**Securing Diversity:
A Review of Will Kymlicka’s Multicultural Citizenship**

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Table of Contents

Introduction 7

Part One: Liberalism and Multiculturalism in the Balance 16

Chapter 1 The Value of Culture 17

The Death of “Grand Narratives” 18

The Priority of the Good 19

The Falling to Pieces of Liberalism 22

Flaws in the Communitarian Critique 31

Chapter 2 In Defense of Liberalism 38

Sociological Case for (and against) Cultural Liberalism 39

Theoretical Cases For (and Against) Cultural Liberalism 42

Chapter 3 Kymlicka: Between Choice and Culture 53

Culture as a Precondition of Choice 53

Internal vs. External Restrictions 55

“Soft” Communitarianism 58

The Disadvantages of Minority Cultures 59

What does Equality mean? 60

Cultural Compensation 61

The Key Difference between Choice and Circumstance 62

What this Amounts to: Cultural Rights as Defined by Kymlicka 64

In Sum 68

Part Two: Societal Cultures and the Boundaries of Nationalism 71

Chapter 4 What do Societal Cultures *mean*? 72

Kymlicka: Societal Cultures should be Endorsed 73

The Risk of Monoculturalism 74

Institutionalized Culture as Liberation 86

The Difficulties posed by Societal Cultures 122

Chapter 5 Understanding or Misunderstanding Nationalism? 129

Theories of Nationalism 131

The Janus-faced Nature of Nation 145

An Attempt to Liberalize the Nation 156

Who is a Member of Nation? 160

Kymlicka’s Definition of Liberal Nationalism 162

Heritage, Cultural Community, and Preferentialism 166

The Sanguinity of Liberal Nationalism 169

Misunderstanding Civic Nationalism 177

Inter-National Politics 180

Chapter 6 Challenges Posed by Kymlicka’s Theory 183

Circular Logic 184

Paradoxes 186

Monoculturalism 189

Putting Theory into Practice 196

Illiberal Leanings 197

Rethinking Nationalism 208

Part Three: Multicultural Citizenship Beyond Borders 217

Chapter 7 The Unbundling of Difference and Domination 218

The Democratization of Boundaries and Citizenship 221

The Political Economy of Culture 239

Power-Sharing as a Vehicle for Peace 250

Chapter 8 Multicultural Citizenship Redefined 270

Kymlicka’s Key Contributions 270

Areas of Consideration for Kymlicka 276

The Path Forward for Multiculturalism and Group Rights 284

WORKS CITED 287

Abstract

Will Kymlicka’s seminal work on Multicultural Citizenship has done much to advance the case for minority rights worldwide. Agreeing with communitarians that culture is important, yet unwilling to relinquish liberal equality and fairness, Kymlicka builds on John Rawls’s monumental *Theory of Justice* to show group rights are not only accord with liberalism, but are its true fulfilment. Yet, while Kymlicka’s theory has received accolades for elegantly tying liberalism and culturalism together theoretically, it has been met with equal scepticism over the tenability of its praxis. In this book, I argue that much of the criticism wielded against Kymlicka’s theory results from his crucial reliance on the definition of societal cultures and the contradictions embedded therein. This is further compounded by the tendency of Kymlicka to neglect his commitment to dynamic culture and liberalism in favour of a monolithic treatment of culture, leading us down the path to illiberal conclusions. I suggest that for Kymlicka’s theory of “Multicultural Citizenship” to embrace a truly vibrant multiculturalism, the theory must overcome its internal contradictions and reaffirm its commitment to a multi-layered and recursive approach to group rights. I shall review the strengths and weaknesses of Kymlicka’s theory set against contemporary debates on the topics of nationalism and minority rights and will suggest how the theory can reduce its inner tensions to embolden its critical support for multiculturalism in Canada and worldwide.

*Keywords*: Multiculturalism, Group Rights, Kymlicka, Nationalism, Rawls

## Introduction

Political philosophy’s formerly espoused ideal of a culturally homogenous, isolated nation-state is a defunct anachronism in today’s shrinking world. Advances in modern technology have led to a radical increase in mobility in and between populations, ultimately changing the face of our human communities. In this new world, human mobility is quickly outstretching the folds of our imagination; Jules Verne’s journey Around the World in Eighty days is now possible in around 80 hours. Not only has our sense of physical space been completely altered, the advent of hyperspace has also fundamentally changed the ways human communities relate to one another. From Marconi’s first transatlantic signal back in 1901 to the advent of the *World Wide Web*, modern communications networks have entirely transformed the way people share their work, knowledge and culture.

Yet, many are concerned that the path to diversity may spell trouble and an inevitable fragmentation of our political systems. Hence, for the past few decades, political philosophers have grappled with our modern normative paradigms trying to wrest them open to new ways of thinking about culture and of being together in the world. Pressing questions have been asked that remain inconclusive: How can we accord appropriate recognition to minorities? How can we encourage tolerance and nurture a world that celebrates diversity and difference? How can we find unity in culturally divided societies? How can we live in peaceful coexistence with others whose views and values are different from our own? And perhaps the most poignant reoccurring question of all: How can we tolerate the intolerant? Within our communities, tolerating the intolerant is usually a question about the limits of liberal justice and cultural relativity. Human rights is often conceived of as a charged concept, blamed for having idealistic universalistic aims in an inescapably particularistic world.

The difficulty lies in the fundamental tension involved in thinking universalism and particularism together. As Michael Walzer says, “Independence, inner direction, individualism, self-determination, self-government, freedom, autonomy: all these can be regarded as universal values, but they all have particularist implications” (Walzer, 1999a, p. 518). These particularist implications are of critical consideration when it comes to international law and governance. How do we protect the basic rights of humankind while avoiding imposing our own conceptions of what is right and wrong (our own version of the truth, rooted in our own cultural narratives) upon others who hold dissimilar views? When the world balance of power is so unevenly distributed, with those who are poorest among us being the most marginalized culturally and politically as well, how are we to ensure that our “universal” rights will truly protect the global freedoms they are supposed to enshrine? Walzer rightly says, “our interpretations can do no more than suggest the *differentiated commonalities* of justice – for these common features are always incorporated within a particular cultural system and elaborated in highly specific ways” (Walzer, 1999a, pp. 525-526). What we consider to be a universal truth ultimately arises from a particular culture; thus, generalizing truth runs the risk of discounting other alternate perspectives of truth. History clearly shows us that too often cultural intolerance and hegemony have been paraded under the banner of universalism, posing great threats to diversity and to fragile communities.

This dissonance between universalistic theory and particularistic reality leads to a number of important questions: How can we protect freedoms, without, in Rousseau’s terms, *forcing* the people to be free? How are we to mediate cultural disputes in a way that is fair and sensitive, respecting both group and individual identity? How can we build a vibrant public forum from culturally dissimilar citizens; indeed, is there a place for civic pride without a uniform conception of the good? What is the best way to include the voices of the oppressed (women, lower classes, religious, ethnic and other minorities) without becoming lost in a maze of conflicting claims and institutional ineffectiveness? As Socrates said to Crito in *Euthydemus*, “We got into a labyrinth, and when we thought we were at the end, came out again at the beginning, having still to seek as much as ever”. (Plato) How do we find our way? How can we be together but different?

Despite voluminous studies since the 1980s on multiculturalism and pluralism, there remain no clear answers to the above questions. In the past three decades, culture has reared its head in often ugly, provocative, violent, and emotionally charged ways. Our modern political systems have failed to provide an adequate context of choice and fairness for our increasingly pluralist societies. Indeed, modern political systems were designed to form homogenous political units, in which disagreement would be minimized and a common good could be pursued (Gans, 2002, p. 23). The term “minority” itself took on new meaning within modern nation-state, minorities being any individual or group who did not share the national culture of the ruling majority. Difficulties have been faced not only in putatively ethnic nations, but also in nations that are more liberal as well, wherein the difficult conditions of minorities have often been quietly buried under the rhetoric of liberal neutrality.

Will Kymlicka’s first book *Liberalism, Community and Culture* was published back in 1989, the same year as the fall of the Berlin Wall, just ahead of the sweeping tide of changing geopolitics in the Eastern Bloc and thereafter a rising spate of ethnic conflicts worldwide. Kymlicka’s writings pioneered the groundwork for much of the discussion and debate on how to combine both unity and diversity and make our political institutions more suited to pluralism. What separates Kymlicka from many of his contemporaries is that although Kymlicka was a staunch advocate of culture he was also a firm believer that culture had a place within liberalism, and indeed, that our liberal democracies are most fully liberal when they take into account the cultural preferences of minority groups.

Kymlicka’s career has been devoted to developing a theory of justice that would encapsulate group rights as being rooted in liberalism. While the majority of scholars spearheading the politics of recognition movement identify themselves as communitarians, Kymlicka has always styled himself a strong liberalist, following in the footsteps of the preeminent John Rawls. The theory he developed convincingly reconciles Rawlsian liberalism with cultural politics and conveys a strong message that the politics of recognition must not be left to the communitarians alone (Kymlicka & Peonidis, 2008). Building from John Rawl’s *Theory of Justice*, Kymlicka tries to provide a comprehensive theory that would give philosophical backing to the idea of minority rights within a liberal framework. To support this view, Kymlicka weaves together writings from J.S. Mill to Ronald Dworkin to prove that cultural rights can and do reaffirm the liberal commitment to freedom and rights and to equal opportunity. The resounding message that Kymlicka leaves us with is this: *We* *can* *be equal but different*. This is a simple yet critical idea for our times. While prima facie this statement appears to be a paradox, Kymlicka provides strong argumentation against the contrariness of the statement to show us that equality and difference must go together.

Kymlicka formulates his minority rights, chiefly as minority national rights, with the bulk of his theory being directed towards providing semi-independent rights for national minorities for which he includes two groups: indigenous peoples and what he calls “substate nations” (such as the Quebecois and the Basques) (2002, p. 24). These groups he differentiates from other ethnic minorities (and other non-ethnic minority groups which his theory does not address) (2001b, p. 60). He argues that these two groups already had a pre-existing national culture (or what he calls “societal culture”) before the majority state was created; therefore, they are entitled to retain a degree of independence from the majority political institutions in order to retain this national culture, which he views as critical to its members’ personal freedom (Kymlicka, 2001b, pp. 53-4).

For Kymlicka, the real significance of the nation-state lies not in its advancement of industry and social systems, but in its advancement of culture and choices (2001b, p. 47). The greatest boon of the nation-state is that is it a *source of identity* that allows choices (Kymlicka, 2001b, pp. 26-7, 250-1). Indeed, Kymlicka ties the flourishing of liberalism strongly to the development of nationalism. In part, this is because Kymlicka closely associates his term “societal culture” with nation throughout his writings. Indeed, he states that the most relevant society is one’s nation (1999a, pp. 114-5). As Kymlicka says,

The liberal ideal is a society of free and equal individuals. But what is the relevant ‘society’? For most people it seems to be their nation. The sort of freedom and equality they most value, and can make most use of, is freedom and equality within their own societal culture. (1995, p. 93)

Therefore, the protection of minority national rights is a necessary step towards providing true recognition to groups in today’s world. Principally because this national identity allows choices, our group identity in a very tangible way is linked to our individual identity, therefore providing ways to secure our group identity is also providing a way of securing individual choice and hence liberal freedom. Indeed, nationalism is not the malady that many claim it to be says Kymlicka. According to Kymlicka, nationalism has presented us with many of the amenities of modern day life; it has not only fuelled state-wide education, healthcare, legislation, and industry, but it is also the birthplace and abode of modern day liberalism (2001b, p. 226).

Yet despite the great strides that Kymlicka has made in his work, I aim to demonstrate that there are deep challenges posed by treating different groups with different rights as Kymlicka’s theory suggests we should do. These difficulties, I suggest, are exacerbated by Kymlicka’s concept of the group, or “societal culture”, which he not only uses synonymously with nation, but which he also defines in a very essentialist way linked to tradition and location, contradicting his otherwise strong commitment to a concept of the human person as one of transcendence and self-reflexivity.

In his theory, Kymlicka describes how national majorities reflect and promote a particular “societal culture” (1995, p. 76). This societal culture is reflected in the national stories, myths, history books, media, and school education systems, and is intricately tied up with the language, territoriality, and prevailing culture of the majority group (Kymlicka, 1995, pp. 110-1). This is true, says Kymlicka, not only in outright ethnic nations, but also in the majority of self-proclaimed civic nations (such as France for example)[[1]](#footnote-1) (2001b, p. 154). Within this environment, those individuals who do not subscribe to the majority societal culture find themselves at a loss compared to their compatriots who do. This lack of relating to the majority culture has profound effects on the actual freedom and autonomy of these individuals says Kymlicka, since our culture is not just a set of objects which we choose but forms the very ground from which we may choose (2001b, p. 208).[[2]](#footnote-2) Thus, living as a minority in another societal/national culture negatively affects our ability to fully participate in our society and our political systems.

Kymlicka says that frustration on the part of minorities grew throughout a “revivalist” period in American politics, when minority and ethnic groups began to demand recognition (1995, p. 98). Arguing that the system under-recognized and under-privileged their histories and their cultural perspectives, minority groups began to ask for different treatment to make them *more equal*. The rise of recognition rights (with respect to language and cultural heritage), representation rights (a certain percentage of seats reserved and allocated to various minority groups), and a broader category of group rights more generally, arose in response to these demands.

Kymlicka himself acknowledges the extreme difficulties that nationalism has posed for minorities worldwide and correctly identifies the monocultural tendencies of the nation state (1995, p. 19). Indeed, he formulates his theory as a reaction to the disadvantages that minorities face under a national system where they are subject to majority rule and preferences. Kymlicka tries to delink nation and state boundaries and acknowledge that within any state there are often multiple nations, and that each of these deserves recognition, and in Kymlicka’s view, separate national rights (2001b, p. 269). I aim to show however, that Kymlicka’s attempt to bridge the divide between liberalism and multiculturalism is marred precisely because he formulates his theory in nationalist terms (particularly, a very cultural variant of nationalism)[[3]](#footnote-3) and thus runs the risk of reproducing the same categorical inequalities as majority nation-building.

Kymlicka’s theory took minority rights forward at a time when their applicability was in doubt in an attempt to ground them in the liberal tradition. However, given the changing mobility and intensifying internationalization of the world, I suggest that Kymlicka’s theory must overcome nation and address the core iniquities of uneven power relations within and across borders. Worldwide demands for integration (regional, supra-national) in addition to demands for secession are linked to shifting nation-state identities and outcries for recognition as Kymlicka correctly identifies. Yet, while it seems that the national units that define our current global political realities are here to remain for the near future, the case for minority rights is weakened if it is developed in nationalist terms. In this book, I argue that minority rights go beyond the confines of nation to address the needs of a much wider and growing group of underprivileged minorities.

Kymlicka was one of the most prominent voices that arose in the late 80’s early 90’s on the topic of minority rights. His theory stood out partly because it gave a strong theoretical backing to group rights trying it with Rawlsian liberal justice and partly because it gave voice to the rising national demands in his own country Canada and worldwide. The strong political currency of his work positioned Kymlicka to become one of the foremost authorities on minority rights and today hardly a scholar can write on this topic without referring to his writings. Kymlicka has been invited by the United Nations to give formal advice on minority rights and his ideas have been received worldwide by those trying to tackle the difficult issue of balancing group rights with liberalism. It is precisely this balancing act that made Kymlicka’s work so popular and marked the beginning of a new era in political sciences, and to which multiculturalists and group activists today are indebted.

**Outline of the Work**

*Part One: Liberalism and Multiculturalism in the Balance, The Theory of Will Kymlicka*

In the first part of this work, I explain the incisive debate on the co-existence of liberalism and minority rights and position Kymlicka’s theory within this background. I describe how recent criticisms of liberalism’s failure to address pluralism has led to a communitarian defence of group rights above and against individual rights. After outlining the liberal and communitarian positions, I describe how Kymlicka’s attempts to bridge the two by defending that individual rights are best fulfilled *through group rights*; in particular Kymlicka points out the need for giving rights to national minorities within his wider theory of multicultural citizenship. I elaborate on the core concepts of Kymlicka’s theory and how they are tied to the recent debate between liberals and communitarians on the desirability of culture in the political agenda.

*Part Two: Societal Cultures and the Boundaries of Nationalism*

In Part Two, I illustrate how nationalism is central to the work of Kymlicka and forms the backbone of his arguments for group rights. I provide a survey of the literature on nationalism popular at the time Kymlicka developed his initial theory (in the late 80s and 90s). I describe how Kymlicka’s theory fits within the discussions of nationalism at the time, and elaborate on Kymlicka’s interpretation of what has come to be known as the Janus-faced nature of the nation: the divide between civic and ethnic nationalism. Kymlicka’s own theory seeks to be an answer to the problems of both ethnic and civic nationalism and his works are counted among a group of scholars claiming to bridge the two, who call themselves “Liberal Nationalists”. I describe the ideas behind liberal nationalism and provide a critique on the unresolved inner tensions present in such theories.

*Part Three: The Difficulties of Societal Cultures*

Building on the insights from Part Two, in Part Three I describe how the conceptual confusion resulting from the liberal nationalist stance undergirds Kymlicka’s theory, and is predominantly inscribed in his standpoint on societal cultures. In particular, his lack of conceptual clarity on the term societal culture leads his theory into potentially treacherous ground with respect to the treatment of Immigrants and Aboriginal Peoples. By focusing on the national question, wrapped in the language of “societal culture”, Kymlicka inadvertently excludes addressing the rights claims of many others. Further, his reified approach to culture does not properly exemplify the dynamic and polyethnic (multicultural) society he aims to protect through his theory, particularly with respect to the flourishing of both Immigrants and Aboriginal Peoples. Instead of supporting their rights claims, in some instances Kymlicka’s theory may actually hinder them.

*Part Four: Rethinking Multicultural Citizenship*

In Part Four, I break down the main contradictions that arise in Kymlicka’s work and point out how to overcome these contradictions and make his theory stronger by modifying or eliminating his definition of societal cultures and his support for minority “cultural nationalism” (as well as tacit support for majority “cultural nationalism”). In addition to outlining the major theoretical paradoxes that pull at the seams of his theory, I will propose a number of suggestions to reinforce his theory, which are not emphasised strongly enough by Kymlicka (such as linking group rights to critical socio-economic considerations). I suggest Kymlicka focuses too much on barriers to the exclusion of bridges, and that given the current dynamic climate of world interconnectivity, we need to look past our self-imposed barriers and find ways to ultimately live *together in difference* in the world.

# Liberalism and Multiculturalism in the Balance

## Chapter 1 The Value of Culture

Since the 1960s, increasing protests on the part of indigenous peoples and other minority groups worldwide have led to the realization that the equal rights bestowed on them were not providing them with the *equal opportunities* those laws were supposed to enshrine (see Kymlicka & Norman, 2000 for a discussion of the “equality” of “differentiated citizenship”).[[4]](#footnote-4) With the realization of past injustices towards indigenous peoples and other minority groups, political theorists began attaching importance to the value of culture and looked for healthy ways to formulate group rights. In the flurry of writings on culture, the lofty liberal tradition came under fire as intolerant and incapable of providing alternate political conceptions that could support minorities. Liberal “neutrality” was seen as biased and rooted in western (white/male) norms, and therefore silently hegemonic and violent towards vulnerable minorities (Kymlicka, 2001b, p. 43). Critics accused the liberal tradition of confusing sameness with equality, thereby jeopardizing the prosperity and existence of minority groups worldwide.

Those who formed the vanguard against liberalism’s neglect of culture came to be known as “communitarians”, and included prominent theorists such as: Vernon van Dyke, Alasdair MacIntyre, Michael Sandel, Michael Walzer, Charles Taylor, and James Anaya (though none of these directly labels themselves as such (Sayers, 1999, p. 147))[[5]](#footnote-5). Starting from as early as the 1970s, this group, allied with important feminist critics, drew attention to the deficits of liberalism’s concept of the individual and began demanding that marginalized groups be given their due recognition; aptly named the “politics of recognition” (Taylor, Appiah, Habermas, Rockefeller, Walzer, & Wolf, 1994).

### The Death of “Grand Narratives”

Interestingly, feminists were among the earliest critics of traditional liberalism. They drew our attention to the injury in accepting unquestioningly “universal” standards of reason and justice. Feminists like Carol Gilligan, Judith Butler, Iris Marion Young, and Seyla Benhabib among others deconstructed grand narratives that were previously called universal, and showed the ways they were really White, European, and Male. They showed us how metanarratives silence voices, removing significant segments of our society from effective participation in public life (Linklater, 1998, pp. 68-70; Benhabib, Butler, Cornell, & Fraser, 1994).

These ideas arose alongside postmodern philosophy, led by scholars such as Michel Foucault and Jean-François Lyotard, who reinforced the feminist critics in rejecting universals. Lyotard explains the death of “grand narratives” and describes the postmodern condition as “incredulity towards metanarratives” (Lyotard, 1984, p. xxiv). Postmodernism is sceptical about overarching narratives, the Enlightenment belief in the progress of reason and a universal standard of justice or the Hegelian and Marxist belief in the progress of history and man (through spirit or production) (Seidman, 1994). Instead of such sweeping generalisations and the pursuit of coherent theory, the postmodern emphasizes: disunity, difference, locality, and moral relativity. Indeed, the postmodernists derided that what is often held to be objective truth (in the form of grand universalisable truths) as particularistic subjectivism hidden in disguise, suppressing other versions of the “truth” and asserting its own dominant version over others.

Foucault closely ties knowledge to power. Like two sides of a coin, power is a result of knowledge and vice versa. As La Branche says of Foucault’s theory, “‘Truth’ is a status given certain knowledge by power…linked in a circular relation with systems of power which produce and sustain it” (la Branche, 2005, p. 221). Knowledge thus can be used to oppress or to control others, and only some knowledge is “given the status of truth” while other forms of knowledge, typically from subaltern voices, tend to be silenced (la Branche, 2005, p. 222). As such, universals are often no more than normative judgements that impose a certain “acceptable” behaviour and set the moral standard for society, in other words: Those who control and shape knowledge, control and shape the world. In his first major work “The History of Madness” (2006), Foucault questions the conventional understandings of Madness and illustrates how the modern human sciences have been used as a tool to establish and maintain conformity with societal norms. Further, the modern human sciences have been tools used to suppress behaviour that strayed from these norms, in what could – somewhat ironically – be considered a morally questionable way.[[6]](#footnote-6)

Feminist authors understood this all too well, and used the arguments of the post-modernists to reveal the ways the dominant male metanarratives governing public life denigrated female roles and viewpoints. As Bader says, they “exposed mountains of formerly unrecognized sexism in ‘the laws of the country’ incompatible with the cherished and constitutionally guaranteed principle of equality and neutrality” (Bader, 1997, p. 792)[[7]](#footnote-7).

In another vein, feminist authors such as Carole Gilligan argued that the female “ethics of care”, which emphasizes responsibilities and relationships, had been characterized as irrational or unimportant by the dominant male metanarrative and hence was relegated to the private sphere. In its place – and to the detriment of overall society – an exclusively male-written, impersonal, abstract, and hierarchical ethics was promoted. By establishing the norms of society, it circumscribed women to remain in restricted roles and removed them from control over both knowledge and power. In her book, “In a Different Voice”, Gilligan raises this presumed “weakness” of the ethics of care to a place of “moral strength” and emphasises instead the need for a development model that is contextual and rooted in a female “activity of care” (Dallmayr, 2003a, p. 432).

### The Priority of the Good

In a similar tenor, the communitarians wanted to return to the virtue of care and community and to move away from notions of “universally valid reason” and to understand how contextualized and particularistic “reason” is between various cultural communities. As Sandel argued, we should abandon the “politics of rights” instead for a “politics of the common good” (as cited in Gutmann, 1985, p. 310). From here however, the communitarians mostly part company with the feminists and their deconstructionist models and instead place a very high value on culture, which contrary to the feminists is seen by them as a necessary structuring framework to provide order and meaning in our lives. The communitarians see the loss of what they consider to be stable cultural frameworks as a problem not only for the functioning of democracy, (what Taylor refers to as “public consequences” (1992b, p. 502)), but also for the meaning these cultures hold for their members. As Taylor says “We are now in an age in which a publicly accessible cosmic order of meanings is an impossibility” (1992b, p. 512). We have reached the point of death of morals, metaphysics, and, from the communitarian perspective, authentic meaning.

Communitarians launched the attack on liberalism by arguing that the liberal social contract theories developed in the 17th and 18th centuries tried to elevate man to an abstract universal standard, separable from community and culture. They argued that through their strong emphasis on individualism and the universal reason of man, the liberals mistakenly adopted a contorted picture of human society and of human freedom (Gutmann, 1985, p. 310). They drew attention to the importance of culture in our lives and the impossibility of liberalism’s “unencumbered self” (Sandel, 1984), thus decrying liberalism’s inept stance on cultural groups and minorities. Although their theories are far from uniform, they have come to be collectively labelled as "communitarianism”, sharing in common their rejection of the atomism and universalism endorsed by traditional liberal thought (Sayers, 1999, p. 147).

The debate between the liberals and the communitarians therefore was principally centred on the concept of the human person and what it means to be free. For traditional liberalists – freedom meant to a large extent freedom *from* culture and freedom *from* the state (Berlin, 1969)[[8]](#footnote-8). Liberals are concerned about abuses of political power, and how other agents in the society (and the state itself) can control or restrict individuals in ways that limit and abuse personal freedom. Even the communitarians can hardly dispute the importance of such freedoms and the need to limit monopoly on physical force; as Walzer himself admits, “the limitation of power is liberalism’s historic achievement” (1984, pp. 327-8). Where the dispute lies however, is in the prioritization that liberals place on this right of “procedural justice over substantive conceptions of the good” (Walzer, 1990, p. 9); or in other words, the prioritisation of the *right* over the *good* of the community. John Rawls and Habermas both espouse this priority, rooted in Kantian deontology, and stand apart from their communitarian contemporaries (Benhabib, 1992, p. 40)[[9]](#footnote-9).

For liberals, freedom means to be free as an individual actor, a self-determining agent unrestrained by constraints (including those of culture and community). In the liberal view, it is the individual, not the community, which chooses the good. As Ronald Dworkin says, “political decisions must be, as far as possible, independent of any particular conception of the good life or of what gives value to life” (Dworkin, 1978/2003, p. 32). In securing individual rights, liberals thus place the individual as prior to the community, with the self-reflexive transcendent self at the centre of human freedom (Taylor, 1993, pp. 216-7).

Communitarians disagree about this prioritisation (Fossum, 2001, p. 181). According to the communitarians, liberals have undervalued our rootedness in a specific cultural context. As a result, liberal thought has had a tremendously negative impact on our ability to lead the good life. Taylor extols what comes across as a republican virtue in saying that citizens must have a strong “identification…with their public institutions and political way of life” (1992b, p. 505). Classical liberalism, the argument goes, inundating us with “egoistic” instrumentalist strategies, is eroding allegiance and devotion to our political systems (Habermas J. , 2005, p. 2). As Taylor says, quoting Alexis de Tocqueville, we are led to the fall of civil society, were individuals are “enclosed in their own hearts” and are unwilling political agents (Taylor, 1991, p. 9).

Communitarians object strongly to the idea of freedom and agency being tied to self-interested actors seeking only to satisfy their own preferences in isolation to others, or as Taylor chillingly puts it, “the disembodied ghost of disengaged reason, inhabiting an objectified machine” (1991, p. 106).[[10]](#footnote-10) Freedom they argue, rather than an abstract choosing by “disembodied freedoms” is firmly rooted in cultural structures of meaning. Therefore, since culture is the basis for our “being free”, our community precedes the rights of its individuals; or in other words, the Good should not be brushed aside by the Right (Taylor, 1998b, p. 150).[[11]](#footnote-11)

In rebuttal, the liberals attack the communitarians for the dangerous, illiberalism that results from their theory (Gutmann, 1985). Communitarianism is explicit in its acceptance of the denial of basic individual freedoms and autonomy under the prioritization of community: for communitarians liberal rights and group-differentiated rights are not intended to coincide. The tireless refrain of the communitarian chorus is that the preservation of our cultural communities should not be sacrificed on the altar of individual liberties.

### The Falling to Pieces of Liberalism

Walzer summarizes the communitarian critique of liberalism in defining liberalism as “The Art of Separation” (1984). This art of separation meant building theoretical walls between self and society, public and private life, church and state, between neighbours and between individuals. “Liberalism is a world of walls,” says Walzer, “and each one creates a new liberty” (1990, p. 315). But this liberty as we have already seen comes at a price. All of these separations led to the fragmentation of liberal theory or conversely to the fragmentation of modern man (Taylor, 1998, pp. 49-50). Walzer says that there are basically two lines of arguments put forward by the communitarians, though they countermand one another (1984, p. 323) as will be explained in the following pages. These two arguments will be outlined below can be summed up as: first, the incoherence of modern man (owing to Liberalism), and second, the incoherence of liberal atomism (its inability to properly map modern man). Walzer points out to us that neither argument is fully correct or fully wrong (1990, p. 7).

#### The Incoherence of Modern Man

In a way, the communitarians are overwhelmingly pessimists. Instead of embracing postmodernism and the changes wrought by globalization, everywhere around them the communitarians see modern man’s decline. Divided communities, loss of tradition, loss of religious values, loss of community involvement and pride, are all taken as signs that something has gone terribly amiss in our modern world. Echoing Adorno and Horkenheimer’s penetrating critiques of the Enlightenment and Modernity (Benhabib, 1992, p. 40), the communitarians argue that liberalism is a chief culprit for what they see as our current state of decline.

Tying the moral relativism of the postmodern condition to liberalism (MacIntyre, 1983; Taylor, 2004)[[12]](#footnote-12), the first communitarian argument says that modern society is composed of many isolated individuals leading egoistic, unconnected, unencumbered lives. As Walzer depicts the first argument where proponents argue that:

Liberal political theory accurately represents liberal social practice…. [it is the] home of radically isolated individuals, rational egotists, and existential agents, men and women protected and divided by their inalienable rights…Each individual imagines himself absolutely free, unencumbered, and on his own – and enters society, accepting its obligations, only in order to minimize his risks (Walzer, 1990, p. 7)

In this account, liberalism’s “instrumental mode of life” (Taylor, 1992b) is to blame for this isolation and for the destruction of culture and community. At its extreme (or its fulfilment), the liberal ideal leads to “a world in which every person, every single man and woman, is separated from every other” (Walzer, 1984, p. 323). As such, liberalism is the malaise of modernity; its “flawed concept” of the human person a canker inflicted upon modern society. Because those in modern times are now so thoroughly convinced of the ideas of “atomism”, they are unable to see the instrumentalism, and thus according to Taylor “happily support policies which undermine them.” (1992b, p. 505).

The prevalence of liberalism has unwittingly led to the fall of morality and to the apathetic purposelessness that characterize modern (or more appropriately post-modern) times, or what Taylor refers to as the “disengaged, instrumental mode“ of life (1992b, p. 500). The Good Life in such a world, no longer has any bearings. Indeed, there is no coherent unified good, no common purpose, no common values, no common goals or even “meeting of minds” (MacIntyre, 1983, p. 591). As MacIntyre says, the world has been led to a state of such “grave disorder” that “we have – very largely, if not entirely – lost our comprehension, both theoretical and practical, of morality” (as cited in Gutmann, 1985, p. 310). It is because the liberal ideals of the individual have become diffused through our societies, that our communities are beginning to fall apart. We no longer care for one another or work towards common goals; instead, we have become self-interested individuals whose primary concern lies in our own good, not in the good of the society as a whole.[[13]](#footnote-13)

Life for such an individual is alienated and capricious, unguided by moral standards and unschooled in his or her own heritage (Walzer, 1990, p. 8). The individual is reduced to a shell of a human being, with no enjoyment or satisfaction drawn from the abstract “natural” rights he enjoys, knowing no reason to unite meaningfully with others, no meaning to guide his life, only living as an “isolated self” pitted in a race against others (Walzer, 1990, p. 8).[[14]](#footnote-14) In effect, it is the birth of Nietzsche’s “last men”, and indeed, himself a neo-Aristotelian, MacIntyre says we have come to a point where we must now choose between “Nietzsche or Aristotle” (as cited in Gutmann, 1985, p. 310). As Habermas says, the argument poised by the communitarians boils down to the fact that the virtuous “freedom of the ancients” should not be forsaken for the (ostensibly lesser) “freedom of the moderns” (Habermas J. , 2005, p. 2).

The communitarian critique, in this first instance, is a criticism about the “loss of narrative capacity” (Walzer, 1990, p. 8) of modern man and the “decay of moral reasoning” (MacIntyre, 1982, p. 591). Though we may be deluded to think morality still exists in our society, it is a broken morality, the vestiges of former times (MacIntyre, 1981, p. 240). As Taylor says, it is a state that “empties life of meaning” (1992b, p. 500) making it flat, colourless, and uninspiring. Bereft of magic and myth, we are left in a state of what Weber called ‘disenchantment’ (*Entzauberung*) (Taylor, 1992b, p. 500). As Walzer harrowingly depicts the communitarian view of liberalism:

The [Liberal] self-portrait of the individual [is] constituted only by his wilfulness, liberated from all connection, without common values, binding ties, customs, or traditions – sans eyes, sans teeth, sans taste, sans everything – need only be evoked in order to be devalued: It is already the concrete absence of value (Walzer, 1990, p. 8).

Without community and culture, the argument implies, there can be no values. The argument is not only a criticism against the lack of coherence in modern social sciences and philosophy, but as Taylor says, “the problem of modern social science is modernity itself” – what amounts to a harsh criticism against modern society for its self-interestedness and lack of virtue (2004, p. 91).

By contrast, communitarians look backwards to a glorified past. Taylor traces attacks on the decay of modern society back to the onset of the Romantic period (Taylor, 1992b). Pre-modern society is elevated as a golden age full of heroism, valour and meaning. In pre-modern society, there were strong structures that gave meaning to our lives and clearly defined roles that told us how to act (MacIntyre, 1981, p. 240). In other words, our identities used to be shaped by our context, by the clear structure of our society and the moral obligations it set upon us. As In the Athenian polis, every citizen knew their duty towards others and virtues were clearly understood and sought. Yet in Sayers’ view, communitarians, such as MacIntyre are not modern or even postmodern but are dangerously *pre-modern* because they situate our source of identity in archaic structurally defined roles. (Sayers, 1999, p. 148).

Thus, the first communitarian argument is that liberal atomism actually maps what modern society *has become* (Walzer, 1990, p. 7). Moreover, liberal theory has played a central role in *shaping* this undesirable state of affairs. In a sense, liberalism has been a self-fulfilling prophecy, creating in reality what it predicated in theory. However this liberal reality has not brought about the ideal the philosophers sought but instead has led to the fragmentation and essentially the fatal destruction of society and of the values it holds for its members (Walzer, 1990, p. 21).

#### The Incoherence of Liberal Atomism

The second communitarian argument that Walzer traces runs, quite perplexingly, in total negation to the previous argument; it states that liberal theory is actually *unable to properly map* the human experience (Walzer, 1990, p. 13).[[15]](#footnote-15) This argument describes the liberal portrait of the “separated individual” (Walzer, 1984) (or otherwise called “atomism” (Taylor, 1985) or the “unencumbered self” (Sandel, 1982)) as an untenable philosophical abstraction. The idea that humans could be viewed as separate from one another and from their own culture is viewed by the communitarians as “liberal myopia” (Bader, 2001, p. 252), or what Walzer refers to as just plain “bad sociology” (Walzer, 1984, p. 324).

Against this, the communitarians argue there can never be an individual in isolation from his community and culture. We cannot separate ourselves from our heritage, the ethical milieu in which we were raised, the set of norms and standards we were schooled in. Borrowing from the Hegelian distinction between *Moralität* and *Sittlichkeit* (MacIntyre, 1983, p. 59)[[16]](#footnote-16), the communitarians who use the second argument say that freedom is only possible and located within a particular understanding given to us by our society. Human beings cannot separate themselves so easily from their preferences, and those preferences are rooted in our histories and our cultural communities. We bring our cultural perspectives and differences into the public realm with us, and our decisions in the public realm – far from being neutral – are very much influenced by our own particularistic culture.[[17]](#footnote-17)

Communitarians accuse liberals of envisioning separated individuals who do not interfere with one another, each acting in their own closed circle. This is simply unrealistic they argue, people are always situated in a particular context and particular history. “Personal history is a part of social history,” says Walzer (1984, p. 324), no one is inseparable from the institutions that govern their lives or the relationships that give it meaning and purpose. We are not alone in creating our world vision: our choices are guided by the influence of our relatives, neighbours, coreligionists, work colleagues, and so forth (Walzer, 1990, p. 13).

Returning to the previous argument, the second argument proceeds to say that *even if* the liberal goal of neutrality were possible, it would be highly undesirable (Walzer, 1990, p. 14). Neutrality would leave our political institutions weakened and deprived of the ability to enact regulations that define legitimate collective goods, and impede those institutions’ ability to prevent those goods from being undermined (Weinstock, 1994, p. 179). Further, in convincing us of the abstract, neutral, and individualistic nature of our society, liberalism deprives us of understanding our own “communal embeddedness” (Walzer, 1990, p. 10) and thus we lose not only collective goods, but we also lose touch with our own selves.

The two communitarian arguments thus converge in stating that the influence of liberal atomism on modern society has shaped it so forcefully that meaningful associations and shared meanings are no longer recognizable to us (Taylor 1992a, pp. 1-3 and 1992b, p.10; Walzer 1990, p.10).

#### Man is a Social Animal

Rejecting the atomism of the liberals, the communitarians say we are essentially social beings. While earlier liberal critics of the 1960s referred to Marxism, the latest critics surfacing in the 1980s looked to Aristotle and Hegel (and subsequently, were more conservative in their views than earlier critics (Gutmann, 1985, pp. 308-9)). Following what Aristotle laid out in the Politics (c. 328 BCE), this wave of communitarians argued that man is by nature a social animal. For Aristotle, man needed to live with others in a community; citizenship was primarily a duty to act in accordance with the good of that community. This, for the communitarians - as it was for Aristotle - is the foundation and starting point of politics. Our identity as human agents is formed though social roles, in relation to a community of others. As MacIntyre describes it: “I confront the world as a member of this family, this household, this clan, this tribe, this city, this nation, this kingdom. There is no “I” apart from these” (1981, pp. 160-1). Thus, there are never “persons-by-themselves”, but always “persons-in-societies” (Walzer, 1984, p. 326). We do not develop individually, but alongside others. Many of these connections to others we do not make ourselves, but we inherit (Walzer, 1990, pp. 9-10). As Walzer explains, “the individual lives within a world he or she did not make” (1984, p. 324).

To a certain extent, the communitarians are saying that our choices are already laid out before us before we are born, by the society we are born into, and our position within it. We are born in certain “identities”[[18]](#footnote-18)(situation in life, certain family, certain allegiances) not of our choosing and we identify with certain groups based on the identities we are born into. Based on these memberships, a system of values is presented to us as we grow up, as Taylor puts it, our understanding of “God, the good, [or] the cosmos” are “handed down to us” (1993, pp. 216-7). Thus, the “comprehensive doctrines” (Rawls, 2003, pp. xvi-xx) which Rawls describes are inherited and not of our own creation. Developing our own self-understanding is tied to understanding the society we live in and our own position and role within that society. There is some room for movement and choice, yet this is largely circumscribed by the norms and social patterns of our society. As Walzer says “by acting in more or less distinctive ways within the patterns, networks, and communities that are willy-nilly theirs.” (1990, pp. 9-10).[[19]](#footnote-19)

*“Modern social imaginaries”* is a term coined by Charles Taylor to describe the relevance of culture and community to our lives through the lens of the social. Borrowing from Benedict Anderson’s famous notion of “imagined communities” (Anderson, 1983/2003), Taylor developed the concept of modern social imaginaries as the “socially shared ways in which social spaces are imagined.” (Taylor, 1998a, p. 196). The modern social imaginary is basically a “map of social space” that sets the tone, the limits, and the pace of a society. Taylor says that though it can be influenced by theory, it is unlike theory in that it is accessible to all; it speaks in a language all can immediately understand, for it sets the social standards of acceptable actions. Yet, despite its prevalence and its ease of being quickly grasped, those who know it can never adequately capture or sum it up. Our modern social imaginary is too diverse, too “unlimited and indefinite” to pin down explicitly (Taylor C. , 2004, p. 107). Like magic and myth, it lays beyond the scope of instrumental reason. It has deeper sources that go beyond pure logic or calculations but get to the very heart of our being, portraying what we are now, and what we aspire to become. Standards of right and wrong, good and evil, just and unjust are only possible within a closed community of shared beliefs and traditions. Social imaginaries are thus the “common understanding that makes possible common practices and a widely shared sense of legitimacy” (Taylor C. , 2004, p. 106). Without such solidarity on societal values, and a standardized education to inculcate those values, there can be no justice, nor valour or achievement (MacIntyre, 1983, p. 591). As Mark Redhead author of *Deep Diversity* notes, the communitarians say this is because our identities are “always partly defined in conversation with others or through the common understanding which underlies our practice of society” not on their own (2002, p. 85). Walzer also describes how in the political community we come closer than ever to “a world of common meanings. Language, history, and culture come together…to produce a collective consciousness” (as cited in Bader, 1995a, p. 219). Our humanity is stamped upon us by social practices and the institutions that shape them.

Like a map that assists us in physical navigation, the social imaginary helps us to navigate the social world: knowing when to say what, in what situation manners are required, to whom should we display affection and respect, and in what ways (Taylor, 1993, pp. 216-7). This “social” map varies from society to society. For the members of any given society, the social map is an unreflective understanding, as Taylor calls it, “second nature to us” (Taylor, 1993, pp. 216-7). Taylor explains by referring to Bourdieu’s “habitus”, the habits and behaviour that are trained and instilled in us from birth, such that we do not even think about them but accept and understand them naturally (Taylor, 1993, pp. 216-7).

Indeed, for communitarians culture is the path to human freedom. We do not choose our culture; it chooses us. After all, say the communitarians, our culture provides the horizon of meaning in our lives and as such guides and dictates the choices we make, in Taylor’s words, as “transcendental conditions” (as cited in Weinstock, 1994, p. 174). Culture is therefore critical for self-development. Our culture is a context of choice that gives our lives meaning and value. Only *my* culture can give *my* life meaning, show me what is valuable, what is to be cherished, what is the “good life”. We ourselves are not capable of actually *choosing* the good life; instead, the communitarians say it is already set within the map of socialization in which we were raised, such that, to find the good life, we only need look deep inside ourselves *to discover* it. As Taylor says, “

For each individual to discover in himself what his humanity consists in, he needs a horizon of meaning, which can only be provided by some allegiance, group membership, cultural tradition. He needs, in the broadest sense, a language in which to ask and answer the questions of ultimate significance (Taylor, 1993, p. 47).

But while our freedom of choice is circumscribed by our culture it is also made possible by our culture. Freedom, say the communitarians, is in living in accordance with those cultural guidelines, possible only when we are given the *ability* to live according to our deepest convictions (Van De Putte, 2003, p. 73). To deny access to a stable cultural structure is therefore to deny access to something integral to our human freedom.

#### The Need for a Common Good or the Need to Be in Common?

Since we are such cultural, community-centred beings, the obvious question when faced with a pluralistic society Charles Taylor poses is “How can people live together in difference granted that this will be a democratic regime, under conditions of fairness and equality?” (Taylor, 2011, p. 142) If culture is so important and is second nature to us, then what happens when a group within our group does not share the same cultural “*habitus*”[[20]](#footnote-20) with us? For Taylor, it is clear: when minorities live within a larger society they are disoriented and at a disadvantage because the social map that tells them how to live and behave is dissimilar to that of the ruling majority culture.

Taylor’s argumentation proceeds as follows: It makes sense that if the state has a standard education and institutions that reflect a particular official language and culture, that this is “obviously an immense advantage to anyone if this language and culture is theirs” (1998a, pp. 193-4). Put differently, if your political systems do not reflect your own language and culture, then you are going to be disadvantaged against those whose language and culture it does. Taylor is rightly concerned about what the disadvantages faced by minorities means for the legitimacy of our democracies. If a particular group is isolated in some way from the public sphere, unable to contribute on equal terms with their fellow citizens, restricted from communicating freely in their own native tongue and feel unrecognized by the state, then as Taylor points out, there is a genuine problem of democratic legitimacy. (1998a, pp. 193-4) As Taylor says,

We see that the modern state must push for a strong common identity. And thus, *if* a group feels that this identity does not reflect it, and *if* the majority will not accommodate by modifying the definition of common identity to include this group, then its members feel like second-class citizens, and consequently experience an assimilative pressure. Trouble of some sort must follow. (1998a, p. 203)

Taylor casts his defence of group rights as a defence of democracy where decision-making is shared by free and equal autonomous subjects. Democracy requires a degree of patriotism and nationalism “can provide the fuel for patriotism” (Taylor, 1998a, p. 229). Those who are outside the main cultural or linguistic background of the majority feel isolated and silenced. Minorities of course, who thus find themselves at a disadvantage, naturally wish to be removed from this unequal position and begin to contest to have their own language and their own state borders. From this, says Taylor, the national instinct is born (Taylor, 1998a, p. 234).

 Taylor makes a case for measures of recognition for ethnic and linguistic minorities, since it is important for communitarians that the people share common goals and identities. Indeed, Walzer calls membership in a community the primary good to be distributed (1983, p. 31).[[21]](#footnote-21) Communitarians conclude that ethnic communities should live and be ruled separately.

### Flaws in the Communitarian Critique

A non-liberal theory however, communitarianism tends towards saying that culture is a key value, worth preserving even it is means sometimes sacrificing the individual will for the common good or communal interest (Kymlicka, 2000a, p. 28). Illiberal measures can be justified and implemented to protect culture, which is to be preserved at all costs, even if it means the loss of individual freedom. Measures such as denying women voting rights – much to the consternation of feminists – could be justified if the cultural community traditionally advocated this. As Amy Gutmann points out, whereas earlier Marxist critiques of liberalism in the 60s viewed “the role of women within the family [as] symptomatic of their social and economic oppression”, a near counterview is found among more recent communitarians wherein “the family serves as a model of community and evidence of a good greater than justice” (Gutmann, 1985, p. 309). While the communitarians are correct in pointing out the value of community and the importance of culture, the cultural structure depicted by communitarians is rigid and unchanging, circumscribing our horizon of choice.

As Gutmann points out, the extremeness of the communitarian position leads “into a series of dualisms” which are neither helpful for advancing liberalism nor the communitarian project itself, and “tyrannizes over our common sense” (Gutmann, 1985, p. 317). She continues,

The communitarian critics want us to live in Salem, but not to believe in witches. Or human rights. Perhaps the Moral Majority would cease to be a threat were the United States a communitarian society; benevolence and fraternity might take the place of justice. Almost anything is possible, but it does not make moral sense to leave liberal politics behind on the strengths of such speculations. (Gutmann, 1985, p. 319)

As Goodman says, however, the Priority of the Right and the Priority of the Good are not in a zero-sum position. The communitarian critique misses the point that liberal politics is well suited “for reconciling rather than repressing most competing conceptions of the good life” (Gutmann, 1985, p. 318).

Contrary to the liberal position, communitarians would have us enshrine a *particular* culture in law and protect it from influx of change. In a sense, our freedom of choice is determined and limited by our culture; as Kymlicka says, “communitarianism is defined by its rejection of the liberal view about the importance of being free to revise one’s ends” (2000a, p. 27). Though we are free to choose, it is a limited freedom; the sets of choices we make are constrained to the cultural structure we were born into. Yet this poses several serious risks. First, a protected culture may become stultified, outdated and unreflective of the naturally occurring changing beliefs of its members. Non-reflective, frozen cultures can no longer properly – to borrow Taylor’s term – “map” the social anatomy of the group.

The communitarians criticize liberals for being blind to the differences of minority groups. They assert that minorities need their rights protected, part of those rights include the ability to choose based on their cultural preferences and not to have those preferences disallowed simply because the dominant majority deems those preferences unworthy. Yet despite this, and although one of the main critiques of the communitarians against the uniform system of rights and privileges of liberalism is that it is blind to difference, the communitarians unwittingly perpetuate a similar neglect of difference through seeing communities as discrete units that are linked to a primordial past and bound to pre-established rules and moralities. Though the communitarians critique the liberals for their flawed and abstract intellectualist conception of human nature and society, they overly neglect important findings made by recent sociology including important post-structuralist works by thinkers such as Derrida, Bourdieu, and Foucault, who helped us to see the ways that culture is continually reinterpreted, reinvented, and renegotiated. Culture (and indeed selfhood) properly understood in this light is not coherent and static but in a continual process of becoming. We are not circumscribed by our cultures nor chained to our culture indefinitely.

Humans can alter their culture, adapt it, and grow with it over time. As Seyla Benhabib aptly puts it, engrossed with their critique of the “unencumbered self” the communitarians have forgotten Kantian “noumenal agency” and “reflexive role-distance” (Benhabib, 1992, p. 45). While embracing of the significance of our communities for constituting our identity, they unwittingly lead towards conformist stances and an uncritical stance on duties and obligations, says Benhabib. She warns the communitarians, that if they wish to:

Be able to differentiate their emphasis on constitutive communities from an endorsement of conformism, authoritarianism, and from the standpoint of women, patriarchalism, they should not reject the specifically *modern* achievement of being able to criticize, challenge, and question the content of these constitutive identities and the “prima facie” duties and obligations they impose on us” (Benhabib, 1992, p. 46).

In this sharp critique, Benhabib adeptly illustrates the deficiencies in the communitarian standpoint, which through its rejection of modernity, liberalism and Enlightenment reasoning, pits culture against liberalism in a zero-sum game.

Cultural communities are not uniform, nor are they static over time. This dangerous tendency towards essentialising cultures and peoples naively ignores the intersecting relations of cultures and the overlapping horizons of choice they offer. The difficulty with the communitarians’ conclusions is that they can easily lead to resistance to internal change of the cultural community. Such protection of a culture can lead to it becoming frozen in time. “Mummification” is a term introduced by Frantz Fanon, to describe a traditional culture which has become essentially frozen: while it may remain fashionably referred to in certain circles (particularly among academicians and the colonialists themselves), it is nonetheless disconnected from living communities (as cited in Cornell & Murphy, 2002, p. 422). Cornell and Murphy elaborate on Fanon’s definition of mummification as:

The future orientation of the culture as incarnated by its members is ignored in favour of only apparently respectful attention paid to a stilled and silent image, a synecdoche that is forever split off from the whole living world to which it refers (Cornell & Murphy, 2002, p. 422).

This “respectful” and perhaps condescending treatment of traditional cultures often engrains colonial supremacy in reverse; no longer annihilating cultures physically colonialism takes on a new form of enslavement through creating unchained stilled images of their former selves. As such, official recognition can actually “mask continued cultural hierarchization associated with Eurocentrism” (Cornell & Murphy, 2002, p. 422).

A further tension apparent in the writings of the communitarians (which later we will also see appearing in the works of Kymlicka) is that identity politics should on the one hand be actively articulated by group members (invoking currents of change and new understandings), and on the other hand, should be defined by group members seeking to distinguish themselves from non-group members (essentialised cultures). As Mark Redhead explains in Deep Diversity, “Identity/difference claims are inherently unstable, contestable, revisable and negotiable. Yet to found a politics, they must be presented as if they were not so” (Redhead, 2002, p. 123). In other words, while seeking political recognition, groups often present themselves in exaggerated terms, pronouncing their *difference* vis-a-vis other groups, which is not always an accurate mapping of their social reality.

