, in order to be granted rights or recognition. And the fact that they are sometimes completely mired in the wider society, and even in the workings of the state, makes it all the more difficult simply to say that groups must be given rights to external protection but not the authority to employ internal restrictions. Firstly, within states, government authorities are usually beset by groups, some of whose members demand intervention in their affairs, and others of whom insist that there be none. Secondly, there are endless disputes about the authenticity of groups, with groups lobbying to be officially recognized as the real McCoy, and accusing other groups of being renegades or impostors. To respond by offering recognition, the state cannot but intervene in the affairs of the 'group', offering its view of which faction is legitimate.¹⁷ Thirdly, there are times when groups try to hang on to their authority to impose internal restrictions on their members because this is the

¹⁷Here there are obvious parallels with the international order: for some time western powers recognized the Taipei as the capital of China, but later changed their minds and decided that Beijing was the seat of Chinese government.

only external protection they have. Internal restrictions are like Prisoner's Dilemma norms, designed to prevent defection—for once defection (or deviation) is allowed the group may unravel, and be swamped by the wider society.

F. AGAINST GROUPS

All of this, I would argue, suggests that, rather than adopt the treaty model, which depends upon the state's identifying the right groups and negotiating with them to establish particular cultural rights, we should adopt a quite different perspective which rejects the understanding of liberal political society as a community comprising a majority and recognized minority groups. Groups will exist, to be sure. And they will be robust and independent to the extent that their *members* recognize the authority of group leaders or group institutions. All that is necessary in, and asked of, the larger society is tolerance of those who opt to live by the norms of different communities.

Kymlicka, however, rejects this approach entirely, and identifies it as the attitude of 'benign neglect' defended in recent times by Nathan Glazer and Michael Walzer. The benign neglect view, he argues, is incoherent because there is no way to avoid supporting particular societal cultures, or deciding which groups will form a majority in political units that control culture-affecting decisions regarding language, education, and immigration. What has to be addressed is the whole issue of the fairness of the way in which languages are recognized, boundaries are drawn, and powers are distributed. Fairness, and equality, here demand differential treatment, and not simply leaving groups to their fates in the cultural market-place—though once language rights and territorial autonomy have been protected, that market-place does, in Kymlicka's view have a role to play. Decisions about which particular aspects of a culture are worth maintaining should be left to members, since for the state to intervene to support particular options within a culture would run the risk of unfairly subsidizing some people's choices. That, he repeats, is 'not the aim or effect of many rights for national minorities, which are instead concerned with external protections' (113).

Even in the case of ethnic groups, Kymlicka argues, there is a strong case to be made for group-specific rights to accommodate their cultural interests. Minorities are often disadvantaged by the fact that official languages, public holidays, uniforms and state symbols reflect the cultural interests of the majority. Equality, he insists, demands that some attempt be made to provide support for the minority. Benign neglect is not a plausible attitude; and in the real world, it is a myth (115).

What all this amounts to, essentially, is an argument for making boundaries, symbols, and the cultural character of the state matters of justice. The questions that have to be asked, however, are whether this is possible, and whether it is wise. The first thing that needs to be said here is that, whether or not it is sensible

to adopt a strategy of benign neglect, that strategy is not rendered incoherent by the fact that any action taken by the state will in fact favour some group or another. The fact that *some set* of outcomes will result regardless of whether intervention or neglect is the preferred strategy does not make non-intervention an incoherent position. So the fact that, in the absence of any deliberate decision to support one culture or another, one culture dominates, or some language is used is in no way an ‘embarrassment’ for the ‘benign neglect’ view. Of course some group, or some culture or some language is going to be dominant; *nothing* can plausibly be done to prevent this. The ‘benign neglect’ view is characterized not by a failure to realize that neglect will have consequences, but rather by a willingness to accept the consequences of neglect. This position may be controversial; but it is not incoherent.