Lastly, the communitarians point out the way that liberalism is flawed for delegating culture to the private sphere, for pretending it has no influence over our political institutions. Yet, they implicitly remove culture from the political agenda when they protect culture against currents of change and remove them from public scrutiny and dialogue. To the contrary, Weinstock says that challenging and redefining our mythological conceptions and constructed histories is necessary for a healthy and functioning democracy. He says that “the state should defend standards of evidence and free enquiry so that the members of different sub-groups can participate in a spirit of openness and mutual toleration” in what Weinstock argues is an “ongoing moral debate” (1994, p. 183). A further critique comes from O’Neill, who argues that there are three important factors the communitarians forgot: 1. Although our identities are developed together in groups, they are also developed on a smaller, more personal scale; 2. Various group memberships overlap one another, reducing the importance of one particular membership over another; and 3. Groups are not naturally closed, but have much movement back and forth between them, with many living along the periphery (O'Neill, 2003, pp. 376-7). In other words, while group memberships do contribute significantly to our self-understanding, they are not the only things that matter to it and their importance is largely over-exaggerated by the communitarians.

#### The Good Life Under the Microscope

As put forward by Bellah et al. in “Habits of the Heart”, the language of liberalism is only capable of spelling out our differences, it has no ability to capture the reasons for our solidarity and why this adds so much meaning to our lives – in sum it cannot show us the meaning of “our own heart’s habits” (as cited in Walzer, 1990, p. 10). The authors argue that “American individualism”, takes a “sink-or-swim approach to moral development as well as to economic success” which does not benefit the community in the long run (Bellah, Madsen, & Sullivan, 2007, p. xiv). This form of fierce individualism has, they posture, only survived because it has been “checked” by other strong moral currents running through American society (Bellah, Madsen, & Sullivan, 2007, p. xv). This theoretical deficiency leads us in practice to fail to form effective and meaningful associations.

In a similar vein, Charles Taylor says in his 1989 article “Cross-Purposes: the Liberal-Communitarian Debate” that “common allegiance to a particular historical community” sharing a “socially endorsed end” is needed to promote civic pride in a country’s cultural and legislative institutions (as cited in Weinstock, 1994, p. 182). Liberal “neutrality” means that there is no place for advocating a particular conception of the good (Walzer, 1990, p. 16). Communitarians on the other hand, require that a specific conception of the good be endorsed, that is “*deliberately* non-neutral” (Walzer, 1990, p. 16)[[22]](#footnote-22). In other words, the identity of a society ought to be reflected in its political institutions and its educational settings.

This leads the communitarians however towards a major contradiction of their very aims: the communitarians aim to acknowledge difference but since they still view cultures in terms of uniformity they are unable to solve the problem of difference and how to make a plural society work. In a sense, the communitarians replicate the very failures they attribute to the liberalists for improperly addressing "difference". In the end, both traditional Liberal arguments and those of the communitarians fail to adequately resolve the issue of minorities.

#### The Beginnings of Liberal Culturalism

In defence of liberalism, Walzer writes that while liberalism is a “self-subverting doctrine” in need of “periodic correction”, it should not be argued that the liberal doctrine itself is unintelligible or that pre-modern times were better ages than the present (1990, p. 13). Walzer admits that the communitarian arguments have some inherent contradictions and thus, communitarian detractors of liberalism will always be coming in and out of fashion like corduroy jeans or pleated pants (Walzer, 1990, p. 6). Communitarianism, implies Walzer, is largely a corrective more than a self-standing theory on its own. Gutmann also agrees (Gutmann, 1985, p. 320), and says that the communitarian critique can be viewed as a reminder to ourselves that we are not merely isolated individuals but are also communal beings. These authors remind us that even our liberalism itself is an outgrowth of a culture of a particular historical community.

The communitarian challenge to liberals is then: can we have liberalism that can think culture and community? (Gutmann, 1985, p. 320) Do group/minority rights have a place within liberalism? Can liberalism think culture without sacrificing the individual on the altar of group rights? Can we begin to think both equal and different at once? Can we create a community of equals that values each other’s unique points of view and the benefits they contribute to the common good? Indeed, can there be a common good for a community of different individuals?

It did not take long for the liberals to respond back in kind against the critiques that had been launched at them. A politics of recognition and of difference rooted in liberalism arose. As Bader and Engelen say, political philosophy has been grappling with finding a way to “construct a ‘contextualized morality’ that is sensitive to the particularities and complexities of actual moral reasoning but does not succumb to the temptations of relativism” (Bader & Engelen, 2003, p. 375). Liberal thinkers such as Miller (1995), Spinner (1994), Margalit (1996) and Raz (2001) began to emphasize the importance of group for the well-being of its members. Habermas (2004) spoke about how cultural rights can set a framework for tolerance, and in light of the aforementioned criticisms, Rawls himself revisited his own theory (Rawls, 2001).

It is within this context of these back and forth arguments about the importance of culture versus the importance of the individual that we must understand Kymlicka’s theory. Kymlicka, writing in favour of both group rights and of liberalism sought to overcome the divide between culture and neutrality and to sew the liberal tradition back together once again.

## Chapter 2In Defense of Liberalism

A staunch liberal, Kymlicka wants to defend the liberal tradition against communitarian detractors who strongly challenge liberalism’s ability to respond to issues of culture. As previously described, communitarian advocates of group rights are quick to point out a lack of accommodation of difference in the liberal tradition. The history of liberalism, they say, is devoid of any substantive contribution towards thinking about culture and diversity. Liberalism, swept away in its search for universally valid principles, ignored the fact that all principles arise from particularistic cultures. Based on a deeply flawed concept of the human person, liberals deduced that culture had no place in the public sphere wherein all individuals would, free from the vulgar constraints of cultures, finally meet one another as true equals. Communitarian critics argue that based on this impoverished understanding of culture and the human person, liberal theory is ill-equipped to respond adequately to the needs of our increasingly plural societies.

Will Kymlicka, in his theory of multicultural citizenship, mirrors these critiques by describing how contemporary liberalism inadequately responds to the needs of minorities. Kymlicka aims to differentiate himself from other communitarians however (he places strong emphasis on setting himself apart from Walzer in particular) through his insistence that the liberal tradition can in fact be made to accommodate difference. Though contemporary liberals have typically looked unfavourably upon group rights, perceiving them as a threat to liberal equality, Kymlicka believes they can be justified by the liberal tradition in what he and others have termed “liberal culturalism” (2001b, pp. 39, 43). Indeed, the development of his theory of multicultural citizenship and minority rights can be seen as an attempt to provide justification of a liberal support for group rights. Kymlicka’s marriage of liberalism and its rugged individualism with group rights marked a turning point in multiculturalism studies. As Beiner remarks, this move can either be viewed positively as having “expended the boundaries of liberalism in order to accommodate the concerns of communitarians, multiculturalists, and nationalists” or alternatively, it can be frowned upon as having “put liberalism in the service of multiculturalism” (Beiner, 2003, p. 210).

To support his claim that liberalism can and in fact does accommodate difference, Kymlicka’s approach combines normative arguments with interpretive empirical evidence to justify liberalism and its compatibility with minority rights (Favell, 1998, p. 4)[[23]](#footnote-23). Kymlicka aims to show, that the liberal tradition is not, and has not been, so uniform on its stance towards minorities as the communitarians seek to describe it. Indeed, in pointing out the diversity of views captured by liberal thinkers themselves, he states that “there is a considerable range of views on minority rights within the liberal tradition” (Kymlicka, 1995, p. 53). While it is beyond the scope of his work to provide an exhaustive survey of the variety of different perspectives on minorities, he gives a solid representative sampling from the liberal tradition. In doing so, he tries to demonstrate how - perhaps unconsciously - liberal thinkers implicitly made room for the coexistence of culture and liberalism. Armed with this repertoire of liberal support for minority rights, he then develops his own arguments for the need to tie group rights to liberalism, which I explore in detail in the coming chapter. Before we delve into Kymlicka’s own arguments however, let us first consider the sociological and theoretical cases he presents us with which form the germinal for his theory’s subsequent development.

Kymlicka’s sociological arguments in defence of liberalism are deeply tied to his understanding of the theoretical developments that occurred within the tradition to which the communitarians took issue, as elaborated in Chapter One. His quasi-sociological/historical interpretation of the background events and attitudes that led the development of liberal theory to its present form, aims to show that liberal neutrality was very much a reaction both for and against popular movements in western societies and that the liberal tradition itself need not be constrained to such narrow attitudes towards culture.

### Sociological Case for (and against) Cultural Liberalism

When examining the history of liberal thought, Kymlicka tries to frame it within the context of the societies in which it arose. He states that for most liberals, the issue of creating spaces of difference simply was never a topic of great concern. Indeed, to the contrary, until recently difference meant division and instability and was therefore regarded by many political thinkers in mostly negative terms, whereas a common identity - particularly wrapped in nationalist garb - was considered a key to peace and stability. Multination federations were generally considered inherently unstable (Kymlicka, 1995, pp. 52-3).

Kymlicka reminds us that J.S. Mill (unlike Kant), writing in the age of imperialism, did not consider forced assimilation or transfer as inappropriate in the way we would abhor to view them today, or that it was problematic for borders or populations to be moved to to align with the “natural” boundaries of the nation (1995, pp. 52-3). If Mill and his colleagues did consider these actions to be a form of violence, it was justified to secure the stability and peace for the greater nation. After all, until only a few decades ago colonisation was popularly considered a “*mission civilisatrice*”. It is against this background, far removed from our attitudes about culture today, that many influential liberal theorists wrote.

Despite general the negativity towards difference held by liberal thinkers, Kymlicka outlines numerous instances in the pre-war period where liberals did give pause and support to the idea of minority rights, tying this in with western colonizers who were educated in liberalism and who found themselves in the colonies facing situations for which their textbook liberalism had no answers (1995, pp. 54-5). This “openness” on the part of liberals towards the concept of group rights faced a strong reversal in the post-war period, with the concept of liberal neutrality coming to the fore and any talk of minority rights being cautiously avoided. Kymlicka attributes this to three (quite unrelated) historical developments that impacted policymaking in America: 1. The abuses of the League of Nations minority rights schema; 2. The Civil Rights movement in America; and 3. What Kymlicka terms an “ethnic revival” among immigrant groups in North American society.

#### The Abuses of the League of Nations Minority Rights Schema

The world wars had an immense impact on the Anglo-American political position and the subject of minority rights. From this point onwards, points out Kymlicka, a radical shift occurred away from the comparatively open attitude of speaking about cultural communities and their significance to a much more cautious view (1995, p. 57). He points out that the abuses of the Nazis served a harsh reminder for liberals of the dangers of minority rights used wrongly. In World War II, the Nazis in Germany, after all, had used the minority rights treaties established by the League of Nations as a pretext for war and irredentism by citing a failure to protect German minorities in neighbouring countries. Such abuses of minority treaties became a clear signal of alert to political scientists who had seen the worst abuses committed in the name of “protection” of minorities during the war (Kymlicka, 1995, p. 57).

#### The civil rights movement

Second, establishing liberal neutrality as an ideal was further reinforced by another historical event of an altogether different nature, but with equal dissatisfaction about the abuses of “separate but equal” laws and their discriminatory potential: the Civil Rights movement in America (Kymlicka, 1995, p. 58). The civil rights movement saw the passing of a series of key statutes set to establish equality for all American citizens, regardless of their racial or ethnic background. In America, racial difference had come to stand for exclusion and separation in its most negative and derogatory form, segregation that sought to elevate some through the degradation and suppression of others. In the shadow of the civil rights movement, minority rights came to be viewed as inseparable from intolerance and subjugation. The notion of having different laws for different peoples came to be seen as inherently discriminating and instead the ideal of a “colour-blind” (neutral) constitution arose in its place, in which fairness entailed giving equal opportunities to all – regardless of racial or group affiliation (Kymlicka, 1995, pp. 58-9)[[24]](#footnote-24).

Kymlicka argues that in light of the abuses of minority schemas established by the international community after the world wars, and in the long shadow cast by the intolerances of the history of segregation in America, Anglo-American political philosophy took on a very uneasy and awkward stance on culture. From this, we can extrapolate that the reassurance of liberal “neutrality” was as much a retreat into silence on the difficult questions of minority rights, as it was an escape from the tarnished histories it exposed.

#### Ethnic revivalism

Kymlicka follows these arguments with a third sociological argument of a very different nature, about the rise of ethnic social movements in the United States in the 1960s and 1970s. Kymlicka argues that during this period, ethnic groups began to increasingly challenge the assumption that unity was to be found in a single coherent national identity, particularly what he terms the “Anglo-conformity” model, whereby immigrants to the United States were expected to leave their culture at home and come to the political table as assimilated Anglo-Americans (1995, p. 61). Kymlicka argues that this threatened a number of liberals (politicians and thinkers) who believed the rise of ethnic movements to pose a challenge for liberalism and therefore they reinforced the importance of adherence to the ideal of liberal neutrality (1995, p. 61). In particular, Kymlicka is concerned here not with the challenge that ethnic groups posed for American identity during this period (which, as an immigrant society has never been in question); instead, it is the *national* question that Kymlicka emphasizes. Kymlicka states that the adherents of this ethnic revivalism began to use nationalist terms like “nation” and “people” to define their group identity and began demanding having independence rights and having institutions in their own national languages (1995, p. 62). These demands, Kymlicka concedes, originated only from a small minority from among the ethnic groups in North America; however, he argues that this development nevertheless made many liberals nervous about the prospect of group rights and what it would mean for liberalism (1995, p. 62).

Thus, in wake of WWII, the civil rights movement and the end of colonial regimes, any suggestion of “separate but equal” laws was taken with great scepticism by liberals. This attitude was further reinforced by the rise of humanitarian law and the codification and legislation of international human rights which placed an emphasis on the universal rights of man and which further tied legitimacy for statehood with a single nation. Kymlicka warns us, along with others (Anaya, 1995), that such legislations potentially endanger the rights claims of many minority nations seeking self-determination. In this light, recognition of and codification of special rights to minority groups, indigenous peoples, migrant workers, and asylum seekers is to be seen as a very recent and young development; however, Kymlicka aims to show us that such trends are not altogether without precedents in the liberal tradition.

### Theoretical Cases For (and Against) Cultural Liberalism

While Kymlicka refers to the writings of a variety of contemporary liberal theorists (particularly in his book *Liberalism, Community, and Culture*), the principle liberal authors he refers to are John Stuart Mill and John Rawls. These two authors signify for Kymlicka the difference between contemporary liberalism (as represented by Rawls) as it stands against earlier liberal thinkers (as represented by Mill) for which culture carried an altogether different significance. By quoting extensively from both Rawls and Mill among others throughout his writings, Kymlicka throws light on the paucity of their respective theories with respect to culture, yet also pinpoints the kernels from which a cultural liberalism could form.

Kymlicka begins by acknowledging that the majority of liberal thinkers have held group rights in particular and culture more generally with suspicion (Kymlicka, 1989, pp. 140, 154). As we have already mentioned, for the majority of liberals culture meant dissonance, disagreeableness, intolerance, conflict – none of which were appropriate for a well-functioning nation. Nevertheless, Kymlicka seeks to point out that despite the general aversion towards group-specific rights there is an acknowledgement by some liberal thinkers that diversity is actually good and healthy for democracy. Kymlicka hopes to build from these precedents in order to bridge equality and difference in liberalism.

#### J. S. Mill

J.S. Mill is one of the authors from which Kymlicka draws many of his arguments about the inhospitality of liberalism towards difference and yet within these early liberal writings Kymlicka still finds grounds for his cultural argument. Quoting repeatedly from Mill throughout his writings, Kymlicka points out how Mill considered uniformity as necessary for democracy. Quite simply, Mill says that borders should match populations. After all, democracy required a “people” and hence a common national identity, which as Kymlicka tells us “in the nineteenth century, the call for a common national identity was often tied to an ethnocentric denigration of smaller national groups” (1995, pp. 52-3).

Kymlicka refers to how Mill maintained that not all nations have the entitlement to statehood or protection and that small, backward nations like the Scottish highlanders or the Basques should be subsumed into more viable, robust ones (Kymlicka, 1995, p. 53)[[25]](#footnote-25). As he says, Mill considered multilingual states highly undesirable for the political process would be so hampered by disunion in public opinion that democracy would be “next to impossible” (as cited in Kymlicka, 1995, p. 160). Kymlicka quotes Mill as saying,

Among a people without fellow-feelings, especially if they read and speak different languages, the united public opinion necessary to the workings of representative institutions cannot exist….[It] is in general a necessary condition of free institutions that the boundaries of governments should coincide in the main with those of nationalities (as cited in Kymlicka, 1995, p. 53).

Kymlicka takes these statements by Mill and ties them to the main thrust of his theory and his insistence on the need for a common national identity. This common national identity, he states, led Mill and others in the nineteenth century to denigrate other groups such as the Basques or the Scottish, who said they ought to dissolve and join greater nations rather “than to sulk on his own rocks, the half-savage relic of past times…without participation or interest in the general movement of the world” (as cited in Kymlicka, 1995, p. 53). In other words, Kymlicka says that clinging to smaller national identities in this era was considered against the movement of progress, towards which an assimilative nationalist drive was seen to be the answer.

Yet, Kymlicka points out that early liberal thinkers such as Mill did not have issues with “cultural membership” in the way that contemporary authors have had following the world wars. Nor was there an insistence, that culture should remain a “purely private matter” (Kymlicka, 1995, p. 53). Thus, while Mill saw cultural diversity itself as a negative thing, Kymlicka posits that nationalism, along with the need for a single national common culture, was viewed by such early liberals like Mill as critical for the rise of freedom.

Kymlicka goes on further to describe other early liberal thinkers in brief, notably Lord Acton, who contrary to Mill, did support what might anachronistically be called multiculturalism, in stating how he held the diversity of opinions brought to the political discussion by minority groups was a strong check against state power (Acton, 1922, pp. 285-90).[[26]](#footnote-26) Acton believed, similar to Kymlicka, that cultural flourishing and differences were necessary and healthy for a liberal democracy. Indeed, Acton quite notably once stated that “The most certain test by which we judge whether a country is really free is the amount of security enjoyed by minorities” (Acton, 1909, p. 4). Kymlicka takes care to outline how Acton believed that multi-nation states by virtue of their diversity and multiplication of associations, help promote freedom because they reduce government interference and imposition (1995, p. 53). Contrary to Mill, Acton rejected the concept of a uniform nation.

Thus, Kymlicka finds that earlier liberals were able to speak more easily about culture and nationalism than their contemporary counterparts. Indeed, as Kymlicka says, none of the earlier liberals endorsed the commonly held contemporary liberal view that culture need be restricted to the private domain (1995, p. 53). Further, Kymlicka alludes that particular culture to which earlier liberals unabashedly advocated was one’s national culture, for common to these early liberal theories, was that “‘the cause of liberty’ often ‘finds its basis in the autonomy of a national group’” (Kymlicka, 1995, p. 75). In highlighting the viewpoints of these earlier liberals on culture, Kymlicka suggests that when we accuse the liberal tradition of having a narrow position on culture, we should look not only to a recent segment of that tradition, which has been highly shaped by the above-mentioned historic events, but instead must take a more nuanced look over the development of the tradition as a whole.

#### John Rawls

John Rawls was one of the world’s leading authorities on liberalism, recognized for his strong contributions to political philosophy and for envisioning a tolerant, democratic political order. Rawls’ signature work, *A Theory of Justice* (1971) set out to describe the principles of justice, whereby moral citizens can live in fairness, equality and freedom. Kymlicka styles himself a Rawlsian and although Kymlicka believes that Rawls did not address the issue of pluralism adequately, he finds that his overall theory of liberalism does not negate the possibility of minority group rights - though in its initial and even revised formulation it also did not *support* minority rights (Kymlicka, 1995, pp. 93, 158-164). We will investigate the reasons why Kymlicka feels this way about Rawls’ theory later on, but for now, let us first examine what Rawls said, and what were his aims in developing his theory.

One of Rawls’s chief aims in developing his theory was to provide an alternate concept of justice to the dominant strain of utilitarian ideas in the liberal tradition (see Gutmann, 1980, pp. 141-155)[[27]](#footnote-27). Behind the principle of utilitarianism, lays the concept that happiness ought to be maximised, no matter what the means. Whenever there is a choice at hand, the solution according to Benthamite utilitarianism is that of calculating the greatest utility; i.e., that which promotes the greatest state of profit or benefit for the majority ought to be the correct choice – even if one’s actions do not exemplify the values they seek to promote (Gutmann, 1980, pp. 25-6). This of course runs in sharp contrast to Kantian deontology, wherein duty would forbid sacrificing a principle (i.e., the taking of life) in order to achieve a certain end (i.e., saving many lives) (Fitzpatrick, 2008, p. 58). Thus, while Kantian ethics points towards absolute values, utilitarianism swings to the opposite extreme and descends to moral relativism, and as such has been criticized for its impoverished and impersonal morality. Rawls does not find utilitarianism to be an adequate solution for providing justice, and therefore aims develop the traditional social contract theory strain of thought and which he finds to be the most moral and equitable solution for a just society (Kymlicka, 1988, p. 174).

Rawls’ theory is therefore heavily influenced by the writings of Kant. As he says, his theory does not contain new ideas but is based on ideas already firmly present in the classical literature of the liberal tradition; however, he wishes to bring the theory to a “higher order of abstraction” than the liberal social contract tradition typically provided for, so as to make the principles more clear and applicable (Rawls, 1971, pp. viii, 3). As we have already discussed in the previous chapter, one of the main criticisms levelled against the liberal tradition was that it was too abstract and universalistic in intention to properly map reality. Many of these criticisms were directly levelled towards Rawls himself, but they were also directed towards the underlying Kantian deontology present in this theory, and its univocal and universalistic pretensions. Let us examine this in more detail.

For Kant, the essence of reason is universal validity; “every human will is a will that enacts universal laws in all its maxims” (4:432) (as cited in Hill Jr., 2009, p. 102). Kant’s moral philosophy establishes firmly that the human rational will is autonomous and that the universal moral laws that guide our ethical standards and principles are freely held; i.e., the law to which the rational being must submit does not originate in an imperative laid down by others or by God but originates within oneself (Fackenheim, 1996, pp. 21-26)[[28]](#footnote-28). Thus, one is free when one acts out of a sense of duty in accordance with this universal law, which Kant calls the Categorical Imperative. The Categorical Imperative can be discerned by all rational beings and is binding on them. It answers the questions: What ought I do? How ought I treat others? The answer Kant formulates is: “I ought never to act except in such a way that I could also will that my maxim should become a universal law”(4:402) (as cited in Hill Jr., 2009, p. 4) meaning that one should never take an action unless they would deem it suitable to be applied universally in every situation.

Significant for us, is how Rawls develops the Kantian ‘Realm of ends’, the extension of the categorical imperative into the ideal political society. In the Realm of Ends, everything has either price or dignity. Those things that are an end in themselves do not have relative worth (price) but an intrinsic worth (dignity). Our reason prevents us, argues Kant, from sacrificing our and others’ humanity to personal interests or ends. The human being, reasons Kant, can never be a means to an end, but is always an end in itself and deserves our respect based on the intrinsic worth of their existence as a human being. The Realm of Ends, therefore, is an ideal state in which there is a “systematic union of different rational beings under common laws.”(4:433) (as cited in Hill Jr., 2009, p. 107), or in other words, a society of rational beings following the legislation laid upon them, which they shared equally in creating.

Such Kantian elements clearly underlay the ideas Rawls develops in his *Theory of Justice*, which he himself describes as “highly Kantian in nature” (Rawls, 1971, p. viii), and are particularly evident in his allegory of the ‘veil of ignorance’, which will be described in the coming pages. Rawls is concerned that individuals are assigned their fair shares of primary social goods, such that they can each pursue their own conception of the good. One of Rawls’ key insights is to treat justice as fairness (Rawls, 1971, p. 3). Justice, for Rawls, means giving the people an equal opportunity, in spite of the varying life circumstances they were born into that are beyond their control.

Rawls’s opus, *A* *Theory of Justice*, has strong Kantian echoes, and is founded upon a hypothetical situation in which a group of individuals must decide together the fate of their society. This hypothetical situation runs very similar to a zero-sum prisoner’s dilemma with the participants seeking to pursue their own self-interest through taking into account the self-interest of other individuals composing the group[[29]](#footnote-29). The allegory runs as such: All of the individuals who compose the group are blinded by a veil of ignorance (what Amartya Sen refers to as a “situation of primordial equality” (Sen, 2009, p. 54)). Though they are of diverse ages, gender, races and professions, when they meet together to decide on the laws of the future of their society, they become ignorant of their position and identity in that future society. For example, the priest does not know if he will be a priest in the future society, or if he will play some other role such as a fireman, the woman does not know if she will be a man, the Christian does not know if she will be a Hindu, the rich do not know if they will be poor, etc.

This position of blindness to our own particulars is what Rawls calls the “original position” (Rawls, 1998a, p. 62). As Rawls says of the original position,

The reason why the original position must abstract from and not be affected by the contingencies of the social world is that the conditions for a fair agreement on the principles of political justice between free and equal persons must eliminate the bargaining advantages which inevitably arise within background institutions of any society as the result of cumulative social, historical, and natural tendencies. These contingent advantages and accidental influences from the past should not influence an agreement on the principles which are to regulate the institutions of the basic structure itself from the present into the future (Rawls, 1998a, p. 62).

From this, Rawls draws the conclusion that in any reasonable society, those constituting such a group of free and equal persons (excluding “threats of force and coercion, deception and fraud, and so on (Rawls, 1998a, p. 61)) would agree to two fundamental principles: that of *equality of freedom* and that of *equality of opportunity*. Justice requires all citizens be accorded the same rights and liberties, promoting them over the general good (*Priority of the Right* over *the Good*) (Rawls, 1998b) and that citizens will be given sufficient opportunities (or means) to effectively use these freedoms. As Kymlicka says, “equal consideration requires that people adjust their pursuit of the good in light of the equal claims of others” (Kymlicka, 1989, p. 39). Equality is the foundation of justice and any advantages should be balanced among all citizens. Though the citizenry is diverse, Rawls says that they will opt to support the same basic concepts of justice in light of the desire for equality. This is possible because although the laws may be uniform, the individual relates to them in a non-uniform way deriving meaning and justification based on reasonable arguments drawn from their own separate comprehensive doctrines. Rawls says that

Public reason is not a view about specific political institutions or policies. Rather it is a view about the kind of reasons on which citizens are to rest their political cases in making their political justifications to one another when they support laws and policies that invoke the coercive powers of government concerning fundamental political questions (Rawls, 2000, p. 165).

Such public reasoning does not mean abandoning our comprehensive doctrines, indeed, public reasoning is needed precisely because there will be different and incommensurable doctrines within our society. What liberalism does require is that we should be able to rationally argue our positions to give them public justification and be able to accept the reasonable and rational arguments of others. As Monique Deveaux explains, “Rawls views the principle of neutrality in public life not as a means of securing a thin *modus vivendi*...but rather as a way of discovering shared public norms and accommodating a plurality of “reasonable, comprehensive doctrines” (Deveaux, 2000). This overlapping of perspectives and reasoning is what Rawls calls an “overlapping consensus”, which is central to his concept of equality and the legitimacy of the rule of law.

Thus, Rawls tries to provide an answer for how a diverse citizenry with disparate advantages and worldviews can agree and be committed to a unified concept of justice. Primarily, justice is rooted in a sense of fairness towards others; as Sen says, the citizens

may differ, for example, in their religious beliefs and general views of what constitutes a good and worthwhile life, but they are led by the deliberations to agree…on how to take note of those diversities among the members and to arrive at one set of principles of justice fair to the entire group (Sen, 2009, p. 55).

However, it is precisely this unified concept of justice which comes under attack by Liberalism’s critics, and which Kymlicka aims to reformulate in his own theory. A single standard of justice, Kymlicka and the communitarians argue, cannot form the basis of justice for a multi-nation society, nor can it be a truly neutral mediator in the way it claims to be.

Nevertheless, Kymlicka styles himself a liberal Rawlsian. Rawls’s theory, after all, was not designed for a uniform populace but was designed precisely with differing people in differing circumstances in mind. Indeed, Kymlicka defends that some strains of political thought running all the way back to classical times have upheld commitment to but one “rational conception of the good”,

By contrast, liberalism as a political doctrine supposes that there are many conflicting and incommensurable conceptions of the good, each compatible with the full rationality of human persons...As a consequence of this supposition, liberalism assumes that it is a characteristic feature of a free democratic culture that a plurality of conflicting and incommensurable conceptions of the good are affirmed by its citizens….In such a society a teleological political conception is out of the question: public agreement on the requisite conception of the good cannot be obtained (Rawls, 1998a, p. 69).

In liberalism, difference is anticipated not only between citizens but also at the level of the individual themselves who can revise their own conceptions of the good, “if they so desire”, without affecting their “public identity” (Rawls, 1998a, p. 63).

The theory also takes into account that some of us are born into circumstances that would impede our ability to equally take advantage of our freedoms. Rawls introduces the Difference Principle, for example, to ensure that individuals, regardless of the position they are born into, have a fair chance at pursuing their conception of the good. Inequalities in distribution of social goods are justified by his theory, but with the limitation that they should be designed in a way to elevate the conditions of society’s most disadvantaged (Rawls, 1998a, pp. 55-6)[[30]](#footnote-30). Further, restrictions may be imposed on a basic liberty, but only in the event that to do so would be to secure greater liberties for all.

Apart from these circumstances, equal liberties are considered absolute by Rawls (as cited in Kymlicka, 1989, p. 163). It is this absolute prioritization of liberty which Kymlicka finds as entirely “incompatible with minority rights”, for subordinating the rights of cultural membership to the “liberties of equal citizenship” (1989, p. 162). As Kymlicka says, a system of minority rights does not necessarily create difference in order to benefit the least well off, nor does it restrict liberty to increase overall liberty – for it may do just the opposite and have a negative effect on basic liberty for the sake of cultural membership (Kymlicka, 1989, p. 163).

Kymlicka attacks Rawls for completely neglecting the issue of minority cultures and for treating the national culture as one, undivided (1989, p. 3). Kymlicka views Rawls’ liberalism as “essentially a principle of tolerance between members of different and sometimes conflicting beliefs and faiths” (1989, p. 59). Rawls founds the defence of justice, says Kymlicka, not on “revocability” of our personal ends, but on acceptance of plurality and on a commitment to subordinate these ends for the sake of what Rawls calls, the “liberties of equal citizenship” (1989, p. 162). Yet ultimately, the absolute priority that Rawls places on liberty impedes his ability to adequately provide a solution for minority rights, says Kymlicka[[31]](#footnote-31).

Following a series of critiques (such as those enumerated in the previous chapter), Rawls revisited his theory. In the revisions to his theory, Rawls retreated somewhat from the previous issue of revocability. He acknowledged the theory’s deficit in taking a culturally uniform society as its starting point. Rawls amended the theory to recognize the significance of one’s own culture, or “comprehensive doctrine” as a primary good, and that the state should enable its citizens to live in accordance with their own culture (to the extent it is a liberal one) (Weinstock, 1994, p. 181). This comprehensive doctrine however, should not impede us from rationally deciding on joint principles of justice for our society or agreeing to live by them.

Kymlicka contends that while Rawls retreated from his previous stance on culture, he still maintains the public/private division in accepting that while people’s cultural meanings do hold significant value they need not bring these matters into the discussion of “determining our public rights and responsibilities” (1995, p. 159). Kymlicka finds this argument flat and lacking adequate explanation as to why people would “give up their private self-understandings in the public sphere” and why they would accept to distribute a social good which they do not value (Kymlicka, 1989, p. 58). Kymlicka hopes to correct the deficiencies he sees in Rawls theory, and provide an alternate concept of justice, one that does find room for group/minority rights and the priority of culture through grounding it in choice.

## Chapter 3 Kymlicka: Between Choice and Culture

Agreeing with the communitarians, Kymlicka views the concept the strict separation of the private from the public sphere, as well as the liberal atomistic selves as unrealistic. Despite these reservations, Kymlicka remains a strongly committed liberal. He does not view the communitarian critique of liberalism as altogether accurate and, as we have seen in the previous chapter, strives to demonstrate how culture and community can find their role within liberalism beyond the mistaken conception of the communitarians that our “deepest ends” are non-revisable (1995, p. 91). But how are we to forge a path forward beyond a flawed abstract individualist conception of the human person on the one hand, and the contextualized but illiberal communitarian standpoint on the other? Kymlicka developed an elegant theoretical solution to do precisely this.

### Culture as a Precondition of Choice

Kymlicka’s picture of the human person begins from a similar starting point as the communitarians: human beings are creatures of meaning and morality. We lead deeply connected lives with one another. Life is good when I can live and act in accordance with my core values (Kymlicka, 1989, p. 12). Kymlicka’s concept of the person therefore ties the strong liberal insistence on individualism with the communitarian’s insistence on the importance of the good life for humankind[[32]](#footnote-32).

These core values and convictions about the good life are in part determined for me by the ethical milieu of the society into which I am born. Culture is important because it forms the context of my choices; culture is a necessary precondition and ground for my choosing the good life (Kymlicka, 1995, pp. 81-4). My culture shows me what is valuable, what is good and just. Culture, Kymlicka argues, is even more than a primary social good, it is the context from which I choose and is therefore politically relevant (Van De Putte, 2003, p. 73). Because an adequate context of choice is essential for the good life of the individual it should be protected. Therefore, for communitarians and likewise for Kymlicka, living the good life requires some stability in the environment that gives my life meaning; i.e., in the community which sets the values and paints the social portrait of my behaviour and ends. But what exactly is meant by ‘stability’? This is where the communitarians and Kymlicka begin to part company.

First, for the communitarians cultural stability means closure. This may occur for example in the form of strong restrictions against immigration. As Walzer refers to it, seeing the nation as a sort of family or elite club which cannot restrict members from leaving but which has high standards and strict limitations on granting new membership (1983, pp. 43-5)[[33]](#footnote-33). Because it is important that the members of a group feel committed to the group and to the same values of the group, it is therefore important that membership in the group be restricted to those who hold the same values and cultural preferences as other group members (1983, p. 58). Unrestricted influx from outside members threatens to destroy the deeply held core values of the group and thus threatens its overall stability. Therefore, in the eyes of the communitarians, the group should necessarily be protected from the threat of external influences, or what Kymlicka calls “external restrictions”.

Second, though communitarians do see room for cultural movement within the social patterns of the group, they see the need to restrict change to within those established patterns to ensure the protection and survival of “at risk” cultures (Redhead, 2002, p. 124). While groups may suffer from forces of change from non-group members, groups similarly suffer erosion from change within the group as well. Group members wishing to alter the norms and laws of society may unwittingly disrupt the society. A particular threat is from pressures of globalization and the spread of the English language and American culture[[34]](#footnote-34). A tension is encountered between community members wishing to adhere to “the old ways” and those wishing to bring change into the community. There is also a risk that members of a minority culture may seek to assimilate with the majority cultural practices and language, thus diminishing the claims of the minority for separate and special status.[[35]](#footnote-35) Because for communitarians culture is of value in itself, the cultural fabric of a community should therefore also be protected from its own members. This is what Kymlicka refers to as “internal restrictions”.

### Internal vs. External Restrictions

This distinction between “internal” and “external” restrictions is what sets Kymlicka’s theory apart from the communitarians. For communitarians, both internal and external restrictions are considered necessary to protect the group. According to Kymlicka however, while external restrictions (protection against outward threats to stability) are legitimate to apply on a group, internal restrictions (protection against inward threats to stability) are not (1998b, p. 62; 1999a, p. 115). There are several reasons that lead Kymlicka to this conclusion, and which he believes allow his theory to remain in keeping with liberalism, in sharp contradistinction to the communitarians.

#### We Stand Apart from our Ends

The first reason for Kymlicka to disallow internal restrictions is tied to his conception of person. As human beings, says Kymlicka, we can stand apart from our ends – something communitarians deny (1995, p. 91). Although we derive meaning from our culture, humans are in fact self-reflexive beings capable of questioning the beliefs presented to us by our community. In Kymlicka’s words, we are able to “radically revise our ends” (1995, p. 82)[[36]](#footnote-36) While there are many things in our (social) environment that are given to us, as humans we have the ability to adapt and to remove ourselves from this environment, further, we have the ability to alter the environment we live in itself. The culture we live in gives us the keys and the means to navigate the world, but we can modify those keys and stand apart from the meaning and the ends presented to us by our community. As humans, we chart our own paths and found our own new worlds.

#### Culture as a source of change and freedom

Second, not only *are we able* to stand apart from these ends, for Kymlicka it *is important* that we question our ends. Culture is important for us as a stepping-stone into a world of diverse values. Indeed culture itself can be considered a “framework of meaningful options” (Van De Putte, 2003, p. 18). While it is indeed our ground of choice, it is also what enables choice to then change this ground itself. Thus, there is a somewhat circular relationship between circumstance and choice, or in other words, culture and autonomy. Culture is source of our autonomy and that autonomy in turn gives shape to our culture, changing it again and again, continuously through time.

Thus for Kymlicka, culture is always culture in transformation. Culture is not a fixed structure, but has a mix of influences at any given time and itself is always swept up in a current of change. Therefore, cultures should not be restricted from internal change because for Kymlicka it is indeed natural that all cultures will and should adapt over time (1995, p. 104). Otherwise, we would end up with “fossilized” cultures which retain traditions and habits that no longer hold meaning for those who live by them[[37]](#footnote-37). Once you preserve a culture for its own sake and not for the sake of its members, it can easily become solidified against naturally occurring cultural transformations. Kymlicka's theory on the other hand aims to allow for the internal mutability and natural developments and transformations that occur over time within and between cultures (Van De Putte, 2003, p. 74).

Therefore, while Kymlicka agrees with the communitarians that culture is worthy of protection, the group is defended for the choices of its members not the group *qua* group. In Kymlicka’s theory *it is not groups but individuals* who are the bearer of rights (Van De Putte, 2003, p. 17).

#### Culture is valuable only insofar as it is valued by the members of the group

This leads to the third reason that Kymlicka wishes to distinguish himself from the communitarians through separating internal and external restrictions: because unlike the communitarians, for Kymlicka culture is not a value in itself. Kymlicka rightly argues that culture is only valuable insofar as the members of the group themselves value it (1995, p. 108). As we have already covered, all cultures – including minority cultures – are continuously evolving. If a minority group decides together to drop a particular cultural practice, contrary to the communitarians, Kymlicka sees this as not only allowable but indeed required by liberalism.[[38]](#footnote-38)

Rightly put, cultures and traditions are therefore only important for Kymlicka insofar as they are good for the individual and ought not to be preserved for their own sake. As Rainer Forst says, Kymlicka gives “individual members of cultures general rights to personal autonomy, even against the self-understanding of the minority culture” (Forst, 2002, p. 77). This is in sharp distinction to Charles Taylor, who defends that the group should be defended for the worth of the group itself, not on the basis of the choices of its individual members – which can lead to dangerous anti-liberal conclusions. As Kymlicka correctly says, if the group were no longer accepting the choices of its members the state would be inappropriately subsidizing certain choices that are no longer valued (Kymlicka, 1995, p. 113).

#### Those Cultures that Deserve Protection should themselves be Liberal Ones

It would be unacceptable for Kymlicka that a particular minority group decided that women should not be granted voting rights. This is because such a restriction on rights does not meet his criteria of protecting the group from unwanted external influences; instead, it is a form of restriction on the freedoms of internal group members to change their culture (Kymlicka, 1995, p. 153)[[39]](#footnote-39). Therefore, not all demands for cultural practices will be allowed following Kymlicka’s schema (Okin, 1999) [[40]](#footnote-40).

### “Soft” Communitarianism

Thus, Kymlicka rejects what he terms “strong communitarianism” which he deems theoretically wrong and potentially dangerous and argues instead for a “soft communitarianism” which is his unique spin on liberalism. The difference in his view is that strong communitarianism says that the individual leads an encumbered life where they need learn only from the community what is good and meaningful, whereas Kymlicka’s soft communitarianism insists that individuals must learn to be critical and evaluate their culture and the narratives given to them.

From this, Kymlicka derives two criteria from which we may distinguish just from unjust group restrictions in a liberal society. First (on a note which strongly resounds of Rawls), group rights should make the majority and the minority culture more equal to one another (“*equality* *between”* groups). Second, group rights should allow for the internal change of the group (“*freedom within”* the group). Such group rights, insists Kymlicka, would be “impeccably liberal” (1995, pp. 152-3).

Yet, if Kymlicka believes that a certain degree of stability of culture is needed to allow group members to flourish, how should this be protected in view of the above? While for communitarians stability means limitations upon change, for Kymlicka stability means something slightly different. For Kymlicka, to secure my cultural environment the most critical thing is that the cultural goods which I feel I need to live the good life can be made freely available to me. These cultural goods are naturally secured for us by our political systems, through which we decide together upon which aspects of our cultural heritage we will invest in and promote. However, as Kymlicka points out, the goods which we promote and distribute are those which reflect the cultural preferences of the majority of the society.

Kymlicka agrees with the communitarians in saying that state “neutrality” is an unjustified myth. In his own words, “the state is inevitably involved in recognising and reproducing particular ethnocultural groups, and so the politicisation of cultural identities is inevitable” (Kymlicka, 1998b, p. 25). This is natural says Kymlicka and in his view there is nothing wrong with this. But what happens with respect to minority cultures that have different preferences and needs from the majority? This is where group rights come in.

### The Disadvantages of Minority Cultures

In pluralist nations, says Kymlicka, we are faced with a considerable problem because minority cultures are disadvantaged. Not only are they disadvantaged –more importantly, the sources of these disadvantages *are structural ones* rather than a consequence of free choices or individual responsibility. Liberal “neutrality” is never benign says Kymlicka, the institutional settings of liberal democracies are a large source of injustice towards minority cultures and maintain the dominance of the majority cultural preferences over and above their own (Kymlicka, 1998a, p. 178). Minority cultures are either integrated or assimilated into the main culture. As Kymlicka says, “Liberal states have engaged in systematic efforts at ‘nation-building’ that involve promoting and diffusing a common national culture, and which aim at the sociocultural integration of minority groups” (1998a, p. 178). Systemic injustices are committed towards minorities by the very virtue of their being outside of the majority rule from which the laws and stamp of governance are sealed. Minority groups are thus marginalised within our societies and majority cultural preferences are often dictated to them.

Minorities generally have three options available to them: marginalization, integration, or nationalist separation (Kymlicka, 1998a, p. 185). Although a number of minority groups have typically settled for **marginalization,** the majority are increasingly seeking the latter two options. Immigrants, says Kymlicka, entered the main society willingly and nearly always want to integrate into the mainstream society. This process of **integration** is inter-generational however and is sometimes a painful process. Immigrants therefore sometimes require measures to make the transition into the mainstream easier for them. National minorities on the other hand, were generally forced to join the mainstream society unwillingly and do not easily concede to integration. They feel something more is at stake and that their unique cultural preferences will be lost if they join the main society; therefore, they most often opt to have degree of **self-determination,** or at the extreme, full separation from the nation-state (1998a, p. 186).

Like the communitarians, Kymlicka sees a need for a politics of difference to remedy the difficulties faced by cultural minorities. As with any other member of society, minorities wish to see their rights protected. As Kymlicka frames it: it is an important part of one’s individual rights be able to choose based on cultural preferences and not to have those preferences disallowed simply because the leading dominant majority deems those preferences unworthy.[[41]](#footnote-41) Multicultural citizenship as defined by Kymlicka “neither rejects nor undermines” the state’s efforts to promote certain cultures he says; “it simply seeks to ensure that they are fair” (Kymlicka, 1998b, p. 25).

Following the concept of person and community that Kymlicka has developed, humans need to have a societal culture[[42]](#footnote-42) to provide their lives with meaning. Kymlicka suggests that for immigrants, this is not such a great problem as they have willingly elected to join and integrate into the majority culture. Where we begin to face extreme difficulties, he points out, is with minority nations who do not wish to forsake their own societal culture to join that of the majority. It is therefore not enough to protect national minorities from xenophobia and discrimination as is needed for immigrants. What is needed for national minorities is something more says Kymlicka: a secure cultural structure to give expression to their national identity (1995, p. 93)[[43]](#footnote-43). For Kymlicka, this is achieved through group-specific rights, which aim for equality between nations[[44]](#footnote-44).

###  What does Equality mean?

Kymlicka’s theory challenges the traditional liberal concept of equality. Equality is of importance not only between individuals, but also between the multiple groups or nations that compose a state. These nations aim to be treated differently in order to be equal. Indeed, ‘equal but different’ captures the essence of Kymlicka’s theory. At first glance, the sentence seems contradictory, however Kymlicka forces us to challenge our conceptions of equality. For Kymlicka, the conflagration of sameness and equity has led to internal confusion in our theories and an inability on the part of liberal philosophers to rationalize difference. This inability to rationalize difference was clearly displayed, says Kymlicka, in Canada when the Charter of Rights was introduced and generated an outcry from minority groups (1995, pp. 38-9). At the time, liberals were at a loss to explain this reaction. After all, why would anyone reject a document that sought to establish their equality as citizens? But for the Quebecois and the First Nations, the Charter of Rights meant something else. It meant an unfair imposition of “foreign” cultural values and norms upon them and removal of both political and social power from their hands. Thus, instead of reducing friction between cultural groups, the proposed Charter of Rights increased inter-group tensions significantly.

Equality through different treatment on the other hand, takes into account the fact that the political vocabulary that defines our democratic systems is not shared by all.[[45]](#footnote-45) A politics of difference therefore gives recognition to new voices and provides an adequate public space for them to be heard on equal footing with the majority culture.

### Cultural Compensation

In certain circumstances therefore, Kymlicka says that equal treatment of a people requires differential treatment. This different treatment is to be used to promote equality, as in equal access to the pool of state resources. In a sense, Kymlicka considers minority groups as being institutionally handicapped (Van De Putte, 2003, p. 74). Cultural rights act as compensation for minority disadvantage in a majority system. Since culture is the good from which all other goods are to be chosen, it is natural that this good should be equally distributed as access to other goods are.

Kymlicka uses Dworkin’s theory of resource egalitarianism and tweaks the theory to treat culture itself as a social good (which Dworkin’s theory itself does not endorse, nor does it endorse group-differentiated rights) (see Dworkin, 1981b and 1981a). Kymlicka argues by analogy that the cultural "deficit" of a minority (struggling to defend itself against the majority culture) requires compensation similar to welfare compensation (1995, p. 83). Providing a correction for a cultural disadvantage through separate group rights, instead of making minorities unequal, actually eliminates a source of disadvantage that diminishes their standing amongst a community of equals.

This is one of the core reasons for Kymlicka's support of group rights. Kymlicka’s point is such: the wheels of justice do not turn an even balance, to rectify the structural injustices towards minorities compensation is due to them in the same way it is due to those who are on welfare or are sick (or otherwise unfairly disadvantaged).

### The Key Difference between Choice and Circumstance

Kymlicka supports his argument by emphasizing Dworkin’s key distinction between choice and circumstance, which he believes is essential for liberalism (Kymlicka, 1989, p. 186). Social goods are supposed to be distributed equally throughout the society. A problem arises however when some people require expensive items not because of choice but because of circumstance.

While one can choose to cultivate an expensive taste in wine, no one would choose to be in a wheelchair (Kymlicka, 1989, p. 186). Insurance covers circumstances we prefer not to occur. Those who require a bigger slice of the pie due to their *unfavourable circumstances* should therefore be provided for and those who need extra on the basis of *preference* alone should not. As Dworkin says,

The most effective neutrality [requires that]…the choice between expensive and less expensive tastes can be made by each person for himself, with no sense that his overall share will be enlarged by choosing a more expensive life, or that, whatever he chooses, his choice will subsidize those who have chosen more expensively” (Dworkin, 1978/2003, p. 33).

So for example, while expensive caviar should not be entitled to state support, expensive medicines required for saving someone's life are entitled to be supported. The underlying reason is that by supporting these "rectifications" of unfavourable circumstances, the disadvantaged person will be raised to a level of equality with the society. Kymlicka takes this argument from Dworkin to argue that because the culture of a minority citizen is not of their own choosing but is very much the result of the *circumstance* into which they were born, it is unfair that they should be underprivileged in the society they live because of it.

#### The Shipwreck Example

Dworkin uses an allegory about a boat shipwrecked on a deserted island to explain the distinction between choice and circumstance (Kymlicka, 1989, pp. 187-8). The unlucky crew and passengers on the shipwrecked boat decide that to create a fair system for all, they will tally up the resources on the island and have an auction. Clamshells will be distributed in equal portions to each of the passengers, from which they can bid for the items they desire. This way, if someone desires a highly valuable piece of beach property they will have to shell out more clams to make their purchase. The basic idea behind the example is that expensive preferences are not to be endorsed. If you have expensive tastes then you must pay for them; in this way, frugality is rewarded and thereby benefits the common pool of resources.

#### Kymlicka’s Version of the Shipwreck Example

Kymlicka borrows Dworkin's example of the shipwrecked boat and modifies it to demonstrate his case (Kymlicka, 1989, pp. 188-9). In Kymlicka’s version of the shipwreck, instead of one boat, there are two boats shipwrecked on an island. These boats have a sophisticated computer system that will allow them to distribute the resources of the island fairly amongst all of the shipwrecked passengers. However, upon arrival on land, the passengers realise that the smaller boat belongs to a different cultural group from the larger boat. While the larger group has been able to use more of its clam shells to take the best pieces of the land for its own uses, the smaller group is unable to amass enough clam shells to buy the pieces of land they see most fit for their survival and futures and are therefore considerably disadvantaged.

If we accept Kymlicka’s argument and also hold social welfare programs to be necessary, then compensation for minorities has an even stronger justification. Whereas someone who is on welfare or is sick is disadvantaged from unequal access to the goods of the system, Kymlicka’s key insight here implies that minorities are disadvantaged from lack of access *to the system itself*. While a person in a wheelchair was not necessarily put in this disadvantaged position by the state, minorities are in their position of disadvantage specifically because the state mechanisms are made to favour the cultural choices of the majority. While social advocates claim it is the government’s duty to provide the conditions necessary for all citizens to find employment, there will nevertheless remain some citizens who would prefer not to work. Yet certainly no one prefers to face unfair racial or cultural discrimination. Moreover, while medical disabilities and unemployment may be temporary conditions, the colour of a person’s skin and/or their mother tongue are life-long attributes.

### What this Amounts to: Cultural Rights as Defined by Kymlicka

Justice between communities therefore requires that different groups are accorded different rights (in effect, Kymlicka attaches rights to culture as opposed to universal rights which he says be used against minority groups). Hence, “special rights” are used to protect groups from unfair impositions by the majority culture (Kymlicka, 1994, p. 19).

#### Ethnic groups

**Ethnic groups** are groups of persons with a common ethnic background different from the majority culture. Protections for these groups according to Kymlicka are very different than those for other types of groups or collectivities such as unions, women’s groups, homosexuals, etc. Ethnic groups require state protection from outward interference but can change internally. Ethnic groups require protection because culture is an important source of freedom and autonomy. **Immigrant** **communities** made of those who voluntarily migrate to another country fall under this category (Kymlicka, 1995, pp. 30-1).

#### Polyethnic state

**Polyethnic states** are states composed of two or more ethnic groups, e.g. immigrant-settler society such as Canada or the United States. These are multicultural states with significant numbers of immigrant communities (Kymlicka, 1995, p. 18).

#### National minorities

**National minorities** according to Kymlicka are “historically settled, territorially concentrated, and previously self-governing cultures” (1997b, p. 19). These nations although sometimes willingly entering into confederation, were more often forcibly assimilated into a larger state with their lands overtaken by a foreign majority culture that imposed itself on them. (Kymlicka, 1995, p. 6; 1998a, p. 185; 1998b, p. 2; 1999a, p. 100; 1999b, p. 132) As a result of this annexation of their former homeland, Kymlicka says these groups have formed a national consciousness independent of the majority culture (1999b, p. 132).[[46]](#footnote-46)

Unlike immigrant groups, national minorities largely express a refusal to assimilate and a desire for independence from the power-holding majority, even if the cultural similarities between themselves and the majority have markedly increased with time (as is the case with minority Quebecois society and the majority English-speaking Canada). National minorities view themselves as “distinct peoples” and as such believe they have “inherent rights to self-government” (Kymlicka, 1998c, pp. 174-5).[[47]](#footnote-47)

#### Substate nations vs. indigenous peoples

There are two types of national minorities – what Kymlicka labels the **substate nations** and secondly the **indigenous peoples** (which in later writings Kymlicka refers to as “**homeland minorities**” (2007, pp. 176-7)). It can be derived from Kymlicka’s theory that while substate nations had pre-existing national cultures that were supressed by the majority national culture, indigenous persons are persons who were living in a country prior to formation of a national government and have developed a national consciousness following the encroachment of the majority nation. The Canadian example which Kymlicka primarily draws his theory from has both types of national minorities: the Quebecois and the First Nations respectively. The former were not indigenous to Canada, like the original settlers from English-speaking Canada they were also settlers; however, they did not win a majority or control over the land and came to be dominated by English Canada. The indigenous peoples of Canada (also dubbed the “First Nations”) are also considered by Kymlicka to be minority nations; they too, like the Quebecois had territorial control wrested from their hands by the dominant English majority nation. With time, they too have developed a national consciousness and are now called the First Nations, reflecting their status as the original inhabitants of the land prior to French and English colonization[[48]](#footnote-48).

#### Multination states

**Multination states** are culturally diverse states with more than one national group, which enveloped pre-existing nations at some point during their formation. Across the world there are many more nations than states, and therefore, though their multi-national character is often unacknowledged and suppressed, many nations worldwide are in fact multi-national. The multi-national state Kymlicka principally refers to throughout his writings is his home country Canada.[[49]](#footnote-49) Other examples he mentions often include Belgium (with the Flemish Vlaams and the French Walloons) and Spain (with Catalonia and the Basque separatist region in addition to the Spanish majority) (Kymlicka, 1998b, p. 2).

#### Group-differentiated rights

Following his theoretical conclusions about the importance of group identity and culture for liberalism, Kymlicka concludes that **group-differentiated rights** are a necessary part of any liberal democracy in a pluralistic society. Group-differentiated rights enable us to think “different” and “equal” at once. Kymlicka describes three broad categories of group-differentiated rights (1995, pp. 26-33).

##### Rights for national minorities

In Kymlicka’s view, the lion’s share of group-differentiated rights is reserved for national minorities. These are the most complete form of group rights and are due because unlike other disadvantaged groups within the society national minorities were most often forcibly integrated into the state. These group rights are meant to be enduring as the national minority does not wish to integrate into the larger nation and sees no future of integration. They view their autonomy and promotion of their unique cultural community as an inherent right that should be secured into the indefinite future. (Kymlicka, 1998c, pp. 174-5).

Autonomy from the majority nation ensures that minority nations will have powers of collective decision-making to ensure that the cultural values they hold as integral to the flourishing of their community remain supported institutionally (Kymlicka, 1998a, p. 194). Only through having substantial control over a political body of their own can national minorities have enough “powers regarding language, education, government employment, and immigration” to sustain the culture and community integral to their ability to lead the good life (Kymlicka, 1998a, p. 194). The degree to which they view their separation can be anything from special representation rights all the way to full independence.

**Special representation rights** are guarantees for representative powers in the majority government institutions (Kymlicka, 1995). These rights are aimed to help the minority which is underrepresented in government or certain job sectors to gain visibility, a certain percentage of the disadvantaged minority must be represented to give them a voice and a fair chance.

**Self-government rights** involve more separation from the majority nation than special representation rights. These rights involve a degree of autonomy from the majority nation, for example as in a federal system, whereby the minority transfers some powers to the majority nation and views these powers as rescindable should they see fit (Kymlicka, 1998a, p. 194).

Another, sometimes inevitable shift by national minorities is towards full separation, where ultimately no form of partnership with the majority nation is viewed as possible and therefore complete autonomy is sought in the form of **secession**. (Kymlicka, 1998a, p. 185)

##### Polyethnic rights

The second major category of group right which Kymlicka addresses are **Polyethnic rights.** As the name implies, these rights are targeted towards ethnic groups within the larger society with the aim of making the entire society more culturally diverse. Societies such as Canada, the United States and Australia have been traditional immigrant countries and are therefore polyethnic societies.

The majority of immigrant groups, says Kymlicka, willingly join the nation and elect to forgo their own cultural background to immerse in the culture of the new nation. In contrast to the separatist approach of national minorities, immigrants have a mainly integrative approach to citizenship (Kymlicka, 1998a, p. 203).[[50]](#footnote-50) They seek special exemptions not because they wish to form a separate polity or have national ambitions of their own but because the transition to the new culture is often intergenerational and takes time. Some special rights and funding are therefore needed to ease the transition into the new nation (such as, cites Kymlicka – funding language classes in their mother tongue) (1998a, p. 197).[[51]](#footnote-51)

Unlike rights directed towards national minorities, polyethnic rights are meant to be temporary corrective measures, to facilitate integration and make transition into the new society easier for immigrants. They are not enduring correctives however as the end goal is integration. Perhaps because of the integrative nature of the requests for group rights by ethnic groups, Kymlicka devotes relatively little attention to these kinds of group rights, and devotes most of his attention to the rights of national minorities, which offer more of a fundamental challenge to the unity of the political community.

##### Collective Rights

The third category of group rights that Kymlicka mentions are **collective rights,** which is the much broader category of representation rights for other groups within the political community, be they women, homosexuals, trade unionists, etc. Kymlicka gives even sparser mention of collective rights than of polyethnic rights, only mentioning these groups in terms of what his theory is *not* describing. He justifies this by stating that his theory has filled an important role by demonstrating the importance of culture and that rights accruing to national minorities deserve a special category of their own – not merely to be subsumed under the umbrella of recognition rights more generally (Kymlicka, 1995, p. 18)[[52]](#footnote-52).

### In Sum

Kymlicka wishes to save liberalism from its communitarian detractors and therefore tries to find a middle way between communitarianism and liberalism. While Kymlicka agrees with the communitarians about the importance of culture as a framework of meaning in our lives, he attempts to separate himself from their views by describing culture as the source of our autonomy. He further differs from the communitarians in saying that cultural rights must be liberal; i.e., they must maintain choices. His theory does not try to limit cultural change or growth or to condone blind imposition of culture upon group members. Instead, Kymlicka seeks to protect cultural groups from outward encroachment and to rectify structural disadvantages towards them. Kymlicka’s group rights are not meant to protect the group itself, instead, group rights should protect the *individual members of the group* – including the right for members to change the group over time. Kymlicka aims for this approach to be a corrective to the communitarian "endangered species" approach, which is not permissive with respect to alterations to the group itself and thereby risks fossilising cultures (Laitin & Reich, 2003, p. 89).

In sum, Kymlicka says that we are confronted by an asymmetric situation: a minority culture is threatened by a majority one. In order to prevent this asymmetry, there are two different paths we should take depending on the nature of the group, described as follows. First, if the threatened minority group is an immigrant or ethnic group, then measures should be taken to help foster their integration within the majority culture, including making the overall majority culture itself more fair and pluralistic. The second path of action is tailored to minority nations. Minority nations present us with an altogether different situation from immigrants, says Kymlicka. Minority nations do not seek integration with the majority and instead wish for separation. Although full separation is sometimes an inevitable outcome due to tensions between the minority and majority nation, this outcome can be mediated and perhaps prevented if the majority is willing to rescind some of its control over the minority. This may be in the form of providing them with special representation in the political system, or alternatively through partial autonomy in the form of supporting the minority’s own institutions and separate national culture[[53]](#footnote-53).

According to Kymlicka, minority claims must be liberal to receive state support. By this, Kymlicka means that group rights claims may only be used to redress asymmetric inequalities with the majority group, not to oppress internally the members of the group. Cultural rights as such are not in contradiction with liberalism he says, for Kymlicka they are its true fulfilment.

We can see from the above arguments that Kymlicka tries to balance group rights and liberalism by emphasizing the distinction between inter-group and intra-group relations (Kymlicka, 1995, p. 47). However, can we really bridge group rights and liberalism to the extent that Kymlicka suggests we can? Or is Kymlicka’s theory an “untenable abstraction” (Van De Putte, 1998; 2003), nice in print but not realizable in practice? Does his theory truly overcome the dangers of illiberal treatment of group rights, such as the abuses of the former League of Nations schema that deterred liberals from group rights in the first place? Can we presume national rights to be as innocuous as Kymlicka assumes them to be? Moreover, does Kymlicka’s theory of Multicultural Citizenship truly chart a path for multiculturalism? These questions will be addressed further in the coming chapters.

# Societal Cultures and the Boundaries of Nationalism

## Chapter 4What do Societal Cultures *mean*?

Societal cultures are central to Kymlicka’s theory and form the brunt of his justification for endorsing minority nationalism. In this Chapter, we will explore the meaning of Kymlicka’s societal cultures, their theoretical implications as well as their practical implications for two major minority groups identified by Kymlicka (immigrants and indigenous peoples) and for his overall treatment of diversity. But first, it is important to understand the significance of Kymlicka’s definition of societal culture and how closely he associates this concept with the concept of nation. Indeed, as I will argue, he intermixes the two throughout his writings in a way that has a profound impact on the outcome of his theory.

Kymlicka uses the concepts of nation and societal culture nearly synonymously. If we place the two definitions side by side, the similarities become evident. Kymlicka defines national minorities as:

Historically settled, territorially concentrated, and previously self-governing cultures whose territory has become [involuntarily] incorporated into a larger state. (1998b, p. 30)

These groups wish for some form of “autonomy or self-government to ensure their survival as distinct societies” (Kymlicka, 1995, p. 10). In a similar vein, societal cultures are defined as

A territorially concentrated culture, centred on a shared language which is used in a wide range of societal institutions, in both public and private life (schools, media, law, economy, government, etc.) I call it a *societal* culture to emphasize that it involves a common language and social institutions, rather than common religious beliefs, family customs, or personal lifestyles (Kymlicka, 1995, p. 76; 1997b, p. 24; 2001b, p. 25; 2002, p. 18; 2004a, p. 55).

In effect, nation is the more organic outgrowth of the institutional structures which societal cultures provide. Societal cultures are all-encompassing and integrate aspects of the myths and symbols we experience in nearly every aspect of our lives; in Kymlicka’s words, they “[cover] the full range of human activities – social, educational, religious, recreational, economic” (2002, p. 18). The top-down cultural diffusion of societal cultures feeds the nation in a circular motion and in turn is fed by the nation itself as it grows and changes over time.

Minority nations are those groups that have a pre-existing societal culture that was created prior to the advent of the majority nation state and is culturally different from it. Kymlicka describes how the institutional aspect of the cultural diffusion of majority societal cultures is detrimental to minority nations in a manner similar to colonization for it effectively erases or denies their pre-existing cultural structures. Kymlicka makes a strong point in saying that internally colonized peoples (national minorities) have every right to the same repatriation and decolonization that overseas colonized peoples have had under international law.

### Kymlicka: Societal Cultures should be Endorsed

To a certain extent, the privileging of the majority societal culture is unavoidable says Kymlicka. After all, we must ultimately choose one language to serve as our lingua franca in our political and educational institutions and by its very nature the national system endorses a particular societal culture. What he deems wrong, however, is for us to continue to disregard the ways that states systematically disadvantaged *national minorities*, who by living under the control and culture of a majority nation are in a sense cut off from the “cultural-marketplace”. Fairness then requires that the societal cultures of minority nations should therefore be supported by the state; minority nations should be viewed as “distinct societies” and given the necessary powers of self-government to determine their boundaries, immigration, and language rights. Such measures are not needed for the majority, for, as Kymlicka says, the societal culture of the majority is already stable and institutionalised by the state and therefore not under threat in the same way the minority nation’s societal culture is (Kymlicka, 1995, p. 113). More than “shared memories or values” (1995, p. 76), the societal culture that Kymlicka speaks of is an amalgam of institutional settings (such as a common education, economy, media, political and legal systems) that disseminate the national culture, i.e. a uniform language, history, and other cherished cultural trappings to national group members.

Societal cultures promote these institutions and with them a certain shared vocabulary in which public life is conducted. This shared vocabulary is what enables the members of the community to understand and communicate well together. In Kymlicka’s words, it is “the everyday vocabulary of social life, embodied in practices covering most areas of human activity” (1995, p. 76). It is in this shared vocabulary or national language that citizens are best able to communicate their political needs and interests. As Kymlicka neatly phrases it, politics is always “politics in the vernacular”. This is why the best form of politics in Kymlicka’s view is politics from within a common national group.

### The Risk of Monoculturalism

Despite Kymlicka’s theoretical elegance, his definition of societal cultures is highly problematic. Indeed, in this book I argue that Kymlicka’s definition of societal cultures is at the heart of the inner tension that works its way throughout Kymlicka’s theory: the contradiction between his professed commitment to polyethnicity (or simply put, multiculturalism) on the one hand, and on the other hand, his commitment to nation (a particular cultural community). Ultimately, the multicultural citizenship that Kymlicka seeks to advance is hindered by a form of monoculturalism that is a direct result of his definition of societal cultures. Indeed, two conditions of this make it narrowly limited to a model of static mono-culture:

1. Societal cultures are **inherent**
2. Societal cultures are **discrete**

While the former condition leads Kymlicka to emphasize that we are rooted in history (and ethnicity), the latter condition leads him to emphasize that we are rooted to our land.

By incorporating these two conditions into his definition of culture, Kymlicka narrowly escapes the ‘blood and soil’ argumentation typical of nationalism. Kymlicka ignores such associations and insists that membership in a societal culture is linked to liberalism and choice and that by supporting societal cultures into the “indefinite future” (Kymlicka, 1997b, p. 35; 2001b, pp. 210, 228, 269, 271, 284, 312; 2007, p. 69) we are in fact supporting liberalism and greater overall equality. What Kymlicka does not adequately address however is how protection of *inherent* and *discrete* societal cultures can remain at the level of pure commitment to a liberalism of equality and not descend into ethnic preferentialism. Let us examine these two conditions in further detail and the complications they entail.

#### Inherent Cultures

Kymlicka says that that our societal culture provides us with options and makes them meaningful for us[[54]](#footnote-54) and that culture should not be considered rigid because it can always be changed by its own members. Indeed, Kymlicka argues that Dworkin has an overly rigid view of cultures when he speaks about “cultural structures” (Kymlicka, 1995, pp. 82-3). Despite Kymlicka’s avowed commitment to dynamic cultures however, Kymlicka contradicts himself by describing culture too rigidly. Kymlicka says that national rights are to be “enduring” and regarded as “inherent” because we depend on a rich and secure cultural structure and need stable institutional structures to diffuse and protect that culture – in the case of national minorities, into the indefinite future.

This inherent aspect of societal cultures is reflected in Kymlicka’s insistence on the link between *group membership* and *group history*. As Kymlicka says, “cultural narratives” are what provide meaning in our lives,

Whether or not a course of action has any significance for us depends on whether, and how, our language renders vivid to us the point of that activity. And the way in which language renders vivid these activities is shaped by *our history*, *our ‘traditions and conventions*’ (1995, pp. 82-3)(italics mine).

Or in another area he similarly emphasizes the importance of a shared history:

Our language and history are the media through which we come to an awareness of the options available to us, and their significance; and this is a precondition of making intelligent decisions about how to lead our lives (1989, p. 165).

For Kymlicka, societal culture is rooted in the history of its people, which in turn shapes the future development of this societal culture[[55]](#footnote-55). Kymlicka’s emphasis on the importance of cultural membership for human freedom appears to be rooted in assumptions such as: 1. Cultural homogeneity leads to stability and 2. The nation must have strong historical ties between its members, both of which in turn serve to reify otherwise intangible abstract identities.

William E. Connolly, author of *The New Pluralism* (2008), in a volume on *Political Theory and the Rights of Indigenous Peoples* says that this “imagination of unity or wholeness” with regard to nation paradoxically “has never been actualized…[the nation] never simply exists in the present; it is always represented as something from the past that has been lost or something projected into the future yet to be realized” (Connolly, 2000, p. 184). Yet, Kymlicka states that membership in a *stable*, discrete (i.e. bounded) cultural community is essential to our human freedom. This argument closely matches the communitarian one in that our cultural/social environment is considered constitutive of our identity. Embracing the communitarian argument, Kymlicka agrees that without the protection of a stable cultural community, we are unable to make meaningful choices about how to lead our lives. Cultural membership for Kymlicka is belonging to a community that is both “stable and historically continuous” (Parekh, 1997, p. 56).

Although Kymlicka affirms that anyone who wishes to join a particular societal culture may do so (nations should be both multinational and multicultural), by adding this historic dimension to culture, he risks overly attaching societal culture to a specific ethnicity. As Gans points out, societal cultures are “not entirely unrelated to ethnicity, for, at least empirically, it so happens that ethnic groups usually share a societal culture so that many cultural nations are also ethnic groups or have such groups as their core” (Gans, 2002, p. 49). When history is a defining part of one’s collective identity, those who have only “learned” this history but whose ancestors were not a part of it, will consider themselves (or be considered by others) a step back from “authentic members” of the group, when history and culture are built into the definition of membership. Even Charles Taylor has conceded that with respect to accommodation of difference in Quebec, that newer waves of immigrants in Quebec face exclusion from “policy questions in their electronic media and newspapers as though immigrants were not a party to the conversation” (1998b, p. 146). Newcomers are referred to as “them”, something outside of and definitely not a partner to the debate. The difficulty lies in the fact that extreme nationalists believe that the aspirations of “old-stock Quebecker’s”[[56]](#footnote-56) cannot be conceivably shared by newcomers and hence “it is only natural that this part of the Quebec ideological spectrum should have greater difficulty in opening itself to outsiders” (Taylor, 1998b, p. 146). This is further compounded by the fear that immigrants will prefer to adopt the majority culture although living in minority territory, further distilling the fragile nationalist fabric of the already threatened minority culture.

Indeed, Taylor was at the head of a $5 million Quebec Consultation Commission on Accommodation Practices Related to Cultural Differences (CCAPRCD) that concluded in 2008. The report issued by the commission indicated that one of the main societal rifts in Quebec is that between “French-Canadian Quebecers” and growing immigrant and ethnic communities, which of all the divisions mentioned in the report the authors say we must “fear the most” (Bouchard & Taylor, 2008) as ownership over the identity of who is an authentic Quebecer and the meaning and values associated with the term is challenged. Despite these rifts, the report identified that Quebec society is one of “considerable diversity from the standpoint of religion, ideology and customs” and that there are numerous points for accommodation and rapprochement between societal members (Bouchard & Taylor, 2008, p. 206). The authors state, for example, that Quebec collective memory should be emphasized for its universal aspects, with respect to human struggle against colonization and oppression – key messages that all Quebecers can relate to as opposed to strictly ethnic/cultural markers (Bouchard & Taylor, 2008, p. 212).

Indeed, Kymlicka’s writings do not adequately take into account the extent of the ways people change “societal cultures”. Though born into a specific culture or ethnos, we are able to navigate and adapt or adopt new cultures. This dynamism in culture is overshadowed by Kymlicka’s insistence on a secure societal culture as basis for our value formation, inadvertently undermining his avowed commitment to a dynamic, pluralistic state. In other words, Kymlicka describes societal culture as if there is an innate membership in it, while forgetting his otherwise professed belief that culture is mutable.

As Yael Tamir, acclaimed author of *Liberal Nationalism* says of Kymlicka’s theory, in a twofold critique: (1) It creates a tie between the right to culture and the innate nature of membership, and thereby has no explanation for converts; (2) His position fails to acknowledge that, though we have reasons to protect cultural choices, these should not be isolated from “the market of preferences” (Tamir, 1993, p. 38). Tamir points out that culture is more mutable than what Kymlicka describes and that Kymlicka fails in his justification of group rights on the basis of the culture “inhering” in the member. Tamir disagrees, in her view, culture should not be protected because it is something that “inheres” in us but because of the *meaning* it provides for our lives (Tamir, Liberal Nationalism, 1993, p. 40). Rightly, Tamir is hesitant about how Kymlicka ties choice to circumstance and feels that Kymlicka overestimates the need to *secure* the right to culture[[57]](#footnote-57).

#### Discrete Cultures

Kymlicka further undermines the adaptable nature of cultures by insisting not only on their constancy through time but also on their constancy across peoples. Kymlicka reifies identity by defining societal cultures as having both clearly defined symbols and clearly defined members. The societal culture Kymlicka speaks of is the singular source of our primary identity which all other sources of identity refer back to. As Carens points out, Kymlicka’s concept of societal culture “homogenizes culture, obscuring the multiplicity of our cultural inheritances and the complex ways in which they shape our contexts of choice” (2000, p. 56). Waldron also attacks Kymlicka’s monocultural standpoint, he says that Kymlicka’s theory rests on a fallacy of composition. Waldron says that Kymlicka demonstrates the value of culture in our lives and then goes on to infer that this culture is in the singular. Pointing out the circularity in Kymlicka’s reasoning, Waldron brings to our attention that the importance of “membership in *a culture*” simply does not follow from Kymlicka’s insistence on the importance of “access to a variety of stories and roles” (1995, pp. 106-7). Waldron sums this critique as such: “We need culture, but we do not need cultural integrity” (1995, p. 108). In other words, Kymlicka eloquently describes the need for rich culture in our lives, but this culture need not be uniform or structured in the way that he assumes (but does not prove) it should be. These discrete and inherent societal cultures are to be preserved, says Kymlicka, by the endowment of national cultural rights.

Despite Kymlicka’s commitment to a “thin” national culture, when he begins speaking about intergenerational history, language, and heritage with respect to land, he inevitably leads us towards a much thicker conception, pointing more towards a substantialist conception of a “community of fate” (*Schicksalsgemeinschaft*) as opposed to membership based on voluntarism (Benhabib, 2006, pp. 167-8). Under Kymlicka’s system of apportioning rights based on national identification, we can run into immeasurable difficulties when it comes to intercrossings between two national cultures. In the name of protecting a certain culture, national group rights may easily descend to ethnic prohibitions or regulations discouraging intermarriage. Although Kymlicka does not sanction such measures, his theory does nothing to prevent this and may even encourage such difficulties to protect the culture from external interference, which he claims are acceptable cultural restrictions.

A further difficulty with Kymlicka’s use of group rights to protect societal cultures is that often the groups that need their cultural choices preserved are not a society or a single “societal culture” at all, but are an amalgam of diverse groups looking for the same rights. If we are to limit our view to Kymlicka’s societal cultures, we will have a myopic view of most societies and will be unable to see the nuanced pattern of cultural interactions and various cultural formations within the society.

##### Territorially Rooted

Kymlicka’s discrete societal cultures are linked with another concept of modern nationalism reinforced implicitly by his writings (particularly in his emphasis on the restriction of mobility and of territorial sovereignty): the idea that the borders around states should coincide with borders around cultural nations. As Helder De Schutter says of Kymlicka, “in making the case for the rights of nations to autonomy in self-governing mononational territories, Kymlicka drastically reduces the complex cultural hybridity that structures today’s multinational cultural diversity” (2005, p. 18). De Schutter’s own home territory Belgium is a case in point for the complexities behind clearly demarcating national borders, it’s own capital city, predominantly French-speaking, lies in the midst of Flemish territory. But this is not even the most complicated of Belgian’s borders. A fine example of the peculiar circumstances around bordering nations is in the city of Baarle-Nassau in the Netherlands, which consists of twenty-six separate pieces of land, including twenty-two Belgian enclaves in the Netherlands, which within them contain further enclaves of Dutch inhabitants. Because the borders run, at times, straight through buildings, the nationality of the inhabitant of the building is marked, quite extraordinarily, by the location of its front door (Chittenden, 2009)

Fig. 1. Baarle-Nassau’s borders.



Source: UC Santa Barbara Geography www.geog.ucsb.edu

Linking rights to territory has negative implications for the normative strength of Kymlicka’s argument. As Meena K. Bhamra, author of *The Challenges of Justice in Diverse Societies* (2011) says, following Kymlicka’s theory “territorial connections lead to a stronger claim of belonging and thus result in stronger rights, such as self-government rights” (2007, p. 23). However, Bhamra cites the example of the Jews in Britain, who - despite their long history in Britain - are not considered by the British government to have “national origins in this country”, as an example of precisely why such a linkage between territorial affiliation and rights “masks a potential malevolent form of thinking”, which she says coming from Kymlicka is “regrettable” (2007, p. 23).

McCorquodale and Pangalangan argue that international law on territorial sovereignty is “largely trapped within the framework of nineteenth-century colonial concepts” (2001, p. 867). Many claims from minorities have arisen precisely because of the unjust imposition of barriers through territorial sovereignty. McCorquodale and Pangalangen argue that such borders need to be reconsidered, and a “more flexible system…devised” (2001, p. 880). Borders have become barriers they say, and ownership of territory in international law has been grounded in a colonial mindset that is “exclusive, partial and silencing”. Even stronger wording is given by Appadurai who calls nationalism “the ideological alibi of the territorial state…[and] the last refuge of ethnic totalitarianism…[whose discourses are] deeply implicated in the discourses of colonialism itself” (1993, p. 796). Yet, in today’s world, identities need not be confined and restricted to boundaries of the state. As former UN Secretary-General Boutros Boutros-Ghali said:

The time of absolute and exclusive sovereignty…has passed; its theory was never matched by reality. It is the task of leaders of States today to understand this and to find a balance between the needs of good internal governance and the requirements of an ever more interdependent world (as cited in McCorquodale & Pangalangan, 2001, p. 880).

Kymlicka himself refers to the OSCE High Commissioner’s statement that “territorial autonomy should be viewed not as a best practice but as a last resort” in an attempt to stem further destabilization of an already insecure post-communist Europe (2007, p. 213). Yet Kymlicka feels that Europe has, “not surprisingly” been too weak in embracing models for articulating the “distinctive characteristics and aspirations of national minorities” which he defines as “their sense of nationhood and claims to a national homeland” (2007, p. 213).

While Kymlicka’s theory to a certain extent promotes disaggregating territory through providing minority territorial jurisdiction (most probably in the form of a federal system), his stance on territory nevertheless remains awkward for a number of reasons. On a note that partly acknowledges his own awkward stance on territory, Kymlicka admits that, “territorial boundaries are a source of embarrassment for liberals of all stripes, and particularly for liberal egalitarians” (2001c, p. 249). Indeed, by including territorial contiguity in his definition of both national minorities and societal cultures, Kymlicka problematizes his definition and again pushes it in the direction of “blood and soil”. As Smith says,

Collective attachments to sanctified homelands have been a source of cohesion and conflict in all ages. Once a particular homeland has become sacred in the eyes of its inhabitants and identified with a particular community, it requires constant vigilance to maintain its status and character (2000, p. 21).

Anthony D. Smith describes the passionate attachment that is formed with respect to territory that has been marked off for exclusive ownership by a particular community, and its continual “reassertion of the bond with [the] ancestral homeland. Even the secular language of nationalism reaffirms a connection to the ‘ancestral habitat’ as its natural and immemorial homeland” (Smith, 2000, p. 21). Smith says that nationalism had two “clear-cut territorial attachments: mass national education and collective self-sacrifice in defence of the homeland” (2000, p. 21). When the land is lifted to the status of sacred, those who fight for the land are similarly raised to the status of heroes and martyrs (Smith, 2000, p. 22).

Apart from its murky closeness to the subject of state violence (particularly towards competing minorities or fringe groups on the periphery of the national territory), the issue of territory marks a further continuation of the theme of contradiction that pervades Kymlicka’s work, for while on the one hand Kymlicka says that “cultures do not have fixed centres or precise boundaries” (1995, p. 83). He nevertheless describes societal cultures as territorially concentrated and speaks of national rights in terms of establishing (or reifying) these already existing boundaries (1995, p. 83). He maintains that national systems, which indeed by their very definition associate cultural borders with political borders, are the best political system for liberal multiculturalism (Kymlicka, 1995, pp. 82-3). Yet for Anne Philips, Kymlicka’s definition of societal cultures,

conjures up a group of considerable solidity. It has its own institutions, territories, language and history, and by implication, its own potentially extensive claims on the loyalty of its members (Phillips, 2007, p. 19).

“It is not surprising”, therefore, says Philips, “to learn that such groups are in conflict with one another” (2007, p. 19). Certainly, when linking cultural rights to territory, we face the problem of putting stress on already difficult land disputes (Kymlicka himself admits that “existing boundaries are largely the product of historical injustice” in the form of colonization and conquest (2001c, p. 250)).

Certainly it is much easier to describe the national cultures of Canada as territorially concentrated than it is to do in the majority of other divided states worldwide which lack the vast geographical spaces and relatively concentrated cultural population centres that Canada enjoys. The Canadian situation upon which Kymlicka bases his theory, with two large “discrete”[[58]](#footnote-58) territorially separate populations, is the exception – not the rule – worldwide, where the majority of split populations are living intermixed and generally in tight vicinity to one another, such as Israel/Palestine, Northern Ireland, Belgium, Rwanda, the former Yugoslavia, Cambodia, etc. The task becomes more difficult as well when facing disputes over granting territorial rights from “primacy in a given territory” (asserting the *historical* priority of the group, as in “first occupancy”) to what Gans calls a shift towards, “the primacy of this territory for a given people” wherein a particular territory is marked off as having key significance for the *meaning* and cultural identity of a certain people (2001, pp. 58-9).

Even Belgium, which according to Kymlicka is one of the most stable “multi-nation” states in the liberal western world, has similar difficulties in terms of scrabbles over which territory belongs to whom. This is true with regard to its capital, the international city and very heart of Europe – Brussels, among other similar segregation disputes[[59]](#footnote-59). Indeed, Belgium has no shortage of difficulties posed by the divisions between its national groups, and continues to waver back and forth on the brink of dissolution over the inability of these groups to reach a compromise in devolving powers to the regions.

Even in the Canadian example, the territorial attribution is not altogether unproblematic. Within Quebec for example, there are large tracts of land that aboriginal populations claim belong to them. The Quebecois government however stakes its claim to these lands. Apart from the strong economic considerations underlying these claims (these disputed areas are some of the most resource-rich in all of Canada, not to mention the Quebec GDP is the 15th largest in the world and the sixth in the Americas (Lisée)), each group claims that ceding land over to the other would diminish their group’s right to cultural flourishing. For the aboriginals this would mean losing more of their land leading to a fear of being erased from the map, for the Quebecois this would mean diminishing their size and resources against an already larger English Canada.

What *precisely* is meant by “territorial concentration”? If societal culture is supposed to be about choice and basic freedoms, why limit access to these to only those who live within the territorial concentration (such as denoting Quebecois those living within the province of Quebec and English Canada those living outside, despite the huge numbers of Francophones living outside the province of Quebec). Defining a national minority as being territorially concentrated does injustice to the many French communities living outside the province of Quebec, and who also wish to have their historic contribution and struggles receive proper recognition and who also care about access to language rights and their own unique cultural communities – and neither to be lumped together with the Quebecois, nor forgotten entirely and thus subsumed into Anglo-culture (Carens, 1997, p. 46). My sentiments on Quebec sovereignty echo Carens who says point blank, with reference to Kymlicka: “Please do not misunderstand. I do think that Quebec’s demands for self- government rights are justifiable. I do not think that the concept of nation helps us very much to see why” (Carens, 1997, p. 47).

If we follow Kymlicka’s definition to the letter, lack of territorial contiguity may be turned into a constraint against providing rights for groups such as francophone communities living outside of Quebec, and similarly a constraint against according self-rule to aboriginal peoples. In justifying tying rights to territory, Kymlicka himself says that is very difficult to provide the dispersed indigenous tribes with self-rule in a way that it is not for national minorities who form a majority in a federal subunit like Quebec (2001b, p. 83). Norman echoes these concerns and points out that with federal systems were power is devolved to provinces, smaller non-concentrated minorities who are unable to form territorial majorities may be worse off, as is the case of indigenous bands and anglophones in Quebec (as cited in Bauböck, 2000, p. 370). Further, through his strong link between sovereignty and territory, Kymlicka ignores a wealth of other existing non-territorially defined solutions for sovereignty. Choudhry outlines a number of them, which include everything from granting Aboriginal peoples in urban areas control over their own social services and local councils, to the institutionalization of separate familial law for religious minorities (Choudhry, 2002, p. 71).

In somewhat of a concession to the difficulties posed by his stipulation of “territorial contiguity”, Kymlicka admits that there are lessons to be learned from non-territorial solutions for cultural autonomy, from Europe for example, which can offer “lessons for western democracies” (2002, p. 69). A further example Kymlicka mentions is how a Canadian government commission made a recommendation that off-reserve (those who moved outside the reserve into unrestricted Canadian territory) Indians be entitled to a system of cultural autonomy. Adding the condition of territoriality in assessing whether a people is in fact a “nation” with a “societal culture” may work against numerous groups who lack a contiguous territory but who nevertheless demand special group protection and rights. Kymlicka himself points out numerous obvious and important exceptions to this rule, like the Catholics in Northern Ireland, or others who also do not fall under his category of distinct nations such as the Roma or the pre-war Jews in Europe or Blacks in America (Kymlicka, 2002, p. 95).

Kymlicka emphasizes the issue of territoriality to alert us to the threat that national minorities can be disempowered through actions led by national governments seeking intentionally to harm minorities. These nefarious majority governments aim to fragment minority territory and infuse it with majority members in order to reduce their potential for collective action and overtake their distinct society (Kymlicka, 2001b, p. 75). Yet, to address this problem, we can apply the same panacea Kymlicka uses to prevent abuse of his minority rights, by insisting that the majority government should be “liberal” and that its actions towards the minority should be ones to improve their standing not diminish it. It would seem that whether we give the minority separate group rights or do not give them separate group rights, it is not the bestowal of group rights itself that secures equality, but the beneficence of the ruling power (unless full separation between the groups occurs).

Further, nationalist-led agendas are often at the root of those very strategies used against minorities to fragment and disempower them territorially. While giving national group rights may in some special cases help to empower minority groups, quite often national strategies are employed *against* the minority in the name of nationalism. Kymlicka does not provide us with a framework to direct national governments away from this dangerous latter direction. National minorities *themselves* may similarly use such agendas and “land rights” against other various groups viewed as a threat by them (including putting constraints to muscle out majority nationals who are already living long-settled within the minority territory) (Kymlicka, 2002).[[60]](#footnote-60) The very real and dangerous threat of ethnic transfer in most parts of the world should make the international community very nervous about any arguments about “territorial concentration”.

Indeed, Kymlicka avoids speaking of the issue of land conflict altogether, despite its obvious importance with respect to minorities (as Carens succinctly puts it, “borders have guards and the guards have guns” (1995, p. 331)). What happens when we have two groups fighting over the same land, both of which view the land as critical for their cultural survival? What if these two groups are not separate as Kymlicka projects national groups to be (and which most often they are not) but have great pockets of both populations dispersed between one another, how are we to resolve the differences?[[61]](#footnote-61) Nationalism, with its emphasis on drawing lines and walls between populations offers few solutions. Focusing on national identities as Kymlicka does may lead to a web of cantons and isolated fragmented communities, without really addressing the needs of or providing security for either society.[[62]](#footnote-62)

### Institutionalized Culture as Liberation

Despite this, it is precisely liberty that Kymlicka claims his theory is providing us with. Indeed, societal culture, which allows us to make intelligible choices in our lives, is in need of secure institutional reinforcement for us to make intelligible choices is what he calls one’s societal culture. Societal cultures and national cultures both bridge an institutional aspect: state provided curriculum, media, which inculcates and reinforces the cultural values and mores, along with a more organic growth stemming from history and location, and the collective memories of the community. But how can diffusion of societal culture promote choice as Kymlicka claims it should? How can institutional systems and top-down cultural dissemination be essential for human freedom or for the ability to lead the good life?

For Kymlicka, it is not a shared vision of the good but the institutional structures that promote and diffuse a common history and language and culture that matter. Within the liberal nation, this culture is modifiable and can even be thrown away by its members at any time. However, if we argue as Kymlicka does that we must protect these institutional structures to diffuse a particular culture, are we really protecting choice or are we not protecting – to a certain extent at least – some shared conception of the good? How easily modifiable is this conception when we have institutional structures set in place to reinforce it? As Kymlicka says,

Societal cultures within a modern liberal democracy are inevitably pluralistic….this diversity, however, is balanced and constrained by linguistic and institutional cohesion; cohesion that has not emerged on its own, but rather is the result of *deliberate state policies*. (Kymlicka, 1997b, p. 24; 2001b, p. 25; 2002, p. 18; 2004a, p. 55) (italics mine).

The freedom of choice and the freedom from imposition of other’s views that liberalism espouses and which Kymlicka defends simply do not follow from such state-instituted cultural indoctrination which Kymlicka defines as societal culture.

Who determines the societal culture we promote and how can we make this reflective of the changing (variable) culture of the society? If there is a profound shift in the society, such as that which occurred during the Quiet Revolution in Quebec, how do we ensure that this state-imposed common culture will be able to shift to adapt and meet the new needs of the society? Levey, in his study on “Multiculturalism and Australian National Identity”, makes an astute remark about the conundrum of national character, that it

cannot be the object or intention of political administration without doing it violence. This is because national character is constantly evolving, and any deliberate attempt to represent it will wrench out particular aspects, ensuring that the accounts offered can, at best, bear a passing relation to it. (2008, p. 264)

Levey identifies the inherent contradiction behind Kymlicka’s work in institutionalizing a culture which is purportedly supposed to be in flux. Whatever culture is disseminated will only be a shadow of the culture itself, newer iterations of culture may be suppressed by the hegemonic pulse encroachment of the official national culture.

Even the language Kymlicka uses displays the institutional aspect of this cultural engineering which he is proposing: “state-sponsored”, “same tools”, “program of nation-building”. There is nothing to indicate how this change in the “flexible” societal culture of the nation which Kymlicka believes is an obvious feature of modern nation-building will take place. Put another way, how can the legal and political frameworks of the state be prevented from using what he hopes to exclude: internal restrictions.

Although Kymlicka says that societal cultures will be given the opportunity to develop and change internally, there are of course no guarantees that the nation-building systems set in place would necessarily encourage or make easy any such change, particularly when cultural preservation is on the state agenda. Societal cultures are, after all, effectively top-down dissemination of cultural mores. Kymlicka himself acknowledges contrary to the communitarians that preservation of culture can lead to its stagnation. Yet, the dangers of stagnation seem to be all the more when already Kymlicka acknowledges that occasionally the promoted societal culture may need to be, at times - in Kymlicka’s own words - “mildly illiberal” (for example by limiting outside influence in the form of immigration controls (2001b, p. 288)).

Advocating institutional measures to reinforce cultural contiguity is after all what nationalism is all about, and Kymlicka sees no problem with nation-building. But if we are looking back to his philosophical justifications for group rights, it is very hard to see how institutional measures to reinforce a particular historic national culture can amount to the proliferation of freedom and why this would be required by the tenets of liberalism.

Kymlicka is correct however in identifying the important role that institutions have played in spreading nationalism, but rather than simply providing access to a secure culture that was somehow already inhering in the group, these institutions were as active in making anew the nation as they were in maintaining their secure continuance. Army, schools, media all helped to forge what have now become established nations. Such “nations” (the “French” or the “British” for example) though they may have had some sort of collective sentiments or common cultural markers, did not come to see themselves in national terms until the state began instituting programs of nation-building. And yes, while these nation-building programs took pre-existing markers of the population (Smith’s ethnae: phenotype, language, or unique memories of historical moments) and they disseminated the importance of these markers as defining the nation, this dissemination, when it was not in the exclusionary ethnic nation state, was assimilatory. As Brubaker says,

To assimilate means to make similar: and school and army in their Republican reincarnations, entrusted with “the mission of retempering the French soul”, were powerfully equipped to do just that. Their assimilatory virtues worked on persons long juridically French, reshaping their habits of thought and feeling to make them fit the wider frame of the nation (1998a, p. 150).

Kymlicka himself concedes that state-instituted culture has often faced open opposition, particularly from minorities,

Attempts to integrate people into such a common societal culture have often *met with serious resistance*…some groups have…vehemently rejected the idea that they should view their life chances as tied up with the societal institutions that operate in the majority language (2000b, pp. 164-5) (italics mine).

Although Kymlicka recognizes the engineered aspect of “societal cultures”, he underestimates the conflict brought about by state nation-building and cultural engineering with respect to human freedom.

Indeed, it is the *institutional aspect* of societal culture, as opposed to actual shared cultural values themselves and the choices they protect (which those institutions are presumably supposed to uphold), which Kymlicka ultimately defends. As Kymlicka says, he calls it “a *societal* culture to emphasize that it involves a common language and *social institutions*, rather than common religious beliefs, family customs, or personal lifestyles” (1998a, pp. 180-1; 1999a, pp. 104-5) (italics mine). But in defining societal cultures as such, Kymlicka dangerously crosses his own boundary: institutional cultural dissemination counters the freedom from cultural imposition he wishes to protect. Recognizing the awkwardness of his own position, Kymlicka covers the incongruity by saying that “the connection between individual freedom and cultural membership is essentially correct, though difficult to articulate,” (2001b, p. 209), tying his theory to an unverified assumption.

Perhaps Kymlicka’s defence of the importance of belonging to a stable, intergenerational (historical) community warrants reinforcement by institutional measures, it is not clear however how individuals would become more free and self-reflexive through institutionally embedding cultural choices. Certainly it cannot be denied that there are many instances wherein “cultural community” would take precedence over “polyethnicity” and choice when securing societal cultures. An alternative to institutionalizing culture is offered by David Kahane, who argues that instead we should speak about “the importance of vibrant debate…within and between communities” that is both ongoing and fluid (2004, p. 50). When considering such dialogical alternatives, it becomes even harder to see how institutionalized nation-building would instantiate liberalism.

Let us now consider more fully the implications of this stance on societal cultures for two of the main categories of groups which Kymlicka refers to in his writings, Immigrants and Indigenous Peoples as well as a third category which he does not address, racial minorities. With respect to minority groups, Kymlicka takes a highly categorical approach, which he divides into three clearly defined groups: 1. Substate nations, 2. Aboriginal peoples and 3. Immigrants. This highly categorical treatment of groups poses a severe limitation on Kymlicka’s theory and has been criticized by many prominent authors for its impoverished view of cultural diversity (Young, 1997; Parekh, 1997; Carens, 1997).

####  “Immigrants”

This section will investigate Kymlicka’s treatment of immigrant minorities and underscores the ways majority nation-building oppresses a variety of groups throughout the society, not limited to national minorities alone. Kymlicka defines immigrants as those individuals who have chosen to leave their home country and native societal culture and have immigrated to a new country which they have willingly joined. Immigrants desire to integrate into the majority societal culture of their new home. This is not an easy process because immigrants have to navigate in a foreign political vernacular. Nevertheless, being disadvantaged in this new vernacular is often still an advantage over continuing life under an oppressive government in one’s own societal culture. Still, despite whatever benefits immigration brings, Kymlicka says that life for first generation immigrants is analogous to “enter[ing] a religious order”, and taking a “vow of perpetual poverty” (1995, p. 86) since they are faced with the hardships of leaving the comfort of their societal culture behind.

Immigrants, cut off from their source of cultural stability and uneasily navigating their new societal culture are at a “distinct disadvantage”. Unlike national minorities however, immigrants lack the resources and the desire to create a new societal culture for themselves in their new country and instead desire integration. Moreover, immigrants do not formulate their demands for rights in nationalist terms. They do not seek secession or to form a parallel society apart from the majority nation. Indeed, Kymlicka says that the majority of immigrants willingly enter the nation and wholeheartedly commit to integrating into the societal culture of that majority nation, although this process of integration is sometimes difficult and may even take several generations before a full transition to the new culture is achieved. However, so long as the majority nation advocates a non-ethnic form of nationalism and takes measures to welcome these immigrants into their society (and to ease their cultural transition by acknowledging this period of adjustment by giving special accommodation rights or by making the overall national culture more open) then these immigrants will not seek separation. Nor will they remain in separate isolated enclaves but will become committed citizens.

Prima facie, this definition seems correct. It casts immigrants in a positive light through portraying them as deeply committed to their new country of citizenship. When subjected to further scrutiny however, this summary is revealed as an inadequate representation of the complexity that characterizes group relations and group identity in the world today.

##### The Category Immigrant Belies a Much Greater Complexity

First, the category “immigrant” in itself is problematic in a globalized world marked by increasing migration, increasingly multicultural cities and growing inequalities. Applying the word “immigrant” to the highly complex and diverse fabric of Canadian society is a misnomer to say the least. Indeed, properly speaking, all but the aboriginals are immigrants in Canadian society. When Kymlicka speaks about immigrant, the groups he is referring to are not people “just off the boat.” The Chinese in Canada who Kymlicka refers to when he speaks of immigrants (2001b, p. 160) have been in Canada long before Confederation, many of whom trace their ancestry back over several generations, and who number over 1 million (nearly the same size population as the Native Americans). The Jews in Europe and in North America are also certainly not “minority nations” but they can hardly be considered “immigrants” either, the same goes for other diaspora groups. The Turkish have lived in Germany without citizenship Germany in some cases for over three generations. Arabs in USA, although their numbers are increasing in proportion to the largely nonmigratory “European” population, can also hardly be considered immigrants as they were counted among Americas earliest settlers.

In an article in the book *Multiculturalism in Asia*, which Kymlicka co-edits, Kymlicka diversifies this category somewhat, by borrowing a term employed by Walzer, “Metic” to describe citizens without citizenship, long-term residents who lack citizenship rights and permanent residency. He describes this as a “heterogeneous category, including people who enter a country illegally…or as asylum-seekers…or as students or ‘guest-workers’ who have overstayed their initial visa” (Kymlicka, 2005, p. 28), yet apart from this Kymlicka devotes scant attention to the issue of those who fall within this category or beyond it and his other defined categorizations, which is rather strange given the political currency of migratory issues these days.

Indeed, a category “immigrants” belies the very diverse nature of our increasingly multicultural societies. Though the growth of “visible minorities” in North America in numbers in recent years is now making their presence felt more strongly (Kymlicka, 2001b, p. 187), the label “immigrants” does a great injustice to these long-seated communities, who stretch back in North America nearly as far as the early English and French (and indeed Spanish) colonizers. But the problematic of the term immigrant is not limited to North America by any means. Let us consider Eastern Europe for example, in Kosovo there are many long-seated “immigrants”, who have been living in the society for literally hundreds of years, some perhaps can trace their ancestry back on the lands earlier than the now dominant (and former national minority group) of ethnic Albanians. The difficulties that result from categorizing such groups as immigrants remain unaddressed by Kymlicka but should be a part of any attempts to move his theory further forward.

##### Unconvincing Distinction between Immigrant and Minority Nation

The difficulties in the term immigrant are further apparent in that the distinction Kymlicka draws between immigrant and minority nation is not always clear (Tamir, 1999b, pp. 78-9). In most places worldwide it is very difficult to define who are the “original” inhabitants of a land. As Jeremy Waldron says, unlike plants, people are not so easily defined as indigenous or non-indigenous (Waldron, 2003). Human beings are migratory and have been so since the dawn of time. The distinction that Kymlicka draws between minority nations (such as the Quebecois, or French-Canadians) and immigrants (such as the Chinese Canadians) is that the former had societal cultures prior to their integration into the majority nation. This is a somewhat arbitrary distinction based on a specific time in history; namely, the creation of the majority nation-state. Indeed, the argument boils down to a distinction between early settlers and more recent ones – based not on their presence but on their size and numbers. Yet it seems hardly in keeping with liberal fairness to accord someone rights on the basis that they were in the society longer than someone else.

Tamir points out that while Kymlicka’s distinction between immigrant and national minority may be tenable in Canada, it would be impossible to apply it to Middle Eastern, Asian, or African societies. She points out the incredibly diverse fabric and interweaving of Israeli and Palestinian society as case in point, as to how far-fetched it would be to try to apply these categories to them (Tamir, 1999b, pp. 78-9).[[63]](#footnote-63) Similarly, anthropologist John R. Bowen refers to wide-ranging literature on indigenous groups in Asia and Africa and suggests along with other authors that due to the complexity and closeness of the temporal gap between “indigenous” and “immigrants” it is nearly impossible to distinguish between them outside of the prototypical indigenous communities of the Americas (Bowen, 2000, p. 13). Kymlicka himself admits that while minority rights in the west have developed into “three parallel tracks”: rights for immigrants, national minorities, and indigenous peoples respectively, he nevertheless questions the applicability of such “categories” in an “African or Asian context”. As he points out, “On what basis could one divide the various ethnic groups in Indonesia into immigrants, national minorities and indigenous peoples? If we cannot identify universal categories of minority groups, can we identify universal minority rights?” (Kymlicka, 2001d, p. 21).

##### Immigrants can create a National Culture

The lines between “immigrant” and “minority nation” are further blurred because immigrants could become a national minority despite Kymlicka’s arguments to the contrary that immigrants cannot – nor have any interest – in doing so. Kymlicka says that societal cultures are very difficult to sustain and that only national minorities have enough “capacity and motivation” to engage in such an extensive project of nation-building. Immigrant groups are too dispersed, too few in numbers, often too impoverished, and further lack the political will to carry out the tremendous task of establishing separate political institutions, schools, hospitals, and media in their own language promoting their own version of history and of cultural values. For immigrants to create and sustain a societal culture, Kymlicka says “would require changes in virtually all areas of public policy and all political institutions”, a project that would be immensely “ambitious and arduous” (1997b, p. 51).

Societal cultures for immigrants are deemed “impractical” for Kymlicka. Kymlicka’s argument is this: national minorities are territorially concentrated and have had fully developed societal cultures (institutions, dispersed common language, etc.) prior to the intrusion of the state. Immigrants on the other hand are territorially dispersed, comparatively small groups for whom it would be difficult to unite into a common societal culture. In Kymlicka’s words, if they attempted to form any sort of societal culture they would inevitably "have a shadowy existence at the margins of society" (1997a, p. 76; 2001b, p. 54).

Yet, Israel is the perfect example of an immigrant society that did in fact create a vibrant and thriving societal culture. Israelis were not territorially concentrated, nor did they have any established societal institutions apart from religious ones (which had no overarching system in the way papacy ruled Catholicism) nor did they even have a language – they created all of these and came together to form a national home. The revival of Hebrew, says Chaim Rabin, was a political act (Rabin, 1996, p. 759).

Beyond “immigrants” creating their own societal cultures in the form of separate nation-states, other de facto movements are occurring towards creating separate institutional structures to promote cultures of minority groups in other places. Bhamra describes the situation of the Afro-Asian diasporas in Britain, wherein she says, “voluntary immigrants are recreating societal cultures, complete with their own institutional structures” (2007, p. 23). Bhamra believes that Kymlicka speaks against the ability or desire of immigrant communities to form societal cultures, not out of a true inability to do so, but out of a *fear* that they may (2007, p. 26). But to say that societal cultures are incapable of being formed, Bhamra argues, not only does not reflect societal realities, but is also philosophically unsupported.

Indeed, Kymlicka underplays the immigrant history of Quebec and even English Canada for that matter. If we go far back enough, both English and French Canadians were at one time immigrant cultures that established their own societal cultures without integrating into the then majority indigenous population’s traditions or institutions. Kymlicka however, states that this was colonization and is no longer accepted in today’s world. But if the nationalism of these earlier waves of immigrants was possible and is condoned still through national rights such as those which Kymlicka’s theory supports, then there seems to be no logical reason to assume that a separate national culture could not arise from amongst the other newer immigrant waves to North America, should there exist the political will on the part of the minorities themselves and the majority nation (with perhaps the additional support of the international community).

Using Kymlicka’s own argument: that he challenges anyone to deny a national minority its own societal culture when the majority gets to live in their own, we might also ask: if the majority (who were in many cases colonizers) were able to create their national culture despite the existence of other societal cultures (preexisting cultures of the aboriginal inhabitants) why should later groups of immigrants be denied the same thing? Particularly when land is scarce and territorial wealth is concentrated in the hands of a few, why is redistribution or change in cultural boundaries now no longer permissive? If we condone the majority to continue living in this societal culture which they have created to the exclusion of the culture of the other original inhabitants, why should we not allow new groups to do the same?