G. BENIGN NEGLECT

The question, therefore, is whether or not the benign neglect view is defensible. To answer this it is necessary to say a little more about what benign neglect might amount to. Clearly it cannot amount simply to non-intervention in the sense of no authority doing anything—if for no other reason than that, in any concrete case, political and legal institutions and authorities may already be implicated. (In such cases there will be at least the question of how the authority in question should extricate itself from involvement. For example, the government may own lands which Aborigines claim to have been taken from them unjustly.) Benign neglect, I suggest, amounts essentially to a refusal to be guided by such goals as fairness of outcome in social policy or institutional design.

This wariness of pursuing fairness of outcome stems not simply from the desire for government neutrality but from the thought that the goal is unattainable. In part, benign neglect is preferred because, historically, intervention has not been benign. In particular, the tendency of the modern state has been to try, through its officials, to create a population with precisely those standardized characteristics which will be easier to monitor, count, assess and manage. ‘It invariably seeks to reduce the chaotic, disorderly, constantly changing social reality beneath it to something more closely resembling the administrative grid of its observations.’¹⁸ But more broadly, the problem is that in a society marked by diversity, it is the differing conceptions of fairness which are themselves the subject of contestation and dispute. In such circumstances, the appeal to fairness to settle disputes will be, at best, unlikely to succeed, and possibly aggravating. Far better that the outcomes be the result not of the pursuit of fairness but of accidents of history or geography—that they be the unintended consequence of human action. Even if such outcomes are not regarded as ‘just’, they may be less

¹⁸This is argued by James Scott, ‘State Simplifications: Nature, Space and People’, *The Journal of Political Philosophy*, 3(1995), 191–233 at p. 230.

disruptive and destabilizing of a political society marked by fundamental diversities since, as H. L. Mencken observed, injustice anyone can take, but what really stings is justice. To tell a group, which has fared less well than it would like out of a distributive settlement, that the outcome is fair or just may not mollify it but add insult to injury.

In this regard, my suggestion is that, when issues of group conflict arise, or when boundaries need to be drawn or when languages need to be adopted or recognized, policy should be guided by more straightforwardly utilitarian thinking. The constraints under which government operates, however, should be those institutions consistent with the principles of liberalism. These principles uphold the value of individual freedom by mandating tolerance of the diversity of human purposes and human associations.

III. COMPETING CONCEPTIONS OF LIBERALISM

Yet here the issue which arises as the most serious point of contention is the question of what is liberalism. It is an important part of Kymlicka's thesis that his defence of group-differentiated rights is not only sound in principle but also entirely consistent (both historically and philosophically) with liberalism. And the critical argument he offers here maintains that it is not enough to say that what liberals favour is toleration. Historically, he insists, liberals have believed in a very specific notion of tolerance involving a commitment to individual autonomy—the idea that 'individuals should be free to assess and potentially revise their existing ends' (158). Thus, 'Liberal tolerance protects the right of individuals to dissent from their group, as well as the right of groups not to be persecuted by the state' (158).

In pressing this view, Kymlicka takes issue with the recent work of (the post-1985) John Rawls, who now distances himself from any commitment to autonomy on the grounds that this would amount to an attempt to secure liberalism upon sectarian foundations. Rawls (along with other 'political liberals' such as William Galston, Charles Larmore and Donald Moon)¹⁹ wants to defend liberalism in a way which 'will appeal even to those who reject the idea that people can stand back and assess their ends' (159). Rawls thus rejects the 'comprehensive' liberalism, which rests on the commitment to the values of autonomy and individuality associated with Kant and J. S. Mill, to try to ensure that liberalism does not become just another sectarian doctrine. The problem with Rawls's strategy, however, Kymlicka argues, is that it provides no solution to the problem posed by the existence of non-liberal minorities. For Rawls's response to them is simply to enforce individual rights, but to do so on the basis of 'political' rather than 'comprehensive' liberalism. This liberalism, which

¹⁹Galston, *Liberal Purposes* (Cambridge: Cambridge University Press, 1991). Larmore, *Patterns of Moral Complexity* (Cambridge: Cambridge University Press, 1987). Moon, *Constructing Community. Moral Pluralism and Tragic Conflicts* (Princeton, N.J.: Princeton University Press, 1993).

refuses to allow the ‘internal restrictions’ placed upon members of the community by illiberal groups to take precedence over individual rights, is thus no less hostile than Mill’s or Kant’s liberalism to the claims of illiberal minorities. ‘The fact that Rawls’s theory is less comprehensive does not make his theory more sympathetic to the demands of non-liberal minorities’ (164).