Kymlicka’s answer to this is simply they do not wish it. But a better answer to this is that they are seeking *rights and recognition* and that to accomplish this what is needed is not a separate national framework emphasizing their particular cultural habits, but a more inclusive system that does not marginalize them on the basis of their particular cultural habits. But this leads us to a second point: the political will. Kymlicka identifies, correctly, a lack of will on the part of immigrant communities to form a separate nation. So while “immigrant” communities could indeed gain the financial and political resources necessary to institutionalise a separate national polity from the majority, they choose not to define themselves in national terms and accept integration with the majority.

Kymlicka is conflating two issues here, first, that immigrants are incapable of sustaining a societal culture (or separate nationalism), and second, that immigrants lack the political will to do so. The while the former argument has already been demonstrated as erroneous, the latter shows some merit. The Chinese in Canada *could* become a national minority. Kymlicka himself admits as much, stating that if the Chinese were to settle close to one another and “acquire self-governing powers” they could become national minorities in the same way the “English colonists [did] throughout the British Empire” (1997b, p. 59; 1998b, p. 37; 2001b, p. 160). The colonists, says Kymlicka, more than immigrants were national minorities because they “did not see themselves as ‘immigrants,’ since they had no expectation of integrating into another culture” (1998a, pp. 198-9). Yet, this seems to unfairly reward special privileges and status to those who refuse integration over those who choose (or have forced upon them) a more assimilatory approach to the majority.

Kymlicka distils the distinction between immigrants and colonizers (or those entitled to polyethnic: limited ethnic rights, vs. national minority: full ethnic rights) to a distinction between those who accept and those who refuse integration; but why should the latter group be rewarded rights and not the former group? It seems like an unfair distinction to draw – colonizers that refuse integration, enter on non-peaceable terms, impose their identity and later receive rights to reinforce this identity, while immigrants enter on peaceable terms and thus have theirs denied? (Kymlicka, 1998c, p. 171)[[64]](#footnote-64)

As Melanie C. T. Ash says, “although Kymlicka acknowledges that colonialist/conquerors are technically ‘immigrants’, he nevertheless groups them with aboriginal nations”, which he categorizes separately from “voluntary immigrants” (2004, p. 401). She draws out a quote from Kymlicka’s book “Multicultural Citizenship” in which Kymlicka quotes Steinberg on the nature of the English colonists in America,

‘it is not really correct to refer to the colonial settlers as “immigrants”. They came not as migrants entering an alien society, forced to acquire a new national identity, but as a colonial vanguard that would create a new England in the image of the one they left behind.’ They distinguished themselves from the non-English colonials who ‘were typically regarded as aliens who were obliged to adapt to English rule in terms of both politics and culture’ (as cited in Kymlicka, 1995, p. 95).

On the basis of Steinberg’s assessment, Kymlicka asks whether it is really fitting to call newer waves of immigrants “colonialists” in this former sense and to support them in building their own societal cultures, to which he believes there is very little sense, since, as he has already said in other places, immigrants nowadays lack the motivation to do so (Kymlicka, 1995, p. 96). Ash expresses difficulty however that on the basis of the former group being a “colonial vanguard” (essentially exclusionary and coercive), that they be considered “founders of nations” and hence granted greater rights and recognition than later waves of immigrants who Kymlicka refers to only as ethnic groups or simply “immigrants” (Ash, 2004, p. 401).

Are we to reward cultural privileges on the basis of those who demand separation vs. those who choose integration? As Bhamra says, it is highly problematic that Kymlicka reduces “the cultural rights of voluntary immigrants to virtually nothing” (2007, p. 23), and indeed hypocritical that while he affirms through his theory the strong relevance of culture for our lives, it is precisely this which he denies to non-national ethnic minorities. “Ethnic groups are, therefore, penalized twice” she says, first on account of the difficult circumstance that drove them to migrate in the first place, and secondly by the “thinning of the rights they can claim” as a result of that migration (2007, p. 23).

 The Quebecois and English Canadians on the other hand, did not integrate into the native American culture when they first immigrated to Canada but instead wanted to preserve their distinct traditions. Why should we deny future immigrants the same access to their roots – particularly if societal cultures are as critical to one’s liberty as Kymlicka claims they are? This would seem to reward acts of aggression and intolerance above tolerance and acceptance of diversity. Strangely, Kymlicka does not recognize this point, and even goes so far as to wildly suggest that, “it would in principle be possible to encourage Chinese immigrants today to view themselves *as colonists*” (italics mine); however, he says that modern public institutions, and multiculturalism policies in particular, have prevented the rise of such nationalist movements amongst the Chinese and other immigrant groups (1998a, pp. 198-9).[[65]](#footnote-65)

##### Special Privileges given to Early Groups but not Later Ones

A part of Kymlicka’s definition of who is entitled to national minority status is that they had a pre-existing societal culture before the state was created. But does the fact that national minority groups were already present before the state had fully expanded and consolidated its borders entitle them to more rights than those who came later and had similar acts of injustice enacted upon them? Such as the complete disenfranchisement and racially-based internment of the Japanese population of Canada during World War II? Even without a history of violence against a particular group, Choudhry asks, is it fair to award rights and “establish different categories of citizenship on the basis of historical priority?” (2002, p. 56). Kymlicka acknowledges that special privileges were given to early Christian European immigrant groups in North America (such as the Amish or the Hutterites), but gives no discussion of similar rights for later groups. Oddly, Kymlicka himself denounces the trend of others not to accept accommodations for new immigrants but to accept those of these historical communities. As Kymlicka himself says,

One could argue that there is an element of racism in the way that many Americans and Canadians accept the historical accommodations made for these white Christian sects – accommodations that are genuinely separatist and marginalizing—while bitterly opposing the accommodations made for more recent nonwhite, non-Christian immigrant groups, even though these accommodations are integrationist (1998a, p. 205).

Yet, within this same article Kymlicka proceeds to say that there is no obligation for liberal states to allow the same status as these earlier “special” immigrant groups for newer ones. Kymlicka does not address the issue of such exceptional groups, but he does go into further detail as to why he believes national minorities should be entitled to separate societal cultures while immigrants must assimilate to the majority societal culture.

Cornell and Murphy offer an important argument that lends insight into the above discussion. They argue that if recognition is limited to “already-constituted identities” then “new formations of minority cultures can fall through the cracks”. Particularly, they are concerned with the already “official” and “dominant” cultures leveraging political and social institutions to deny newer cultures official status and recognition (Cornell & Murphy, 2002, p. 421). In a similar vein, Bannerji, when speaking of the politics of recognition and in particular the writings of Charles Taylor, says that he detects in such writings “a tone of impending cultural doom” as waves of new immigrants invade “our” societies (Bannerji, 2003, p. 41). This fear however is a recent development, says Bannerji, associated with the more recent empowerment of colonized peoples and the rise of democracies in former colonial regimes. In the past, “when ‘they’ lived among us as slaves, indentured workers or defeated peoples on reserves”, such ethnic minorities posed little challenge for us. The problem is now that they have “become politically significant and powerful”, which is seen by many in the west as a threat (Bannerji, 2003, p. 41), and I would add here a challenge to former models of assimilation and even Kymlickian “integration”.

##### On the “Voluntary” Nature of Immigration

For Kymlicka, there are three distinctive forms of multiculturalism that arise from majority nation-building. The first is marginalization, the second integration, and the third nationalist separatism. While most non-immigrant national minorities opt for nationalist separatism, the majority of immigrants opt for integration (Kymlicka, 1998a, p. 178).

Kymlicka identifies the disadvantages accruing to national communities from nation-building but not to other non-national minority groups. After all, it is a national definition that is being imposed, so it makes sense that only another national group would feel burdened by its imposition. While in some parts Kymlicka admits that it is difficult for immigrants to adapt to their new national culture, in other parts of his writings he speaks of integration as if they willingly leave their national culture. And yet elsewhere, Kymlicka concedes that “liberal democracies not only allow immigrants to integrate, they also *pressure* them to integrate” (2001c, p. 263) (italics mine).

In Kymlicka’s view, access to a secure societal culture allows individual freedom and autonomy. At the same time, Kymlicka says it is precisely this societal culture, which immigrant communities leave behind when they immigrate. For Kymlicka, since immigrants join the majority nation by choice and are not forcibly integrated into the society in the way that minority nations are, they therefore have less difficulties to leave behind their own societal cultures and to enter the new societal culture of the majority. As Kymlicka states, the reason immigrants integrate is that they “have voluntarily left their own culture with the expectation of integrating into another national society. *That is just what it means to become an immigrant*” (1998a, pp. 184-5) (italics mine). Since they no longer desire their original culture, these immigrants do not need to receive special privileges to help sustain it. Integration may be difficult and it may take several generations for the full transition from one societal culture to another to occur, but most immigrants willingly leave behind their societal culture to integrate into the majority national culture.

Indeed, the desire for integration on the part of “voluntary immigrants” is disputed by Bhamra who states in the case of post-war labour migrants to Britain, there is ample documentation that was never an expectation on the part of these groups to “integrate” or even assimilate, or even become accepted (recognized) by the dominant society, and yet they still decided to migrate (Bhamra, 2007, p. 24). Even if this first wave of immigrants through the “voluntary” nature of their migration did, in Kymlicka’s terms, “waiver” their “right to live and work in their own culture” (Kymlicka, 1995, p. 95), then there is still the problem of their children and the generations which followed them, who, as Bhamra reminds us, neither voluntarily gave up their culture, nor elected to leave their home country (Bhamra, 2007, p. 25).

Kymlicka is clearly basing his assumption that immigrants do not need a societal culture because they willingly choose to enter the main nation on the false premise that human migration is indeed a product of our choice and not of our circumstance. This is a highly naïve view of the difficult pulls and pushes in the global society which cause migratory currents, particularly with respect to refugee populations[[66]](#footnote-66). Moreover, this is a gross underestimation of world migration trends, which see an overwhelming disparity in the riches and stability of nations and the one-way migration stream leading talented individuals worldwide out of the developing world. Bannerji provides us with a far less Panglossian view than Kymlicka on the “voluntary” nature of immigration. “Wars, economic predations, and political destabilization”, says Bannerji, “have sent peoples of the third world and former communist countries all over the ‘developed’ world to look for shelter and survival” (2003, p. 36)[[67]](#footnote-67). Looking at these migratory trends and the modern nation-state, one immediately sees the tensions and awkwardness nationalist formulations have for responding to these growing issues. As Appadurai rightly remarks, one of the inherent difficulties faced by nation-states today, is “that the nationalist genie, never perfectly contained in the bottle of the territorial state, is now itself a diasporic” (1993, p. 798).

Yet with respect to refugees, Kymlicka feels that the only place that can redress their problems is an obligation on their home national government, the only one that can provide them with the secure societal culture they are entitled to (Kymlicka, 1995, p. 98). But is there no sense of justice unless it is a national one? Counter to his above statement about the sole ability of national governments to provide stable cultural contexts, Kymlicka then states that he believes “that rich countries have obligations of international justice to redistribute resources to poor countries; had we done so, perhaps she would not have faced this awful choice” (1995, p. 98). Kymlicka says that wealthy countries ought to feel compelled to redistribute their wealth to stem the tide of immigrants or “eliminate the need for labour migration” (Peled & Brunner, 2000, p. 73). Instead of accepting that perhaps his conclusions about the “voluntary” nature of immigration are ill-conceived, or that “immigrants” may warrant greater rights than his theory provides for, Kymlicka feels the solution is to be found in the lofty aspiration of redressing world imbalances (Choudhry, 2002, p. 64). Indeed, Kymlicka seems to think that if we can simply improve the conditions in the immigrant’s home country, then we would not be faced with this “problem” of immigrants adapting to a societal culture – one may presume because they would just stay back in their own land, since after all as Kymlicka says, the burden of providing a stable societal culture for an individual lies with his home nation.[[68]](#footnote-68)

While undoubtedly most people would agree with Kymlicka on the need to stop the widening gap between rich and poor, a more cosmopolitan view would not need to tie this in to a reduction in immigration. Further, decreasing immigration is hardly a solution for addressing important minority issues faced within a country. Kymlicka has no commitment to group rights to preserve the culture of “immigrants”, only measures to facilitate their absorption into the mainstream. He does not consider at any length the many ways that absorption may entail marginalization, as it seems for Kymlicka that it is an inevitable and willing choice of immigrants to join the new culture, notwithstanding being relegated for a generation or two to a lower social standing. How does Kymlicka know that for the majority of immigrants this is considered “an acceptable trade-off”? (Kymlicka, 2001b, p. 288)

If we tie societal culture to liberal freedom, than is losing this freedom really an acceptable trade-off for inclusion in an overarching nationality that doesn’t reflect your culture? Is that not itself a variant of ethnic nationalism? Wanting to join a new society and be included and wanting to give up your previous culture are two different things. Kymlicka writes as if people are happy to adopt white-Anglo culture and indeed, as if Canadian citizenship entails precisely this. For Kymlicka, because immigrants want to become part of the new nation, they willingly accept the new societal culture of the majority nation, even if it will under-privilege them. But what about their children who had no choice to immigrate but may represent a minority cultural preference in the society, how can we justify denying them cultural rights, when we deem it fit for national minorities to have such cultural privileges?

##### Are some Citizens more Equal than Others?

Certainly, the issue of immigrants throws Kymlicka’s definition of societal culture into question. If societal culture is so pivotal for human freedom, how can Kymlicka theoretically justify support of societal cultures for national groups and not for other cultural groups? As Joppke points out, there is an irony that while debates on multiculturalism in the west are raging on the question of migration, it is precisely these “‘voluntary’ immigrants who have the weakest claim to cultural protection” (2004, p. 239). Choudhry similarly argues that “accounts like Kymlicka’s finesse or ignore the two different sets of policies adopted by liberal democracies”, which in a seemingly discriminatory fashion operate to selectively promote some cultures while inhibiting others (2002, p. 56). If societal cultures are critical to our human freedom, then in a sense migrants are “choosing” to lose their freedom when they leave the safe confines of their home national culture. If our societal culture is really crucial for our human freedom as Kymlicka says it is, then Kymlicka is basically conceding that the only people capable of having human freedom are in fact national majorities and national minorities, and anyone who cannot prove themselves to be a viable nation has to settle for less. Kymlicka after all does say that it is as if immigrants choose to live in “perpetual poverty” (1995, p. 86) when they leave their own native societal cultures. Are immigrants therefore to be less equal and less free?

Another aspect of Kymlicka’s definition of societal cultures that is particularly worrying is his insistence that “individual choice is dependent on the presence of a societal culture, defined by language and history, and that most people have a very strong bond to their own culture” (Kymlicka, 1995, p. 8). Again, freedom is being tied to history and language, in a subtle way undermining individualism and freedom itself. The preposterousness of this proposal is made clear when we consider the case of a refugee escaping from a war-torn country under authoritarian rule. The refugee arrives in a new country wherein the culture and the language are not his or her own, very different from all they knew and grew up with, and yet, they are eventually accorded full citizenship in this new country, secure a good job, and receive all the privileges of citizenship including voting rights[[69]](#footnote-69). Is this person really to be considered *less free* now because they are living in a culture that is not their own?

What about francophone communities living outside of Quebec, are they less free than those living inside Quebec? As Brian Walker points out, if we extrapolate from Kymlicka, a Montrealer in Toronto will feel disoriented and unable to make “intelligent judgements” from the lack of access to their societal culture, whereas someone from a rural village in Newfoundland living in Toronto would feel at home because in Ontario he is in the same “societal culture” as in Newfoundland (Walker, 1999, pp. 149-150).[[70]](#footnote-70) Yet freedom does not work in this way and is not in fact always tied so closely to secure “national” structures in the way Kymlicka says it is.

Finally, while indeed there are disadvantages to being a minority, being a cultural minority also has its advantages and is not always a life of “poverty” as Kymlicka says it is. Indeed, there are numerous advantages to coming from a cultural perspective distinct from the majority: new insights, a more objective view, and new ways of thinking. In contrast to the writings of Kymlicka, Bhikhu Parekh’s sensitive writings on the topic of racial equality and multiculturalism emphasize the importance of exposure to diverse cultures for helping us to understand our own cultures and indeed form a better picture of all humanity[[71]](#footnote-71). As fellow UK scholar Tariq Modood describes Parekh’s thought,

It is a meta-ethical commitment to the cultural diversity that constitutes humanity, an understanding of humanity that eludes every culture but is glimpsed in the dialogue between cultures. It is an understanding of humanities that is much bigger than any ‘-ism’, that is hinted at in Oakeshott’s ‘conversation of mankind’ (Modood, 2001, p. 247).

In this respect, we might even say that immigrants, to the extent that they are forced to live in multiple spheres of identity and engage in dialogue with other cultures are the ones who are *more liberated* than their non-immigrant counterparts because of the objectivity, the multiple perspectives, and the enhanced ability for self-reflection that their mobility between cultures affords them.

Finally, why does Kymlicka suppose it is easier for an immigrant to adjust than national minority? If we are simply limiting ourselves to a cultural argument, as Kymlicka bases his theory on, then it seems hard to justify why one cultural group should have access to their home and stable societal culture (minority nations), while another group (of immigrants for example) should not. I believe that this is where Kymlicka’s cultural argument fails us. To say simply, well, it seems that the immigrants see no problem with integration while national minorities do, is not an adequate answer. At root, there is a failing here in Kymlicka’s definition of societal cultures and their importance for our human freedom (Choudhry, 2002, p. 62). Immigrants (or other non-white Anglo communities) adapt to their new societies when they are given adequate recognition and inclusiveness (not assimilation or exclusion). This recognition and inclusivity means exactly what Kymlicka’s theory sets forth to explain – the ability to make cultural choices dear to them, to choose to live by a particular religion or hold a certain worldview, even if it differs from the power-holding majority. At bottom, minorities aim to feel respected for their differences and for the richness that these differences contribute to the whole, and for the strengthening of democracy by virtue of their non-conformity and involvement in an ongoing dialogue about justice and fairness.

#### Aboriginals

Although Aboriginal peoples are grouped by Kymlicka under the title of national minorities, much of Kymlicka’s discussion on national minorities is oriented towards the case of “substate nations”, those groups which held competing national identities to the majority (dominant) power, such as the Quebecois or Belgian Vlaams. While in some cases Kymlicka groups Aboriginal peoples along with substate nations under the banner of national minorities (Kymlicka & Norman, 2000, p. 18), primarily he considers them separately. Kymlicka’s multicultural citizenship is not even primarily about “national minorities” but specifically about substate or stateless nations. Regarding Aboriginal peoples, he states that often it is held inappropriate to consider them as “national minorities” because indigenous peoples have not traditionally understood themselves as “nations” or engaged in the project of “nation-building” (Kymlicka, 2006c). Grouped together with such modern national entities, the unique and very different needs and voices of indigenous peoples are overlooked by Kymlicka’s theory.

While Kymlicka does not describe in detail what will work for indigenous peoples, he does say however what will *not* work. In Kymlicka’s opinion, federalism – unlike for other national groups wishing autonomy (like the Quebecois) – does not offer an appropriate solution for Aboriginal peoples (Kymlicka, 1995, p. 30). As Merle says, the status Kymlicka advocates for Aboriginal groups “resembles more closely an enclave on the margins of and not within liberal society. This status is not even commensurate with a federal state which at least really does possess political authority and the responsibilities that go along with it” (1998, p. 269). After all, federalism in Kymlicka’s view can only function well if the group in question forms a large territorially concentrated majority on one section of the country, as the Quebecois do in Quebec (or, as his own description of national minorities tends to be described as). The Aboriginal peoples however are not territorially concentrated but are spread throughout the entire land of the Americas. Redrawing boundaries (in typical nationalist fashion) would never be able to create a “majority” of Aboriginals. Thus, in Canada, the federal system has not been used with respect to the Aboriginal population and instead a system has been established whereby powers have been devolved to Aboriginal reservations. Kymlicka describes this process as an incredibly difficult one, “the administrative difficulties are daunting. Indian tribes/bands differ enormously in the sorts of powers they desire” (1995, p. 30). Since such a system is encumbered by many difficulties, self-government is possible, deems Kymlicka, only for territorially concentrated majorities.

Indeed, in many respects, although he groups them under this category, aboriginal populations do not meet Kymlicka’s criteria for being considered national minorities. These qualifications include:

1. Territorial concentration,

2. Similar language, and

3. Modern (national) cultural institutions for disseminating that national culture.

With respect to the first point, Kymlicka himself states that the majority of indigenous peoples as non-territorially concentrated. With respect to the second point, usually indigenous peoples – not subject to the culturally unifying systems of “modern” nation-building – have high cultural diversity, including many various languages and thus do not meet his second criteria for self-government which is of being monolingual. Among Canada’s First Nations and Inuit peoples alone there are 54 languages spoken (Minority Rights Group International, 2011). In other regions, this multiplication amongst indigenous peoples is even more; in India, there are 18 major languages spoken and over 1600 regional dialects. Thirdly, national minorities as described by Kymlicka are those which already had a “system” in place that disseminated their culture through institutional settings and media. The system that Kymlicka describes is one clearly based on western nation-building models and is much less matching with the traditional non-national systems by which aboriginals lead their lives. Due to these above-mentioned discrepancies in categorization and description of indigenous peoples by Kymlicka, his theory may inadvertently work against indigenous rights.

As Toyota says, “the assumption that sharing a distinctive common language, social structure, and cultural patterns can be a basis for separating an ‘indigenous minority’ from the majority is fundamentally flawed” (Toyota, 2005, p. 134). In the case of the hill tribes in Thailand, “recognition” was not granted in a benevolent light but was done to assert dominance through emphasizing the “ethnic Thais” place as the centrepiece of the nation, and to “justify paternalism and state control of the upland population and to provide grounds for discriminating against them and denying them full Thai citizenship” (Toyota, 2005, p. 135). Further, classifying “traditional” homelands for indigenous peoples is often a complicated task as well, says Toyota, at least in the case of the Upland peoples who are migratory. Instead of minority group rights in the form which Kymlicka proposes, Toyota suggests that alternatively new models of integrating majority and minority populations should be examined, giving the minority a degree of control over the terms and the pace of integration (2005, p. 135).

##### Western Nationalist Language Limits Claims to Sovereignty

The failure of Kymlicka’s theory to adequately address the unique needs of Aboriginal communities is reflective of a much wider trend in western scholarship, marked by an impaired inability to think in new creative ways about sovereignty and belonging, a continuing misrecognition on the part of many scholars of other forms of self-rule apart from the national model, which aboriginal forms of sovereignty clearly fall under. While it is true that a national solution is perhaps what “European” minority nations that have already integrated the model of nation-building ideologies are seeking, it would not solve the problems of the aboriginal peoples to emulate the political systems of their foreign occupiers and colonizers (that of nationalism and modern ‘national’ political institutions).

Melissa S. Williams alludes to this fact in her article “Group Inequality and the Public Culture of Justice”, in which she criticizes Kymlicka for grounding justice on a “substantive normative foundation”. She on the other hand, prefers to ground justice in the constant practice of political participation, allowing minorities to “exercise moral agency” (Williams, 1994, pp. 35-7). She further suggests that there is an inherent paradox involved in using a “liberal conception of justice” to govern group relations with minorities who fall outside the western liberal tradition.

Indeed, requiring indigenous peoples to define themselves in the very western national terms outlined above (concentrated, uniform, monolingual, “national”), could be viewed as a violence in itself, a form of imposing colonization by other means, by making the oppressed define themselves in the language of the oppressor in order to secure their basic rights. Indeed, Bannerji argues that the terms of integration of ethnic groups in western societies is bound up in colonialist language which considers them as ‘other’, through juxtaposing ‘them’ against the dominant culture in the false binaries of “tradition vs. modernity” or “civilization vs. savagery” (Bannerji, 2003, p. 36). As such, Kymlicka is unable to overcome the system of internal colonization and perhaps even reinforces it, failing to provide a just dialogue between two equal parties, indigenous and non-indigenous groups (Ivison, Patton, & Sanders, 2000, p. 8).

Yet, Kymlicka uses exceedingly soft language when describing the terms of “incorporation” of “national minorities” into the dominant state. To say that national minorities were “forcibly, or through treaties incorporated” into the majority “outsider” nation is indeed a very polite way of describing the way that substate minorities such as the French were deprived their rights under the system of English Canadian rule. It is a far, far more gentle depiction of the cruelty and near annihilation that the aboriginal communities of the Americas faced under British, French, American and Spanish rule. Certainly, the national model, when it is not exclusionary, is implicitly colonizing.

Kymlicka himself says, nation-building is very much tied to modernity and it is a very western-modernity indeed. The diffusion of ideas and common culture – the nation building practices which Kymlicka wishes to model on a smaller scale in the minority nation, may also be viewed as a form of inward colonization despite Kymlicka’s efforts to avoid precisely this. Kymlicka’s dialogue about culture, though it tries to escape this fate, becomes wound up in the essentialist and even colonialist terms of nationalism/modernity, instead of grasping more recent anthropological developments in post-modern understanding of culture.

By becoming trapped in the language and way of thinking of modern nationalism, Kymlicka’s theory ultimately fails to overcome it and to provide solutions for those peoples whose traditional ways of life are threatened by the encroachment of such homogenizing systems. Kymlicka’s discourses on national minority sovereignty offers little by way of meeting the true diversity of aboriginal communities. It is precisely the uniform law-making and institution-building typical of western European models of nation-building that threatens to destroy the multiple and layered cultural fabric that forms indigenous society in North America and in other places worldwide.

Indigenous rights must move beyond western nationalist and statist concepts to fulfil the needs of their populations. Native sovereignty does not require the very western, nation-based requisites that Kymlicka places on his “societal cultures” such as being “territorially concentrated”, having an “official language” or a “standardized public education”. There need not be a common culture to be diffused between aboriginal bands (as they are referred to by the Canadian government, or tribes as they are referred to by the American government). An important further point tied to Kymlicka’s theory, is that through draping his “cultural arguments” in the western language of “liberalism” and the need for culture to protect choices, his theory may counter aboriginal claims for independence or recognition should their traditional cultures not be in keeping with liberal norms, such as strict equality between the sexes (see Forst, 1997, p. 67 for a discussion on the implications of Kymlicka’s tying autonomy to his justification for group rights).

As Gerald Taiaiake Alfred argues, the concept of sovereignty, though adopted by Aboriginal leaders, is not only foreign but also incompatible with “traditional indigenous notions of power” (2006, p. 322). He forcefully argues that,

Sovereignty is an exclusionary concept rooted in an adversarial and coercive Western notion of power. Indigenous peoples can never match the awesome coercive force of that state; so long as sovereignty remains the goal of indigenous politics, therefore, Native communities will occupy a dependent and reactionary position relative to the state. Acceptance of “Aboriginal rights” in the context of state sovereignty represents the culmination of white society’s efforts to assimilate indigenous peoples (Alfred, 2006, p. 325).

Elsewhere, Alfred argues that the language of “citizenship” as well, has done nothing but to hinder the Aboriginal communities, and “over the years…undermine in people’s mind the idea that we have a separate existence and distinctive collective rights” (Alfred, 2000 cited in Williams, 2005 p. 29).

Taiaiake Alfred argues in favour of the language of “aboriginal nationhood” as a way of shifting the emphasis onto protecting native communities, however, as Dale A. Turner, a scholar of government and Native American studies notes, “in the context of Western European political philosophy this merely shifts the normative discussion from one discourse to another – from sovereignty to nationalism or nationhood” (Turner, 2004b, p. 64). This leads Turner to point out the complication that indigenous peoples are, in a sense, always obligated to speak in the tongue of their oppressors. Indeed, she urges other Aboriginal scholars to learn the discourses of the dominant state and become what she terms, “word warriors” (2006, p. 92). They must do this, she urges, while still remaining true to their own philosophies and teachings.

Award winning scholar of identity politics Melissa S. Williams offers an explanation for why there remains “unresolved tensions” between self-representation and sovereignty for Aboriginal peoples in Canada. Firstly, citizenship is understood as “grounded in a shared national or civic identity”. Hence, it is not possible to be both “a citizen of a First Nation and a citizen of the ‘Canadian nation’” (Williams, 2005, p. 37). Many aboriginal thinkers, says Williams, see this as another form of the dominant Canadian identity being used to trump their own.

I have argued elsewhere that the conception of citizenship-as-shared identity is inescapably tied to the history of nationalism and nation-building characteristic of the modern nation-state that emerged in the 19th century (Williams, 2002). That history is rife with examples of the ways in which the project of nation-building developed at the expense of cultural, ethnic, and religious minorities…I think that Aboriginal critics of the goal of shared citizenship are right to be wary of the concept insofar as it is offered in the language of identity (Williams, 2005, p. 40).

Williams is sceptical about “shared citizenship” grounded in such a nationalist framework, however she does not want to dismiss the idea of shared citizenship altogether; instead she wants to express it in terms that are unconfined by modern nationalism, in her view, a suitable alternative would be a conception of “citizenship-as-shared-fate” which views identity, contrary to bounded nationalist notions, as an interconnected web of relations (Williams, 2005, p. 40).

Kymlicka himself admits that his nation-building strategies do not necessarily meet the needs of indigenous peoples. Indeed, as Audra Simpson has argued, the “very notion of an *indigenous nationhood,* which demarcates identity and seizes tradition in ways that may be antagonistic to the encompassing frame of the state, may be simply unintelligible to the western and/or imperial ear” (Simpson, 2000). Indeed, the word “nation” in the concepts “indigenous nation” and in Kymlicka’s (western) term “minority nation” should not be taken automatically as synonymous. Unlike sub-state nations, indigenous peoples do not identify themselves in a similar way to the western nation-state model, or if they do, they do so to gain legitimacy in the eyes of the world, for as long as sovereignty remains tied to nation this is their only recourse to land rights and to independence from the state.

Despite Kymlicka’s emphasis on national rights for national minorities, he acknowledges that the same rights that he endorses for the substate nations like the Quebecois (which are basically nation-building strategies that replicate the economic, political and social institutions of the majority nation, but advocating instead the unique language and cultural preferences of the national minority) do not necessarily meet the needs of aboriginal communities. In fact, Kymlicka admits that

Indigenous peoples usually seek something different: the ability to maintain certain traditional ways of life and beliefs while nevertheless participating on their own terms in the modern world. In addition to the autonomy needed to work out that sort of project, indigenous peoples also typically require of the larger society long-overdue expressions of respect and recognition (Kymlicka & Norman, 2000, p. 20).

Indigenous communities seek different forms of respect and recognition that will allow them to participate in their own way and “on their own terms”, as Kymlicka says, not to be forced into someone else’s mould. And yet, Kymlicka openly admits elsewhere that “all forms of nationalism involve reshaping and modernizing traditional cultures” (2001c, p. 261).

If it is true that indigenous peoples do not require the sort of national minority rights which Kymlicka’s theory describes but merely overdue respect and recognition, then it would seem that his theory is a very limited one, not only ignoring the multiplicity and diversity of societies but also ignoring the needs of indigenous persons. This reveals that Kymlicka’s theory is in fact limited to a very specific group of self-perceived national minorities, created under a specific system of modern international law.

##### Kymlicka’s Constraint

Turner also says that Kymlicka fails to take adequate account of aboriginal perspectives into demands for sovereignty. True sovereignty for Canada’s aboriginal peoples, says Turner, can only be achieved when the Canadian government takes full account of native perspectives on what sovereignty is. As long as what Turner calls “Kymlicka’s constraint” is in place (i.e. that aboriginals are subject to the courts of primarily non-indigenous lawmakers and judges), then Aboriginals will not have full control over their own affairs. This “constraint” as Turner describes it, is the result of a system which Kymlicka’s theory tries to promote, a “middle way” apart from separation whereby the national minority is not granted full sovereignty under the national system but is instead incorporated under its wider umbrella. This is a middle way because Kymlicka seeks to stop the overarching national government (in his primary example, the Canadian government) from unjustly encroaching on aboriginal culture by protecting the national minority with “external cultural restrictions”. Thus, the minority group is not fully independent from the majority, however it has a limited protection against its influence by having a degree of independence from it and the ability to restrict decisions that would negatively impact or alter the cultural distinctiveness of the minority group. Turner argues against Kymlicka however that as long as aboriginals are still subjected to the systems of their oppressors or the national matrix of the western lawmakers, they will be incapable of being judged on their own terms and hence unable to effectively block their influence – what Kymlicka himself would term outside imposition onto the group. In effect, Turner is saying that Kymlicka’s theory is an unrealistic one because as long as there is a higher authority or involvement in some form of outside court with respect to the sovereignty of the “inner group” of national minorities, then their sovereignty will remain constrained. As Turner says, there is a “lack of looking squarely at terms of incorporation of aboriginals” (Turner, 2000).

Kymlicka wants to call aboriginals “national minorities”. Turner’s challenge to Kymlicka is to ask: minorities in what sense? As Turner says, many aboriginal communities say they are still self-governing and not part of any Canadian state. National minority implies that these groups are incorporated into the greater national system, which is precisely against the wishes of many indigenous peoples. Indeed, the very term, “minority” is an indication of status. As much as Kymlicka declares that national minority status gives them privileges of self-government, as Turner points out this self-governance is incomplete, as aboriginals still have to fall under the control and the subsequent monitoring of the main (majority) state. Kymlicka’s theory then, instead of providing sovereignty to aboriginals and allowing them independence from the national system, could alternatively be viewed as a placebo for softening the terms of their incorporation.

Turner acknowledges that Kymlicka’s theory has been sensitive to the claims of indigenous peoples in a way that many other scholars have not, however she finds fault in his use of the term “incorporation” and its impact on weakening the position of Aboriginal sovereignty. She argues that

Kymlicka’s liberalism does not require the participation of Aboriginal peoples in order to determine the content of their ‘special’ rights. This is because Aboriginal rights are justified within a theory of distributive justice that does not fully recognize the legitimacy of aboriginal sovereignty (Turner, 2006, pp. 69-70).

Yet, as Turner says, many indigenous peoples do not see themselves as Canadian citizens at all, and insist that they are “*still* self-governing nations and that they have not in fact relinquished or ceded all of their powers to the state” (Turner, 2006, p. 66). Turner finds hope that Kymlicka’s theory can be reformulated in a way that would bring indigenous voices into what has typically been a discourse led by non-indigenous peoples. She says that his theory has the potential to “be interpreted in a way that at least makes room for Aboriginal peoples to speak for themselves” but she reminds us that while “this is an important first step for liberalism…it is only a first step” (Turner, 2006, p. 69).

##### Cultural Distinctiveness Conflated with Sovereignty Claims

 “Kymlicka’s constraint” pertains to cultural choices only. When Kymlicka argues for protection against external encroachment, he argues this on the basis of protecting a distinct cultural society. By arguing in this vein, Kymlicka conflates the right to self-determination with the need for cultural distinctiveness and sacrifices the former to the latter. If a preservation of distinctive culture is not in question, then tying rights to culture can in effect deny rights to sovereignty. National groups seeking their rights want the ability to determine their own future without intervention or approval from another “majority” state or nation.

Moreover, arguing for semi-independence on the basis of culture alone may work against the fight for self-determination for some groups. There are other reasons why the conjoining of culture and self-determination is problematic. As Murphy says,

Culturalism assumes that a normative defence of the right to self-determination stands or falls on the question of its instrumental importance to the preservation of a nation’s distinctive culture (Murphy, 2001, p. 373).

In other words, the instrumental importance of culture in Kymlicka’s theory is misplaced. Instead, authors like Murphy contend that what groups are seeking is a demand for democracy and rights, not for culture.

Rainer Baubock points to the weakness of the cultural argument in Kymlicka’s oft-repeated example of the Quiet Revolution in Quebec, which diminished the importance of culture and witnessed a growing cultural similarity between English Canadians and the Quebecois. Kymlicka himself acknowledges the paradox the Quiet Revolution holds for the “Quebec-Canada relationship” (Kymlicka, 2006a, p. 356). Quebeckers, says Kymlicka, became “more and more preoccupied with maintaining and enhancing their provincial jurisdiction” as they became more culturally similar to the rest of Canada (2006a, p. 356). He admits even that “public opinion polls have repeatedly shown that there are no statistically significant differences between Quebecers and other Canadians in basic political values” (2006a, p. 356). But is this is so, then why are minority rights for Quebecers justified? What is the political imbalance we are redressing?

Indeed, Baubock shows that the Quiet Revolution paradox counters Kymlicka’s cultural argument. “Rather than self-government being a means to preserve cultural difference, this difference is more often preserved as a means to justify the claim to self-government”, says Baubock (2000, p. 384). Citing examples from Protestant Unionists in Northern Ireland to Catalans in Spain, Baubock points out that a purely cultural argument completely misses the point. Conflict, in these cases, is not rooted in language or a fear for religious freedom, but in the persistence of conflict and boundaries between divided communities over generations. Ascriptive markers like language or religion are traced to “the historic origins of the conflict…it would be wrong to interpret nationalism as being mainly about preserving a substantial cultural difference rather than a separate polity,” he says (2000, p. 385). Murphy also points out how the cultural argument similarly fails with respect to Israeli nationalism: the Jews are culturally very diverse says Murphy, their quest for national independence was more a question of self-preservation than cultural preservation. This emphasis on sovereignty rights over and against cultural rights additionally appears in the writings of Jeff Spinner, McGarry and O’Leary, Margaret Moore and Brian Barry (as cited in Murphy, 2001). Barry for example states that nationalist movements are only minimally related to cultural demands and instead are very strongly associated with the demand for redistribution of other more fundamental goods, “such as power, money, land and resources.” (as cited in Murphy, 2001). Thus, by attaching culturalism to the very real and legitimate drive for self-determination, Kymlicka involuntarily puts sovereignty rights under question.

By defining nations or the drawing of borders in cultural terms, Kymlicka leads his definition very close to a cultural nationalism and away from the “liberal nationalism” he claims to advocate. According to Kymlicka, borders go around “societal cultures” or nations. By conflating his arguments for cultural recognition and national self-determination Kymlicka leads his theory into potentially dangerous conceptual confusion. Baubock argues that the language of self-government is simply not how minorities make their appeals. Baubock attributes, more pragmatically than Kymlicka, that the desire for autonomy expressed by minorities is not a need for “the spectacles…[to] identify [their] experiences as valuable” but rather emerge from historic struggles for power over the “boundaries of the polity” (Bauböck, 2000, pp. 384-5). In effect, Baubock is saying that although Kymlicka is defending rights for minority nations on the basis of culture, the issue at hand really has nothing to do with culture. Instead, the issue has more to do with the history of conflict, the struggle for power, and injustices expressly done towards historic communities, particularly in the case of indigenous communities.

While Kymlicka rightly makes the distinction between “immigrants” and “national minorities” as those who respectively want in the nation and those who want out – this distinction is marred because he conflates demands for recognition and cultural rights on the one hand and empowerment, redistribution and self-rule on the other. The difference between the two groups is not because one group consists of new and second or third generation immigrants who want to become more culturally similar and integrated with the host nation and the other group consists of those who wish to be culturally dissimilar from it. Instead, the distinction between those which wish to remain devoted nationals and those who do not (minority or majority); instead, it has everything to do with a deep desire for independence and self-rule, often stemming from historic conflict.[[72]](#footnote-72)

So who has the right to self-determination then? Is it only “nations”, groups of people who can prove to the international community that they have a strong societal culture; i.e., the institutional structures to properly support and diffuse their culture, and who can also demonstrate clear historic ties to one another and the land? It would seem that these constraints would put into question the majority of cases for self-determination worldwide, particularly by indigenous peoples who’s way of life in many parts of the world was subjected to annihilation or assimilation for so many years that they no longer have such structural elements in place. Further, even if they do have them, is this really the crucial issue behind their seeking self-determination and rights? How are we to expect indigenous communities who have been deprived of their cultural rights to have the institutional completeness that Kymlicka ascribes to his societal cultures?

Far from cultural distinctiveness, the desire for sovereignty centres squarely around the need for self-rule, usually because a certain minority group has been subjected to such coercive or assimilative or even annihilative practices that they see no other solution than independence. The need for self-rule is not primarily to maintain their cultural distinctiveness but to have control over their own resources, the direction of their futures, and decision-making across all aspects of their lives – not limited to culture. Persecution, threat of existence/genocide, and a history of oppression seem to be more legitimate or at least concrete grounds to establish claims for self-rule than cultural distinctiveness.

##### Liberalism and Title

“One should not found a just country on stolen land and repressive government”, says indigenous law scholar John Borrows (2002, p. 114). Borrows argues that Canada “does not have an ‘even’ experience of justice”, with Aboriginal peoples frequently denied their “essential legal rights in property (title) and contract law (treaties) (2002, p. 114). Yet, instead of focusing on redressing historic and indeed current economic and societal injustices, Kymlicka's theory insists on the importance of territorial sovereignty to *protect distinctive cultures*. Kymlicka justifies restriction on mobility on native reserves on the basis that he believes it is the only way the First Nation Tribes can prevent the Canadian government from further encroaching on their lands (Kymlicka, 1989). Kymlicka sees that it is okay to restrict the mobility of non-natives on native land and further sees that it is ok to disallow non-natives from moving/voting from there. He justifies this as a way of protecting the internal culture from external influence, and yet, this can potentially cause a lot of grey territory. A native for example cannot marry a non-native and still live in her home, instead, they must leave the native reserve under his theory, potentially causing problems with respect to mixed marriages.

Kymlicka admits that common ownership of land does entail some restrictions on liberty. Common ownership of land prevents alienable property rights and is therefore a significant restriction on the “liberty of individual members” (for example, they are unable to borrow money, and thus ameliorate their conditions through either ownership or education) (Kymlicka, 1995, pp. 43-44). As Levy says, in America many indigenous tribes have sovereignty over the land although they do not have property rights as the US government holds the land in trust for them (Levy, 2000b, p. 306). In effect, although Kymlicka’s request to restrict mobility of non-aboriginals does reflect many aboriginal claims, it does not coincide with the liberalism he tries to espouse in his theory, nor is it without complications for the rest of his theory. Turner says that “Aboriginal title” in Canada does not “recognize the legitimacy of the First Nations’ claim to outright ownership of their territories”. She says that once an Aboriginal group accepts title, they willingly put an unequivocal seal of approval on a “particular type of political relationship” between themselves and the Canadian state, embedding their political identity within the confines of the dominant state sovereignty (Turner, 2004a, p. 235).

With respect to restriction of mobility on Aboriginal territory, Borrows states that while many aboriginals do in fact base claims for restriction of non-natives on aboriginal territory on ethnicity and survival of their groups (see Jacobs v. Mohawk Council of Kahnawake 1998), he is troubled by aboriginal groups defining their membership based on such blood and soil argumentation (Borrows, 'Landed' Citizenship: Narratives of Aboriginal Political Participation, 2000, pp. 339-340). Instead, Borrows argues that “Aboriginal citizenship must be extended to encompass people from around the world who have come to live on our land” (Borrows, 2002, p. 140), offering a more conciliatory position than other authors, Borrows envisions a progressive Canada wherein aboriginal law is able to inform not only the rules and law-making in aboriginal territories, but for Canada as a whole.

Borrows says that while the relationship to the land is important for many aboriginals, this should not stop them from engaging in wider Canadian politics or lead them to be restricted only to the lands of their reserves and not their entire traditional lands. He emphasizes the need to see aboriginal communities in dynamic not static terms, and that aboriginal peoples are struggling with modernity. Turner and Simpson, in a paper entitled “Indigenous Leadership in a Flat World” similarly present a call to indigenous communities to step up to modernity and “return Indigenous peoples to our rightful place within the global community” (Turner & Simpson, May 2008, pp. 1-2). Turner and Simpson argue that indigenous peoples are not only an essential part of the modern world, but that the ability of their leaders to take up the mantle of modernity will effectively determine the fate of their communities.

On the one hand indigenous peoples wish to preserve their traditional ways of life, yet at the same time they also need to participate in the modern world, as other groups, they need to grow and change over time too. As Borrows says,

Discourses of Aboriginal citizenship must be enriched to reflect this fuller range of relationships with the land. Aboriginal culture is not static and…develops and redevelops through a wider variety of interactions than is recognized in conventional narratives of citizenship. Narratives of Aboriginal political participation should be transformed to reflect this fact (2000, p. 342).

Alice Feldman similarly argues that a “transformative and process-oriented” approach is needed for successful mobilization and to ultimately overcome the limitations imposed by western (colonialist) thought, and its present “preoccupations with ‘authenticity” (2001, p. 156).

Yet, so long as rights and recognition are tied to national definitions and culturalism (let us call this national culturalism), such as that proposed by Kymlicka, natives peoples will need to define themselves under the terms of modernity laid out for them, without being able to confront modernity and adapt to it on their own terms. The diversity of native traditions simply cannot be accommodated under a national system, which even by Kymlicka’s reputedly “non-ethnic” and “non-essentialist” definition still seeks to disseminate a common culture and language and political/societal institutions to its borders. As Kymlicka acknowledges, this is not even what the indigenous peoples are seeking, nor would they be capable of this without a great deal of support by the central government to accomplish such a feat. Indigenous communities have traditions that go beyond kin-based groups, they are not to be understood in the singular but as multiplicities that naturally change over time too. As Turner and Simpson argue, the terminology used to label indigenous peoples like “indigeneity” or “First Nation” undercuts

the rich distinctiveness of our cultural, philosophical [and] political traditions in the plural. Not only are we, as Indigenous peoples, very different from those that came to our lands and now claim it as their own, we are also very different from each other (May 2008, p. 3).

In fact, we may learn much about the acceptance of diversity by looking to the aboriginal peoples, for whom the imposition of a uniform culture across all bands and the imposition of a political vernacular remain outside their conceptual world[[73]](#footnote-73). As Alfred says,

What do traditionalists hope to protect? What have the co-opted ones forsaken? In both cases, the answer is the heart and soul of indigenous nations: a set of values that challenge the destructive and homogenizing force of Western liberalism and free-market capitalism; that honour the autonomy of individual conscience, non-coercive authority, and the deep interconnection between human beings and the other elements of creation. *Nowhere is the contrast between indigenous and (dominant) Western traditions sharper than in their philosophical approaches to the fundamental issues of power* (Alfred, 2006, p. 327) (italics mine).

#### Racial Minorities

For a theory of “Multicultural Citizenship” based on a north American society, it is a glaring flaw that Kymlicka’s theory does very little to address issues faced by racial minorities, particularly with regard to the situation of African Americans whom he admits do not fall under any of the minority categories he has set forth. Many groups experience dispossession and oppression by the state and certainly racism is still endemic in most societies worldwide. In Canada for example, in 2000 Canadian born visible minority males earned nearly 13 percent less than their white counterparts.[[74]](#footnote-74) Many of the current immigrants to Canada who are also visible minorities like the indigenous peoples, immigrate to Canada from indirect consequences of former colonization by the English or the French colonial powers, and suffered historic degradation and deprivation on their home soil similar to the colonization internal indigenous populations have faced. Perhaps we have an even higher responsibility to compensate these individuals for the injustices of a world system that forces a people to leave the comfort of their home territory in search of a better life.

For Kymlicka, the African-Americans cannot be considered a nation despite having developed many of the institutional requirements minority nations have. Kymlicka says that the African Americans had many diverse cultures and languages when they arrived in America, despite institutional separateness they were forcibly excluded (unlike national minorities who *wanted* exclusion) and they had no choice but to develop their own society. Kymlicka touches on this wider picture when he suggests that the African Americans were not seeking to maintain an existing culture through institutional separateness and that institutional separateness was but one component of a much “larger system of racial oppression” (1998b, p. 76). Kymlicka’s theory does not go any further in addressing the ongoing racial inequalities in American than this. Kymlicka, after all, believes that there is nothing wrong with a national culture that advocates a certain set of values and beliefs and that while this should move towards being an inclusive and fair culture he does not see the need for any group-specific rights to actually make this culture itself more open and multivocal apart from including some measures to ease the transition into the new culture for immigrants.

Was access to white Anglo-societal culture really what Martin Luther King stood for? Freedom and equality remains elusive for the majority of African Americans precisely because of the continuance of the white Anglo model of societal culture – the univocal way it is enforced and maintains a hierarchy of preferences and cultural domination in the United States. The African-Americans did not fight for civil rights to be able to opt into white Anglo-societal culture, nor have women fought for rights to opt into a male dominated narrative either. The Civil Rights movement fought for American identity to incorporate them and to hear (not assimilate) their unique voices. Kymlicka’s lack of a solution beyond the confines of culture means that his theory is unable to provide a meaningful contribution on one of the most salient minority issues in North America (Barry, 2001, p. 317).

Further, Melanie C. T. Ash, Canadian scholar of multiculturalism, argues that Kymlicka’s silence on the issue of racial minorities and in particular the exclusionary history of “race-based immigration policies” in Canada, makes him complicit in reifying the White, Anglo caricature of Canada and its intolerances towards non-White Canadians or “visible minorities”. His theory does not consider the selectivity in the terms of admittance to Canada which maintained the distinctiveness of the “societal cultures” of English and French Canada, such as the 1885 head tax on Chinese immigrants, which was later replaced in 1923 with an astounding complete prohibition on Chinese immigration up until 1947 (Ash, 2004, pp. 404-5). As Ash says, “the relative absence of visible minorities and other ethnic minorities among the colonial vanguard was certainly not a matter of happenstance, but rather was deliberately orchestrated” (2004, p. 404). Kymlicka’s lack of substantial discussion on the topic of visible minorities in Canada and the difficulties they face vis-à-vis the Canadian “Anglo” national identity, is more than an omission. Ash says Kymlicka “becomes an apologist for liberal ethnocentrism and, perhaps unknowingly, implicates himself in the perpetuation of ongoing historical racial wrongs” (2004, p. 405). Instead of accepting the current status quo, Ash argues for a radical re-conceptualization of Canadian identity. Yet, as we have already seen, Kymlicka himself supports mild illiberalism in immigration restriction in order to favour immigrants who are in “keeping” with the national culture.

### The Difficulties posed by Societal Cultures

Carens points out a similar omission in Kymlicka’s categorical approach to ethnicity and his division between “national minorities” who are entitled to recognition rights and self-determination versus “immigrants” who are entitled to “polyethnic rights”. The term polyethnic itself serves to limit those who are entitled to this particular category of minority rights. Instead, Carens finds it would be more helpful to label the rights based on what they do than on who they serve, and finds “recognition rights” a far more appropriate label to avoid the “awkwardness” present in Kymlicka’s theory (1997, p. 37). Indeed, Kymlicka’s advocacy of remedial nation-building leads Kymlicka’s theory towards some potentially regrettable conclusions:

#### English Canada should abandon pan-nationalism and promote its Anglo-character

Kymlicka argues that if we condone majority nation-building, then we must not prevent minority nations from having their own forms of nation-building. However, this argument also works in reverse, by condoning minority nation-building you give implicit consent to the idea that the majority nation should also maintain a specific cultural distinctiveness and inheritance. This would *justif*y for example the idea that Canada endorses its historical Anglo-Saxon character – something which Kymlicka does in fact himself roughly support, as he says:

So far I have argued that English-speaking Canadians should reflect more carefully on the interests they share as a linguistic community, and *that they should endorse asymmetry* as a way of enabling them to better pursue those interests….One way to pursue this strategy would be to encourage English-speaking Canadians to view themselves as a ‘nation’ (1998b, p. 164)(italics mine).

Kymlicka says that English Canada should recognize its common cultural background in order to see how it is under-privileging those minorities who do not adhere to that common culture. He states that there is no urgency however for English Canadians to begin to define themselves in national terms however because nationalism is a “feeling” and if most Canadians don’t *feel* part of an English-nation, then there is no need to push this criteria of identity upon them. Yet, this seems an unwarranted retreat from more progressive steps happening in multiculturalism over the past few decades in Canada.