Kymlicka’s solution is to reject political liberalism and, in effect, to return liberal theory to the comprehensive view—the view implicit in the Rawls of *A Theory of Justice*. At the core of Rawls’s original work was a strong commitment to individual autonomy, and so to the idea that the individual’s capacity to form and revise his ends was a fundamental value which needed to be respected and protected. In *Political Liberalism*, however (as well as in other related writings), Rawls switched strategies, to endorse autonomy only in political contexts rather than as a general value. But according to Kymlicka Rawls is wrong ‘to suppose that he can avoid appealing to the general value of individual autonomy without undermining his argument for the priority of civil rights’ (163). If, as communitarians argue, individual identity is tied to particular ends which are beyond, or unworthy of, revision, then something like the millet-system (which prevailed during the Ottoman empire), which allows for internal restrictions within each group, may be the best response to pluralism. But if we want to give a stronger protection to freedom of conscience, Kymlicka argues, we must reject this communitarian conclusion, and adopt the ‘traditional liberal belief in personal autonomy’ (163)—and ‘accord substantial civil rights to the members of minority cultures’ (164).

Kymlicka has here, quite rightly, pointed out an important difficulty in Rawls’s theory, whose retreat from ‘comprehensive’ liberalism does not make much difference to the question of the treatment of those who dissent from this ‘sectarian’ view. Why retreat to ‘political’ liberalism if it issues the same injunctions as comprehensive liberalism? But what is odd about Kymlicka’s response is that it leads him to an equally inconsistent position; for he proposes to embrace ‘comprehensive’ liberalism, and its commitments to autonomy, but *not* to enforce that liberalism. In the end, both Rawls and Kymlicka seem to lack the courage of their doctrines. One should either be a comprehensive liberal and uphold the ‘substantial civil rights’ the value of autonomy insists upon; or be a political liberal, and desist, accepting that different communities in a liberal order should be able to go their own moral ways.

Why has Kymlicka not seen this difficulty? The reason, I suggest, goes back to the liberal-nationalist nature of his argument. For Kymlicka, a part of the reason for the failure of the new Rawls is that political liberalism attempts to accommodate communitarianism (215*n*.16). Kymlicka explains however that his own view, while similar to the communitarian one inasmuch as it also claims that ‘we have a deep bond to a particular sort of social group’ (92), differs from it on the question of the ‘scope’ of that attachment. Communitarians are looking for groups which are defined by a shared conception of the good, and seek to

promote a politics of the common good; but they also admit that this politics of the common good cannot apply at the national level.²⁰ Members of a nation do not share enough in common for communitarians. ‘A common national identity, therefore, is not a useful basis for communitarian politics, which can only exist at a more local level’ (92). The liberal view Kymlicka is defending, however, insists that people can stand back and question traditional ways of life, and ‘should be given not only the legal right to do so but also the social conditions which enhance this capacity’ (92). He thus rejects communitarian politics at the sub-national level, but thinks that the very thing which makes national identity inappropriate for communitarian politics—the fact that it does not rest on shared values—makes it entirely appropriate as the basis of liberal politics. ‘The national culture provides a meaningful context of choice for people, without limiting their ability to question and revise particular values or beliefs’ (92–3).