Further, this also turns a blind eye towards the way the “Anglo” character of Canadian and American national identity continues to oppress various groups within the society (apart from French Canadians alone). As de Xavier de Sousa Briggs, American sociologist and urban planner says, “expectations about ‘being American,’ while officially pan-ethnic, still carry ethnocentric baggage and reflect stylized interpretations of our history”, which significantly he points out “mask ethnic conflicts” (2004, p. 336). In a similar tenor, Ash recounts a meeting wherein a non-white person is singled out among a group of other females and asked “so where are you from?” She says such a moment is a

…coming of age for all Canadians of colour: the moment when you first become aware that you are not seen as a Canadian. That you will forever have to justify your presence in your country in a way that white Canadians, and even newly-arrived white immigrants, never will (Ash, 2004, p. 399).

Despite the multi-ethnic and multicultural fabric of Canadian society, the overwhelming perception remains that Canada is white says Ash, and this, contrary to Kymlicka’s suggested reinforcement through a strengthened common Anglo national identity, is in need of serious questioning and reconfiguration – which Kymlicka’s comments about English Canada strengthening its sense of Anglo identity seem to ignore.

On a more optimistic note, Goonewarda and Kipfer, Canadian scholars writing on urban geography, state that the distinction between subaltern and dominant urban practices has become blurred in Canada, “precisely because multiculturalism here *has* made a symbolic dent in the *explicitly* ethno-centric and white supremacist notions of Canadian*ness*” (2005, p. 672). To even get “English Canada” to see itself as a singular linguistic nation would even be a difficult task because, as Kymlicka himself admits, the majority of Anglo-Canadians

Historically [have] taken pride in their lack of linguistic nationalism…there would be difficulties even naming this ‘nation’. ‘English Canada’ runs the danger of being interpreted in an *ethnically exclusive way,* as if descendants of British colonists were truer ‘English Canadians’ than the descendants of Italian or Ethiopian immigrants (Kymlicka, 1998b, pp. 164-5) (Italics mine).

This last argument illustrates the problem faced for immigrants in a country that has a national culture at its core – the idea iterated above, that those “original stock” inhabitants will always be viewed in a different light from new cultural infusions, particularly those who are significantly culturally different from the state or sub-state endorsed national culture poses a significant problem for minorities. It is therefore a contradiction for Kymlicka to on the one hand say that remedial nationalism is needed to fix a problem where a group was disadvantaged, and at the same time to endorse even strengthening these distinctions (and hence disadvantages) created on the part of the majority culture itself.

These arguments about Canadian commitment against nationalism and linguistic uniformity are even still much more thin than the nationalism Kymlicka advocates for minority nations themselves (Kymlicka describes national culture in liberal western democracies as “thin, but far from trivial” (2001b, p. 25)). Kymlicka presupposes that the majority is stable and that they do not need measures to protect their national cultures. But what of countries where there is no clear majority-minority – a deeply divided country with a recent history of aggressive conflict, where both parties feel under significant threat? Even in a relatively stable country such as Belgium, the difficulties associated with encouraging even thin nationalism amongst members with respect to their relation to the other opposing national group are apparent.

National minority protections as Kymlicka describes them entail much more than simply language rights. The protections he describes include a form of cultural preservation, control of immigration, and defining the nation (and thus defining national membership). Ultimately, defining national group rights is about deciding belonging. Moreover, nationalism is essentially about defining a unified culture. What else does Kymlicka mean to promote when he says that the minority requires control over cultural resources, the media, education to promote its unique history and national culture? Importantly, how can we end up with anything but conflict and division between groups so long as two minority nations are developing their own conflicting versions of their intertwined but separate histories?

#### Secure Cultures = an Adequate Context of Choice

Essentially, Kymlicka deems that without societal cultures we would be lost, like a ship in a storm that has lost its bearings, unable to successfully navigate our social environment or to have freedom to choose meaningfully. Securing cultural structures or “societal cultures” is important for Kymlicka and he feels it should be important for all liberals “because it’s only through having a rich and secure cultural structure that people can become aware, in a vivid way, of the options available to them, and intelligently examine their value” (Kymlicka, 1989, p. 165). Kymlicka ties human autonomy to membership in a societal culture. As he sums it up, “put simply, freedom involves making choices amongst various options, and our societal culture not only provides these options, but also makes them meaningful to us” (1995, p. 82).

Further, without a societal culture that is “rich and secure” our society faces injury and anomie of the sort which Aristotelian communitarians such as MacIntyre presage. As Kymlicka boldly asserts, “without such a secure cultural structure, children and adolescents lack adequate role models which leads to despondency and escapism” (1989, p. 165). To prove this claim, Kymlicka cites an article about Inuit children, which in effect ties the sense of anomie felt by Inuit youth to lack of a clear cultural structure, and hence, lack of clear role models (1989, p. 166) [[75]](#footnote-75). This example, along with Kymlicka’s claim that we need a secure cultural structure to provide our lives with intelligent options and meaning, are hyperbolized and ignore important socio-economic considerations at the root of social phenomenon.

In following Kymlicka’s above assertion that we need to have a secure cultural structure from which we draw adequate role models, we might assert that a Canadian 2nd generation child of Indian parentage in taking Gandhi as her role model, instead of “Canadian hero” Sir John A. MacDonald[[76]](#footnote-76), is less able to navigate the “vernacular” of Canadian society and may be at a loss compared to her 6th generation English descendant co-national. This would be absurd to the highest degree. Not only are role models in today’s globalized world hardly confined to cultural communities (it would do a great favour to more global youth the world over were Gandhi to be taken as a role model in more homes as compared with John A. Macdonald – who by the way is quoted as saying “The great aim of our civilization has been to do away with the tribal system and assimilate the Indian people in all respects with the inhabitants of the Dominion, as speedily as they are fit for the change” (as cited in Cairns, 2000, p. 17)). Having a “secure cultural structure” is by no means a way to ensure that adequate and worthy role models are created and admired. Again, the idea of a “secured cultural structure” is a monolithic concept rooted in history and in shared meaning, which may in fact lead to an exclusionary (or at the very least disadvantageous) position for those members who do not share the same historic role models or same facility in the national language as other more “rooted” members.

Certainly, nationalism does its part to create myths of leaders and their great acts; however, often the national heroes that are celebrated are as much fiction as fact. “National heroes” are more often than not military leaders promoted for the political values they are said to represent – again instilling a certain direction on the beliefs of the people, rather than genuine heroes naturally arising (against the tide) who are often uncelebrated or even intentionally ignored by national (writ societal) cultures.

#### Liberal Defence for Minority Rights Tied to Membership in a Nation

Kymlicka closely ties our human freedom to membership in such secure cultural frameworks. First, he attributes the development of personal autonomy to one’s societal culture. Second, he says that there are strong ties between one’s societal culture and one’s national group. Thus,

a. If I have a societal culture I am *free*.

b. If I have a national group, I have a societal culture and therefore I am free.

Based on this series of inferences, Kymlicka inadvertently ties his liberal defence of minority rights to membership in a national group; however, Kymlicka’s connection between freedom and national identity is unlike his justification for the connection between group rights and liberalism and on its own is unsupported philosophically. The “relevant society” he argues is one’s nation, “the sort of freedom and equality within their own societal culture, and they are willing to forego a wider freedom and equality to ensure the continued existence of their nation.” (2000a, p. 26) Even here, Kymlicka speaks of a “forgoing” of a wider freedom and equality to ensure a national existence. But how can this be if nationalism is the source of our very freedom? It is not clear why the nation above all other sources of identity would be the one that would mean so much to our choices and freedom if it is truly flexible and dynamic. Further, how can the key to our freedom lay in a membership based on something that lays outside our individual control? (Lichtenberg, 1999, p. 171)

Certainly, if we are to accept that a societal culture is a prerequisite for human freedom and choice as Kymlicka insists, it seems hard to justify that this should be denied to immigrant groups while supported for national minorities and the national majority. If human beings need societal culture as context of choice, will immigrant groups not be seriously disadvantaged in adapting to a new societal culture? If a societal culture is truly necessary for freedom, should we not support it for all citizens, regardless of when or how they became a member of the state?

Carens argues that Kymlicka’s theory leaves much guesswork as to how “secure” one’s societal culture ought to be. Since Kymlicka treats societal cultures as a primary good in the Rawlsian sense, he questions: “would secure access to one’s societal cultures count as a basic right that must be equally distributed or would it be subject to the difference principle? If the latter, how would we assess tradeoffs between it and other primary goods?” (Carens, 1997, p. 42). These matters are as yet left undeveloped by Kymlicka himself but are a point for further development and particularly application of his theory.

#### Cost-benefit Calculation for Minority Rights

Whereas advocating societal cultures for immigrants seems impractical for Kymlicka, the opposite holds true for national minorities for whom he claims it would be too “difficult and costly” to integrate into mainstream culture (Kymlicka, 2001b, p. 55). The cost Kymlicka is referring to is no doubt the “human cost”, the loss of a distinct culture and way of life. And yet, it would seem that the distinction between immigrants and national minorities as elaborated by Kymlicka is in fact the path of least resistance. As Kook says of Kymlicka, “Ironically…even [one of] the more ardent proponents of differentiation…Kymlicka, use[s] integration as the fundamental yardstick with which to judge the appropriateness of the strategy” (Kook, 2000, p. 48). Choudry also similarly comments, saying that, with regard to the ease of integrating immigrants versus the relative unease of national minorities, “his concern…is less with justice than with the political stability of liberal democracies that are ethnically diverse” (2002, p. 71). The voices of populous national minorities are too costly to integrate, while immigrant groups ought to be assimilated upon entry before additional dissent from the majority hegemony is allowed to take flight.

According to Kymlicka, majority nation-building does clearly put immigrant groups at a disadvantage in the same way that it disadvantages national minorities. But since immigrant groups do not have the same capacity as national minorities to form their own societal culture, the majority nation should therefore do its best to “minimize the costs involved in the integration it demands” (Kymlicka, 2000b, p. 168) but is under no obligation to help the new immigrant minorities establish their own secure societal culture in their new homeland. Because equality for immigrants does not mean a separate institutional structure, but recognition rights and making the overall culture of the majority more open and tolerant.

This is supported by other authors, including Modood, who states that most communities in the UK of “hybrid identities” (such as Black-British or British Asian) see themselves as fully committed to the British nation, the terms of their debate however are over the terms of exclusion and inclusion that they face, rather than caring for “discrete societal cultures” (Modood, Anti-Essentialism, Multiculturalism and the 'Recognition' of Religious Groups, 1998, p. 389). Baubock, who like Kymlicka advocates a federal system and the decoupling of nation with state boundaries, nevertheless concedes, “drawing political boundaries along the lines of national membership ignores (or suppresses) small and dispersed minorities, as well as mixed populations and multiple individual identities” (Bauböck, 2000, p. 366). Walzer offers us some insight however into the reason why newer waves of immigrants do not seek national identity in the way that national minorities do: In the New World the demand is for politics to be separated from nationality.

In the coming Chapter, Kymlicka’s theory will be cast against the backdrop of the discussions that were raging on the topic of nationalism at the time of his writing to show the debates that gave rise to many of the ideas implicit in Kymlicka’s theory, and to better understand Kymlicka’s own position amidst them and what this ultimately means for his theory of minority rights.

## Chapter 5Understanding or Misunderstanding Nationalism?

Nation has strong significance for Kymlicka’s theory. As we have seen in the previous chapter, Kymlicka seeks primarily to secure national rights for minority nations and to make plain the multi-national character of states. Yet despite the pivotal role that nation plays in Kymlicka’s theory, Kymlicka does not dwell long on questions about the *nature* of nation itself. As the debate about group rights has become fundamentally normative, conceptual clarity on the definition of nation is much needed. This chapter shall therefore outline the main points that Kymlicka establishes about nation and frame his definition within the larger socio-political debate about the nature of nation.

Kymlicka is not alone in expressing an inability to clearly define nation, as he and Norman acknowledge, “for more than a century political philosophers and social scientists have debated the question ‘What is a nation?’” (Kymlicka & Norman, 2000, p. 19). Anthony D. Smith also describes the “protean” and evasive nature of the nation, and sums the surmountable task: that we have to “try to classify the rich variety of movements and ideologies if we are to make any progress in understanding so variegated a phenomenon” (Smith, 1996). Oddly, most philosophers have remained quiet on this topic despite the strong influence of national identities and boundaries in the modern world. As Benedict Anderson said it, “unlike most other isms, nationalism has never produced its grand thinkers: no Hobbes, Tocquevilles, Marxes, or Webers” (Beiner, 1999, p. 2).[[77]](#footnote-77) Perhaps ‘nation’ as a concept has been ignored due to its negative associations, or perhaps it has been held aloft due to the ambiguity of its intrinsic emotive aspect. Nevertheless, key writings on the topic of nationalism ostensibly have influenced the development of the theory of Kymlicka.

Particularly relevant for Kymlicka’s theory is the influx of theories on nationalism written in the early 80s to 90s[[78]](#footnote-78), just prior to and concurrent with the beginnings of theories emphasizing community[[79]](#footnote-79) and “politics of identity”[[80]](#footnote-80) and Kymlicka’s first major work (1989). Writing against the backdrop of the disintegration of the Soviet Union and its failed project of ‘Russification’ in the latter part of the 80s, these social scientists sought to bring nationalism back into the limelight[[81]](#footnote-81). They sought to understand the political potency the concept continued to have in the world, particularly in the rising nationalisms of Eastern Europe. This post-Soviet rise of nationalism and ethnic pride threw a wrench into Francis Fukyama’s premature “End of History” (Fukuyama, 1989; 1992).[[82]](#footnote-82) Political scholars, liberalists foremost, could not understand why human communities would decide to go ‘backwards’ and retreat into the biased prejudices from which liberalism had lifted them. Thus, in the years just prior to and following these global upheavals, a flurry of authors hurriedly tried to explain the attractiveness of ‘nation’ and the rise of nationalist outcroppings across numerous states worldwide, and in particular, to illustrate nationalism’s compatibility with liberalism.

It is no small coincidence then, that the closely following developments in the political philosophy of multiculturalism and identity politics would also try to grapple with this difficult question of nation; if not to explain it entirely, then at least to explain it partially with respect to the importance of culture and community as Kymlicka’s theory sets out to do.[[83]](#footnote-83) In the brief survey that follows, I focus mainly on the major theories of nationalism that surfaced around the time of the rise of literature on community, identity, and minority rights, and then will relate Kymlicka’s works to these theoretical debates.

### Theories of Nationalism

#### Ernest Gellner: Modernity and Industrialization

Ernest Gellner offers one of the most influential theories of nationalism. Gellner was one of the first authors to raise the importance of nationalism for political studies. Nearly all writers studying nationalism refer to his theory, even if they disagree with it. Kymlicka himself mentions Gellner in several of his writings and was clearly influenced by him in his own theory. Similar to Kymlicka, for Gellner the rise of nationalism is tied indelibly to the rise of modernity. Indeed, Gellner’s theory would become “patronizingly classed” with the “modernization school” of social sciences at the time (O'Leary, 1996, p. 197). More specifically however, for Gellner nationalism was a necessary corollary of the rise of industry and western capitalist society. In his “unashamedly functionalist” account of nation, Gellner considers nation in an instrumental sense as necessary for human advancement and a requirement of industry (O'Leary, 1996, p. 203).

To a certain extent, Gellner considers industry and nationalism as two sides of the same coin. Both were meant to bring stability and prosperity. To meet the heightened demands and pace of modern industry a skilled and transferable set of higher educated employees was needed. A common “high culture” says Gellner was therefore transferred from the elite to the working classes to elevate them to a standard in which they could fulfil these new requirements of industry, which in turn blurred the distinction between the classes (Gellner, 2006, pp. 34-7).[[84]](#footnote-84) Nationalism was the vehicle for this transformation. It provided the required milieu of standardization and homogenization of culture and of languages in which skills became transferable and commodifiable in a way that best served the interests of the industrial will.

To illustrate, Gellner provides us with a fictional story about an empire called “Megalomania” and a people called “Ruritarians”. In the empire of Megalomania, lived a group of people called “Ruritarians”. Gellner says that Ruritarians “had previously thought and felt in terms of family unit and village, at most in terms of valley, and perhaps on occasion in terms of religion.” (Gellner, 1994, p. 69). They had only loose connections to the empire. However, the rise of industrialisation in Megalomania brought about sweeping changes to the land, which in turn disrupted family connections and other previous sources of identity for the Ruritarians. The Ruritarians found themselves both exploited and impoverished from the rise of new industry. Theories of liberalism from neighbouring countries reached them however, and the Ruritarians began to define themselves in opposition to the more prosperous Megalomaniacs and launched a revolution against them, which in turn gave rise to a newfound Ruritania and a Ruritarian national identity. This new national identity was defined in terms of the high culture of the elite, altogether different from that of the lower classes, but which soon spread to them (Gellner, 1994, pp. 66-70).

Gellner uses this illustration to describe how nationalism first arises among populations with no previous national consciousness or history of industry. Nationalism in this account is a tool of the Ruritarian people to facilitate collective action with respect to overcoming inequalities between themselves and the Megalomania Empire. Nationalism is primarily “a new form of social organization, based on deeply internalized, education dependent high cultures, each protected by its own state” (Gellner, 1994, p. 63) (or what Kymlicka would term, “societal culture”).

This nationalism however, contrary to primordialist views, is not something intrinsic to the Ruritarian population; instead, it is a new ahistorical creation that arises to fill a need. As Gellner famously remarked, “nationalism is not the awakening of nations to self-consciousness: it invents nations where they do not exist” (as cited in Smith, 1991, p. 71). IN other words, *nationalism creates nations* – not the other way around. Gellner stresses this point in a way that Kymlicka does not: nations are *not* pre-existing entities; instead, they are primarily social constructions. The basis for this new nationalism however does sometimes have roots prior to its inception, and “sometimes takes pre-existing cultures and turns them into nations, sometimes invents them, and often obliterates pre-existing cultures” (Gellner, 1994, pp. 63-4). Previously loose amalgams of closely associated cultures become unitary and homogenous.

Both Gellner and Kymlicka agree that the development of nations led to uniform language, education, and even health care systems. Official state-sanctioned languages displaced local languages. Common civil criminal codes and labour reforms were introduced in part to increase the health and circumstances of the labourers. The nation-state thereby facilitated the rise of industry and the improvement of the conditions of the working class that fuelled it. In toto, the push for industrialization marked the beginnings of the welfare state, and nationalism was both an offspring and a vehicle of this.

This account of nationalism has been criticized however for hinging on economic determinism and for reducing nationalism to a mere means for capitalism. Further, Gellner is also blamed for overly generalizing the varieties of nationalisms worldwide and for failing to account for various integral aspects of nationalism (such as passions and military involvement in its creation).[[85]](#footnote-85) Nevertheless, Gellner’s theory has played an important and reoccurring role in subsequent studies on nationalism.

Gellner’s influence is indeed evident in the work of Kymlicka, who also claims that nationalism brought prosperity through enabling a system which facilitated a single language, universal education, health standards and so forth which all served to create equality within the society and raise its bottom levels. Kymlicka parts company with Gellner however with respect to the diffusion of culture. While Gellner says that nationalism assisted in the spreading of high culture, Kymlicka says (shadowing Hobsbawm) that this was a two-way street, and that with the spread of nationalism both the lower classes were influenced by high culture, but at the same time the upper classes were exposed to “low” or popular culture.[[86]](#footnote-86) Kymlicka also departs from Gellner’s purely constructivist account of nationalism as we shall see in more detail later on.

#### Eric Hobsbawm: “Invented Traditions” - A View from Below

In a vein similar to Gellner’s account of nationalism, Eric Hobsbawm sees nationalism as a contingent development related to a very specific stage of human technological and economic progress. National identity for Hobsbawm marks a shift away from pre-modern identities towards a new and specifically modern sense of identity in that it demands tremendous allegiance and political duty to surpass all other group associations. Hobsbawm agrees with Gellner that “nationalism comes before nations” and that nations are primarily socially engineered constructions (spread by governments and elites by means of mass media and standardized education) (Hobsbawm E. , 1990, pp. 8-10). In his words, nations are invented traditions (Hobsbawm, 1983), that no serious historian should believe in, for “nationalism requires too much belief in what is patently not so” (Hobsbawm E. , 1990, p. 12). Indeed, Hobsbawm quotes Renan in saying that “getting its history wrong is part of being a nation.” In other words, the created national stories and histories though they may have some origins in reality, include many falsities and intentional exaggerations.[[87]](#footnote-87)

Like Gellner, Hobsbawm sees nationalism as “constructed essentially from above” (1990, p. 10), however he departs from Gellner (but slightly closer to Kymlicka) in describing it as a “dual phenomena” (1990, p. 10) and thus in need of being understood from below. He cites this as Gellner’s chief fault: that he does not aim to understand nationalism “in terms of the assumptions, hopes, needs, longings and interests of ordinary people, which are not necessarily national and still less nationalist” (1990, p. 10). Kymlicka, though he does not mention Hobsbawm at any length in his works, would clearly agree with him with respect to the need to understand nationalism from below and not to disregard the meaning which nationalism holds for the people themselves, though the primary sense of belonging which concerns Kymlicka the most is in fact national belonging and national sentiments (towards one’s societal culture).

Further, Hobsbawm differs from Kymlicka in that he stresses much more strongly the atypical and fluctuating nature of national movements, as compared with the stable cultural background Kymlicka believes nationalism provides for its members (as we will see more clearly in the coming paragraphs). For Hobsbawm, national movements rarely have a uniform impact on the people, often reaching the working classes last[[88]](#footnote-88). Further, national identity is never a solitary identity but is always held in combination with others. Nor is it a permanent identity but is constantly shifting through time. Official national ideologies rarely match the national identifications of the people who are subject to them. National consciousness amongst the masses is in fact not even generated in some cases even after a nation state has been made, says Hobsbawm (as in the post-colonial world for example).

More condescending of nationalism than either Gellner or Kymlicka, Hobsbawm believes that nationalism was suited to a particular time in human history but that this time is now nearing its close. His critics deride his pessimism about the future of nationalism and point out to its continuing prevalence in the world (their critiques of his writings are further driven against his commitment to Marxism). Nevertheless, Hobsbawm offers a discriminating assessment of nationalism and moves national theory away from other monolithic accounts.

#### Benedict Anderson: “Imagined Communities”

Perhaps the definition of nation that best captures the heart and passion intrinsic in nationalism is that offered by Benedict Anderson. In a book called “Imagined Communities” (Anderson, 1983/2003), published in the same year as Hobsbawm’s “Invented Traditions” (1983), Andersen penned nation as an “imagined political community that is imagined as both inherently limited and sovereign.” (Anderson, 2003, p. 6; see also Puri, 2004, pp. 43-58) According to Anderson, what nationalism marked from all pre-modern societies was a new way of *imagining belonging*. As Yael Zerubavel says, these “imagined communities” were forged by nationalist movements that used selective forgetting and remembering to form a national narrative to shape the past (Zerubavel, 1995, p. 214).

Contrary to Hobsbawm, who sees nationalism as a primarily a development of the occident, Anderson suggests that national sentiments first developed in “Creole states” (the new world colonies) and thereafter quickly spread to the rest of the world. Three developments gave rise to nationalism according to Anderson: first, the demise of sacred languages (coupled with the rise of the printing press); second, a shift in sovereignty from “divinely-guided” monarchies to “the people”[[89]](#footnote-89); and third, a new temporal aspect added to our understanding of community, connecting us back to “time immemorial” and forward into the future.

Anderson's definition is important for understanding Kymlicka because it underscores the aspect of belonging intrinsic to national identity so critical to his theory. As Kymlicka words it, Anderson’s theory explains “people’s bond to their own culture” (1995, p. 90). Indeed, Anderson describes national membership as a deep communal bond, he says though most members “will never know their fellow members…in the minds of each lives the image of their communion” (Anderson, 2003, p. 6). This imagined sense of belonging creates a vision of dedicated community that is "always conceived as a deep, horizontal comradeship" (Anderson, 2003, p. 7). Though the collective memories and boundaries established by nationalism are the product of our creative imaginings, Anderson shows us that they still hold important psychological consequences for our sense of identity and belonging.

#### Anthony D. Smith: The Ethnic Origins of Nation

Anthony D. Smith, Editor-in-Chief of the scholarly journal *Nations and Nationalism* (Cambridge University Press) and former student of Ernest Gellner, is another leading scholar of nationalism. For Smith, neither primordialist accounts (irrational “blood and soil” beliefs) (see for example the influential view of Connor, 1993, p. 374) nor modernist accounts (socially-engineered *ex nihilo* arguments) can satisfactorily explain nationalism. One account treats nationalism as unchanging and immemorial while the other treats nationalism as inconstant and new. Instead, Smith attempts to provide us with an account that (in a fashion similar to Kymlicka) bridges both the primordialist and constructivist views; an account of nationalism which he calls “ethnosymbolism”.[[90]](#footnote-90)

The term ethnosymbolism arises from Smith’s theory that the origins of nations lay in pre-modern identities or ethnicities, which he calls “*ethnies*” (somewhat similar to Kymlicka’s “ethnocultural groups”) (Smith, 1986, p. 138). National traditions are not created *ex nihilo* for Smith, but are woven from fragments of meaning collected from our past. These premodern identities in turn shape our modern identities. Though most nations are *polyethnic*, all nations have a dominant ethnic “core” says Smith. Similar to Kymlicka, Smith notes that many minority populations will find themselves at a disadvantage, as the “dominant ethnic core” will be promoted.

So far Smith’s theory loosely mirrors Kymlicka’s, however Smith articulates more finely than Kymlicka the nature of these “ethnies” or “ethnocultural groups”: Smith compares nation to a geological strata that combines “all its members’ past experiences and expressions” (in other words, histories and traditions) (1999, p. 171). It is the task of the nation-builder to become an archaeologist says Smith, digging into these deep layers of tradition to renew and reinvent old myths and symbols for the “mobilisation of the present.” (1995, p. 17; 1999a, p. 331)[[91]](#footnote-91) As Smith says, "perhaps the central question in our understanding of nationalism is the role of the past in the creation of the present” (Smith, 1995, p. 18). Nationalists are selective of course in the history that they remember and forget; those aspects of history that are repeated or reinvented are those which meet the criteria set out by nationalist ideology, historic data, and public sentiment. (Smith, 1995, p. 19) [[92]](#footnote-92) Nation-building thus is a “continually-renewed two-way relationship” connecting “*ethnic* past to *nationalist* future”. This continuous link between past and future gives nationalism its strong emotive power (Smith, 1995, p. 19).

Smith continues onwards to go beyond Anderson’s classic definition in saying that, “the nation is, after all, more than just an ‘imagined community’; it is also a community of will and emotion, purpose and devotion” (2001, p. 447). Like Kymlicka, for Smith the key features of a nation – its myths, its history, and even its territory[[93]](#footnote-93) – are essential to the identity of its members. In fact, Smith’s own definition of nationalism (in some places defined by him as ‘civic’ nationalism) is such a close mirror of the definition provided by Kymlicka that it is worthwhile to quote in full:

Nationalism can be defined as an ideological movement for attaining and maintaining autonomy, unity and identity on behalf of a population, some of whose members deem it to constitute a ‘nation’. The *nation* in turn can be defined as a named human population occupying an historic territory and sharing a common public culture and history, a single economy and common rights and duties for all members (Smith, 2001, p. 442).

This definition is very close to that of Kymlicka, as we will see in the coming pages, however there are subtle differences. Kymlicka never refers to nationalism in terms of it being an “ideological movement” as Smith does, but rather equates national feelings with the important “context of choice” that (national/societal) culture provides for its members (as discussed in chapter four). More definitively than Smith’s focus on the diverse and shifting origins of national culture itself, Kymlicka tends to emphasize the bounded aspects of nation: including territory, language, and institutions.

Smith does proceed along similar lines to Kymlicka and the communitarians with respect to the deep feelings of attachment to one’s nation; like the communitarians, Smith associates this with the basic human need for authenticity.[[94]](#footnote-94) Authenticity, for Smith is understood in a very romantic Herderian[[95]](#footnote-95) point of view, emphasizing the uniqueness or “purity” (Smith, 2001, p. 443)[[96]](#footnote-96) of each culture or nation. He expresses the need not just to preserve the various unique cultures but also to uncover the origins of its “genius, in order that the nation may flourish once more” (Smith, 2001, p. 443). Kymlicka on the contrary, and quite rightly, does not support preservation of a culture for its own sake, but only for the sake of its members insofar as they value it and themselves find it necessary and worth preservation.

Overall, Smith provides an innovative new way of casting nationalism in a positive light. His approach combines anthropology and historiography to provide an understanding of the phenomenon of nationalism, which he says though modern, has origins that stretch back much further in human history. Smith is similar to Kymlicka in that he provides an explanation of nationalism that ties its value to cultural membership (Kymlicka, 2001b, p. 250) and which correspondingly tries to explain the potent emotional attachment people experience towards their nation.

##### Do Nations have Navels?

Gellner, responding to the critiques of his former student Smith, gave an adversarial lecture in the now famous “Warwick Debate” held between both he and Smith in 1995 at Warwick University, wherein Gellner asked the semi-rhetorical question: “Do nations have navels?” (Gellner & Smith, 1996). By navels, Gellner adroitly uses a metaphor of the debate on the origins of man to explain his take on the debate on the origins of nation. The debate between creationists and evolutionists – as to whether humans were created ‘*ex nihilo*” or whether they arose as a slow gradual process of evolution, explains Gellner, could potentially be decided by knowing whether Adam had a navel. If Adam had a navel, then mankind was created *ex nihilo*, but if Adam did not have a navel, then it would indicate that mankind was created from a long process of evolution, of which Adam had not yet gone through – to acquire navels. Gellner, in a move that trivializes the work of Smith and casts doubt on Kymlicka’s cultural-ontological account of nations, says that the case of the origins of nations is as inane a question as “did Adam have or did he not have a navel?” He cites clear examples of nations that were created *ex nihilo* in modernity (such as the Estonians) and says that to enquire further, whether other nations had “navels” or not (i.e., whether they were created *ex nihilo* in modernity or were a part of a longer process of development tracing back into human history) would be beside the point. Of course, says Gellner, people have always valued culture; however, the *main* point is that modernity (propelled by its advancements in science and economics) brought about a fundamental change that marked a shift in how people experience culture and identity.

#### David Miller: Against Objective Descriptions

UK philosopher David Miller is also a strong pro-nationalist like Kymlicka who advocates a form of civic nationalism. Like Kymlicka, Miller believes that promotion of an overarching national identity (nation-building) is a positive thing for fostering social solidarity. For both, nation springs from a long history of association expected to continue into the foreseeable future. Both Miller and Kymlicka agree that there is an emotional attachment to this nation or community, for which Miller says, we would “sacrifice personal goals to advance its interests” (Miller, 1992, p. 87). For Miller, nation is

not a matter of the objective characteristics that [a people] possess, but of their shared beliefs; a belief that each belongs together with the rest…the community is marked off from other communities by its members’ distinctive characteristics. Where these beliefs are widely held throughout the population in question we have sufficient grounds for saying that a nation exists (Miller, 1992, p. 87).

Miller’s definition, though very close to that of Kymlicka, differs in that it emphasizes much more the created aspect of nation and less its objective aspects. Particularly, Miller shies away from associating the definition of nation from “objective characteristics such as race or language” (Miller, 1992, p. 87), while language and territory (“givens” according to Miller) form an integral part of Kymlicka’s justification for group rights.

The “givens” (that Kymlicka argues connect the circumstances of minorities with the need for minority rights) are disregarded by Miller, who instead emphasizes the “malleability of [national] identities, that is, the extent to which they can be created or modified consciously” (as cited in Kymlicka, 1995, p. 184). This leads Miller, in stark contrast to Kymlicka, to deny the need to promote internal national differences (or minority national rights), and alternatively to propose that the state need promote a much stronger identity than the subaltern identities of minority cultures to avoid segmentation of the society. Kymlicka argues against Miller that “recent history suggests that to some extent national identities must be taken as givens” (Kymlicka, 1995, p. 187). As evidence, he refers to the Quiet Revolution in Quebec[[97]](#footnote-97) and recent changes in indigenous communities, which for him are a sign that, although national identities can change over time, it does not weaken their distinctiveness or the emotional attachment of its members.

#### Kymlicka: Nationalism as a Matter of Choice and Circumstance

Kymlicka’s view on multiculturalism was certainly influenced by the various above-mentioned contemporaneous positions on nationalism. These positions arose in a period marked by rapid shifts in world politics and decreased confidence in the liberal creed. Kymlicka’s account of multiculturalism veers towards a generally positive impression of nationalism (as opposed to other post-national/cosmopolitan accounts by authors such as Jürgen Habermas, Seyla Benhabib, or Jeremy Waldron) and indeed Kymlicka believes that he can salvage liberalism from its communitarian detractors by casting nationalism and culture as being well-suited for liberalism.

So what does Kymlicka himself say about nations? Clearly, for Kymlicka, nationalism is held in a positive light, as a boon belonging to modernity, which brought with it the modern welfare state and democracy[[98]](#footnote-98). Kymlicka links the rise of societal cultures to modernity, quoting Gellner as support (Kymlicka, 1995, p. 76). He believes that nationalism’s future in our world is secured for the foreseeable future, as he says, “we can safely predict that nationalism is likely to remain an enduring feature of modernity” (Kymlicka, 2000a, p. 35).

This view is partly due to Kymlicka’s strong association of democracy with nationalism. In fact, Kymlicka seems to imply that liberalism and democracy are only possible within national borders. He holds this position for a number of reasons. Kymlicka says, for one, that nationalism has strong emotional potency because it “valorised ‘the people’” (Kymlicka, 2003, pp. 269-70). Kymlicka also says that nationalism attracts mass support because it lifted the lower classes to an even footing with the upper classes, making “the people” sovereign in place of rule by a select elite. The rule of the people was further reinforced by the spread of a common culture to all national members in the form of a unified language, unified educational system, common history, so that all members could speak the language of the common public culture, or the “politics in the vernacular.” He continues further in saying that, “national identity has remained strong in the modern era in part because its emphasis on the importance of the people provides a source of dignity to all individuals, whatever their class” (Kymlicka, 2003, pp. 269-70). [[99]](#footnote-99) Contrary to popular opinion, Kymlicka says that mass support for nationalism does not entail mere irrationality or xenophobia but is often rooted in liberal democratic societies as a source of profound meaning and choice.

Taking a position that is midway between constructionism and essentialism, Kymlicka’s account of nation combines elements of imagined community and of historic community from the various trends in nationalism studies at the time of his original writing. Similar to Smith’s definition of nation, Kymlicka’s definition lies between a purely primordialist and a purely modernist view. Indeed, Kymlicka provides us with a very straightforward definition of nation that echoes clearly that of Smith:

A historical [intergenerational] community, more or less institutionally complete, occupying a given territory or homeland, sharing a distinct language and culture (Kymlicka, 1995, p. 11).

Kymlicka’s view however emphasizes much more than Smith does (but following Gellner), the institutional aspects of national imaginings, the role of education and state-sponsored languages in the diffusion of national culture and the importance of a homeland territory (Kymlicka, 2007)[[100]](#footnote-100). It is important to note from the above definition the central importance Kymlicka’s definition attaches to culture. As we have already seen, for Kymlicka cultural membership gives meaning to one’s life and enables one to enter confidently the political arena and to effectively shape society. Indeed, throughout his writings Kymlicka uses the two terms “nation” and “culture” interchangeably, and even straightforwardly signals in his writings that he will in fact “use the term ‘culture’ as a synonym for ‘nation’” (1995, p. 18). This linkage of terms unfortunately dilutes and adds ambiguity to the definition Kymlicka provides for nation. Like culture, nation has an instrumental meaning for Kymlicka. Neither is an end valuable in itself, instead they are a means to attaining our ends. Nation and culture are only valuable insofar as they are valued by their members and should be supported only for the meaning (or context of choice) they bring to our lives. Members therefore have the ability to opt in and opt out of nation.

This form of “thin” nationalism is understood by Kymlicka in the sense of Renan’s Daily Plebiscite. For Renan, nation is a form of chosen solidarity based on mutual consent; in his words, it is “the clearly expressed desire to continue a common life” (Renan, 1996). Nation is of value so long as its individual members continually reaffirm it. Indeed, like Kymlicka, Renan ties national identity to individual freedom. Renan calls the existence of many nations the “guarantee of liberty” so that humans avoid domination by a single world authority (Renan, 1996, pp. 52-54).[[101]](#footnote-101)

However, by emphasizing the importance of both objective (given) and subjective (created) elements of national cultures, Kymlicka veers between choice and circumstance in his approach to nation. Nation is of course still a voluntary membership, but to a certain extent Kymlicka’s definition depicts this as a constrained voluntarism, since nation is more than a matter of pure choice but is also rooted in secure cultural structures that are not chosen but are in fact given. These “givens” (Miller, 1995, p. 6) include: the land on which I was born; the distinct history passed down to me by my ancestors; the language I am taught at birth; the habits and traditions I learn as I grow up; and finally the institutions which reinforce all of these.

All of these factors which combine to form my concept of “nation” are in fact decided for me before I am born. Though I may elect to change any one of them - by learning a new language, moving to a new territory, redefining my understanding of family history, disregarding tradition, nevertheless these initial factors have still left a stamp on my person and have inevitably contributed to my worldview. Moreover, says Kymlicka, it is a good thing they do, for nations provide us with a strong cultural structure and identity that lends meaning to our lives and yet these frameworks are open enough to allow members to come and go as they choose.[[102]](#footnote-102)

Kymlicka describes the essence of national identity in a tremendously similar fashion to Smith’s “ethnic core”. As Kymlicka says,

Of course much of the mythology accompanying national identities is just that—a myth. But it is important not to confuse the heroes, history, or present-day characteristics of a national identity with the underling national identity itself. The former is much more malleable than the latter (1998c, p. 178).

Thus, although Kymlicka tries to avoid common origin and ancestry (ethnicity) as a requirement for nation (as in the case of ‘ethnic’ nations),[[103]](#footnote-103) Kymlicka nevertheless refers to something of a common ethnicity at the very heart of nationalism which does not vary greatly over time[[104]](#footnote-104). Common historical origin figures prominently among other objective qualities in his justification of the “givenness” of nation. Such resorts to path-dependancy lend a pre-political ontological dimension to his definition of nation, which run counter to his insistence on the elasticity of nation and the possible detachment of its members from its history and setting (Kaufmann & Zimmer, 2004).

So far, we have learned several things about Kymlicka’s standpoint on nation. First, nation is held in a positive light as an “enduring feature of modernity” (1997b, p. 44) closely linked to democracy. Second, nation is a deep attachment that provides identity and context of choice. Third, nation does not inhere in us but is something we choose. Fourth (and counter to point 3), nation is determined by factors given to us by birth – including territory, family, history, language, and so forth. But Kymlicka says much more about nationalism, and to understand his view completely, it is critical to understand his standpoint on the distinction between ethnic and civic nationalism, which is at the root of the justification for his theory.

### The Janus-faced Nature of Nation

Though there has never been a “philosophy” of nationalism, there are some themes which seem to reoccur time and again in the literature on the nation. One reoccurring theme stands out in particular; scholars of nationalism – whether critics, apologists, or promoters – have time and again referred to what Anthony Smith calls the “Janus-faced” nature of the nation (2004, p. 211). This boils down to a distinction between two forms of nationalism; they have been labelled variously by different scholars over the years, but can be summed up under the terms ‘ethnic’ and ‘civic’ nations. The ethnic/civic distinction is highly relevant to the work of Kymlicka because it forms a central part of his argument for the necessity of group rights. Before I explore Kymlicka’s own standpoint, I shall explain why the ethnic/civic distinction was held to be so important and what precisely is meant by it.

In the past, scholars of nationalism typically categorized nations as being either ethnic or civic. This distinction between ethnic and civic nations can be understood as a difference in the principle of ordering of national identity: a distinction between *Jus sanguinis* (the law of blood) vs. *Jus soli* (the law of place) respectively (see Brubaker, 1992, p. 122). In other words, citizenship in ethnic nations is determined by the principle of common descent, while citizenship in civic nations is determined by the principle of birthright or naturalization in a particular territory. More specifically, ethnic nations have typically been understood to be those that base membership on a particular lineage and exclude those without common descent from full membership, while civic nations are – in principle – open to anyone who wishes to immigrate and agree to live by the rules of the land.

This theoretical bifurcation of nation into two distinct entities underscores a tension pervading nationalism studies between parochialism and cosmopolitanism[[105]](#footnote-105), with ethnic nations being implicitly (and negatively) linked with particularism and preference of that which is similar, and civic nations being (positively) linked to universalism and acceptance of difference.[[106]](#footnote-106) Such distinctions between ethnic and civic nations can be traced even as far back as Marx and Engel’s assessment of 19th century nationalist movements, rooted in the Hegelian conception of civil society and his distinction between historical and non-historical nations (Gans, 2002, pp. 8-9).[[107]](#footnote-107) These distinctions and the set of oppositions that characterize them have played a part of most theorizing about nationalism until recently. As the following paragraphs will explore, the ethnic-civic divide has often been understood in absolute terms as systems of classification.

#### Kulturnation vs. Staatsnation

German historian Friederich Mienecke is one of the earliest and perhaps most influential scholars to have made this distinction between *Kulturnation* (ethnic nation) and *Staatsnation* (civic nation) (Meinecke, 1908/1970). Mienecke, in his historical account of the development of nationalism, says that while the purely political concept of civic nation arose in revolutionary France, a very different form of nationalism developed in states like Germany, in which nation was a more organic development that sprung from the *zeitgeist* (spirit) of the people, embodying the ideals of Romanticism and emphasizing the cultural community (Meinecke, 1908/1970, p. 12).

Hans Kohn developed Mienecke’s distinction further (Kohn, 1955). One of the first scholars of nationalism writing in the wake of WWII, Kohn hoped that the separate classification of ethnic versus civic (territorial) nations would provide a way to overcome the dire failings of nationalism which had characterized his time. He hoped to endorse a more humanist, modern form of nation to mediate nationalism’s more negative aspects. By emphasizing a more neutral innocuous version of nationalism, he hoped that universalism could go hand-in-hand with the worldwide separation of states into autonomous national units (as cited in Mosse, 1997, p. 165). Kohn built upon Mienecke’s distinction and emphasized that of the two forms of nations that had arisen, one had headed down a treacherous and difficult course, however the other offered a more promising future for humanity.

In Kohn’s view, civic nationalism was a more mature form of nationalism than ethnic nationalism. Civic nations developed early on in the advanced parts of the west during the Age of Enlightenment. As Kohn describes it, the development of the territorial-civic nation was “to create a liberal and rational civil society representing the middle-class” (Gans, 2002, pp. 8-9). The nations which he felt typified the “civic” nation were the UK, the US and France. A second and distinct form of nationalism, says Kohn, developed in the less advanced countries in Europe to the East (but also including Spain and Ireland), which lacked a strong middle class. The nationalism which arose there was more cultural and less political. As Kohn says, it was the “dream and hope of scholars and poets” (Kohn, 1955, p. 30). Drawing from cultural customs and heritage, a different form of nation would arise in the east which would develop an atavistic and emotional attachment of the Volk to nation; in particular, the Ethnic nation (Gans, 2002, pp. 8-9). This ethnic form of nationalism, Kohn says, more than an independently arising movement in its own right, was a reaction of the elites in the east to the rise of civic nationalism and prosperity in the west.

#### Liah Greenfeld: The Historic Development of Nationalism

A famous later account of nationalism is offered by Liah Greenfeld, a professor of political science and sociology at the University of Boston, who built upon the themes Kohn developed. Indeed, Kymlicka refers to Greenfeld’s theory as “a useful starting point” for learning about the origins of nations and an “impressive, but also daunting work of scholarship” (Kymlicka, 1999b, p. 136). From the first national stirrings in 16th Century England, Greenfeld traces five distinct nationalisms that arose, each as a response to the other. Greenfeld follows Kohn’s classic east-west/ethnic-civic divide, however she develops it further and makes some subtle distinctions in describing not just two national paths, but five divergent variations on the ethnic/civic national theme (Greenfeld, 1992).

Similar to Kohn, the first nationalism that Greenfeld says arose was in Britain; British nationalism was a highly individualistic variant of nationalism that tied membership to the social compact. Though “nation” (as it only later came to be called) did promote social cohesion in Britain, it only did so with respect to the individual interests of each member considered separately. Greenfeld says this nationalism was both “original and civic” and would later come to be the most rare form of nationalism (in contrast to its ethnocentric counterparts). She then traces the subsequent development of the other four “paths to modernity”: French nationalism, Russian nationalism, German nationalism and finally American nationalism (the last of which she deems a variant of British nationalism). Contrary to the individualist nature of British and American nationalism, the nationalisms that developed in France, Russia and Germany were collectivist in nature and narrowly served the interests of the elite (1992, p. 426) (Greenfeld says that individualistic nationalism on the contrary serves the greatest number)[[108]](#footnote-108). As such, the origins of nationalism for Greenfeld are unrelated to time and place, but rather lay in the particular social setting of the populace. Greenfeld’s innovation on Kohn’s prior theme is to examine the collectivist and individualist aspects of national culture. This distinction helps her to make a key differentiation between French and British nationalism. Greenfeld claims that while Russian and German nationalism were clearly ethnocentric, French nationalism claimed to be civic, in the same way that British nationalism was (1992, p. 202). This, says Greenfeld, led French nationalism to be internally contradictory, as “civic” nationalism prioritizes the individual, but collectivism puts priority on the group.

Kymlicka, though he refers positively to Greenfeld in his work, says that her book is missing an explanation of the reasons why nation is held so dear to its members (though this is not an overall criticism of her work, which he upholds highly). He does not however comment on her distinctions between “civic” and “ethnic”, individualistic and collectivist nationalisms, as we will see in the following pages, Kymlicka himself takes a strong departure from her view on this matter.

#### Smith: Ideal-types vs. Reality

Anthony Smith, although building upon the ethnic-civic distinction of Mieneke and Kohn to develop it further, to a certain extent undermines the distinction by shifting its focus from one of normative classification to ideal types (Kaufmann & Zimmer, 2004, p. 63). In Smith’s seminal work “the Ethnic Origins of Nations” (1986), Smith describes two distinct forms of nation-building: a civic nation developed earlier in the west and focused on boundaries and legal rights and duties, whereas a later ethnic nation developed in the east and focused on ethnic symbolism, “genealogy, populism, customs and dialects, and nativism” (Smith, 1986, p. 137). Smith’s insight is that although these two forms of nation-building were easily captured in the world of ideas, in the real world they were not nearly so cleanly delineated.

In fact, Smith’s work, as already briefly elaborated in the previous chapter (pp. 77-80), sets out to show how both ethnic and civic aspects are inextricably tied to one another in a single nation. He uses the terms *revivalism* (inwards-looking, committed to old cultures and religious dogma or “spirit”) and *reformism* (outwards-looking, non-ethnically bound nations, committed to “science”) (Kaufmann & Zimmer, 2004, p. 66). Nations can lean in either direction – inwards or outwards. Smith thus departed from previous theories on nationalism emphasizing the dualnature of the nation state by showing how the Janus-face of nation combines *both* elements of civic and ethnic in a single nation-state.

Smith further elaborated on how the ideas typically associated with civic nations and those typically associated with ethnic nations are to some extent inseparable from one another. The ideas that form the basis for civic nations, says Smith, are actually the products of particular historic communities. Though territorial conceptions of nation have a universalistic aspect, group membership along these lines also has a deeper rootedness in a particular place. Likewise, Smith shows how “neutral” public culture is actually drawn from selectively chosen particular historic memories and facts. In this way, *jus soli* and *jus sanguinis* never truly stand alone but are the opposing faces of a single nation (Kaufmann & Zimmer, 2004, p. 74).

Kaufmann and Zimmer speculate that Smith’s realization of the inadequacy of the terms “civic-territorial” and “ethnic-genealogical” are what led Smith to later shift his analytical concepts to that between “organic” and “voluntaristic” (as cited in Kaufmann & Zimmer, 2004, p. 75). As Kaufmann and Zimmer say of this shift,

The former terms are rooted in his typological method and reflect his ambition to construct a conceptual framework that could be used for broad diachronic and synchronic comparisons at the macro level of society. The latter terms, by contrast, are indicative of Smith’s search for concepts that can adequately capture the process-like and fluctuating nature of nationalism, and national identity (Kaufmann & Zimmer, 2004, p. 74).

By lifting the ethnic-civic debate from normative assessments, Smith was able to set the groundwork for later authors who would consider types of nationalism not as a dichotomous categorization but rather as a continuum of various nation-building processes and organic evolution.

#### Brubaker: Beyond “Groupism”

Rogers Brubaker, in an article entitled “The Manichean Myth” (1999), derides the “dubious” set of oppositions that are invoked by the classic ethnic-civic, east-west divide. In agreement with Smith, Brubaker finds such oppositions between tolerance and xenophobia on the one hand and sentiment and rationality on the other, as untenable contortions. Citing Weber, Brubaker points out how terms like ethnicity, race, nation, are vague theoretical concepts, which change meaning across time and place (Brubaker, 2009, p. 27). As he says, it is not easy to precisely describe, “What is ‘ethnic’ about ethnic nationalism?” And with xenophobia on the rise in “civic” nations like France, the distinction between the civilizing civic nations of the west and the backwards ethnic nations of the east is altogether unsound – and even, says Brubaker, verging on a form of Orientalism itself (Brubaker, 2004a, p. 136).

Instead, Brubaker prefers to look at the way that groups function, how the intermixing of “ethnicity, race and nation *work*” as opposed to trying to *define* these imprecise terms (2009, p. 29). This marks a move away from what Brubaker calls “groupism”, the resilient tendency to view groups in concrete, monolithic terms ignoring the ongoing development of the works of the post-structuralists. Brubaker instead insists that we should leave behind overly simplistic distinctions such as “ethnic and civic” and go “beyond groupism”; in other words, not to view nations as separate definable entities or as units of analysis at all (2004b, p. 115; 2009, p. 28).

#### Yack: Myth of Civic Nation

Bernard Yack offers a further criticism of the civic-ethnic divide. For Yack, similar to Brubaker and others (see Seymour, Couture, & Nielsen, 1996), the distinguishing features attributed to civic and ethnic nations are over-exaggerated. Features which are typically associated with ethnic nations are often found in “civic” ones and vice versa. In line with Benedict Anderson’s *Imagined Communities*, Yack posits that our national understanding marked a change in the way we consider belonging from prior times. Building on a comparison made by Judith Sklar on the different responses of Themistocles to betrayal by Athens and Dreyfus to betrayal by France, Yack suggests that the main difference between the two is that Dreyfus’s notion of self-identity was wrapped up in his national identity in a way that Themistocles was not (Yack, 1999, p. 113). While for Themistocles it was easy to turn his back on Athens but still consider himself a Greek, for Dreyfus turning his back on France entailed a form, not only of betrayal of country, but of betrayal of his own self as well. Thus, Sklar’s comparison provides an explanation for Dreyfus’ refusal to quit his French identity and to endure at all costs trials in order to fulfil his national identity (Yack, 1999, p. 113).

For Yack, this change in belonging is a curious matter. He looks backwards to the Greek city-state where the separation of ethnos and demos was an organizing principle and not an aspiration as it is in our times. By looking back to the Greeks, he says we see how firmly our own times have embedded culture into our political societies. The question we should pose is not how the Greeks managed to separate culture and ethnos, which in his view is not a necessary connection, but rather how *we oddly managed* to tie the two together so inseparably (Yack, 1999, p. 114). Nationalism qua nationalism, ties shared cultural legacy with rational consent; both components are involved in nationalism says Yack, and it is a myth to try to separate two national forms (Yack, 1999, p. 116).

#### Gans: Statist and Cultural Nationalism

Chaim Gans offers an alternative development of the Ethnic-civic distinction. Unlike Brubaker and Yack, Gans believes, at least from a normative point of view, that there are indeed two distinct forms of nation (Gans, 2002, p. 7). Rejecting the terms “ethnic” and “civic” (because of the positive connotations generally given to civic over and above ethnic nations), Gans prefers to use the terms “statist” (political) and “cultural”. Despite describing “statist” nationalism as “predominantly a political movement to limit governmental power and to secure civic rights” (Gans, 2002, p. 7) , both types of nations, says Gans, have a history of carrying out violent assimilatory practices against their citizens. Further, Gans points out that in both types of nations, the myth of common descent plays an important role. Thus, traditional stereotypes (like “east vs. west”) typically attached to the ethnic-civic dichotomy are false.

Both cultural and statist nationalism blend political and cultural aspects says Gans. The distinguishing feature lays in the ends and means of the two different types. For statist nations, national culture is a means with the values of the state as its ends. This equation is reversed in cultural nations, wherein national culture is the end and the values of the state are no more than the means to this end. In a similar vein to Kymlicka’s description of societal cultures, Gans says that “statist nationalism is cultural, for…it requires that the citizenries of states share not merely a set of political principles, but also a common language tradition and a sense of common history” (Gans, 2002, pp. 15-16). Gans further says that these two distinct forms of nationalism are set to go head-to-head with one another, and are ultimately incompatible for one “imped[es] the realization of the other.” (Gans, 2002, p. 17).

Although the ethnic-civic dichotomy has served as a model for political sciences for understanding nationalism for quite a long period, later developments at around the time Kymlicka was writing (traced above) began to question this distinction and to highlight its failings. Kymlicka’s writings can be seen as heavily influenced by this critical trend. He tries to break past the boxes that the ethnic-civic dichotomy put over nationalism studies and present us with his own alternative model and understanding about the relation of culture, state, and nation.

#### Misunderstanding Nationalism

In a 1995 review article entitled, “Misunderstanding Nationalism”, Kymlicka laid out the bare-bones of his view on nationalism and the ethnic-civic dichotomy. In agreement with those scholars who took a more critical stance on the ethnic-civic “myth”, Kymlicka says that the distinction between ethnic and civic nations is not so clear-cut (1999b, p. 132). There is a lot of overlap between the two says Kymlicka, particularly more and more liberal versions of nationalism are on the rise which also emphasize the importance of cultural community. An important development for Kymlicka then, is to separate the traditional linkage of nation to state in international politics; instead, Kymlicka endorses awarding collective rights to national groups, decoupled from the right to statehood.

Writing against authors such as Walzer (1984), Habermas (1992), Pfaff (1993), and Ignatieff (1993) who advocate strong civic conceptions of justice and the strict separation of ethnos and demos for a properly functioning liberalism, Kymlicka says that ethnos and demos can never be separated in the political arena (Kymlicka W. , 1995, p. 200). At the very least, says Kymlicka, “civic” states advocate a singular language, education system, and national histories and myths (“societal cultures”) and while this is a much thinner conception of culture than the clearly-stated “ethnic” nation which presupposes cultural exclusivity, it is a thin cultural context nonetheless. Both ethnic and civic nations, says Kymlicka, “involve the politicization of ethnocultural groups” (1999a, p. 107). Further, “the use of public policy to promote a particular societal culture or cultures is an inevitable feature of any modern state.” (Kymlicka, 1999a, p. 107). Though societal cultures are thin cultures, they are still politically relevant. Kymlicka thus implies that to overlook the cultural aspects of civic nations would be naïve and theoretically unhelpful.

Kymlicka, in agreement with Smith, says that culture is an inevitable feature of the modern nation-state. Secular states such as France clearly demonstrate the assimilatory powers of supposedly “pure” civic regimes. (Smith, 1999c, p. 39)[[109]](#footnote-109) Thus, although the civic nation is often upheld as virtuous against the ethnic nation, Kymlicka says that many “civic” nation-states, often under the banner of secularism, also advocate a particular cultural uniformity that deprives significant minority populations of their perceived rights. Hence, no nation is culturally “neutral” says Kymlicka, “the idea of a purely non-cultural definition of nationalism is implausible, and often leads to self-contradiction” (1995, p. 200).

Authors who would believe, for example, that America is culturally neutral are seriously misreading American history he says. In particular, Kymlicka refers extensively to the work of Walzer and his claim that the American nationality is the clearest demonstration of the ethnocultural neutrality of civic nations. Kymlicka heartily disagrees with Walzer on this matter and strives throughout his writings to draw a picture of America that counteracts what he believes to be a misguided view. American society, he says, is strongly assimilatory. People are often mislead by America’s emphasis on “political principles – liberty, equality, democracy”, this strong and unique adherence to ideology over culture has led many to mistakenly believe that “American nationality is ideological *rather than* cultural” (Kymlicka W. , 1995, p. 200). Kymlicka says that the emphasis on political principles did not erase culture but only allowed the Americans to shape it. America is not culturally neutral, to the contrary it “very actively” promotes a particular societal culture: a single language and common culture (Kymlicka, 1997b, p. 23).

Kymlicka is particularly at odds with Walzer’s statement that liberalism involves a “sharp divorce of state and ethnicity” (1982, p. 17). For Kymlicka state and ethnicity are always intertwined: the nation always supports a societal culture. The United States is in no way neutral in this view; instead, it “has integrated an extraordinary number of people from very different backgrounds into a common [anglo] culture” says Kymlicka (1995, p. 82). Throughout its relatively short history, the United States has either integrated or segregated individuals into its main societal culture. For the majority of US citizens, the US has followed a “deliberate” policy of assimilation into this main societal culture. The Puerto Ricans, Hawaiians, Mexicans, Native American peoples (Apache, Cree, Haida, Iroquois, Mohawk, to name just a few), and the various ethnic immigrant communities (be they Irish, Italian, Polish, German, Chinese, etc.) have been made to conform – at times with ruthless force (Kymlicka, 1998a, p. 180)[[110]](#footnote-110) to the dominant WASP (White Anglo-Saxon Protestant) societal culture.

Ethnic separatism was seen as proof of ‘un-American’ sentiments, and was ruthlessly suppressed…Immigrants were shunted into subordinate positions within the mainstream society, and were often prevented from occupying the elite positions within mainstream institutions, but they were also prevented from creating separate societies (Kymlicka, 1998b, pp. 74-5; 2001b, p. 180).

Immigrants to America have been expected to shelve their previous cultures and identities upon entry to America[[111]](#footnote-111). Facing pressures for integration, racism, economic disadvantage, they were at once forced into the dominant social mould, and yet withheld from climbing the social ladder, for at least first generation immigrants (still with noticeable accents and other ethnic differences from the mainstream) were kept in a position of low social status.

In sum, despite this commitment to a policy of equality, Kymlicka rightly points out that the American system (or “civic” nationalism) still implements unequal treatment of its citizens by advancing one particular cultural framework over and above all others.

The real difference between so-called “ethnic” and “civic” nations, says Kymlicka, lies in their terms of admittance (1997b, p. 27). While ethnic nations are exclusive to any who fall outside the ethnic/racial traits of the majority nation, civic nations by contrast admit many members of diverse cultural backgrounds. This is done on the expectation that they will assimilate or integrate into the new cultural milieu (or societal culture) in which they now live (at the very least adopting the language of the state and adhering to its basic values and systems of law). Ethnic nations, on the other hand, do not wish to integrate those who are culturally different.[[112]](#footnote-112) The bottom line: both civic and the ethnic nations equally deny cultural rights for minorities, the only difference between the two is the degree of welcoming. In one approach (civic), it is expected that you can shelve your identity; in the other approach (ethnic), it is assumed that you cannot shelve it and therefore should be excluded. Thus Kymlicka concludes that both ethnic and civic nations are problematic for minorities.

Kymlicka asserts that the myth of “benign neutrality” of civic nations has in many ways done tremendous harm, particularly for minorities. The danger for minorities is that multiculturalism and for cultural rights are dismissed by liberals who view such demands as a threat to the “cultural neutrality” of the state (Kymlicka, 1998b, p. 26). Indeed, under the pretence of neutrality, immigrants and minorities have often violently been made to conform to the culture of the majority. In particular, Kymlicka is wary of the ‘universally valid’ principles usually associated with civic conceptions of nation, which he rightly attributes to having arisen from particularistic cultures. Such language of ‘neutrality’ and ‘universalism’ is often invoked says Kymlicka to mask the culture intrinsic in civic nations. Those minorities who choose not to abide or agree to the ‘universally agreed upon principles’ are deemed heretical or irrational instead of being seen as coming from a culturally different starting point, and having a different but equally valid rationality.

A further fallacy, says Kymlicka, is to associate civic nations with liberalism and ethnic nations with illiberalism as has often been done. As he describes it, those who hold such a view have a “misunderstanding” of nationalism (Kymlicka, 2001b, pp. 203-291). Civic conceptions of nation are no guarantee of civility (Resnick, 2000, p. 283)[[113]](#footnote-113). Instead, what differentiates liberal from illiberal nationalism is the degree of its inclusivity. As Kymlicka says,

What distinguishes liberal nation-building from illiberal nationalism is not the absence of any concern with language, culture, and national identity, but rather the content, scope, and inclusiveness of this national culture, and the modes of incorporation into it. (2002, p. 59)

This means for Kymlicka that there are gradations of liberalism, thus nations cannot be pigeonholed into bipolar categories of liberal versus illiberal. Ostensibly, ethnic nations due to their lack of inclusiveness would be considered illiberal, however Kymlicka points out that is not so clear that civic nations would all be liberal despite their more open terms of admittance. Kymlicka implies that the extent to which a civic nation includes its various groups and nations is the measure of its liberalism.

Since our current models of civic-versus-ethnic nations are incapable of properly addressing the needs of our increasingly multicultural, multinational societies, an alternative model is needed. Since nationalism is “an enduring feature of modernity” for Kymlicka, he says we must begin to look for “permissible forms of nation-building**”** (2000b, p. 165)**.** We need a “nation-building” model, to replace the ethnoculturally neutral model of the state. Kymlicka’s solution: Liberal Nationalism.

### An Attempt to Liberalize the Nation

Indeed, Kymlicka’s position on nationalism belongs to a group of scholars who call themselves liberal nationalists. Other well-known names associated along with Kymlicka with the position of liberal nationalism include Margalit and Raz (1990), Tamir, (1993) and Miller (1995). Unwilling to accept liberalism’s neglect of culture, but unwilling to forsake entirely liberalism, liberal nationalism tries to maintain that nationalism can still maintain ideals such as commitment to individualism and universalism while being grounded in cultural norms. It is not a zero sum game say the liberal nationalists; culture, nation, diversity, and individuality can all be recognized and fulfilled within a single state.

Emerging at a time when nationalism studies were describing the nation in terms of ethnocentrism and intolerance, the liberal nationalists tried to redeem the nation. For quite a simple reason, they felt that they *had* to redeem it because despite warnings about its failings, the national model showed now signs of change and no alternative model had been successfully proposed. The liberal nationalists aimed to impose limitations on classical nationalism in an attempt to prevent it from descending to its excesses and causing harm.

While a number of scholars have written on the topic of liberal nationalism, the most recognized proponent of it, as well as the author whose work has had the most apparent impact on the writings of Kymlicka, is Israeli academic and former politician Yael Tamir. Like Kymlicka, Tamir agrees that the primary significance of national feelings lies in the deep connection we feel to our home group and to our home cultural heritage. This sense of being at home - belonging with others and having roots linking us back to our ancestors, is the reason why national imaginings are so potent and impossible to erase. Acknowledging that nationalism is a difficult concept to define, Tamir finds it helpful to define liberal nationalism by defining what it is not. She defines what it *is not* as follows:

#### Self-Determination is not the same as Self-Rule

What liberal nationalism is not is a claim for sovereignty. While the classical definition of nationalism islinked to sovereignty, the liberal nationalists aim to de-link the two. Nationhood no longer requires secession and independent statehood; instead, national rights can be attained by measures bestowing cultural rights upon the minority group to bring it into greater equality with the majority nation. This leads Tamir to distinguish between liberal democracy and nationalism. The right to national self-determination is not a political claim for ‘rule of the people’ but a cultural one of ‘ruling with and for my national culture’. As Tamir says:

The right to national self-determination, however, stakes a cultural rather than a political claim, namely, it is the right to preserve the existence of a nation as a distinct cultural entity. This right differs from the right of individuals to govern their lives and to participate in a free and democratic political process (Tamir, 1993, p. 57).

Like Kymlicka, Tamir says that culture is important for our self-expression and this self-expression naturally occurs within the public sphere. Indeed, it is from within the public sphere that national stirrings originate. However, the freedom to express oneself within the context of one’s national culture within the public sphere is quite a different demand from the freedom of self-rule; i.e., the right to governance. She claims that while “the latter is derived from democratic theory, the former is grounded in a theory of nationalism” (Tamir, 1993, p. 9). Tamir believes that the demand for cultural rights is more in accordance with liberalism than the demand for self-rule (1993, p. 58). Behind Kymlicka and Tamir’s arguments is an emphasis on the essential need to reconceptualise the concept nation through severing the traditional nation-state connection, and to recognize that many multiple nations can and do live together within any single state.

#### Liberal Nationalism is not Homogenous

Contrary to ethno-nationalists, liberal nationalists like Tamir and Kymlicka are strong supporters of multiculturalism and indeed believe that multiculturalism is necessary both for liberalism and for the future health of the community. Liberal nationalists argue that *within* national group identities, diversity is always present and therefore must be accepted. Indeed, liberal nationalists aim to bring our various cultural identities into the political limelight and engage them to enrich the political process itself. Tamir firmly rejects the former homogenous model of the nation state and its colour-blind criteria, which she says restricted culture to the private sphere. This led to what Tamir calls a “schizophrenic life”, wherein individuals tried to hide their culture and leave it behind at home and not in public, leading to the “Enlightenment catch phrase – a Jew at home, and a Man in the street” (Tamir, 1993, p. 95). In the days of the classical homogenous nation, this attitude on the part of citizens was to be expected. Indeed, in the early days of modernity, the homogeneity of a nation (and restriction of culture from public life) was viewed positively as a sign of liberation from insidious divisions from cultural particularities (or what is understood nowadays as diversity), which was then seen as a threat to state unity. This former expectation of hiding one’s cultural background in today’s multicultural world however, is no longer legitimate. As Tamir says, “multiculturalism is about the ‘outing of identities’” (1993, p. 95). State unity is no longer predicated on cultural similarities she says, and in fact, such insistence on the “hiding” of culture was never feasible in the first place anyhow.

#### Liberal Nationalism is not Thick Nationalism

For this acceptance of inner diversity to be possible, nationalism cannot be a thick identity. For the liberal nationalists, national identity is to be understood in a “thin” sense. Unlike the former monocultural nation-state, the new nation state is much thinner, less focused on ethnocultural homogeneity and more open to cultural diversity. Ethnic minorities today enjoy equal rights with others within the society because they have been accepted into the nation; as such, their particularistic faiths and cultures now form a part of the larger nation. Indeed, Kymlicka says the nation-state has been so tenacious precisely because it has been able to adapt and restructure itself to our new pluralistic reality (2003, pp. 273-280).

#### Liberal Nationalism is not Optional

Finally, despite whatever failings of nationalism its detractors wish to point out, the liberal nationalists rightly say that nationalism remains the dominant mode of political organization in the world today and therefore we must find a way to make liberalism and nationalism “accommodate one another” (Tamir, 1993, p. 6). Since nationalism is not going anywhere anytime soon, it is necessary to do what we can to humanize nationalism and to soften its harsher edges. Racial and ‘gender-coded’ notions of nationhood need to be replaced with conceptions that are more egalitarian. Any “homogenizing” attempts at nation must be countered by the new “liberal” model of the nation, if nation is to overcome the juxtaposition between itself and illiberalism. State cohesion is not to be obtained through adherence to monoculture but through other means. In sum: multiculturalism and multi-nationalism must form the basis of any liberal state.

Liberal nationalism thus insists on several things that diverge from the classical definitions of nation: First, that nation and state do not, and should not, necessarily coincide, and second, that the model of the “civic” nation advocated a monoculture which in today’s world is untenable, if it at any time ever was. While liberal nationalism is understood in a ‘thin’ sense, Tamir and Kymlicka point out to us that this does *not* mean that thinned national identities are *weakened* ones. Finally, whether we like nationalism or not, it appears to be here to stay – therefore we have no choice but to try to make it adapt to the changed political circumstances of our highly pluralistic societies and take precautions against its failings, particularly with respect to minorities and/or non-members. Which leads us to the next pressing question,

### Who is a Member of Nation?

The next step is to determine who is a member of the nation and who is not. For Tamir, the answer wavers somewhere between the contractarian and the communitarian view. Membership on the one hand is voluntaristic because anyone is free to join a liberal nation, however a nation is also a “community of fate” because to a large extent liberal nations continue to prioritize membership based on familial ties, and selectively control immigration to filter out those who do not share a common history or culture with that of the majority nation.

Indeed, Tamir says that it seems there are two criteria for entry into membership in liberal nations: 1. “Civic competence”, which is a willingness to engage in rational dialogue with one’s fellow members in the public arena, and 2. “A shared culture and identity – the competence to act as a member of *this* particular society” (1993, pp. 128-129). In other words, new members must essentially agree to assimilate to the shared history, norms, and future-orientation of the particular nation they seek to join.

Living within one’s own “national culture” is of course more meaningful, says Tamir, than living without this home culture and instead being surrounded by cultural strangers. Tamir says this is because cultural community provides stability and reassurance in a world of constant change. Nationhood, according to Tamir, gives us recognition from those closest to us and provides a reaffirmation of our self-worth, allowing “individuals to enjoy a degree of self-fulfilment they cannot experience on their own” (1993, p. 84). Basically, communal membership leads to shared goals, shared norms, and shared concern. Our sense of care and obligations extends outwards in concentric circles, Tamir says that we care most about those who are closest to us, but that does not diminish our care for others further away (1993, p. 109).

Indeed, Tamir sees a liberal nationalist view of the world family of nations as “polycentric”, something which she compares with Walzer’s “reiterative universalism” (Tamir, 1993, p. 90). Coming from a strongly Herderian point of view, Tamir believes that there is “one civilisation but many nations” (1993, p. 90). Each nation has something unique to contribute to the world, like a family coming to the table to sit together with one another, each is to be considered equal to one another, however they each play a separate role. This polycentrism is what Tamir believes distinguishes liberal nationalism from other more intolerant versions of nationalism such as in imperialism or fascism (Tamir, 1993, p. 93). Thus, liberal nationalists can prioritize and value more highly members of their own nation, but they must do this in a way that does not de-value or antagonize other nations.

Yet despite Tamir’s insistence on the need for multiculturalism and diversity, she also implicitly leans towards monoculturalism in her contradictory insistence that multiculturalism be grounded in common norms and that a common ideology is the best ground for pluralism. Indeed, Tamir disputes the Rawlsian thought experiment about the Veil of Justice on the grounds that it is predicated on the idea that we can make rational decisions separate from our communal ties and obligations. Tamir says this is simply untenable. She further questions why so many seem to find admitting to partiality and favouritism “so morally worrisome,” (Tamir, 1993, p. 112) for she believes that it is natural that we care about those who are closer to us, as she says, “the morality of community *justifies favouritism*” (Tamir, 1993, p. 114) (emphasis mine). The key, says Tamir, is to distinguish who is a member and who is a non-member, for while “partiality towards members is justified, one ought to be impartial among members” (Tamir, 1993, p. 111). In other words, when providing services intended to facilitate the cultural community of a particular group (Tamir provides the example of an Afro-Caribbean community centre), it is acceptable to prioritize those of this same cultural background, yet within the cultural group, group members are to be treated impartially; that is, equal to one another.

Yet, while Tamir’s example seems not entirely off target with respect to a cultural centre specifically intended to represent a certain cultural background, her theory is not limited to community centres alone. If it were, then it would certainly be less “morally worrisome”[[114]](#footnote-114). When culture becomes intertwined with the whole state apparatus and is not limited to cultural centres and mere recreational or language social activities, but has to do with allocation for state resources, funding, schools, and even separate law-making, then favouritism and preference for group-members above and over non-group members becomes indeed morally problematic. The wider implications of the favouritism that Tamir advocates are not explored by her, nor is this topic picked up by Kymlicka, however similar ethically problematic results are attained by Kymlicka because he too, like Tamir, runs up against the irresolvable tension between mixing liberalism with a preference for cultural community.

### Kymlicka’s Definition of Liberal Nationalism

Kymlicka defines national liberalism as nationalism that is non-ethnic, open, proud, and accepts the promotion of a single culture.[[115]](#footnote-115) To ensure that nationalism lives up to this definition and is a truly “liberal nationalism” it must meet certain criteria. These criteria as listed by Kymlicka are as follows:

1. Membership of ethnocultural groups must not be imposed by the state, but rather should be a matter of self-identity;
2. Individual members can question and reject their ethnocultural identity, and if they choose they may exit their group;
3. These groups must not violate the basic civil or political rights of their members; and
4. Minority rights must reduce uneven power relations between groups, and not be used to grant a particular group rights that would set them in a dominant position against the others (Kymlicka, 2001a, p. 66).

Let us examine each of these criteria in turn.

#### Membership is not imposed

The first criterion is “Membership of ethnocultural groups must not be imposed by the state but rather should be a matter of self-identity” (Kymlicka, 2001a, p. 65). This criterion indicates that national cultural identity should not be an artifice constructed by the state (as many nationalist theorists have described it as we have seen in the previous chapters), but as an organic outgrowth of pre-existing cultural/group identifications. Basically, those states which blindly impose a cultural criterion upon their members without taking into consideration their own traditional values and self-identification are to be considered illiberal. If Canada, for example, were to continue to blindly impose Anglo-culture upon Francophone Canadians as they did in the past, instead of giving them recognition of their own group rights and unique self-identity, then they would be practicing a form of illiberal nationalism.[[116]](#footnote-116)

#### Right to Change and Leave Group Identity

Second: “Individual members must be free to question and reject any inherited or previously adopted ethnocultural identity if they so choose, and have an effective right of exit from any identity group” (Kymlicka, 2001a, p. 65). This criterion follows directly from the above claim, that national culture should reflect the identity of the people in a liberal nation. Those who feel that the cultural identity that has been passed down to them by their ancestors or the society they joined is no longer in keeping with their own values and cultural identification, have an option to leave the group and not be bound to its cultural mores. Within Canada, this may mean that aboriginals can decide to leave the reserves and join English or French Canadian society, or it may mean individuals can migrate from French Canadian to English Canadian society, or vice versa. In other words, an illiberal nation would be one in which group members were restricted from leaving the group either to which they had been born or to which they had previously joined, often under the rhetoric of “lack of stability” or “threat to the cultural fabric” if such change were to be permitted. Often, justifications against such mobility would be based on a fear of the diminishment in numbers (and hence power and position) of the minority group against the majority to maintain its cultural cohesiveness and strength.[[117]](#footnote-117)

#### Upholding Basic Rights

Third: “These groups must not violate the basic civil or political rights of their members” (Kymlicka, 2001a, p. 65). This is an obvious point to be made of any state that wishes to consider itself liberal. Where it becomes unclear however is to what extent cultural rights are to be considered and accepted as basic political rights and in which ways these rights are to be best enforced without impinging on other rights.

#### Different Rights must Make More Equal

Fourth: “Accommodations for national minorities and immigrant groups must seek to reduce inequalities in power between groups, rather than allowing one group to exercise dominance over other groups” (Kymlicka, 2001a, p. 65). Again, this statement is clearly demonstrated in Kymlicka’s referral to the case of Canada, where minority group rights have been positively used to reduce the influence of the largest cultural group “Anglo-Canada” over other minority groups, to raise them to greater levels of equality. Kymlicka says that minority rights have been given a bad reputation however because of their abuses, since they were used in the past to disempower groups in nefarious ways. Such abuses of minority rights however are clearly unacceptable as liberal practices. Despite the bad reputation that these incidents accrued to the concept of group rights, Kymlicka insists that group rights need not hinder groups but can be used as a way of making more equal. This final criterion is indeed the cornerstone of Kymlicka’s whole approach.

#### In Sum: Liberal Nation States must be both Multicultural and Multinational

As Kymlicka says, nation-building has often been greeted with open arms by minority groups hoping to adapt to their new home culture, as he says,

Because these nation-building projects can be seen not merely as ethnocentric prejudice, but rather as an extension of freedom and equality to all citizens, they have not always been resisted by minority groups. Some ethnocultural groups have accepted the call to integrate. And in some countries, the result of these nation-building programs has been to extend a common societal culture throughout the entire territory of the state (1998a, pp. 181-182).

The extension of a country’s national culture (or societal culture) across its borders is mostly successful and welcomed by its citizens. Those who consistently reject such nation-building are those who had in fact societal cultures prior to the extension of the national culture of the majority. It is therefore these national minorities who should be given special status and the opportunity to have their own national continue to flourish and be protected in the same way as the majority nation – should they so choose.

The nationalism Kymlicka supports is post-ethnic and he calls for states to be both multicultural and multinational (Kymlicka, 1999a, p. 73). Kymlicka sees the liberal nation (and the increasing national trend towards liberalization in the west) as an inevitable step in the progression of nationhood. Indeed, Kymlicka holds the nation-state to be the ideal ground for pluralism because it offers a shared identity that does not rely on shared conceptions of the good or on the necessity of the people belonging to the same ethnic group. Kymlicka says that Rawl’s concept of drawing social unity from shared conception of justice was missing a crucial “ingredient”; namely, shared identity (1998c, p. 183). Kymlicka says that this shared identity “derives from the commonality of history, language, and maybe religion” (1998c, p. 181). [[118]](#footnote-118)

Unlike Tamir who sees liberal nationalism as “making a virtue out of necessity” and who openly addresses the flaws of nationhood, Kymlicka does not see nation-building as problematic in itself. Kymlicka defends his use of nationalist language, preferring to wrap his theory in nationalist terminology than in terms that typically have been considered neutral for their distance from culture such as “political community”. Kymlicka says that although in some instances the use of nationalist language obscures the problems of minorities, in other respects it is nevertheless important because other more “neutral language” obscures matters even worse. Kymlicka cites the United Nations declaration that “all peoples have the right to self-determination” as an example of extreme vagueness in terminology that makes the legal application of the declaration itself difficult, for the challenge it poses in defining who is “a people” (1998b, pp. 131-132)[[119]](#footnote-119).

Nationalist language serves several functions says Kymlicka. First, it allows distinct cultures such as the Quebecois or Aboriginal peoples to appeal to international courts for their rights. Using the term nation further allows minority nations to distinguish their claims from other groups, such as those of immigrants, which lends itself to greater legislative clarity. The language of nationalism also “adds a historical dimension” to group claims, being a demonstration of the long-term struggles for recognition these groups have been fighting for, and shows that the demands are not just recent. And finally, Kymlicka states that the terminology of nationalism gives greater strength to minority nations because they are no longer perceived in numerical terms as a smaller subset of the larger nation, but as co-equal partners with the majority nation (Kymlicka, 1998b, pp. 131-132).

These “strategic reasons” are important justifications for continuing to use the language of nationalism, however they are not the only reasons. Kymlicka says in addition to strategic value, “these groups are nations in the sociological sense…historical societies, more or less institutionally complete, occupying a given territory or homeland, sharing a distinct language and societal culture” (Kymlicka, 1998b, pp. 131-2). Kymlicka convincingly argues that the “power to name itself is one of the most significant powers sought by any group in society” (1998b, p. 132). Majority nation-building typically has prevented minority nations from the ability to name themselves. As a result, in response to nation-building, claims of secession have swept the globe and have cleaved communities.

### Heritage, Cultural Community, and Preferentialism

Given the blackened record of the nation-state, liberal nationalists like Tamir and Kymlicka have tried to paint a kinder face on nationalism. These authors aim to show how even the nation-state, despite its historic record to the contrary, can be made to accommodate difference. Both Kymlicka and Tamir want to “separate nationhood from blood and soil and move it to the grounding of choice” (Tamir, Liberal Nationalism, 1993, p. 12). But is this really attained and is nation a true guarantor of freedom?

As Norman points out, the language of “liberalism” which Kymlicka defends group rights against, and even the “need for a healthy cultural context as a necessary condition for individual autonomy” is simply not how the majority of minority group leaders frame their appeals (1999, p. 61). Instead, they

Appeal to national identity and sentiments (rather than citizenship and sentiments of justice), to shared historical “memories,” a common destiny, and rights to national self-determination (Norman, 1999, p. 61).

Indeed, even liberal nationalism mimics the historical monocultural nation considering the insistence that liberal nationalists (including both Tamir and Kymlicka) put on maintaining heritage, cultural community, and preferentialism (or in other words, roots, ethnicity, and bias).

#### Roots

The liberal nationalists have a strong attachment to the past, though they proclaim they are committed to an open future built by new generations. As post-colonial cultural theorist Homi K. Bhabha writes, “the language of national belonging comes laden with atavistic apologues” (1990, p. 293). While on the one hand Tamir thinks it is more *natural* to “follow in the footsteps our parents and social environment” she at the same time affirms a commitment to “social mobility” which is something that the older generation did not value, for rejection of nation is “rejection of something dear to them” (Tamir, 1993, p. 28). Tamir admits that the new generation, due to impact of new technologies available to them, are significantly different from the older generations and yet she still claims they find it more “natural” to adopt the lifestyle of one’s parents. Kymlicka too, despite his claims that culture is intrinsically mutable, says that among the national minorities’ goals is to maintain their culture into the “indefinite future” (Kymlicka, 2001a, p. 73)

However, when we speak about maintaining a culture into the “indefinite future”, we are no longer speaking about culture as ground of meaning but of institutionalized, and to a certain extent, “artificial” culture. As Appadurai says, “the modern nation-state, in its preoccupation with the control, classification and surveillance of its subjects, has often created, revitalized or fractured ethnic identities that were previously fluid, negotiable or nascent” (1993, p. 799). How is freedom (even cultural freedom) to be maintained when culture is perceived and maintained as such?

#### Ethnicity

When it comes to membership, certainly there are other markers we could use to discern which members are a part of the nation, but as Scottish theorist of nationalism Tom Nairn says, in nation-building ethnicity is very often assumed as natural and self-evident. Because the majority of ethnic markers are so unclear and alterable (e.g., one can acquire a faith, learn a language, etc.) it becomes easy to focus on the subethnic category of race (and kinship). In referring to rule by the Kmer Rouge in Cambodia as well as in Syria and Iraq Nairn says, "nationalism sanctifies nepotism" (Nairn, 1998, p. 114). When Tamir is speaking of the unchanging aspect of the nation and the proud inheritance from forefathers, what else is she referring to other than the cultural continuity of a particular ethnic group?

#### Bias

Strangely, Tamir finds no dissonance between liberalism and nationalism because, as she says, her conception of liberal distributive justice “is particularistic and applies only within well-defined, relatively closed social frameworks, which favour members over non-members” (Tamir, 1993, p. 10). But how are we to define who is and is not a member of the nation? Can we really define “non-members” if we are committed to diversity? Does this not inevitably descend to the level of ethnos?

Beiner makes a pointed criticism of this preferentialism that seems to have no sound answer from the liberal nationalists: how do we privilege the majority cultural identity in civic membership without making minorities second-class citizens? (1999, pp. 9-12) By promoting cultural uniformity, indeed we end up forcing citizens to align with a dominant cultural hegemony. How this differs widely from the previous homogenous model state concept is not clear. As Walzer says, “one nation’s independence may be the beginning of another nation’s oppression.” (1999b, p. 214) Taylor also elaborates on the liberal nationalist conundrum, as he says:

Of course, liberal nationalism suffers strains. All are citizens without distinction, and yet the state has its *raison d’etre* in a cultural nation to which not all citizens belong. There are tensions here to be managed. But there is no question of sacrificing universality on the altar of the nation. For this would be a betrayal of identity. (1998a, p. 215)

While liberalism advocates a goal of neutrality, shared identity involves clear prejudices: I decide to live with you and have social solidarity with you because I like you better, I feel more historically or culturally related to you.

The tendency of newly inaugurated nations, says Walzer, is to begin to treat their own minorities badly. Walzer reasons that this is because “sometimes they are genuinely insecure in their newness, uncertain of their own political unity and physical safety” (1999a, p. 552). He also says that new nations are so concentrated on themselves to see other minorities, leading them to be “self-absorbed and blind” (Walzer, 1999a, p. 552)[[120]](#footnote-120).

To truly remove nationalism from blood and soil then we ought assuredly to no longer speak about ‘rooted” or ‘historic’ communities, which both Tamir and Kymlicka seek to preserve indefinitely. Choice is the purview of democracy – rule of the people, wherein the people decide by themselves how they will lead their own lives. However, the liberal nationalism which Kymlicka and Tamir promote is a distinct phenomenon from democracy. Such cultural nationalism is no longer simply rule of the people but is rule of a *particular* culture. Which begs the question: Is Kymlicka truly successful in synthesizing cultural nationalism (or societal culture) and choice?

### The Sanguinity of Liberal Nationalism

Much of Kymlicka’s work can be seen as an attempt to legitimize the nation-state in face of its critics. While Kymlicka sees civic “neutrality” as doing harm, he nevertheless oddly considers (post-ethnic) nationalism itself as a benign force. Kymlicka defends his version of nationalism as a thin conception of nation. Yet when we speak of a *deep* attachment to a national culture as Kymlicka describes, it seems doubtful that this would be towards a “thin” national culture. If we do accept that we have a deep attachment to a thin national culture, then is it really plausible that it is the choice that we value in protecting it (a core presumption at the basis of Kymlicka’s theory), or rather the sameness (and hence removal of choice) which follows?

What is positive about the work of the liberal nationalists is their strong desire to create the possibility of reconciling rights and culture. The pending question however is whether or not this reconciliation can occur within the normative framework of nationalism. Kymlicka does not share Tamir’s scepticism about the nation and the need to make it a “virtue out of necessity” (Kymlicka, 2001b, p. 252). If the face that Tamir paints on nationalism is a softer one, than the face that Kymlicka paints is altogether rosy, attributing nationalism with “remarkable success in ensuring democracy, individual rights, peace and security, and economic prosperity for an ever increasing number of people” (Kymlicka, 2006b, p. 129).

The nation-state marked a new form of belonging, and for Kymlicka this new identity is that which is most suited to the purposes of our new democratic systems. National identity is inherently democratic he says, precisely because of the anonymity and “neutrality” of its definition, since nation is a comprehensive identity that allows for internal difference. This is why “thin national identities have nonetheless proven to be strong and stable ones” according to Kymlicka (2003, p. 281). National identities were bearers of democracy and equality for the masses says Kymlicka. We can extrapolate from this to suggest that rather than being an irrational and illiberal tendency, Kymlicka views the growth of liberal minority nationalism as a further sign of our increasing democratization.

#### The Darker Currents of Nationalism

Yet, despite these proclamations on the virtues of nationalism in other areas Kymlicka readily acknowledges that even in liberal nationalisms the status of minorities has been reprehensible. In a long list he enumerates “the victims of liberal nationhood” (2006b, p. 130) which include:

(1) Immigrants, who have typically faced exclusion or assimilation at the hands of the liberal nation-states; (2) historic substate groups, such as indigenous peoples or regional minorities, whose distinct national identity and aspirations to national autonomy have typically been suppressed by liberal nation-states; and (3) neighbouring nation-states, because national identities are often defined precisely by antagonism to neighbouring nations, creating the potential for interstate rivalries and hostilities. In each case, people who do not belong to the privileged national group are seen as threats to be contained or suppressed (Kymlicka, 2006b, p. 130).

Surprisingly, despite Kymlicka’s acknowledgement of the difficulties the liberal nation has brought, particularly with respect to forging solidified-oppositional (as opposed to reflexive-intersubjective identities) he nevertheless believes that liberal nationalism is still the best recourse for group recognition.

Kymlicka underestimates the ethno-cultural currents that still remain strong in most nationalist circles. To state as Kymlicka does that the “paradigmatic nation-states” of England, France and Germany were spreading “freedom and equality” when they embarked on their campaign of nation-building can be seen as an extreme and dangerous exaggeration. Coming from a theorist of minority rights and multiculturalism, it is very difficult to accept that “freedom and equality” was extended to the Irish, the Scotts, the Corsicans, the Roma, the Polish and the Jews among the many other minority communities who suffered from the nation-building projects of these states. Although Kymlicka takes an important step forward by theoretically separating nation and state, can the problems of the traditional nation-state ever be separated from the nation?

Political scientist Anna Stilz succinctly summarizes the dilemma posed by the liberal nationalist view in that it “neglects the importantly *universalist* moral justification for liberal politics, in favour of a form of ethical partiality…based on exclusivist cultural ties” (Stilz, 2009, p. 18). There is an incontrovertible tension between the duties and obligations of cultural membership and liberal autonomy. This leads the liberal nationalists towards some ethically questionable conclusions pointed out by Stilz – such as Yael Tamir’s example of “associative obligations” in her book *Liberal Nationalism*, whereby she states that members of the Mafia “are bound by associative obligations to their fellow members” (as cited in Stilz, 2009, p. 19). A worrisome comment to say the least, for it reveals the underbelly of liberal nationalism’s commitment to the collective identity (which we are born into) and the role of that pre-determined identity in constituting our selfhood and choices. Stilz rightly says that Tamir’s example of the inability to distance ourselves from associative obligations, even from within morally questionable cultures such as the mafia, flies the in the face of all that liberalism stands for: a self-reflexivity (attained through ability to distance) and hence jeopardizes liberal autonomy (Stilz, 2009, p. 19).

Certainly, the track record speaks against nationalism. The most tragic events of modern times, particularly with respect to minority populations, have nationalism at their root. Kymlicka himself says the *liberal* nation has been “responsible for some of the gravest injustices of the twentieth century” (2006b, p. 130). While there have always been minority groups that have faced problems due to their status as minorities, their problems have been accentuated by national frameworks. By taking the “illiberal sting out of nationalism” (Beiner, 1999, p. 14), critics point out, the liberal nationalists risk obscuring our understanding of an important facet of modern society, and hence not only risk misunderstanding nationalism but also face a chance that we fail to understand our own selves and the world as it currently stands in a fundamental way.

Kymlicka and the liberal nationalists seek to remove the negative side effects of nationalism and create a nation-state which moves beyond the homogenization, domination, and aggressive expansion of former times, and which – in Kymlicka’s view – can accommodate minorities in a way the former model could not. Yet, the solution Kymlicka provides for minority nations within the national model is nationalism itself. This illustrates a tension evident in his theory: on the one hand, Kymlicka recognizes that nation-building causes injustices towards minorities, yet on the other hand he contends that nation-building in itself is fine and that minority nation-building is the solution needed to counter the effects of majority-nation building. For Kymlicka, national groups need institutional control otherwise their long-term viability is jeopardized (1999b, p. 140). They need to be able to control immigration, education, language rights, resource allocation, etc. By the provision of group rights for minority nations and restricting these rights to those which fall under the purview of his definition of liberal nationalism, Kymlicka aims to provide a third way beyond ethnic and civic nationalism as a solution for minorities.

Kymlicka says that it is intuitively fair that if we permit majority nation-building then we must also support minority nation-building (2001b, p. 29). It is within the context of majority-nation building that Kymlicka adopts his support for minority national rights. This is the context within which minority nationalism must be evaluated – as a response to majority nation-building, using the same tools of nation-building” (Kymlicka, 2000b, p. 165). Yet, what intuitively *feels* fair is different from *being* fair.

#### The Compatibility of Liberalism and Nationalism

The balancing act between culture and civic liberty, individuality and community, is indeed a difficult one. Both Tamir and Kymlicka acknowledge the tensions between liberalism and nationalism. Indeed, Tamir claims that such tensions are inevitable:

Some of these values lead to incompatible policies and many such conflicts...[which] are not the outcome of 'a logical incomparability between duties abstractly defined, but between the actions they require in a given situation.' In other cases, liberal and national values are incommensurable, that is, there is no single scale on which they might be measured and compared. (1993, p. 6)

The liberal nationalist message is that when both culture and community are juxtaposed against one another, it is difficult to choose between them. Community is of great value, because it is my context of choice. However, the right to choose itself may sometimes be jeopardized by the demands of community. Brian Barry, who found the walls between liberalism and nationalism unscalable, argued against this notion,

The point of liberalism is that it is universalistic. It therefore necessarily conflicts with the claim that nations are the bearers of values that cannot, as a matter of principle, be overridden in the pursuit of liberal ends (2001, p. 138).

Barry therefore argued that despite Kymlicka’s avowed commitment to liberalism, his theory in practice is illiberal, “despite his protestations to the contrary” (2001, p. 133).

Despite the liberal nationalist claim that nationalism and liberalism can theoretically speaking “be made to accommodate each other” (Tamir, 1993, p. 6) or “tamed” (Kymlicka, 2006b, p. 133)[[121]](#footnote-121) liberal nationalists do not provide us with clear answers on how to go about this accommodation in actual practice, and while there is some merit to the arguments of the liberal nationalists that liberalism and nationalism to a certain extent arose together, this association has certainly not always been “poly-ethnic” in the “liberal nationalist” sense of the term nation. As Walzer deftly points out:

Nationalism has often been a leftist ideology, historically linked to democracy and even to socialism. But it is most characteristically an ideology of the right, for its understanding of membership is ascriptive; it requires no political choices and no activity beyond ritual affirmation. (1998, p. 298)

Indeed, if we are looking to the history of liberalism and nationalism, it has not been the smooth and closely-knit road that the liberal nationalists would have us believe it was. Despite its liberal origins, nationalism quickly became something quite apart from liberalism.

The history of the concurrent rise of liberalism and nationalism ought rather to give us pause for thought, and taken as a signal *against* their apparent compatibility. As Benhabib deftly puts it, “there are a series of contradictions, historical tensions and even institutional disjunctions in the composite called the ‘liberal-democratic nation state’” (2006, p. 166). Further, nationalism did not always bring liberalism, as is apparent in the development of post-colonial societies. While there were times when liberalism and nationalism were compatible, we should not forget that there are many examples from history where liberalism and nationalism were at odds (Benhabib, 2006, p. 168). Benhabib reminds us that “the substantialistic understanding of the nation has served historically to disenfranchise some and to exclude them from the orbit of full democratic citizenship” (2006, p. 168).

Vatthana Pholsena in an essay in *Multiculturalism in Asia*, a book co-edited by Kymlicka, also argues that the link between the modern state and national sentiment is a dubious one. Pholsena describes how Kymlicka borrows the functionalist account of the modern economy and its need for a “mobile, educated, and literate work force” (Kymlicka, 1995, p. 77) as an explanation of the rise of common national language and identity (Pholsena, 2005, p. 106). Yet, the rationalized and secular identity which states attempted to create were far from the national sentiments that Kymlicka describes. Pholensa interestingly argues that “if people have strong national identities, it is arguably in spite of, not because of, the modernizing secular nation-state” (2005, p. 106).

Liberalism, nationalism, socialism, industrialization, capitalism, all arose in modernity – but because they arose together does not make them unconditionally linked. In fact, if we examine the sort of liberal state that arose with the nation, it was one that presumed cultural uniformity. A nation by its very definition is based on principles of exclusion and defining who does and does not belong to the nation. Kymlicka and Tamir both acknowledge the problems of the early liberal nation which presupposed cultural uniformity, yet they are unable to see how the same concepts upon which this early concept of nation was founded, are still evident in their own theories.

#### Nationalism and Political Participation

Another claim of the liberal nationalists, supported only by tangential evidence, is that nationalism increases political participation. Parekh provides counter-examples to dispute this case: the United States is more patriotic than Canada, he says, yet has less civic participation than Canada, Israel has strong nationalism, but is a deeply fragmented society that has not even been able to agree on a constitution (Parekh, 1999, p. 318). It is wrong and reductionist to think that high political participation is the result of nationalism - political participation, heeds Parekh, is the result of a sophisticated number of overlapping reasons. Indeed, Parekh warns that nation may in fact do just the opposite and actually *decrease* political participation. Since national membership is an abstract “reified” identity, there is very little substantive connection to other members. Nationalism engenders an emotional connection to an abstract “nation” and an abstraction of the perfect citizen (the Unknown Soldier, the man or woman who sacrifices all on the altar of the nation). Against such ideals, actual citizens pale by comparison. Hence, instead of a “spirit of altruism”, we may end up in the communitarian critique of modernity: a world of disconnected individuals each seeking their own interests (Parekh, 1999, pp. 314-5).

Michael Ignatieff too believes that nationalism traps its members in a state of narcissism. He borrows Hans Magnus Enzensberger’s term in comparing nationalism to autism: nationalists are locked into their own world in which having “empathy” for the Other is inconceivable. Nationalists are so in love with their own self-righteousness, victimhood, and over-exaggerated myths of violence he says, that they cannot see beyond their own noses. They cannot, and are not willing, to learn from others outside their own narrowly enclosed sphere. Ignatieff says the problem is not from the sense of belonging, which Tamir and Kymlicka wish us to acknowledge and pay our respects to. This is not the issue says Ignatieff. The principle problem is the insular nature of the ego that accompanies identity politics and how this ego leads group members to find themselves not only set apart from non-members (who ostensibly will be unable to understand them), but also instils exaggerated self-love with their own group before others (Ignatieff, 1999, pp. 96-7).

Kymlicka himself says that majorities have a strong “narcissistic” attachment to outdated identities and are therefore unable to accept their multinational character. It is not the minority who is irrational but the majority for refusing to admit there is more than one nation within the state (Kymlicka, 1999a, pp. 122-3)..Yet is the narcissism of the majority limited only to its refusal to recognize other “nations” within its boundaries? Or is it something much more than this, in the direction of which Ignatieff raises a red flag – of particular relevance for minorities.

#### Nationalism and Difference

In a similar vein, Parekh describes nationalists as, “profoundly disoriented by difference” (1999, p. 318) and unable to reconcile their nationalist beliefs with cultural diversity. Kymlicka states to the contrary that nationalists in minority groups are becoming increasingly liberal but Parekh disagrees; he explains, “however liberal she might be, a nationalist remains more or less antipathetic to strong forms of cultural diversity” (1999, p. 317). In Parekh’s view, “all forms of nationalism are underpinned by a deep streak of psychological and cultural conservativism” (1999, pp. 317-8). Parekh poses the challenge: how can a nation be both diverse and homogenous? The irreconcilable paradoxes of the liberal nation render it, in Parekh’s view, to be “deeply flawed” (1999, p. 308). Alfred Stepan similarly argues that, “

In multinational or multicultural politics, nation-state building policies and democracy-building policies are conflicting political logics. Would-be democracy crafters in such a polity have to recognize this political reality and search for an alternative set of politics to that of a “nation-state” (2001, p. 189).

Counter to the views of the liberal nationalists, these authors argue that multiculturalism, liberalism, and even democracy, rather than being supported by nationalism, are actually impeded by it.

Parekh says that the impact of nationalism on our systems and psyches has been detrimental to our acceptance of diversity. We are now so familiar with nationalism that much of its impact is commonplace and unquestioned. With respect to the homogenizing effects of nationalism, Parekh states that after three centuries of living in nation-states, we are “so accustomed to expecting a broad moral and cultural consensus…that we feel disorientated by its absence” (1997, p. 54).We no longer understand what it feels like to live in diversity, the nation-state model has been so effective in divesting itself of all difference, that now difference becomes intolerable, and (cultural) sameness quixotically desired – to the extent that even our writings on multiculturalism and diversity in themselves become oratories on the virtues of living within “stable” cultural settings[[122]](#footnote-122).

### Misunderstanding Civic Nationalism

Finally, it would seem that the liberal nationalists, although quite rightly correct in their severe condemnations of ethnic nationalisms, find themselves in something of a double bind when it comes to their conclusions on civic nationalism. On the one hand, Kymlicka is trying to sever the definition of nationalism from ethnic nation (in the form of common descent or origin), while on the other hand he also veers away from the civic nation which he believes follows a similar homogenizing pattern as the ethnic nation.

Smith himself says that ethnic and civic should be treated ideal types rather than a scheme of classification as they are not normative. There are of course degrees of inclusivity, degrees of ethnic and civic. Civic nations can find ways to make their state more open and more fair. Brian Walker writes against the culturalists and says that they are “wrong to see all cultural choices as analogous to the choice of official language” (1999, pp. 153-4) as Kymlicka himself does. Language is quite a different matter from other cultural claims he says. Official languages will always favour some over others, however this is quite a different matter from other cultural aspects of a nation, such as “the character of public symbols and national holidays” (Walker, 1999, p. 154). Walker cites the example of the Canadian flag (whose symbol is a neutral maple leaf) to be an example of how countries can aim for “cultural fairness” apart from cultural preferentialism (1999, p. 154).

Bader makes a similar distinction between civic nations, comparing the “melting pot” of American society to the “mosaic” of Canada. Of the latter, he says that it “expects comparatively less cultural assimilation of the different ethnic groups and allows for more structural pluralism” (1997, p. 775). While Bader contends that there is still a pull between hegemonic (universalist) forces in Canada against the otherwise pull towards “deep diversity”, it is considerably less “white, Anglo-Saxon, Protestant, male” than American nationality (1997, pp. 775-6).

Kymlicka believes however that civic nationalism is largely culpable of the same errors of which ethnic nationalism is guilty. Kymlicka rightly points out that aggressive assimilation policies have harmed rather than helped national minorities under majority nation-building. Putatively civic nations such as France and the United States have been able to get away with often brutal assimilation policies towards minorities precisely under the banner of supposed “neutrality” (Kymlicka, 2001b, p. 244), therefore Kymlicka concludes that neutrality is problematic and instead we should openly acknowledge the intrinsic biases of our societal cultures (see Kymlicka, 2002, p. 16 “The Myth of Ethnocultural Neutrality”). His argument against civic nations can be summarized in the following points:

1. Majority civic nation-building claims to be “neutral”;
2. Civic nation-building is non-neutral and harms national minorities;
3. Civic nation-building’s claim of neutrality helps majorities justify maltreatment of national minorities (assimilation); therefore,
4. We should abandon neutrality and concomitantly acknowledge societal culture (bias).

This argument however has weaknesses. Just because “neutral” nations have been abused in the past and incorrectly used to eliminate difference, this does not mean that claiming neutrality will only bring harm to minorities. Worse still, is that Kymlicka’s alternative in lieu of a failed civic nation is a cultural one which “defines the nation in terms of a common culture, and the aim of the nationalist movement is to protect the survival of that culture” (Kymlicka, 2001b, p. 243). It is not apparent however that rescinding the aim of neutrality altogether makes nationalism more liberal, in more likely will do just the opposite.

There are instances where the claim of neutrality can be an advantage in justice and equality. Take for example,

Case A: A Judge in court must sign an oath of neutrality. He or she should not be partial to either the defendant or the court. In practice of course, a judge is never a “blank slate”, a judge in a court of law comes from a background full of experiences and influences which inevitably form the background picture by which she measures the standard of justice.

Yet, imagine what were to happen if judges no longer swore an oath of neutrality,

Case B: Instead of swearing neutrality, the Judge instead declared openly, “all defendants of the same race and gender as me will receive special treatment and consideration against the rest.”

This could not be considered anything more than an obstruction of justice, despite the fact that, perhaps inwardly under the oath of neutrality, the judge may not be able to prevent him or herself from such considerations.

The difference between case A and case B is that in the former case the judge strives to (perhaps acknowledge) but then to the best of her ability put aside her biases and judge as neutrally as she can. As Walzer says, “[state officials] must exemplify this sort of egalitarianism in all their dealings with citizens of the state…the effective covering law is that all officials should treat their *fellow* citizens with equal respect and concern” (Walzer, 1999a, p. 530). In case B however, the judge acknowledges her biases, and then proceeds to act upon them through preferentialism and putting her “group” identity before the rule of law.