This, then, is the key to Kymlicka’s understanding of liberalism, and, so, to his view of the political world. That world is a world of nation-states, and it is one in which liberalism prevails to the extent that those states respect and protect individual autonomy, sustaining a ‘societal culture’ of free and equal individuals. The liberal state is thus theorized as a closed society (bounded by, more or less, closed borders) of people free to revise and question their traditions, values and commitments—and as free to associate with one another provided that they do not in their associations dishonour the freedom to question and revise beliefs. The liberal state is, to put it another way, a state governed by justice; more particularly, it is a state governed by a modified version of the principles of ‘justice as fairness’. The modification is essentially in the form of the addition of ‘culture’ (understood as a stable of context of ‘choice’) as a vitally important ‘primary good’ of which individuals are as needful of (and as entitled to) as the other Rawlsian primary goods such as basic liberties, income or wealth.

What Kymlicka has not recognized—or at least, conceded—however, is that this will not allow cultural differences to be taken as seriously as he seems to want. If cultural communities are to be regarded as having the same basis as the liberal state—as he repeatedly suggests—then they must, in the end be, or be made into, liberal communities. If liberalism describes a nation-state governed by the principles of liberal justice, then the liberal state cannot condone deep cultural diversity. For many, the cultural rights it can offer are not worth having.

Yet it remains to be considered whether this is the only possible version of liberalism. Or, indeed, whether it is the best. What is wrong with this version is that it has at its core a theory of justice, upholding the value of autonomy. Yet such a theory can tell us very little, if anything at all, about the fundamental problem of political society (and, so, of political philosophy), which is the problem of authority. The important questions here are: ‘who should have

²⁰Here Kymlicka refers to such writers as Michael Sandel, Alasdair MacIntyre and David Miller. Surprisingly, he omits Daniel Bell, whose *Communitarianism and Its Critics* (Oxford: Clarendon Press, 1993) provides an important counter-example.

authority (and why, and how much)?'; and 'can this authority be divided (and if so, how)?' This is a set of questions very different from the question of what values we, or any community, should live by. The great bulk of *Multicultural Citizenship* is devoted to answering the question of what values a society should live by. This is what Kymlicka is doing when he says he focuses on the question of 'identifying a defensible liberal theory of minority rights' (164). Yet the important question is the one which he addresses only briefly in dealing with the issue of 'imposing that liberal theory' (164). This is a question about the structure, and the division (if any), of authority. It is the question which identifies the most important issue that the book should have addressed.

Now, it might be argued that Kymlicka has dealt with this issue, at least implicitly, insofar as he is working, like Rawls, on the assumption that the theory of the right provides the basis for the political constraints that govern our pursuit of the good. The theory of the right thus gives us a political theory which allows us to draw conclusions about the basis, or legitimacy, and the extent, of authority. And an authority is legitimate if it is just—with justice understood as fairness (which is to say understood in Rawlsian terms with Kymlicka's modifications). What this treatment does not tell us, however, is what an authority (such as the state) must do if it is faced by a society in which there are different cultures—with their own authorities—which do not agree about basic principles of justice. One reading of Kymlicka suggests that the liberal state has the authority to enforce liberal justice, overriding other cultural authorities. Yet at times it seems not, since he does not think liberals should impose their principles on groups that do not share them (165). The only thing that is clear is that, for Kymlicka, it would be better if groups were more liberal; what is ambiguous is how a settlement is reached when some are not. Does the state have the authority to lay down liberal law (in Hobbesian fashion); or is authority divided insofar as the state may not intervene to impose liberalism on unwilling groups? If it is the former, Kymlicka is no more accommodating of cultural minorities than Rawls; if it is the latter, then Kymlicka has a very different theory of authority, which does not sit consistently with his comprehensive conception of liberalism.

This issue of the problem of the authoritative imposition of liberal values is the issue which most requires confrontation. Had his book been more explicitly devoted to this issue, however, Kymlicka's non-interventionist instincts may have led him down another, very different, course. It could have led down a path to a conception of liberalism which sees it not as resting on a comprehensive conception of justice—in this case, justice as fairness—but as embodying a commitment to reaching a *modus vivendi* in the face of moral and cultural diversity. Yet, at the same time, Kymlicka's commitment to his starting point of liberal nationalism prevents him from taking this course. The trouble is, one cannot be a non-interventionist liberal nationalist.