Case A can be understood as civic nationalism wherein “neutrality” is a goal, while Case B is liberal nationalism such as that endorsed by Kymlicka, which explicitly favours members over non-members of a particular “societal culture”. In the case of A, the goals of neutrality means that as we must aim to identify the ways the law privileges certain groups and rectify these biases. In Case B, we still implicitly accept the biases of the law (over immigrants for example and other non-dominant groups such as women), but do not accept this over national groups for whom we provide a similar license to replicate the dominance of one group over a section of the law over others[[123]](#footnote-123).

Of course, the liberal nationalist argument may rightly rebut that in this example the law itself has been written by a particular dominant group and that the “rule of law” itself is inherently discriminating and reflecting the particular cultural values of the majority. Indeed, this is precisely the argument that feminist authors have framed about the hidden biases in supposedly neutral law in “constructing and underpinning gender hierarchies” (Lacey, 2002, p. 7). But civic nationhood’s conception of shared citizenship is *not* one that *ignores* cultural differences as if they did not exist or did not matter (Beiner, 1999, p. 14).[[124]](#footnote-124) Instead, it is a conception of nation that aims to rise above these preoccupations and to make a clear choice as to when cultural rights and liberal rights are in conflict. For the civic nationalist, in contradistinction to the liberal nationalist, liberty comes first, and “for the liberal, neutrality is a political *ideal*” (Larmore, 1987/2003).

Yet Kymlicka wants to “replace the idea of an ‘ethnoculturally neutral’ state with a new model…what [he calls] the ‘nation-building’ model” (2001b, p. 26). Yet how his “nation-building” model will veer away from this homogenizing pattern differently than civic nationalism was able to, Kymlicka does not say. He insists however that it will be multi-ethnic and diverse in a way that civic nationalism is not, despite its commitment and affirmation of a particular societal culture (a language, and institutions that promote the specific shared national history and national culture). Cultural nation-building in the form of advocating institutional measures such as those that Kymlicka suggests to be essential for national minorities however can lead us to disseminate and dictate culture.

This commitment to a particular version of non-neutral nationality would seem to fly in the face of Rawl’s anti-perfectionist stance on state neutrality, which is so key to his grounding of public reason and the ability to form an overlapping consensus. Kymlicka himself states that he “endors[es] the principle of neutral concern” (1989, p. 97) which he describes as a “compelling one” which can “serve as the basis for state legitimacy in the culture of freedom” (1989, p. 91). Indeed, Kymlicka believes that overcoming entrenched inequalities requires “reforms that are much more extensive than Rawls or Dworkin has explicitly allowed” (Kymlicka, 1989, p. 91). Yet, certainly, the liberal nationalist, and in particular Kymlicka’s commitment to a decidedly non-neutral conception of nationality, seems to undermine the full force of Rawl’s and Dworkin’s arguments on the need for ensuring equality between all citizens, and in particular Rawl’s (and Kymlicka’s own earlier) commitment to providing a neutral, inclusive pubic space that did not prefer any single conception of the good, and I might add - of any particular group or community over others.

### Inter-National Politics

The strongest point in the liberal nationalist’s favour is that the nation-state remains the current model of political organization. In her introduction, Tamir claims that basically nation states are not fading, so we have to make liberalism and nation work together; in other words, since the national system is here to stay so we had better make the best out of it. For Kymlicka, making the best out of nationalism means introducing a form of remedial nationalism and putting certain restrictions on nationalism (such as preventing it from having internal restrictions on the national group). Yet even Tamir is vocally sceptical of remedial nationalism. Nevertheless, Tamir’s solution – isolated national groups living together in a single polity – seems not so very different from Kymlicka’s remedial nationalism. In both cases, we are led in a circle: so long as we refuse to redefine ourselves, minorities and indeed majorities will have no recourse but to define themselves in national terms if they wish to receive international recognition and rights.

The idea that nations are not disappearing disregards however the diminishing role and significance of nation our lives. Although nation indeed remains our unit of international political organization, the significant change which has occurred over the past decades is not in the system itself but in our relation and dedication to it; nationalism as a key source of our primary identity is clearly on the wane. That minority nationalisms and national feelings still exist is only natural so long as our political theories and legal justification of recognition and sovereignty remained tied to the nation.

In conclusion, liberal nationalism remains rooted in a cultural paradigm that verges dangerously close to ethnic nationalism – in a way that may prove to more dangerous for minorities than the neutral paradigm of the civic nation. Kymlicka and the liberal nationalists acknowledge the problems of nationalism and hope to put limitations on these problems. As Tamir acknowledges of the old national model, it was “motivated by a cluster of noble ideas which sowed the seeds of some of the most morally disturbing policies adopted by modern states” (1999a, p. 90).[[125]](#footnote-125) Kymlicka believes his thin conception of nation is one that overcomes the old risks of former times, but remedial nationalism can be seen as a bandage solution at best, an illness itself at worst. A remedial national solution ignores the root of the problem minority groups face entirely and ignores many of the implicit emotive and essentializing aspects of nationalism.

It is clear that Kymlicka’s theory has many elements of the ethnocultural nation, whether “thin” or not; for his theory to be truly liberal, it must purge itself of this. Indeed, Kymlicka thinks that “there is no way to have a complete ‘separation of state and ethnicity’…nor is there any reason to regret this fact” (1995, p. 115). Kymlicka believes – correctly – that states can never fully be neutral, they must accept that there are many ethnic groups that compose their society and instead of denying a majority ethnic culture, they must simply learn to deal fairly between these groups. However, can Kymlicka’s minority national rights achieve this lofty goal? Or does civic neutrality, in all its remoteness, allow more fairness between groups than policies that directly support the promotion of a particular national culture?

Although both Kymlicka and Tamir recognize the death of the political paradigm of monoculturalism, they still cling to the national paradigm and try to resuscitate it in new, “multicultural” or in Kymlicka’s case: “multinational” form. But multiculturalism is not the same as multinationalism, and many of the measures Kymlicka and even Tamir agree to may in many instances run counter to multiculturalism itself.[[126]](#footnote-126)

As we have already emphasized, civic and ethnic conceptions of nation are ideal types, so what we are faced with in reality is a choice between tolerance and intolerance, acceptance and exclusion, diversity and sameness. To the extent that the liberal nationalists espouse the former item in each of these couplets, it would seem to move far away from the multiculturalism and indeed liberalism they claim to adhere to. Yet at the same time, the closer they move towards the latter word in the sets of oppositions, the further away they seem from any recognizable form of nationalism. It would seem that an alternative to “liberal nationalism’s” acceptance of cultural preferences, is that we instead aim to make the dominant metanarrative subject to diverse voices, not to remain committed to separate insular communities.

## Chapter 6Challenges Posed by Kymlicka’s Theory

Will Kymlicka's theory has received international accolades for addressing the need for the proper recognition of the multicultural, multiethnic character of states. In 2004, Kymlicka was consulted as an authority on multiculturalism and minority rights in the writing of the UNDP Human Development Report, of which the footprint of his theory was firmly imprinted[[127]](#footnote-127). Multicultural Citizenship, for Kymlicka - is primarily about multinationalism; multiple nations living harmoniously together under a single state, each polyethnic in their own right, accepting diversity both in their backyard and within their own home. Kymlicka uses remedial nation-building to remedy those nations unable to access their own stable culture due to the imposition of a majority national culture. But are multiculturalism and nationalism truly such sweet bedfellows? Can institutional policies that advocate and reinforce national borders and in particular national cultures, truly also be at ease with a dynamic cultural multitude?

Despite the strong internal coherence of Kymlicka's main argument, his theory is laced with several key inconsistencies attributable to his liberal nationalist stance, that open the way towards potential abuses of his schema. The majority of these inconsistencies are attributable to the fact nation-building concepts and assumptions do not follow easily from Kymlicka’s arguments on the natural relationship between liberalism and multiculturalism, this is the source of a number of unresolved difficulties in his work[[128]](#footnote-128). Kymlicka says that national minority rights are necessary because minorities are fragile and susceptible to nation-building efforts. Yet by promoting multiculturalism within a national setting – or alternatively, promoting nationalism in a multicultural setting, his theory has ambivalent results for addressing a complex divided society. Ultimately the two trends work against each other.

This Chapter summarises issues with and hints towards the sorts of reform Kymlicka’s theory is in need of, which are addressed more fully in the coming section.

### Circular Logic

Let us begin with examining the ways that circular logic runs through Kymlicka’s remedial nationalism (Favell, 1998; Kostakopoulou, 2008, p. 51). According to Kymlicka, the non-neutrality of the majority nation is what causes unfair treatment of minority nations. To create fair treatment, Kymlicka argues that we should accord national rights to minority nations and that in doing so, we will have enhanced liberalism, because each of the various national groups will be more equal to one another. I summarize this argument in the following syllogism:

1. Nation-states are non-neutral; they privilege a particular societal culture.
2. Individual autonomy relies on having secure access to a societal culture.
3. National rights are the best way to secure a (societal) culture.
4. **States that provide national group rights (securing societal cultures) are more liberal than those that do not.**

The validity of Kymlicka’s theory and its conclusion D however, rests on the arguments A-C, of which A is uncertain and B and C are dubious at best. While Kymlicka’s theory seems logically sound, he really begins with his theoretical conclusion: that liberalism and nationalism are compatible, and then drives his argument forward based on this conclusion from evidence which, though possible, are not in any ways substantiated, and which drives the arguments back to the main premise.

Kymlicka does this also with respect to two of his main conclusions: first, the need for national minority rights, and secondly, compatibility of liberalism and nationalism.

The compatibility of liberalism and nationalism he derives follows:

1. Nationalism is a modern phenomenon.
2. Liberalism is a modern phenomenon.
3. To a certain extent liberalism and nationalism arose together.
4. Nationalism values shared identity over shared values.
5. Nationalism allows us to prioritize the Right over the Good.
6. **Nationalism is the best unit to express liberalism.**

A and B lead to sub-conclusion C, D leads to sub conclusion E, and C and E together lead to conclusion F.

Or the following argument, which I have also broken down:

A) National minorities have a societal culture different from the majority.

B) The majority societal culture is unfairly imposed on the national minority.

C) Immigrants left their societal culture to join the majority societal culture.

D) Most immigrants are happy to integrate into the majority societal culture.

**E) National minorities deserve more rights than immigrants.**

Or another:

A) Nation holds deep meaning for the identity of its members.

B) We need to respect our fellow human’s identity.

**C) National feelings are worthy of our respect.**

While we certainly ought to learn respect and recognition of the identity of others, it is not clear that national identity – particularly in its political incarnations – is more worthy of respect than other spheres of identity, or that national identity provides the deep meaning (assumption A).

If we remove the convincing steps which Kymlicka links in between in the above argumentations, we are left with circular arguments, which I outline as follows:

1. Nationalism facilitated the rise of liberalism because it was the unit of political organization best suited to liberalism.
2. Giving minority national rights will create more freedom (liberty) because national culture (societal culture) provides freedom.
3. National minorities are entitled to more rights than immigrants because they (national minorities) demand more rights.
4. We need to respect national feelings because they are worthy of our respect.

While Kymlicka’s theory in some respects has been called path-breaking for its attempt to bridge theoretical and empirical arguments (Favell, 1998), we must nevertheless be wary of the way Kymlicka convincingly drives his arguments and the one-sidedness of the empirical evidence he uses to back them[[129]](#footnote-129).

### Paradoxes

In addition to circular arguments, Kymlicka’s writings are pulled into paradoxes, caught between his monocultural approach to nation-building and his professed commitment to dynamic polyethnic societies. With respect to multiculturalism itself, Kymlicka admits that “multiculturalism is a distinctive way of responding to state projects of nation-building” (1998b, p. 29); to a certain extent, although he does not say so directly, Kymlicka is admitting that multiculturalism is a response against the monocultural direction that nation-building imposes across cultures. Yet the multiculturalism in a nationalist setting is fraught with tension in a way that complicates his own theory and leads to ambivalence and contradiction. One is a commitment to openness (in Kymlicka’s terms “polyethnic” society), while the other is committed to a particular limited people. As Walzer says, “No nation imagines itself coterminous with mankind” (1999a, p. 539). While affirming liberalism and multiculturalism on the one hand, and correspondingly affirming the priority of the community (particularly in nationalist terms) on the other hand, Kymlicka ends up with an irresolvable contradiction of interests.

Hence, although Kymlicka “connects the dots” nicely (Kaufmann & Zimmer, 2004, p. 65), a number of paradoxes arise which challenge the validity of his arguments and those of the liberal nationalists more generally. In his writings, Kymlicka seeks to normatively bridge choice (liberalism) and community (nation). Yet, liberalism means favouring maximum individual liberty in political and social policies. Instinctively, maximum individual liberty would seem to be at odds where a national culture is promoted or imposed. A cultural nationalism such as that which Kymlicka proposes is bound to face difficult roadblocks when confronted with questions about the priority of the Right (liberalism) over priority of the Good (communitarianism). The liberal nationalist has no litmus test for which an answer may be found and if anything, policies advocating sustaining a particular national culture over time would veer more closely towards the side of maintaining community over liberty should it come down to a choice between the two.

 The following table is a brief look at some of the oppositions that follow from Kymlicka’s conclusions about choice and community:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  |  | **A. Choice** | **B. Community** |
| 1 | 1 | 1. | Change | Stability |
| 2 | 2 | 2. | Modernization | History |
| 3 | 3 | 3. | Future | Past |
| 4 | 4 | 4.  | The Right | The Good |
| 5 | 5 | 5.  | Neutrality | Particularism |
| 6 | 6 | 6. | Equality | Preferentialism |
| 7 | 7 | 7.  | Diversity | Selectivity |
| 8 | 8 | 8. | General | Distinctive |
| 9 | 9 | 9. | Individual | Group |

In effect, Kymlicka’s theory of multicultural citizenship says that if you have column two (community), then column one (choice) will result. Yet, the following contradictory derivatives (points 1 to 9) with respect to how Kymlicka envisions the application of A and B render his arguments inconsistent.

This unfortunately leads Kymlicka’s theory into some paradoxical territory:

1. The culture we should be protecting (through national rights) is one that is able to **change,** yet **stability** in this culture is needed to provide the ground or “politics in the vernacular” necessary to make intelligible choices.
2. Most national movements today, while arguing to maintain their (**distinctive**) **history** and cultural identity, are **modernizing** and losing their distinctiveness and becoming increasingly **similar** to other liberal nations.
3. Liberal nationalism is polyethnic (**neutrality**), however it is selectively so (**particularism**).
4. Liberal nationalism strives for **equality** between all citizens, however each national group accorded rights is **preferential** towards one particular societal culture.
5. Liberal nationalists cling to the valorised memories of the **past**, though they support the choices of **future** generations to dismiss it.

The above contradictory points cause theoretical confusion in the vacillation between community and choice and leaving us without a clear roadmap to navigate between the two, often with community taking priority over choice.

#### Change vs. Stability

With respect to point (1.) above, Kymlicka’s description of culture is often at odds with itself. If a stable cultural background is what is needed for us to be able to navigate through the politics of our vernacular, then why should we allow internal change? If strong attachment to our common history and myth is needed for us to live fulfilled lives in which we can make intelligible choices, then how can immigrants ever give up the societal culture of their birth? How is it that a national culture, which is implemented from above inasmuch as it is from below, able to change from the people through their will? Can you really “secure” diversity?

#### History vs. Modernizing

For point (2.), Kymlicka repeatedly refers back to his example of Quebec to dispute claims of critics that liberal nationalism as “deeply paradoxical” (Kymlicka, 1997b, p. 37). In a chapter he titles “Dissolving the Paradox of Liberal nationalism” he responds to point 2 in the list above, citing it as

[Presupposing] that people have a strong attachment to their own culture, and that this attachment is not inconsistent with the desire for individual freedom, and hence for the liberalization of one’s culture. (Kymlicka, 1997b, p. 37)

This claim is found by many commentators to be deeply paradoxical; however, Kymlicka disputes these critics by referring to his paradigmatic example of Quebecois nationalism and its increasing demands following the Silent Revolution. There are two ways of understanding the apparent paradox of Quebecois “modernizing nationalism” says Kymlicka: 1. That the Quebecois have an irrational attachment to their history. Or 2. That despite national identity losing its distinctiveness, there is still a deep attachment to it (Kymlicka, 1997b, pp. 37, 43). Kymlicka does not really dissolve his paradox here in this argument, but just spells it out further: national groups want to maintain their distinctiveness even though they are becoming less distinct. Despite its confusion, this singular example is routinely used by Kymlicka to back his theory.

#### Neutrality vs. Selectivity

With respect to point (3.), neutrality vs. selectivity, Kymlicka runs into difficulties when deciding whether it is correct to allow the Quebecois the right to ethnocentric measures such as enforcing the French language in schools and forbidding the availability of other mother tongue languages. As justification for these non-liberal measures, Kymlicka defends that sometimes a degree of illiberality is needed in order to prevent ethnocentrism, and that by allowing the Quebecois to protect and preserve their language and symbols they will feel less xenophobic towards immigrants who they would otherwise perceive as destroying their cultural fabric. With regard to this paradox, Nicholas Buttle says that, “the particularism of nationalism, indeed, pulls against the universalism of liberalism so that ‘liberal nationalism’ constitutes an incoherent construct” (Buttle, 2000).

#### Equality vs. Preferentialism

With regard to point (4.), equality vs. preferentialism, Kymlicka does not address this specifically however in following his theory we can surmise that Kymlicka would say that allowing preferences in some cases provides greater equality for all. In other words, equality is attained through difference. While it is indeed important to recognize that equality does not mean the “same”, it is an altogether different point to provide institutional preference or promotion of a particular culture (or in this case national culture). Kymlicka’s point is that the majority culture already has preferential treatment; therefore, to be fair to minority national cultures they deserve the same. He, quite rightly, wants us to recognize the ways in which our systems are currently biased. His answer however, instead of recognizing our biases and striving to overcome them, is to award preferential treatment in another sphere.

### Monoculturalism

Ultimately, Kymlicka’s version of nationalism unable to fully shed the constraints of the former monocultural model and has many remnants and concepts which continue under Kymlicka’s new label. As Helder De Shutter says, Kymlicka “treats the world as a large mosaic of mononational blocks that have a distinct language and homeland, inhabited by monolingual and monocultural speakers” (2005, p. 18), or in other terminology, what Michael Dusche refers to as a slip towards “monadology”[[130]](#footnote-130) (Dusche, 2000). This monocultural and mononational stance, argues De Shutter, blinds Kymlicka to the possibility of grey areas, the crossing of boundaries, “minorities within minorities”, bilingualism, and dual commitments to nationalities. Kymlicka’s failure to conceive of the prospect of a dual-national “societal culture” or the fact that those within a particular societal culture will relate to it differently, limits his ability to foster adequate and authentic pluralism within a national setting (De Schutter, 2005, pp. 31-2). Irregularities - those who inhabit the vast grey areas beyond Kymlicka’s monocultural, mononational framework - should not be considered mere “noise”, says De Shutter, they are not insignificant at all, but instead may be considered as “cracks in the old bastion of the nation-state assumption” (2005, p. 32).

Liberal nationalism claims that it aims on the one hand for a diverse, multicultural society, and yet at the same time is also strives for cultural unity. Tamir and Kymlicka’s liberal nationalism still, in the end, expects cultural consensus from within the national group. This inability to reach a full multiculturalism is due to the conceptual limitations of nationalism itself. While the national structure (and also liberal nationalism) is designed with a culturally uniform group in mind, multiculturalism advocates non-uniformity and non-conformity. While official policies of multiculturalism encourage pluralism and acceptance of difference, the nation-state has from its inception has been due to its very nature homogenizing and intolerant of difference.

While political stability was once sought from former “liberal nationalists”[[131]](#footnote-131) like John Stuart Mill, the new stability sought by Kymlicka takes the form of a cultural stability (of one’s own “societal culture”). Although state mechanisms are no longer expected to have one political consensus in mind, under Kymlicka’s new national rights schema they should balance between two or multiple consensuses, which are protected from one another’s interference. How these diverse groups are to be balanced, and how the inner consensus is to be allowed change, or they are to be inclusive of all of the society’s diverse groups, Kymlicka does not say, however the effect of ensuring institutionally the continuance of a particular societal culture may serve to silence non-dominant voices and cultures from the political sphere.

This tendency towards monoculturalism and limitations on difference are explored in the following paragraphs which examine the relationship between 1. Nation-building and rights, 2. Stability and Liberty, 3. Politics of the Vernacular and Polyethnicity, and 4. Summary of how National rights can reduce diversity.

#### Nation-building and Rights

As Rebecca Kook argues, differentiated citizenship such as that advocated by Kymlicka is a “conceptual heir to the critique generated by the concept of nation-building” (2000, p. 43). Kook warns us that the institutionalization of differences have at bottom the unrealistic expectation that the state will become more equitable through differentiated rights. As Kook says,

Arguments for collective cultural rights rest upon this assumption: that true freedom for the group and its members is gained only through the ability to exercise their culture freely, and that the ultimate guarantee of that freedom is attained *through the* *political recognition and institutionalization* of these cultural attributes. If modern history has taught us anything, it has taught us the folly and fallacy embedded in these assumptions: while national self-determination might enhance freedom, it does not do so by definition. (2000, p. 59)

There is always a price for collective rights warns Kook, a distinct society is ultimately bought with allegiance to the state and hence a system of dependency involving increased mechanisms of state control over the group – not, as many mistakenly believe, greater independence (2000, p. 53). In a way, national minority rights further entrench confrontations and the hierarchy between groups (as Kook reminds us, “indeed, within harmonious cultural-ethnic relationships no such demands [for national self-determination] will arise”) (2000, p. 57). In a similar vein, Bannerji borrows Althusser's terminology to describe top-down multiculturalism as “an intrinsic part of the ideological apparatus of the state…a device for ascribing subjectivities and conferring agency to the nation’s ‘others’ on non-structural and nonmaterial grounds” but based exclusively on culture or ethnicity (Bannerji, 2003, p. 37). Ethnic groups are cast in an awkward role, says Bannerji, whereby they find themselves being defined by dominant hegemony and at the same time needing to appeal to that same hegemony for “recognition”.

#### Stability vs. Liberty

Margaret Canovan has said that nationalism filled a gap left in contractarian thought: precisely, how to provide political stability through transition? (1998, p. 73) Canovan argued that all liberal thinkers were tacit supporters of nationalism and spoke about “nations as batteries” (1998, p. 72). Nationalism, unlike religion or other ideological sources of collective power, operates like a battery; it can lie inactive for extended periods, only to be jostled into activity when needed (1998, p. 73). For Canovan, this “stability” is assured through the nature of nationalism itself, which turns political institutions into a kind of “extended family inheritance” and “creates an enduring ‘we’” to sustain collective existence transcending the mortality of its members (1998, pp. 69-73). Canovan claimed that nationalism does this in a most subtle way, and is effective due to its non-ideological nature and of course, adroit use of essential and emotive myth. But the defining thing about nationalism that separates it from other sources of collective power is its ability for long-endurance (as Beuilly says, “a nationalist movement cannot be turned on and off like a tap” (1982, p. 32)). But if this is so, then at what point can the collective ‘we’ feel free to change? In the long-run, doesn’t stability trump liberty?

For Kymlicka, education and the media serve as an important vehicle for sustaining societal cultures and hence nations. Yet, can a “thin” interpretation of nation place so much emphasis on institutionalized dissemination? The emphasis on national media and schooling is closely matched in previous monocultural national models, as Fichte once said with respect to German nationalism,

Schools have to be established in which children could be separated from the reigning social habit of self-seeking and nurtured in the atmosphere of social service and cooperation. If Germany was to be saved, the nation must be taken as the unit of social organization. Germany must know its character and destiny, and through a conscious control of education it must liberate all the potentialities – moral, intellectual, physical, vocational – for national service, that existed within the children of all people (as cited in Tamir, 1993, p. xx).

Kymlicka’s own definition of societal culture does not offer a strong departure from the above, though it is couched in different terms. Both Fichte and Kymlicka aim to have “nation” as the central unit of political organization. Both he and Kymlicka speak about the importance of a nation’s joint history and future, the importance of an education that reflects the national culture and disseminates its myths and symbols. Both speak about “national service” or as Kymlicka words it, the sense of community that nationalism engenders, driving civic participation and political unity, and finally, both speak about forgoing certain freedoms in order to ensure the continuance of the nation. Tamir herself mentions that often the survival of the group “trumps individual rights” (1993, p. xii).

#### The Politics of the Vernacular vs. Polyethnicity

In many of his arguments for the need for sustaining societal cultures, Kymlicka refers to the “politics of the vernacular” and the difficulties which are posed for minorities who must live within a different vernacular than their own. These difficulties impede their ability to fully participate in the society, and partially on this basis Kymlicka recommends that we must award these minorities (who are national minorities – who had previously existing societal cultures prior to the intrusion of the state) with special group rights. Yet in much of his discussion about the need for a stable cultural environment, Kymlicka conflates the need for language rights (accessibility to government institutions: courts, legislatures, welfare agencies, health services, etc. in your own language (1998a, pp. 191-2) with the need for a structured institutional societal culture that is disseminating not only language, but also a particular form of cultural nationalism.

While the former is in my opinion justifiable and fully liberal, the latter is not. It makes sense that being able to participate in your mother tongue would be an advantage for you, and if there are large enough numbers of speakers of a second language (as mother tongue) in a country, then it would seem only fair to give them the ability to conduct their affairs in that language. But this is not to say that Kymlicka’s “politics in the vernacular” is exactly true, for Kymlicka and the communitarians are speaking of much more than just language, but about an ability to “speak the culture”, to know its intricacies and therefore to be able to relate to other members. As Rebecca Kook, reminds us, “language is power and, hence, control…political control over language is tantamount to control over one of the main membership criteria in the political community” (2000, p. 50). Language control is a “mechanism of control” that like all such mechanisms has “both an inclusive as well as exclusive capacity” (Kook, 2000, p. 50). Emphasis on a common “politics of the vernacular” can perpetuate increased marginalization for already marginalized groups.

Contrary to the communitarians and Kymlicka, speaking in the same cultural tongues is not a guarantor of better political and civic engagement. Besides, in today’s world, we may find ourselves having more in common culturally with those living in far corners of the globe, than with those down the street from us. A common “vernacular” is being gradually replaced with multilingualism as much as multiculturalism: we begin to more openly acknowledge that differences with our neighbours and speaking different tongues can be an asset, not a detriment to democracy.

Indeed, the failure of Kymlicka’s model’s to meet the changing circumstances of globalization is particularly evident in his writings on the “Politics of the Vernacular”. Both the communitarians and Kymlicka insist on the need for being able to speak in one’s own native tongue in order to be capable of fully engaging and participating in the political forum. For those living in English Canada, if English is not their native tongue then they, say Kymlicka and Taylor, are at an immense disadvantage compared to those who have fluency. Yet, while this may have been true thirty or even twenty years ago – when Kymlicka began addressing the topic of minority rights, the world has vastly changed during this time. English has become not only an important national language but has become the lingua franca of business and international communications worldwide. Further, speakers of other languages are not at a distinct disadvantage. In the global marketplace and in the global political forum, the more languages you are fluent in, the better. Proficiency in English is needed - but not necessarily fluency. The more tongues you speak, the greater your ability to reach and interact directly with greater numbers of people. Which is why in a country of large numbers of multiple languages like Canada with a policy of bilingualism is beneficial. Positive bilingualism, in this sense, is a growth opportunity for all citizens, rather than in Kymlicka’s sense, a compensatory measure to make up for a deficit.

But even a policy of bilingualism can be seen as inadequate in the face of growing pluralism in Canada. As Coulombe cautions, language rights be taken to unfairly privilege those groups who receive official language status, while under-privileging the language rights of others whose languages do not receive official status, effectively marking them as first and second-class citizens (2000, p. 283). Already over a decade ago, Coulombe cautioned that in face of Canada’s increasing pluralism the “illusion of a clear-cut bicultural political community” and hence a dual language policy, is coming under increasing fire. As he says of Canada,

The charge is not against the idea that rights can have their source in historical events, but that the singling out of one community requires a reading of history that unfairly ranks the contributions of the many peoples who built this country. (2000, p. 283)

In particular, Coulombe points out the status of indigenous languages and alludes to the fact that weaker parties risk coming out short-changed.[[132]](#footnote-132)

#### National Rights can Reduce Diversity

Kymlicka himself points out that minority rights should not be defended on the basis of their contribution to overall diversity, which he believes is misguided. As Kymlicka says, “the value of diversity within a culture is that it creates more options for each individual, and expands her range of choices,” yet measures to protect national minorities do not expand the range of choices, but may actually reduce diversity by impeding new voices from the minority to being added to that of the majority (1995, p. 121). So in other words, while having two or more main national groups may increase to some extent the diversity of the state, this can be a misguided impression because within each of these groups the overall diversity may actually be reduced due to decreased heterogeneity and mixing between the groups in question. Here, Kymlicka is implicitly acknowledging the essentializing monocultural stance his position assumes.

With respect to arguments that seem to counter Kymlicka’s claim of the United States being “monocultural”, Kymlicka answers that societal cultures in today’s world are in fact pluralistic:

Societal cultures within a modern liberal democracy are inevitably pluralistic, containing Christians as well as Muslims, Jews, and atheists; heterosexuals as well as gays; urban professionals as well as rural farmers; conservatives as well as socialists. Such diversity is the inevitable result of the rights and freedoms guaranteed to liberal citizens” (1998a, pp. 180-1; 1999a, pp. 104-5).

For Kymlicka however, the Quebecois policy of “systematically…increasing the ‘prestige’ of the French language,” (2001a, p. 76; 2001b, p. 286) can be justified, even if it is illiberal, because for him this policy can bring about a shift from an “ethnic” to a ‘post-ethnic’ form of nationalism (2001a, p. 77; 2001b, p. 287).

But it is very unclear how we can understand a policy which effectively homogenizes an otherwise more pluralistic approach to limiting the choice of the language you put your child in school or limiting you from having an Italian, Arabic, or English sign on a commercial storefront. In the majority of schools worldwide, you will find a plethora of English schools – from Cairo to Seoul, and even in Paris, but in a cosmopolitan city such as Montreal with a dense population of English speakers there are no English-language schools. How is this a sign of anything but a form of ethnic/cultural nationalism? For Kymlicka, the focus is not on the policy itself, but on what he believes to be the transformation of the Quebecois society to protect a distinct societal culture from threat. Yet, while the case for cultural protection in Quebec seems fairly clear cut, in most other circumstances worldwide it is far more complicated. Defining the lines of cultural communities is extremely difficult; the problem of defining “who is a member” and “who belongs to the nation” can be exclusionary, even in places as liberal as Quebec, when it comes to immigration rights and the future of the community in a vastly mobile world.

### Putting Theory into Practice

Indeed, beyond the issues faced by the circular and paradoxical logic pervasive in Kymlicka’s theory, the applicability of the theory itself is in doubt. Kymlicka states that there is a general agreement that there are around 5000-8000 nations in the world, yet only 190 independent states[[133]](#footnote-133). For Kymlicka, it is clear that many more nations than just a mere 190 need to have formal recognition and status as a distinct nation. Instead of granting full sovereignty, Kymlicka’s solution is to insist on the multinational character of states so that multiple national identities may be promoted within the same overarching borders, “living side by side” with one another. The question remains however, which of these 5000-8000 nations are to be granted official national minority status (note the tremendous discrepancy here with an uncertain attribution of 3000 various peoples worldwide in between the figures) (Kymlicka, 2004b). At the lowest estimation – if all these groups were spaced evenly across countries (which of course they are not), that would leave around 26 various national identities in each state. It is of course, impossible to recognize all of these groups says Kymlicka, so where do we draw the line? Kymlicka’s answer on this point is less confident. In *Multiculturalism and the Welfare State*, in considering which groups to consider as national minorities he and his co-authors *arbitrarily* “set the dividing line between ‘small’ and ‘sizeable’ national minorities at 100,000 people to exclude smaller nations from their discussion (as they warrant different considerations)[[134]](#footnote-134). Such arbitrary distinctions and lack of clear definitions undermine the applicability of Kymlicka’s theory.

Kymlicka provides many compelling arguments for why we should provide minority rights; nevertheless, his theory falls short in providing a clear and logical framework for identifying which minority nations should be granted official status. His theory also fails to answer how we are to apportion recognition rights once status is granted: which groups are to be deserving of remedial rights and which one’s full sovereignty? And another pressing question: in a multi-nation state with divergent rights for separate national groups, how can the state be united and its stability be ensured?

### Illiberal Leanings

Related to the above points about putting theory into practice, one of the murkier areas of implementing Kymlicka’s theory is in maintaining its commitment to liberalism and individual rights while at the same time affirming its commitment to the protection of a particular cultural community or group. Kymlicka does make it very clear that the dangers of minority rights are real and present, and that bestowing “minority rights” has been used “by apologists for racial segregation and apartheid” across the globe. Therefore, any “liberal theory of minority rights…must explain how minority rights can coexist with human rights”, and further with liberalism, which he points out is indeed the purpose of his book (Kymlicka, 1995, p. 6). But does he really reach this aim?

#### Limited Deviation from Liberalism

Kymlicka admits to the potential illiberalism involved in the promotion of access to secure societal cultures. Particularly, it becomes troublesome when Kymlicka says openly that, “the sorts of policy required to achieve a successful form of multicultural integration may be more complicated, and *in some ways less liberal*, than those which the majority can adopt” (2001a, p. 79) (italics mine). As he himself states with respect to language laws in Quebec restricting the use of English:

These policies are sometimes criticized as illiberal. *And perhaps they are.* But here we reach a genuine dilemma. For *such illiberal policies may be required* if national minorities are to integrate immigrants successfully (2001a, p. 76) (italics mine).

In this passage, Kymlicka is referring to the fear on the part of the Quebecois that immigrants will come into their society and prefer to speak English instead of French, thus weakening their French cultural fabric. This has led to several movements by various groups in Quebecois society to push for a unilingual policy and to exclude the possibility of study in English. Kymlicka justifies limited deviation from liberalism to prevent ethnonationalism, yet the above-mentioned language laws are internal restrictions, and he acknowledges himself this dilemma. He therefore offers what he calls, “a qualified defence of the permissibility of using some illiberal policies in order to overcome ethnic nationalism” (Kymlicka, 2001b, p. 288). He says that in some cases it may be necessary to “accept some limited deviation from liberal norms” (2001b, p. 287) in order to prevent a worse situation of the inflammation of xenophobia that is typically associated with ethnic nationalism. He calls ethnic nationalism such a “dangerous phenomenon” that he is willing to “look favourably on any policies that would help to dislodge and dispel it, *even if they are mildly illiberal*.” (Kymlicka, 2001b, p. 288). Kymlicka means to say that by allowing English schools in Canada, the native French population would inevitably feel threatened that their culture was being eroded and would then become ethnocentric and intolerant of the English speakers and immigrants who join them. But this represents just another illogical conclusion that results from his theory: the aim is to prevent ethnonationalism and so we pursue the means of tightening our ethnic fabric and limiting ethnic choices. In this discussion, Kymlicka disregards his own compelling theoretical deductions about the need to distinguish internal and external restrictions. Where do we draw the line on which illiberal internal restrictions we impose?

Although Kymlicka concedes these measures are illiberal, he nevertheless finds them justifiable. Indeed, Kymlicka admits that, “both self-government rights and polyethnic rights can, under some circumstances, be used to limit the rights of members of the minority group” (1995, pp. 38-40). Kymlicka mentions this with respect to women’s rights in Native American societies, the end goal of bestowing these self-government rights may mean decreased freedoms for female members; however, becoming involved and attempting to provide equal rights for women could be construed as interference by the majority imposing its own values negatively against traditional structures. Kymlicka says that because the aboriginals say they adhere to liberal principles it is ok to exempt them from majority law and this is liberal. But how are we to judge if women are being discriminated against? When it is acceptable to intervene? The case of women’s position as minorities within a minority nation is already a tenuous one. As McClintock points out, nationalism itself has heavily invested gender constructions, “despite nationalism’s ideological investment in the idea of popular *unity*, nations have historically amounted to the sanctioned institutionalization of gender *difference”* (as cited in Cusack, 2000).

Kymlicka has not shown us how to judge if the minority group is putting an internal restriction on themselves. He then goes on to give an example of an exception, that the Pueblo impose a religious restriction; anyone who does not share the tribal religion does not receive housing benefits. “It is often difficult to assess the likelihood that self-government for an indigenous or national minority will lead to the suppression of basic individual rights. The identification of oppression requires sensitivity to the specific situation, particularly when dealing with other cultures” (Kymlicka, 1995, p. 40). He puts the dilemma of external/internal restrictions very clearly when he says, “Laws that are justified in terms of external protection can open the door to internal restrictions” (1995, p. 43).

Kymlicka himself points very well he contrast between an increasingly open society and one which is concerned about the “survival” of a specific national culture,

 “[W]e have a choice between, on the one hand, increased mobility and an expanded domain within which people are free and equal individuals, and, on the other hand, decreased mobility but with a greater assurance that people can continue to be free and equal members *of their own national culture*” (2000a, p. 26) (italics mine).

It is the latter that Kymlicka supposes individuals in a liberal society would prefer, though this seems to spell nothing apart from cultural protectionism. Special representation rights (those for national minorities) are meant to provide enduring protection of cultural belonging. This stems from the fact that Kymlicka makes our cultural community not just a social good, but a *primary* social good, which Merle says means that “affiliations with a cultural minority will remain a good for the entire life of all the members of a given minority...[although] Kymlicka recognizes the right of all individuals to leave their communities…typically he neglects to pursue the point further” (Merle, 1998, p. 265). But can a liberal society really support rights with the intention that they must endure beyond the point of equalizing injustices?

#### Societal Cultures Conflate Internal and External Restrictions

The chief difficulty with Kymlicka wrapping his theory in a language of nationalism is that he undermines his important distinction between internal and external restrictions. As we have described previously, while external restrictions (preventing imposition from outside the group) are permissible, internal restrictions (the group imposing on its own members) are impermissible. Let us take an example to illustrate the point of how the line between these two becomes blurred under conditions of nationalism.

In our fictitious example, we have a Majority society X and a Minority society Y. Let us say that Xs are typified by wearing blue hats, while Ys are typified by wearing red hats.

According to Kymlicka’s theory, external restrictions are permitted, so X’s are restricted from forcing Y’s to wear blue hats, or moreover from distributing blue hats around.

Internal restrictions are not permitted, so X’s cannot (in principle) stop another fellow X from adopting a Blue hat instead of a Red one.

This should stand in correct accordance with liberalism, and indeed Kymlicka holds this critical distinction to be at the very core of his theory and turning minority rights into liberal rights.

Yet, let us take a closer look at the X’s.

The X’s are not just X’s actually. They are a “distinct society”, with a specific “societal culture” or “national culture”, which in Kymlicka’s words is “in need of diffusion”.

So in other words, the X’s are not simply X’s, they are Red Hats. Belonging to X group is not simply a question of being X, Y or Z, it’s a question of your having “Red Hat-*ness*”.

This changes the stakes entirely.

The Red Hats, under Kymlicka’s system, also have a mandate to distribute other red hats across the entire population. They have the ability to control whether someone entering their territory is allowed in – based on whether they are wearing the red hat or not. And if they are not wearing a red hat – they have the ability for force him to wear one.

A person wearing a Blue hat or even a Green hat inside Red hat territory will find themselves under pressure to abandon their hat for a Red one. While they may not be thrown into jail for maintaining their Blue/Green/Turquoise hat collection, they are not in any way sent a message that “this is a (poly-ethnic) society which loves rainbows, so please parade a spectrum of your hats.” Instead, they may have to hide his or her hat collection in the closet.

It must be clear that, when Quebec says to a citizen “you have no right to have your child study in English as his first language”, that this is the Red hat taking away a Blue hat. In other words, this is a clear illiberalism and a restriction on an individual within the group, based on forcing them to meet and live up to group cultural expectations. The fact that Kymlicka tries to find justification for this is a deficit in his writings.

My point about the hats is that, even if the national minority is not directly punishing members for non-adherence to cultural norms, by wrapping group rights in cultural/national norms (or “hatness”), Kymlicka inadvertently blurs the lines between the two, making the tendency to lead towards illiberalism far more pronounced, particularly as the nationalism which Kymlicka describes makes no pretences about being culturally neutral but is devotedly committed to a single societal culture. In a free and liberal society, you should have the choice to don either a red hat or a blue hat, without being coerced into one or the other, or made to feel that your belonging to X community is diminished as a result of your choice.

The distinction between internal and external restrictions is critical for Kymlicka’s theory. Internal restrictions are supposed to protect the stability of the group from internal dissonance and change. According to Kymlicka, such restrictions are not considered liberal and therefore should not be part of any liberal collective rights schema. However, by framing collective rights in national terms, we inadvertently lead to the imposition of internal restrictions. The goals of national (or societal culture) are ethnocultural uniformity. We thus indirectly prevent dissent and undermine diversity. Internal restrictions – such as promotion of cultural purity – seem endorsed by societal cultures

Kymlicka himself is adamant about the importance of barring internal group restrictions, “In short, a liberal view requires freedom within the minority group, and equality between the minority and majority groups” (1995, p. 152).

And here we come to what I think is the crux of the contradictions in Kymlicka’s theory: societal cultures conflate Kymlicka’s ‘internal’ and ‘external’ restrictions. Indeed, the societal cultures which Kymlicka seeks to promote sound dangerously like the internal restrictions he says his theory is against. Although it is of course possible to have a nationalism that allows and even encourages change and dissent from within, the nationalist drive, per se, works against such diversity.

Kymlicka describes internal restrictions as those which develop within the group itself, whereby individual choices are limited for the sake of the group. He cites an example of how theocratic and patriarchal groups may limit the freedom of women (and others) through imposing orthodoxy on members, “the freedom of individual members may be restricted in the name of group solidarity or cultural purity” (1999a, p. 116). But what is an internal restriction really? Even Kymlicka somehow alludes to the fact that often internal restrictions are “*defended*…as unavoidable by-products of external protections” (1995, p. 44). While in theory the distinction between the two is very sound, in practice, it becomes quite difficult to separate the two.

Kymlicka says the danger here lies with theocratic and patriarchal cultures, but even most liberal societies still oppress women and have various levels of oppression for other groups such as homosexuals and other ethnic groups. To simply assume these internal restrictions are non-existent in liberal societies is naïve. We need a more honest reassessment of even our western democracies and the levels of oppression. Internal restrictions are not so easily defined. Where do we draw the line? Is it not an internal restriction to prohibit English language schools, as Kymlicka sees fit for Quebecois society? The prohibition on English language schools is to protect the viability of the French language, and hence Quebeois societal culture, how is this so very different from “restricting the freedom of individual members…in the name of group solidarity or cultural purity”?

Kymlicka seems to push aside the illiberalism by stating that the majority of immigrants do not mind such illiberal policies because they themselves are keen to integrate into their new societies and therefore do not voice much opposition. But even if they did object, how well would the voice of a minority immigrant be received? What options do immigrants have for speaking up against the national will? Further, and more dangerously, if we allow some concessions to liberalism, where do we eventually draw the line? If Quebecois society is using some illiberal policies towards the English-speaking population of Montreal, what right do we have to say to areas of high-intensity conflict – such as the treatment of the Serbian minority within Kosovo, or a few years ago, the Kosovar minority within Serbia – what right do we have to say to these countries that they have to adhere strictly to liberalism when we can in some instances condone it for ourselves?

It seems that as much as Kymlicka holds the distinction between internal and external group restrictions to be essential for maintaining liberalism, there are instances when he is willing to forgo this critical distinction and concede to “some” illiberalisms. The difficulty is that this may lead to a slippery slope. If some illiberalisms are conceded even among wealthy and highly stable territories such as Quebec, more are bound to follow - particularly as Kymlicka’s theory is spread to other parts of the globe where liberalism is on insecure footing or is altogether absent. By adhering to a theory like Kymlicka’s and citing precedents in international law established by western societies (conceding “here and there a few illiberalisms”) what was meant to be a theory to bring greater liberalism into the world may unleash a Pandora’s box that ultimately defeats it.

#### Open to Dangers of Oppression?

Walker is astonished that Kymlicka does not see the contradiction in his work between cultural fairness and the endorsement of societal cultures (or what Walker terms “ethnic hegemony”) and says in fact that “title notwithstanding, there is a tendency in Kymlicka’s Multicultural Citizenship to give pride of place to the model of ethnic hegemony over the model of cultural fairness” (Walker, Modernity and Cultural Vulnerability: Should Ethnicity Be Priviledged?, 1999, p. 153). He describes the apparent tension between the two in an example of two potential courses of action for the city of Montreal. Following the “ethnic hegemony” model of Kymlicka, we ought to give Montreal a “*francophone visage linguistique*”, in order to make the very diverse, multicultural, and in many parts Anglophone city of Montreal match its comparatively ethnically homogenous surroundings. An argument for cultural fairness however could never support such a move, says Walker, and I would have to agree. I further agree with Walker that, when it comes to his theoretical conclusions Kymlicka seems to disregard his own theory and presents cultural fairness as, in Walker’s words, “elusive and as in many cases as simply unavailable as a social option” (1999, pp. 151-3). Walker is basically saying that Kymlicka is advocating a masked form of ethnic hegemony by his insistence on protection of societal cultures, which runs in sharp contrast to his claims about liberalism and cultural fairness. Kymlicka covers this ethnocentricism and what Walker’s calls “cultural de-differentiation” (1999, pp. 145, 153, 158) behind the language of self-determination and liberalism, when in reality it is far removed from liberalism itself.

#### No Such Thing as Benign Societal Culture

While Kymlicka holds that there is no such thing as benign “neutrality”[[135]](#footnote-135). I would add to this, in disagreement, that it logically follows from his theory that there is no such thing as a “benign” societal culture. Societal cultures are themselves detrimental for liberal equality. Societal culture advocates a certain set of norms and social practices that are in themselves overdetermining for minorities within.

I think societal culture can be a misleading term. I would prefer to speak in terms of an overriding metanarrative, which I feel is a more helpful way to look at these “societal cultures”. The metanarrative typically endorsed by nation states (through top-down institutional dissemination), leads to a level of hegemony and thus “unity” in our societies. This is what De Schutter describes as using the “homogeneity of culture as a *vehicle*”, which he finds to be “an underlying assumption of Kymlicka’s theory” (2005, p. 28). To help the underprivileged however, we need to look beyond such limited perspectives and find ways to challenge the metanarrative at hand.

When the cultural continuity of a nation is deemed at stake, and when a state (or minority sub-state) pursues a policy of prioritizing the interests and the well-being of that cultural community through a model of differential citizenship (based on the distinction of members and non-members), than a whole host of possible illiberal tendencies may arise. Subtle and even overt discrimination, systemic pressures/barriers against "non-community" members, direct racist policies of discrimination favouring one race/religion over all others, seem unjustifiable measures, no matter how valued a cultural tradition. While Kymlicka's theory disavows such measures, he must next aim to provide safeguards against them.

When legitimacy is attained through nationalism, minorities have to prove themselves as nations to attain recognition/rights. Kymlicka’s classification systems may be used to justify categorical inequalities in power. The source of many internal struggles minorities face is the national framework that structurally excludes them, minority national rights only reproduces those exclusions on a micro scale. Although Kymlicka does rightly insist that group rights should only be used to equalise the good of membership of a culture, even he admits that his theory can be abused:

Of course, one can imagine circumstances where the sorts of external protections demanded by a minority are unfair. Under apartheid in South Africa, for example, whites, constituting less than 20% of the population, demanded 87% of the land of the country, monopolised all political power, and imposed their languages throughout the school system. They defended this in the name of reducing their vulnerability to the decisions of larger groups, although of course the real aim was to dominate and exploit these other groups (Kymlicka, 1999a, p. 116).

Kymlicka here clearly spells out the difficulty of even enforcing “external restrictions”, he describes apartheid in South Africa as an abuse of external restrictions by the minority (but domineering) white population which used the excuse of minimizing the influence of larger groups over their affairs as a way of coercing and oppressing them.

What is apartheid after all? It is pulling people apart. Separating them from their brothers. Breaking them down so that they cannot move freely between themselves. Setting them outside the spheres of influence and control. It is setting themselves outside the “respectable society”. It is defining them clearly, distinctively as outsiders. Moreover, not only does it define this, it actively promotes it. As Adrian Hastings reminds us, ethnic tensions, particularly those leading towards ethnic cleansing, need a strong ideological pull. To mobilize enough people to engage in “the horrors of mass murder…An ethnically edged nationalism can best do the job of providing such moral cover” (Hastings, 1997, p. 113).

Kymlicka solves the issue partially by saying that his schema is only for liberal nations; however, he does not show us the way to avoid nationalism descending to its illiberal excesses. He only leaves us with saying that those which are illiberal are not supported by his theory.

#### Liberalism, Minority Rights, and the Rest of Us

How to distinguish between illiberal and liberal states when it comes to minority rights? It is certainly possible that liberal countries could also have abusive minority rights policies, as demonstrated by the previous segregation of African-Americans in America. What of minorities living in illiberal countries? The majority of conflict situations and deeply divided societies worldwide are in fact illiberal, in many cases their illiberalism stems precisely from their treatment of minorities. Where do we draw the line? When we begin to introduce minority rights, how can we be certain that it will not infringe upon the rights of those minorities to equality? In many cases minority “privileges” entrenched their inequalities – even when conducted under the banner of fairness. How are we to draw the line? Who is to judge and enforce when that line has been crossed? On this, Kymlicka is silent.

Kymlicka is concerned with what the principles of minority rights should be, “not with who has the power to determine, interpret, and enforce such principles” (Williams, 1994, p. 54).Kymlicka’s theory, although it claims it could never support Apartheid does little to provide safeguards against it and more dangerously, the underlying inconsistencies in Kymlicka’s theory could be easily manipulated and used as justification for differential treatment. Tacit support for illiberalism in his theory (such as restrictions on mobility) risks the creation of Non-liberal minority rights.

Kymlicka says that there is a fine line in knowing when to intervene, with respect to “internal restrictions” (1996, p. 26). The lines between internal and external restrictions become blurry when we are dealing with issues such as sexual equality and religious freedom. If a particular tribe has less voting privileges for its women, would majority intervention to provide women with equal opportunities (and imposing western constitutional law) be enforcing liberalism (prevention of internal restrictions), or would it simply be insensitive to foreign cultural systems and another form of imposition of values from the majority onto the minority? It would seem that taking action to prevent internal restrictions on a minority culture once given their semi-independence will nearly always cause tension from the part of the minority group, who inevitably would see the majority’s intervention as a further confirmation of their interference in their affairs, which they could easily argue away as an external interference (and hence unallowable).

When issues are wrapped in national frameworks they become inherently oppositional: us vs. them. The same issues wrapped within a representative framework that instead looks towards bringing cultures to live side by side and with one another in dialogue, would find an easier time to navigate through such difficult scenarios.

The question is really: how can we have a universal legal ethics that does not treat everyone as if they were the same but can equitably take account of differences and be fair to all? How can we override the authoritative vocabulary that determines what is on the political agenda and what is not and include minority voices? Kymlicka’s answer is to divide the authoritative vocabulary into two distinct components separated by national group. But by this action he is not taking away the authoritative vocabulary and making it more dynamic and representative, indeed, as we have seen with the red hats – the minority in need of protecting its cultural practices may even take a stronger authority over cultural choices than a “civic” or non-national sovereign.

Kymlicka is trying to surf the waves of the new multiculturalism, but his vessels, the tools he uses are still tied to the shores of yesterday’s political conceptions. This has led to rifts in his theory, thrown on the rocky climes – not able to fully embrace the sea, leading his theory to look backwards towards nationalism, closed borders, restriction of immigration and restriction of other cultural preferences.

### Rethinking Nationalism

Can Kymlicka’s theory go beyond some of the difficulties enumerated in this Chapter? I have argued so far that one of the key areas in need of revision to improve the applicability of Kymlicka’s theory is to reinterpret it by removing its nationalist vocabulary and the conceptions which underpin this. There are many reasons why this is important, among them, the fact that nationalism itself is being reshaped over time through the advancement of globalization.

#### Nation is being Recontextualized

Arguably, the “deep meaning” which Kymlicka says national identity holds for its members is increasingly on the wane. The former charisma and attachment to national identity is fading. As nationalism becomes banal - the use of the term nation for example – to describe the “Queer nation”, “deaf nation” or “Nation of Islam”, which are far from the original meanings of the term– nation becomes more and more disassociated with the political unit, the nation-state. Moreover, “blood and soil” nationalism is highly discredited[[136]](#footnote-136) within the current discourse of human rights. As rights as “universalistic personhood” come to the fore, the limitations of the old national model “become inventively irrelevant” (Soysal, 1998, pp. 210-1).

Contrary to Kymlicka’s model of societal culture, there are many circles of belonging in today’s world. Nationalism, although still present as a source of identity, has less legitimacy and less prevalence in our lives. Many Canadians would say their primary identity is Catholic. Many Quebecois would say that their primary identity is Secular. Many Belgians would say their primary identity is European. Many other Europeans would say their primary identity is Female. All of these different spheres of belonging overlap with one another and form a picture of who I am.

Indeed, when we look beyond the national system, the minority/majority dichotomy begins to disappear. The international system is, after all, premised on the very idea of differences. It is a starting point that many cultures of various natures and orientations will meet in a single space; it is not presumed that this international order should be culturally similar or homogenous. The very idea of unity in difference is encapsulated by the attempts of the different worldwide communities to meet together and decide their common futures. While there are sure to be disagreements in addition to agreements, the outcome of the process is in fact not as critical as the process itself, a continual striving to meet, to listen and to learn.

So why do national minorities cling to national identity so strongly? Why does it seem that majorities are less attached to national culture than minority groups are? There are no clear answers to this question, nor does Kymlicka say he knows entirely either, but certainly the answer lies in the realm of minority groups feeling underrepresented or inadequately given access to the power structures of the society. As long as national rights are the only legitimate way of gaining a degree of autonomy or political legitimacy, minority groups will continue to formulate themselves in these terms. As Kymlicka himself says,

The only *legitimate* basis for demanding a new state is to appeal to the idea of national liberation or national self-determination, that is, to argue that a new state is needed to embody and express the will of a distinct nation (2003, p. 283) (italics mine).

So long as legitimacy remains rooted in nationalist norms, minority groups will continue to use nationalist rhetoric as a means of seeking recognition and rights. Indeed, counter to Kymlicka, Anna Stilz argues that we should drop all nationalist normative claims, and that when we do the lack of value associated with the nation will become all the more apparent, as being useful for anything apart from some “motivational problems in democratic states” (Stilz, 2009, p. 149).

Indeed, the liberal nation has been unable to respond to the challenging questions and issues that have been increasingly arising in connection with rising pluralism and globalization. Kymlicka himself acknowledges that national minorities cling to the older paradigms of nationalism instead of embracing more recent ones centred on multiculturalism. They appeal to the “older and more well-established norms and vocabularies of nationalism and of “the self-determination of peoples,” which long predated the current discourse of multiculturalism” (Kymlicka, 1998a, p. 185). When we begin to see nation in this way, it is easy to understand Seyla Benhabib’s conclusion, that we are travelling using an outdated normative map, drawn from a different time in response to different needs from those which our societies face today (Benhabib, 2005, p. 674).

#### Thinking *inside* the Box

Kymlicka himself recognizes outright that the former nation-state model is clearly dead. His theory makes a strong attempt to provide us with a new paradigm to challenge the conventional understandings of state-nation relationships. In his writings, he continually emphasizes the need for polyethnicity and that he hopes to re-invent the national imaginings as a way to open them up to recognizing more groups who as yet, have had no mechanism for finding an adequate protection of their culture. While these steps have the right motivations, in practice they fall short of Kymlicka’s ideal of an increasingly pluralist, accommodating society. To address the needs of minority groups, we cannot remain bound to the same language and normative frameworks that created their problems in the first place[[137]](#footnote-137).

“Nation-speak” requires that we define who are the members and non-members of the nation. This has always been and always will be, a problematic issue – indeed it is precisely this problematic issue surrounding qualifications of membership from which the difficulties of minorities living within the nation-state arise. Kymlicka’s prohibition on internal restrictions is intended to prevent members from oppressing other members, as he states, “a liberal theory of minority rights cannot…accept the idea that it is morally legitimate for a group to oppress its own members in the name of group solidarity, religious orthodoxy, or cultural purity” (1995, p. 8). This of course is important, but what Kymlicka needs to now address is the stance of the group towards “non-members”. Upon which basis is membership to be defined? If we define nations in cultural terms, then it would seem that those members who share all of the same cultural-ethnic traits upon which the societal culture is founded, would then qualify. Internal and external restrictions means having a clear definition of who belongs and does not belong to the definition of the group – who is to be considered in the “in” club, and who is on the external “outward” front from which interference can be restricted. Treatment for non-members within this state is an issue that is not addressed by Kymlicka, though we can gain a glimpse of his views on this if we look to his support of restricting languages and a few “illiberalisms” in order to secure greater complacency of those who are full-fledged ethnic members so that they do no feel threatened and resort to ethnic extremes.

Looking beyond the nation state, Kymlicka does spell out global social conscience by saying that we ought to improve the lot of nations lacking stable societal cultures, yet he remains rooted in the classical notion of citizenship which does not fully capture the changing sense of global responsibility which has arisen in international human rights laws. Because of his rootedness in the national model, he fails to adequately address in his theory the case of international refugees, guestworkers and other stateless individuals. Indeed, Kymlicka takes a wary stance on international law and human rights. He is afraid that too often these are tools for governments backing their own agenda instead of being used to empower minorities (1989, p. 215). As Barry says, he “clearly buys into the idea that human rights are a form of ‘cultural imperialism’” (2001, p. 138). While Kymlicka admits the rise of Human Rights law after the war era was “one of the great moral achievements of the twentieth century” intended precisely to combat the sorts of abuses minorities faced under previous minority schemas; nevertheless, Kymlicka paradoxically claims this development “reflected a desire to control and disempower minorities.” (Kymlicka, 2007, p. 30) As he says, “for post-war statesmen, it was essential to find an approach that would weaken the capacity of minorities to challenge state power, either domestically or internationally…The human rights approach seemed to fit the bill” (Kymlicka, 2007, p. 30). Hence, Kymlicka links the rise of human rights and international law with a desire to control minorities and remove them as legitimate actors. Yet, universal rights such as the UN Declaration of Human rights did not disempower minorities, at the very least it gave them a legal context for their protection. Hence, Kymlicka fails to take into account in his theory shifts towards international justice and a reconfiguration of sovereignty beyond the national model, as we will explore further in Chapter 7.

#### The Need for Creative Imaginings: Dworkin’s Ship Example Revisited

It is up to the creative imaginings of political philosophers to look beyond the nation-state model and imagine new ways to secure our identity and rights suited to the changing times, before those times quickly outstrip out systems of justice and leave us wondering what is participatory government that is limited to a vote – when we can destroy, create, and build entire civilizations through virtual worlds.

If we return to the ship example mentioned earlier in Chapter 3, originally proposed by Dworkin and then later modified by Kymlicka, I believe we can already find clues to moving forward the sought-out protections behind Kymlicka’s theory. If you remember, in Kymlicka’s modification of Dworkin’s shipwreck story, two boats arrive on an deserted island and through a computer system on board they are able to calculate in advance of landing how they will spend their clamshells (currency). Only after landing do they realize that they are from different cultural groups, and the majority cultural group is able to secure more clamshells to capture more of the things valuable to their cultural structure on the Island.

Yet, today, these two boats would not just be equipped with two boxy computers with rigid programs for sheer economic calculations of how they will intend to use their clamshells. No, instead, individuals on that boat will be equipped with cell phones, 3G tablets, and a variety of social media sites for interaction. Before they even arrive on the island, individuals on the boats will have formed their own groups online, often intersecting ones (some within a single boat and some drawing from members of both boats), such that, when they arrive on the Island, although they may have originally perceived that they belonged to two separate boats, indeed they will find that there are multiple groups intersecting across both of them. Instead of having a few individuals or institutions controlling how the Island is set up, there will be a multiplicity of groups engaging in its formation, with some interest groups working on providing recycling services and organic products and other small teams interested in basket weaving or fire-throwing. Upon landing, the new inhabitants will realize that the two ships (and indeed, the two cultures), were merely vessels, and that the waters they shared and the common destination they charted were more important than the separate starting points of their journey.

Net freedom offers an interesting simile for the ultimate triumph of the individual and perhaps, what one could call – the democratization of culture. While in the past, music, news, and other cultural media could only be sold and purchased through large establishments which relied on mass consumers, today every individual is both a direct consumer and a seller of media, a trend which is set to increase only further with time. From open access journals to Wikipedia, online translators, to international head hunters and online outsourcing, the web is increasingly opening new avenues of sharing and distribution.

 Indeed, the biggest divide between those who have access to cultural choices will be between those who have access to the tools of connectivity, such as mobile phones or home internet, and those who do not. Referring back to our ship example, the greatest divide between the inhabitants of the new island will not between separate communities divided between the two boats, but between those who had access to the mobile phones and tablets and those who did not and who therefore find that when they get to the island, they are isolated from the rest of the pre-formed and rapidly evolving groups already claiming access to the Island and its resources therefore unable to adequately advance their choices and cultural preferences or connect with others to collectively work towards them.

This divide between those experiencing cultural sharing is on the one hand a question of access and on the other hand a question of allegiance. In addition to those who lack access, fundamental divides between cultures are marked less by an intrinsic incompatibility between various cultural structures so much as a divide between extreme cultural adherents (in the form of preferentialism for my “group” or a refusal to leave the protection of my “ship”) and those who are willing to look across the waters and see the benefits of cultural exchange, of living together in difference.

Indeed, the new generation is making cultural leaps, overcoming international and national boundaries, becoming more detached from history and tradition and more used to world in flux. Yet, the further we are pushed towards the brink of change, the more people step back from the ledge. There are still growing numbers of adherents of orthodoxies and traditionalists and loud voices of opposition to multiculturalism – even from liberal camps (often masking deep-rooted xenophobia and a fear of both change and of the Other). How can we protect multiculturalism and minorities in a climate of increasing hostility towards change? How can we be sure that an international order will not become as hegemonic as the national order has been? We cannot be sure. However, there are certain checks and balances in place that have never existed on a national level that may give us more hope. Indeed, taking some of the considerable weight out of the hands of particular national actors, and balancing it by the interests of the rest of the regional or international community through a growing multilateralism, may indeed be our best hope for ensuring de-escalation of violence and better treatment of minorities.

At bottom, recognition claims are not about providing stable pre-formed cultures, but about giving space to creatively imagine new futures and human freedom. As Cornell and Murphy correctly say, those seeking recognition are truly desiring “affordance of the psychic and moral space necessary for groups and individuals to engage with and recreate their multiple identifications” (2002, p. 422). I believe that Cornell & Murphy have captured something important here, not adequately covered in the writings of Kymlicka. To some extent, Kymlicka mirrors these reflections in his writings about the need for dynamic cultures and poly-ethnic societies, yet Kymlicka becomes too bogged down in the institutionalization of culture and considers less the creative imaginings of it, the continual re-inventing of cultures, and the risks institutionalization may pose for such freedom to move. So long as we adhere to a notion of *securing diversity*, through the need for secure institutionalized cultural structures, we concede an open victory to the traditionalists who would restrict freedoms in the name of cultural protection, and give – opposite to the wishes of Kymlicka, the intolerant an unintended pretext for their intolerance.

Political issues in the new world are international and require international solutions. There are issues that simply no single state can deal with on their own; a solution must be arrived at jointly. Kymlicka’s liberal culturalism is marred by his holding on to the conception of groups as territorially and historically bound communities of fate. He remains at the level of nationalism and thus fails to make a transition to a truly post-nationalist, cosmopolitan form of trans-national governance.

#### The Tolerant Society

Walzer describes a different form of state from the “nation-state” that is characterized by a more tolerant form of society: what he calls the “immigrant society”. In this form of tolerant society, no particular cultural group has a monopoly over state power; it is a “political identity without particular claims” (Walzer, 1997, p. 172). His example of a positive immigrant society is of course in the New World in America, uprooted from the past, and hence more open to the waves of immigrants who fed its culture and incorporated their views into its own ideals and system. While America was originally similar to the Old World in its having a majority imprinting itself on public affairs; however, newer waves of immigration have produced neutrality says Walzer. This neutrality is assured because the “state addresses itself to individuals rather than groups, and so creates an open society in which everyone is required to tolerate everyone else” (Walzer, 1997, p. 173). Walzer claims that this tolerance has been achieved by liberal atomism, “good fences make good neighbours” (1997, p. 174), all are members living side by side but separately.

The next level of toleration beyond this is in a new, more “post-modern” model which Walzer proposes, where the walls and the fences drop down: a “life without boundaries” (1997, p. 174). Difference is not just between people, but experienced within our own selves, in all aspects of our lives. “The result is constant intermixing of individuals, intermarriage, and literal multi-culturalism” (1997, pp. 174-5). When we reach this level, we are at a point where “tolerance begins at home” and in our own selves (Walzer, 1997, p. 175). The intolerant ways of the national model and understanding our identities in reified ways no longer tenable; nation-building simply does not make sense in our newly hyphenated/intermixed global societies.

As Appadurai tells us, “the formula of hyphenation (Italian-Americans, Asian-Americans, and African-American) is reaching the point of saturation in the United States, and the right hand side of the hyphen can barely contain the unruliness on the left hand side” (1993, p. 803). Appadurai sees the United States as the ideal “laboratory” for experimentations in trans- and post-nationalism, where “diasporic diversity” and parallel/criss-crossing loyalties can form a new notion of belonging, beyond “whiteness” and colonialist conceptions (1993, pp. 803-7).

Walzer describes a distinction between the new world and the old world as the difference between what characterizes Europe and the new Americas (1982, pp. 6-11). The old world consisted of “intact and rooted communities” (1982, p. 9) whereas the new world is a result of “individual and familial migration” (1982, p. 6). The new world was built out of those who were “susceptible to cultural change, for they were not only uprooted; they had uprooted themselves” (Walzer, 1982, p. 9). In this new context, waves of immigrants to the Americas had no reason to reject the culture to which they now became a part; their resistance to conformity took a new form, “not a demand that politics follow nationality, but rather that politics be separated from nationality…not a demand for national liberation, but for ethnic pluralism.” (Walzer, 1982, p. 10).

# Multicultural Citizenship Beyond Borders

## Chapter 7The Unbundling of Difference and Domination

Global communications networks and technologies have transformed the face of the earth, extending our reach and allowing a level of sharing and assistance worldwide on a scale never before imaginable. The impact of these technologies has been profound for the latest generations, born from the early 80s onwards (those who followed Generation X), Gen Y and the “Millennials” sometimes referred to as the DotNet or DotCom generations (Keeter, 2006). These are fundamentally different from any previous generations in history in that they are globally connected, their social networking is conducted more through Hyperspace than physical space[[138]](#footnote-138), and as computers and Internet access spread across global communities, they further increase their access to foreign influences and information. Internet chat rooms, social media, open access journals, web-mapping, satellite images, GPS, and home-videos are all making the world smaller – from Cairo, to Athens, to Wall Street.

Small wirelessly connected handheld devices are radically transforming justice, education, and media and providing a fresh approach to democratization from across and below. In this new environment, cultural sharing – from music to recipes - becomes increasingly delinked from limited bounded territories and traditional power centres. The power of the individual to spread their information and their message is shaking up conventional media, making governments more accountable, and also corporations more sensitive to consumer demand. This rise in technological innovation and globalization is not limited to the global youth-culture but is also impacting the mainstream and traditional knowledge bastions, as evidenced by the 2006 addition to the Oxford English Dictionary of the verb “to Google” (Gleick, 2006). The result of this breakdown of boundaries is that we are all connected more than ever before in an increasingly interdependent world system.

The world is becoming inescapably international. The cosmopolitan no longer needs to leave the confines of her home. She can take in the world through online gaming worlds or through social media, from reading Naguib Mafouz in Mexico City or Haruki Murakami in Dubai, from eating Indian cuisine in Toronto or fusion cuisine in New Delhi, from enrolling in Chinese language classes in Leipzig or Russian ballet in Cairo. In today’s world, culture is on our front doorstep, knocking to get in. (Waldron, 1995, p. 95) s.[[139]](#footnote-139) A deep multiculturalism however needs to be rooted in something much more than, what Stanley Fish has aptly described, “boutique multiculturalism”; i.e., the trendiness in purchasing exotic items and listening to foreign music (as cited in Dallmayr, 2003b, p. 40); otherwise, the fate of multiculturalism will be an uncertain one.

Going beyond the “boutique”, the increasing diversity of our societies should compel us to *see* the other, to forge mutual co-existence drawing from the vast richness of our multifarious human traditions. While this utopian vision, of a world without walls, one in which we can work together for our common betterment is seemingly beyond our current reach, it is nevertheless a worthy goal to keep within our sights. Admittedly, the earth’s prosperity and our common future rely on our ability to overcome traditional boundaries and see eye-to-eye, as political theorist Fred Dallmayr says,

In light of the dark shadows covering the global scenario, multiculturalism acquires new ethical and existential connotations, beyond the range of private whim: connotations having to do with war and peace, that is, with the possibility or impossibility of the peaceful survival of humankind (2003b, p. 40).

Without generating some sort of rapprochement between cultures, we are dangerously poised to witness escalations in conflict and violence, as those on the losing side of the increasingly unequal world scale, feeling disempowered and voiceless, seek to be heard and have their rights protected. Without circumlocution, “the challenges posed by sharply increased diversity are real” (de Souza Briggs, 2004, p. 312).

Problems afflicting human communities are now, more than ever, on a global scale: environmental protection and remediation, the energy crisis, water scarcity, conflict, famine, piracy, policing, the spread of information, early warning systems, doctors, academics, journalists –all increasingly go beyond borders. Increased mobility results in perilous issues such as human trafficking, the sex trade, the plight of refugees and of diasporas. As de Sousa Briggs notes, “large-scale emigration from developing countries to Europe, Canada and Australia has made the economic self-sufficiency and political and cultural integration of immigrants and their children – as well as nativist backlash – a hot topic from Berlin and Paris to Montreal and Sydney” (2004, pp. 311-2)[[140]](#footnote-140). But this is a very one-sided view of global migration. Indeed, migration should not be principally perceived as from developing to developed countries since total migration from developing country to developing country is vast – comprising nearly half of the 110 million international migrants each year (Mbatha, 2011).

Despite the radical shifts in global migration and networking, the majority of our political theories remain fettered by the geopolitics of the last century. As Benhabib presciently recognized over two decades ago, there is a disjunction between “the level of commercial, technological and functional interdependence of the world community…and the continuing role of sovereign statehood in defining the juridical status of individual human beings” (1992, p. 175). To adequately deal with these immanent changes we need to revise our normative political theories to reflect our changing world reality. Our failure to do so, in the intervening decades since Benhabib and others first addressed this issue, can plausibly be said to be at the source of the economic crises and evolving dissent currently sweeping the globe.

Does Kymlicka help us to bring about a “deep multiculturalism” that goes beyond the “boutique” towards a level of understanding and global solidarity? To some extent, yes. Kymlicka recognizes the need to separate nation and state and to recognize other groups within the state. Further, Kymlicka realises that minority rights are best secured by international mechanisms for protecting rights, so that the minority can appeal to an international court and override the authority of the dominant majority nation (Kymlicka, 1996). Yet in terms of advocacy of human rights, Kymlicka is nevertheless a sceptic. He cautions that “universal rights” are often used by majority nations to deny minority cultural preferences. Further, while Kymlicka does give us many of the stepping stones to move towards a more global and interconnected notion of citizenship, one of his key failings is his inability to extricate his theory from what is becoming an increasingly outdated nationalist paradigm as well as a lack of looking squarely at global trends in mobility and the ways that former notions of sovereignty, culture and nation are becoming increasingly challenged.

This chapter therefore lays out the foundations for a new paradigm to inform minority rights, contextualized by our increasing “being together in the world” through examining three areas which I believe Kymlicka needs to pay more attention to: 1. The ways our systems and sovereignty are transforming, 2. The role of economics in designing a minority rights scheme, and 3. Power sharing as a vehicle for peace.

### The Democratization of Boundaries and Citizenship

#### Transgovernmental Relations and Networks

First, let us have a look at what transnationalism is and what it means for our concepts of sovereignty and citizenship. As early as the 70s, Keohane and Nye began distinguishing transgovernmental from transnational relations, the former being interactions crossing state boundaries involving sub-state units that are not strictly controlled by top levels of government, while the latter refers to interactions crossing state boundaries by state and supra-state groups (Keohane & Nye, 1974). This definition was later employed by Risse-Kappen (1995) and again later by Slaughter[[141]](#footnote-141) who upholds transgovernmental networks as “the blueprint for the international architecture of the 21st century” (Slaughter, 2000, p. 197). Transgovernmental relations require a new form of enhanced multilateralism, involving greater peer-to-peer cooperation, networking and interaction. As Slaughter says.

The spread of transgovernmental networks will depend more on political and professional convergence than on civilizational boundaries. Trust and awareness of a common enterprise are more vulnerable to differing political ideologies and corruption than to cultural differences (2000, p. 121)

Our common success and accountability, Slaughter argues, will depend on multi-level coordination and active networking between individuals, societies and governments beyond the territorially-based nation-state model which holds the nation as primary unit/actor.

Indeed, regional and international alliances have, unlike the national model, never been premised on the idea of a singular people. When we are looking at the world society, it is of necessity multicultural, and as we begin to see how the world can come together and think difference at the macro-level, we can begin to explore this on the meso- and micro-levels as well. Legal philosopher and Scottish politician Neil MacCormick says that if we could move on from the nation-state model to a transnational one – embracing many groups and traditions, then a lot of potential conflict could be reduced, such that “one identity ceases to be necessarily at the price of denying another” (MacCormick, 1999, p. 86)[[142]](#footnote-142). Indeed, Slaughter optimistically says that such a “new world order” is emerging, with new forms of sovereignty being founded and state sovereignty becoming “unbundled” (Slaughter, 2000). As Slaughter says,

The state is not disappearing, it is disaggregating into its separate, functionally distinct parts. These parts – courts, regulatory agencies, executives, and even legislatures – are networking with their counterparts abroad, creating a dense web of relations that constitutes a new, transgovernmental order (2000, p. 113).

In other words, the state is remaining a primary actor in the world, not as an autonomous unit that rejects interference from other actors or parties but as an integral player in a new system that embraces both sub- and supra-national actors (Slaughter, 2000, p. 113). This means a redefinition of sovereignty says Slaughter, no longer singular centralised control over internal affairs but sovereignty in terms of important membership and status (Chayes 1995) and a strong voice or position in the international community (Slaughter, 2000, p. 121). As Slaughter forecasted, “the next generation of international institutions is also likely to look more like the Basle Committee, or, more formally, the Organization of Economic Cooperation and Development, dedicated to providing a forum for transnational problem-solving and the harmonization of national law” (2000, p. 121).

The aim of transgovernmental networks, says Slaughter and Hale, is “to unleash the kind of creativity and collaboration that produces, say, Wikipedia, while maintaining quality control and enough discipline to ensure that the holes get filled and new projects undertaken.” (Slaughter & Hale, 2010, p. 58) This requires governments adapting to a newly networked world of mutual influence and coordination. Transgovernmental networks are informal and “complex communication channels” that offer opportunities for increased learning, experimentation, sharing of best practices, and gaining influence through expertise and reasoning (in other words, the socialization of norms and values) (Slaughter & Hale, 2010). Slaughter and Hale argue that such networks offer a solution in particular for increasing the participation of emerging powers, such as the BRICs, who might otherwise find it difficult to join more formal organizations, such as the WTO for example.

In a similar voice, Fred Dallmayr and William E. Connolly describe how the traditional nation-state is being undermined from above and below through “network pluralism” (Connolly) and “cross-territorial conversations” (Dallmayr)

To come to terms with the pivotal role of the territorial state is to see how organizations of citizens within it can also set the state for non-state, cross territorial citizen assemblages that apply pressure to states from inside and outside simultaneously. (Connolly, 2001, p. 350)

Borrowing the term “Rhizome” from Gilles Deleuze and Felix Guattari from their work *A Thousand Plateaus*, Connolly says that we need to now “affirm a more rhizomatic or network vision of pluralism.” A rhizome is a stem of a plant that sends puts out roots and shoots as it grows, which Deleuze and Guattari used as a metaphor for the way in which ideas are multidimensional, interrelated, interactive, and self-replicating (often taken retrospectively as a prescient text describing what would later be seen as an astonishingly accurate description of the Internet). It is worthwhile mentioning the original text by Deleuze and Guattari, to understand better what Connolly is getting at when he speaks of network pluralism:

The rhizome connects any point to any other point, and its traits are not necessarily linked to traits of the same nature; it brings into play very different regimes of signs, and even nonsign states...It is composed not of units but of dimensions, or rather directions in motion. It has neither beginning nor end, but always a milieu from which it grows and which it overspills...The rhizome operates by variation, expansion, conquest, capture, offshoots...the rhizome pertains to a map that...is always detachable, connectable, reversible, modifiable, and has multiple entryways and exits. (Deleuze & Guattari, 1987/2004)

Certainly, the impact of the digital revolution has altered not only our identities but also, in many respects, our ways of *thinking about* identity and relationships, as authors such as Connolly and Slaughter clearly demonstrate. Transgovernmental networks or cross-state citizen networks, all spell out that our societies are becoming increasingly interconnected, fast-paced and responsive, and are challenging former ways of belonging, opening new creative frontiers in communications. Given this increasing globalization and transgovernmentalism, what can we say about culture, borders, and democracy? In what ways can we build on or modify the insights of Kymlicka to adapt them to these new global realities?

#### Patriotism

First, considering the importance of nationalism and national unity to the theory of Kymlicka, let us begin by asking what is the place of patriotism and love of nation given this context of our increasing inter-culturality and mobility? In a shrinking world of global responsibilities and grossly asymmetric power, can liberals still uphold the value of *patria*? Can we still cling to the impassioned idea that *this* particular country, *this* “homeland”, these *particular* neighbours or compatriots can hold a place deeper in my heart and therefore are owing a form of solidarity with me in a way that disparate others to whom I have no close association do not? Indeed, it is a normal human reaction to love those who are closest to us. Those who would argue for an impartial world in which we value equally every person, regardless of their origin or creed or contributions, seem to belie something intrinsic to the human psyche, the natural tendency inherent in all of us to cling to our mothers and our babies.

If we return to the oft-repeated thought-experiment of two people drowning, whereby you could save one of them by pulling him or her onto a boat but not the other, would you save your mother before a stranger? The natural – and deeply *humanly* emotional – inclination is that anyone would save the person closest to him or her, the one they know best and love the most. But our visceral reactions stand against our reason, which should guide our moral conduct to correspondingly affirm the equal worth and potential of every human being, making the boat dilemma an intractable one. There is a difference however between the private valuations of our family on the one hand, and the casting of our family associations into an abstract public affirmation of love of “nation” on the other hand (often fondled in our minds in the wrappings of “the motherland” or *patria* “fatherland” deriving from *patrius* “of or pertaining to the father”). Surely, the unequal relations that govern family life are far from the democratic ideals of egalitarianism with which we hope to govern our liberal systems, and hence, should not be taken as a reference point for our collective political identities[[143]](#footnote-143).

But where does this leave us? In a world of fast-paced change, dynamic cultures and porous borders, is there such thing as a unified “we”, a form of civic pride (pride in what? – a people, history, place, institutions?) that can compel us to act? I have already addressed why I think nationalism as the primary locus of identity and concern is insufficient and indeed harmful. Other authors have attempted to provide a counterpoint to unhealthy national sentiments and attachments by distinguishing nationalism on the one hand from what they see as a more healthy motivation of “patriotism” on the other. Two scholars who stand out in this respect are Italian political theorist Maurizio Viroli and German philosopher Jürgen Habermas.

In “For Love of Country: An Essay on Patriotism and Nationalism” (1995), Viroli describes the historical genesis of the term *patria* and distinguishes it from *natio*. He wants to remove the concept of patriotism from its embeddedness in the corrupting concept of vulgar nationalism, and restore it to its original republican virtue of “love of political institutions” or love of “the common liberty of a people”. In these earliest conceptions, it was clear which of the two –*patrio* and *natio* – were to be preferred, Viroli quotes Cicero in saying that the bonds of citizenship are more “closer and more dignified” than those of nation (Viroli, 2000, p. 269). Nationalism, a concept that arose at the end of the 18th century – moulded in the language of Fichte and Herder – steeped patriotism in culture and the notions of unity or oneness in a way that patriotism had not done before. This movement gained force in the 19th century with the spread of empires, whereby nationalism became further enwrapped in the language of the grand monarchies and imperialism of the day. Viroli advocates a return to an earlier form of patriotism, one that might be considered a purely political one.

Although Viroli develops an eloquent historical defence for a renewal of what he deems a “true” or purer form of patriotism, it is questionable whether his patriotism in practice would be very different from the very nationalism he eschews. Indeed, Viroli is a strong supporter of Republican virtues for uniting the people (not necessarily confined to national borders or to the place from which we were born) for consolidating their liberty. Quoting from Livy’s *History*, Viroli says that it was “charity towards the republic (*caritas reipublicae*) that gave Brutus the moral strength to overcome his reluctance and accomplish the unpleasant but necessary task of speaking against Lucius Tarquinius before the people of Rome” (Viroli, 2000, p. 269). It is this sense of Republican virtue that gives citizens the motivation to defend liberty and to fulfil their duties of citizenship. Nevertheless, “love of country” in the end still comes back to a love of “*patria*”. Although Viroli tries to rid the notion of its cultural manifestations by locating it in the “neutral” vestments of noble “liberty” and its institutions, he himself describes how patriotism is essentially an emotive force of passion, which compels the citizens to act towards the service of the common good.

An alternative model of patriotism is offered by Jürgen Habermas with his concept of *Constitutional Patriotism* (1992). Habermas defends this post-nationalist conception, which posits that shared citizenship should rest not on shared history or ethnicity, but on commitment to a shared political community. Czech social and political scientist Karl Wolfgang Deutsch makes a similar distinction predating that of Habermas about the differences between patriotism and nationalism. “Patriotism,” says Deutsch, “appeals to all residents of a country, regardless of their ethnic background” (1953, p. 232). To the contrary, “Nationalism appeals to all members of an ethnic group, regardless of their country of residence” (Deutsch, 1953, p. 232). It is towards this former purely political conception of citizenship, analogous to that of the pre-modern world that Viroli wishes for a return to. Yet, Habermas does not exactly believe we can return to a proto-national sense of civic identity anymore.

Now, living in a post-modern disenchanted world, the best we can aim for is a form of relativism, in which we can identify the biases latent within our own positions and strive to see the views of others more impartially. Jan-Werner Muller says that to understand Habermas’s concept of “Constitutional Patriotism” (*Verfassungspatriotismus)*, we must properly situate it within its historic development, which he says is deeply influenced by the sense of both collective guilt and collective responsibility felt in Germany in the post-war years, tracing the origins of the concept back to the German philosopher Karl Jaspers. In a letter to Hannah Arendt, Jaspers wrote, “Germany is the first nation that, as a nation, has gone to ruin”, and with relief, “now that Germany is destroyed, I feel at ease for the first time.” (Arendt-Jaspers, 1985, 82, 83 as cited in Muller, 2006, p.281). Habermas, was writing at a time when other theorists were beginning to reinvoke former nationalist sentiments, something Habermas forcefully opposed.

No longer a community based on shared descent, the post-modern condition relies on a medium of “abstract, legally constructed solidarity” in which we guarantee political participation (Habermas J. , 2004, p. 76) Through self-reflexivity, we can try to understand the impact of social conventions and desires on our own complex identity formation (Muller, 2006, p. 281). Particularly important for Habermas, is the need to create a space for public deliberation, to secure active communication with which to create and agree on our constitutional norms. Yet, the question of what would stimulate loyalty on the part of citizens to abstract legal conventions (as opposed to a particular people or nation), has led to what Muller describes as a sort of “aspirational oxymoron” in Habermas’s writings (Muller, 2006, p. 293). The second critique of his theory, one to which Kymlicka would be party, is that ethnicity cannot be separated from politics and therefore the abstract principles to which Habermas wants us to give our loyalty, are themselves deeply rooted in particularistic cultural structures.

Kymlicka himself however also makes a distinction between patriotism and nationalism; he cites the example of Switzerland and states that its three national groups feel allegiance to the state not out of nationalism but out of “feelings of common loyalty” due to “shared patriotism” (Kymlicka, 1995, p. 13). Hence, he prefers not to label Switzerland a nation-state, but better a multi-nation state. But this does not quite capture the point that Habermas is trying to make. More clearly, Habermas is saying that ethnos and demos must be separated in a post-national multicultural world (Van De Putte, 2003, p. 12); something Kymlicka denies is possible. Yet, other authors are less sceptical about the aims of Habermas’s project. Despite his “communitarian” leanings, Charles Taylor, in a note replying to Robert Bellah’s Critique of his book “A Secular Age: Religion in the Public Sphere”, concedes that constitutional patriotism “is the only game in town for democracies in a ‘post-Durkheimian’ age.” (Taylor, 2008) He summarizes the beauty of Habermas’s position as such: “It’s constitutional, because we rally around moral/political principles, but it’s patriotism because we are fiercely attached to our particular historical project of realizing these.” (Taylor, 2008) Taylor describes Habermas’s model as the “least dangerous form of social-cohesion” in which one’s country’s institutions and basic principles form the basis of solidarity.

But not all liberal defenders agree that patriotism can ever be completely free of danger. Martha Nussbaum, in an essay called “Patriotism and Cosmopolitanism” first published in the *Boston Review* in October/November 1994, questioned the value of patriotism in the modern world – and more specifically in America. It was a watershed article that stimulated a tremendous and unprecedented conversation among American political scientists on a topic they scarcely touch on – the patriotism at the heart of the American social and political scene. In the article, Nussbaum describes the overt failings of the American education system to provide a curriculum that instilled awareness and empathy beyond its own borders. The article, mostly written in response to prior writings by Richard Rorty and Sheldon Hackney that encouraged a revitalization of liberal pride in American identity, describes such patriotism as morally problematic, in an age of global interdependence and human rights.

Instead of this form of nationalistic patriotism, Nussbaum looks back to the more universalist form of civic belonging espoused by the ancient Stoics, that of the *kosmou politês* – the world citizen (as Diogenes famously said, “I am a citizen of the world”). Nussbaum says that a cosmopolitan can “recognize humanity wherever she encounters it and be eager to understand humanity in its ‘strange’ guises” (Nussbaum, 1997). Being aware of the needs and points of view of others does not negate the meaning attached to our own local affiliations; our identity proceeds in a series of concentric circles, stretching first from the self, and then outwards until it encompasses all humanity says Nussbaum. In understanding others, we in turn, have gain a greater self-understanding; in a sense there is a dual movement both outwards and back again inwards from the world to ourselves. Equipped with this greater understanding of the world, Nussbaum insists we need to put “Right” before “country”, and thereby better fulfill our real obligations to the world[[144]](#footnote-144).

While I consider Habermas’s constitutional patriotism to be “thin” enough to avoid most of the closed-minded risks associated with patriotism as Nussbaum describes it, I nevertheless find Nussbaum’s critique of patriotism, and in particular patriotic curriculum building or other dissemination of forms of national pride, to be a cogent warning about the dangers of pride – particularly pride with an abstract or reified sense of “we” at the centre of it. Interestingly, although Nussbaum does not make direct reference to it herself, the writings she draws from the Stoics have a direct parallel in Hindu philosophy. Certainly, Nussbaum’s love of India is apparent and is reflected in her writings, she has collaborated with the award-winning economist Amartya Sen, and has been heavily influenced by the humanist writings of Rabindranath Tagore (whom she actually quotes as a way of starting this particular article). In Hindu philosophy, a person’s true self, the *Atman*, is coterminous with the Universal Spirit of *Brahman*. In this monistic existential view, in contrast to dualistic or theistic notions of the divine, all beings are connected to one another, and at bottom all are one and the same.

This notion of mutual interconnectedness is captured in the writings of Nussbaum in her concern for our common humanity and for inculcating care for those far removed from our immediate spheres of belonging, and it is precisely in this area of enlarged concern where I feel that Kymlicka’s theory can do more. What is needed in Kymlicka’s theory is the idea that whole is greater than the sum of its parts, so clearly demonstrated in nature in highly complex systems – from snowflakes to subterranean termites. These complex systems are a helpful way of situating our belonging in a complex ecosystem in which one’s actions have incalculable effects on millions or indeed billions of anonymous others. Can we ever again reach a stage where we will be able to say “I am a human being” or “I am a citizen of the world” as Diogenes once did, with equal feeling to how we proclaim “I am an Italian, a German, an American”? Will we be able to place pride in a mutual pursuit of justice, one that does not have to be grounded in the limited motives of a “country” and its statesmen in the way that patriotic men of past centuries flocked to flood the nameless throngs of armies to fight in the name of the nation?

Again, returning to innovations in technology, I believe we have already made this leap – or at least those who have access to the Internet have. The “otherized” foreigner, with the help of technology is no longer lumped together anonymously, but is an accessible array of networked individuals: each with a name, a personal story, a unique history, and ideas. Human networks now cut across cultures and space, revealing the nuances and ruptures within our *own* groups and cultures which previously were unnoticed. Further, our social sciences are being radically reconfigured with the massive amounts of data newly accessible to us. Identity, in the midst of this upheaval, is in a maelstrom. But, in the midst of this maelstrom, people across the globe are speaking up for justice and for human rights for others from across the globe – be it the survivors of the Japanese Tsunami or the defenders of the Arab Spring, with precisely the concern for our fellow human beings that Nussbaum says is needed.

#### Global Governance

With a view to these changing global circumstances, many political theorists have argued that the seat of future democracy in the “new world order” is no longer adequately situated at the national level but must elevated to a global scale. Habermas, identifying the tension between international law recognizing the sovereignty of states, and also the normative ideal of equal rights for all, says that sovereignty must be located at the global level. The word sovereign is derived from the French *souverain* – meaning in Latin “from above” and associated with *reign*. Under the national system, this ultimate power resides in the state itself, which is able to fully determine its own affairs without interference. Habermas finds this unjustifiable in our increasingly globalized world; injustice in someone else’s backyard is as much my concern as it is theirs, and supreme justice should lie above the reigns of the elite heads of states, to a more accountable system of international justice.

Habermas refers to this process as “denationalization”. Economic liberalization has changed the state of the global market economy and along with it, has signified the stirrings of a new political order as well. (Habermas J. , 1997, p. 179). Democracy in this new setting is not defeated, says Habermas, although it is no longer confined to a particular territory. For Habermas, the nation state is simply no longer an appropriate unit for the political sphere. While it once brought emancipation, this is no longer the case. Problems are now global, so their solutions should be as well. Foreign affairs of nations are domestic affairs of the globe says Habermas.

Habermas’s proposed system of a singular global order is nevertheless behind Kymlicka’s theory in the sense that Kymlicka clearly recognizes that traditional centres of authority do not properly give recognition to all peoples. A single global government also risks that it will not have proper checks and balances to avoid the rise of tyranny, making emphasis on an inter-state system, such as described by Kant, a better alternative[[145]](#footnote-145). However, where Habermas goes beyond Kymlicka is in his recognition of the limitations of confining democracy to a “community of fate who’s members care about and wish to share each other’s fate” (Kymlicka, 2001b, p. 320) and the need to integrate the immense changes of globalisation. Preserving borders and state authority overrides global concerns - and this is not only incorrect says Habermas but can also lead to conflict. Habermas himself is in no way condoning a singular world authority in the sense of the unilateral role the USA has assumed in past decades. Instead, Habermas seats the strength of internationalization in a “systematic legislation of international relations, a project already altering the parameters of power politics” (Habermas J. , 1999, p. 269)[[146]](#footnote-146). In his view, is only at the world level that the pursuit of both the rights of universal citizenship and the rights of particularistic communities be resolved.

Developing these ideas, Rainer Forst, a former student of Habermas, offers a discerning look into how transnational justice can be brought about, with the “world as a whole [as] a context of justice” (2001, p. 161). He suggests a third way, between statist conceptions (“international” - wherein states remain the dominant actors and providers of justice) and globalists (those who see justice as accruing to each human person, regardless of their state membership) (2001, p. 160). Combining elements of both, Forst argues that transnational justice should “construct principles of justice for the establishment of just relations between autonomous political communities” while concomitantly “starting from a universal individual rights and by considering the global context as an essential context of justice” (Forst, 2001, p. 170). Forst’s aim to provide a balance between universal ideals and particularistic culture and attitudes is, as we have been exploring throughout this book, not an easy one.

Forst however has a practical solution to this problem, which can help establish the boundaries of engagement and dialogue. With a keen eye to the gross one-sided inequalities in the world system, and “severe and avoidable poverty worldwide” (Pogge 2001 as cited in Forst, 2001, p. 167), Forst says that we must make a distinction between what *minimal* and *maximal* justice requires. In a compelling argument, Forst says that on the minimal scale, we must include basic human rights along with an attempt to make justice between and within states more equitable, in the form, for example – of halting support to repressive dictators (Forst, 2001, p. 174). Minimal justice would entail considerations ranging from historic violence between states (in the form of colonization) to concern for the future of the world’s ecology (Forst, 2001, p. 175). By formulating a minimal standard of justice, a plurality of considerations can arise between equal actors wherein justice is attained both within and between states – which Forst rightly says, in light of current circumstances “would already be an enormous achievement” (2001, p. 176).

Looking back at the historical evolution of the concept of sovereignty, David Held says that the original concept of Westphalian sovereignty was developed in the context of a time when “might made right”, engrained in the original inter-state system and its segregation of territorial autonomy. Anyone who claimed a territory and marked it with a flag, up until the creation of the United Nations was a legitimate sovereign, or in other words, power-holder. The rise of international law, human rights and organizations like the UN led to the shift of sovereignty from “effective power” to “rightful authority” (at least in principle, says Held). (Held, 2011) “Cosmopolitanism *is* the new realism”. Realism is an impoverished way to view political activity. Held depicts cosmopolitanism as multi-layered, governed by a framework law based, similar to Habermas’s scheme on deliberation and consent, with active agency and self-determination, and affirming the equal worth of every human being. (Held, 2011)

To summarize so far, when thinking of transnational power arrangements, we need to look to the creation of sub- and supra-national regulatory bodies, active networks of communication and concern for others beyond our own immediate associative ties, locating democracy beyond the level of the nation-state towards a more global democratic accountability and fulfilment of global moral obligations – with a view to both maximal and minimal justice. While even a decade ago, most of this “wish list” would have still seemed a remote prospect, today as we move ever closer together as a human community, we increasingly look to the rule of law for strengthening and protecting our fellow human beings such that basic inviolable rights accrue to every human person.

#### Fairly Open Borders

Joseph Carens says that the erosion of distinctions between the rights of citizens and non-citizens is “something that is morally required as a matter of justice” (2000, p. 21). Borders in the current state of the world are sites of disproportionate use of force. The use of violence at borders is absolutely uncalled for and morally problematic says Carens. Unfortunately, he admits that those who decide policy on borders and migration are themselves often far removed from the grim realities of life as an irregular migrant, but as Carens says,

To Haitians in small, leaky boats confronted by armed Coast Guard cutters, to Salvadorans dying from heat and lack of air after being smuggled into the Arizona desert, to Guatemalans crawling through rat-infested sewer pipes from Mexico to California—to these people the borders, guards, and guns are all too apparent.

There is no justification of use of force against migrants. Carens argues that restriction on mobility is morally indefensible.

Carens builds his argument in the essay “Aliens and Citizens: The Case for Open Borders” (incidentally published in a collection of essays edited by Kymlicka in the book “The Rights of Minority Cultures”). He defends open borders by drawing from key liberal thought in three areas: 1. Robert Nozick, 2. John Rawls, and 3. Utilitarianism. First, in considering Nozick’s theory, he says that people have natural rights to property. Nozick’s conception of the state is a minimalist one; the role of the state is only to secure the rights of the people within a given territory. Carens argues that since this jurisdiction involves giving rights to all individuals within a particular territory, that accordingly Nozick would likely agree that these rights accrue to *all human* *beings* within that territory, whether they are citizens or not, and that there is no basis for the state to exclude aliens.

Regarding Rawls, Carens says that although Rawls writes about a “closed” system in which questions about immigration would not arise, the overall approach of Rawls can be widened further than Rawls himself allows for, with his original position being applied not only to justice *within* a society, but also justice *across* societies. As Carens says, “we should therefore take a global, not a national, view of the original position”. In applying Rawls’s difference principle on a global scale, Carens develops a case to reduce global inequalities. Ideal theory would cast Rawls’s difference principle onto a world of just states that are relatively equal to one another. In such a situation, the demand for migration would be relatively small, and hence the need to put restrictions would also be minimal. The non-ideal (real) world however is one beset by massive inequalities and migration flows are definitely much larger, however Carens argues that overall the restrictions justified even in non-ideal theory are still extremely limited. Looking to Utilitarian calculus, if one takes into consideration the interests of the migrants themselves, then the answer to the question of borders would be even less restrictive than the Rawlsian approach.

Carens compares the relatively open membership he traces above to the closed membership of communitarian thought, which he finds epitomized by Walzer who compares states to “clubs” that control the terms of admittance. Against this, Carens forcefully argues that borders, like feudal restrictions on mobility “protect unjust privilege”. Sovereignty does not require closed borders says Carens. To demonstrate, he describes federal systems where open borders between federal units does not override the sovereignty of those units. He says, “like property, sovereignty is a bundle of rights that can be divided up in many ways” (Carens, 2000, p. 31). In a world with great rifts in life chances, we can do more. While open borders may presently be unattainable, it is a goal we nevertheless need to head towards.

Yet, this idealistic reasoning of the 1980s was later modified by Carens, in what Linda Bosniak says was an exchange of “idealism” for “realism” (Bosniak, 2009). Against his critics, Carens modified his position slightly to admit that states were still the main arbiters of their borders, and are in fact able to set controls over membership. Indeed, he adds a new condition which Bosniak believes weakens his entire commitment to open borders, by stating that the longer irregular migrants have been present within a country, the stronger their case against deportation and “the moral claim to remain” since they are now part and parcel of the society in which they live (Carens J. , 2009). Other authors such as Roberto Suro, are even more scathing in their condemnation of Carens’s argument, for rightfully claiming that it codifies disenfranchisement of migrants and even encourages illegality (Suro, 2009). Carens response, seems to affirm Bosniak’s critique: he says that he is not retreating from his former idealism but is seeking common ground (with those in the closed border camp) as “an exercise in democratic engagement”, seemingly arguing that he is willing to get any concession from the closed borders camp, by offering strong arguments for claims of membership which even they cannot deny.

Seyla Benhabib is another author who has similarly argued for the need to assert the inviolable rights of every human person. Borrowing from Arendt, Benhabib powerfully argues that *no human is illegal*. Like Carens, she also argues that the right to movement is a fundamental human right (Croce, Archibugi, & Benhabib, 2010). Yet, despite recognizing the difficulties with closed borders, Benhabib also retreats somewhat and says that while open borders may be ethically defensible they are practically infeasible. She urges us instead to think in terms not of borders but of boundaries, a notion that implicitly accepts porosity, flexibility, and which is needed to secure the self-determination of democratic communities (Croce, Archibugi, & Benhabib, 2010). Benhabib recognizes that closed borders only lead to stultification of growth, states without policies of multiculturalism inevitably cut themselves off from the flow of knowledge, which has become the greatest source of power and stability in today’s world (Benhabib, 2005). She says that while the EU has come a long way by reducing internal borders between EU member states, they still lag behind (and thus inhibit the overall development of the EU) from the comparatively high restrictions upon non-EU members for entering the EU and for restrictions upon their participation. Migration flows are not always a losing game, Benhabib rightly points out. Indeed, while migration out of a country (as in the brain drain) may seem one-sided, often both the host/receiving and the sending/emigration country benefit because of additional remittances, knowledge transfer and exchange, which plays a large role in poverty reduction. Eventually, many migrants return to their home country, reinvigorated by what they have learned abroad, seeking to improve the quality of life of their original home country (Hanson, 2008).

Veit Bader, taking a slightly different approach than either Carens or Benhabib, argues for “contextualized morality and fairly open borders” (Bader, 2005, p. 353). The question for Bader is not about open or closed, but a question of degree. While some closure is necessary, Bader believes that until the “affluent states” are effectively meeting, what he calls their “Global Moral Obligations” (GMOs) (2005, p. 342), then even though “fairly open borders” may be difficult to implement, they are a matter of humanitarian justice. As Bader says, “looking back from a possible future, the philosophical defenders of state-sovereignty, non-intervention, and restrictive admission in our day might look to those happier people like the philosophical defenders of slavery look to us” (2005, p. 354). Indeed, at the very basic human level, Bader’s argument seems indisputable.

The public perception of migration however tends to be a divisive issue, beset by uninformed fears about the detrimental impact that migration may cause. In academia, the fact of migration and the diversity of our human societies is pretty much an accepted fact. Daniele Archibugi says therefore that intellectuals have a role to play in overcoming the gap between themselves and the public when it comes to cosmopolitanism (Croce, Archibugi, & Benhabib, 2010). To combat xenophobia, they need to dispel inaccurate representations by the media and educate the public. Academics must also recognize the economic duress underpinning many of these suspected threats, and point out how the community’s life prospects will not threatened by immigration and asylum. In *Responding to Immigrants’ Settlement Needs: The Canadian Experience*, Robert Vineborg argues that “A welcoming country is composed of welcoming communities and, indeed, welcoming individuals and families” (Vineborg, 2012). Vineborg lists the host program in Canada as an example of a successful scheme for integrating immigrants. Studies in Canada indicate that those immigrants who are made to feel welcome upon arrival and settlement are much more successful in their lives than those who are not. The report by Vineborg indicates that his process of “welcoming” needs to start as early as possible, even from before arrival in the receiving country.

Increasingly porous borders/boundaries de-link sovereignty from territory. In light of migration flows, we can see a need for reconfiguring citizenship rights and also the rights of non-citizens.

#### Universal Personhood

Indeed, sociologist and international relations expert, Yasemin Soysal says this new transnational order should be one wherein human rights prevail before citizen rights. She notes that the shift towards this new order is already underway and has been in progress ever since the post-war period when the rise of human rights became detached from national membership. Soysal says we need to go past the former model of citizenship as nationhood and introduce a new model of citizenship as *universal personhood*. Political philosophers should take some cues from recent deconstructionist social science literature and affirm commitment to viewing communities as open and transformative. Equality of status is the basis of this concept, which spills into the various spheres in which we live our lives. Our notions of citizenship are expanding as new groups within our societies become empowered, most notably with the only recent inclusion of women, among other singled-out racial groups.

After all, it is good to remember that democracy is a recent development (Held, 1992, p. 22).[[147]](#footnote-147) The extension of rights to all is a concept which certainly cannot be traced back to Athens, where women and slaves and a significant portion of the population were deemed non-persons and thus unable to participate in the world’s most emblematic democracy. Athens is a long way away, but its exclusion of significant portions of the society has continued in tradition until only recently. We now consider it evident that all members of the society should have the vote, in a way that we did not several years ago. But more than this, we believe that everyone – regardless of race or gender - should have a right not just to vote but also to be full participants in the democratic process. We also realize that the extension of these rights and participation in democracy goes beyond the ballot and lies in other forms of participatory engagement.

As our models of citizenship continue to evolve, equality becomes entitled to all individuals, whether they are members of the nation or not. Citizenship rights and duties extend beyond national borders and membership. Indeed, territorially bounded notions of citizenship are becoming a thing of the past[[148]](#footnote-148). This is clearly evidenced by migrant workers, who now are entitled to many rights that in the past they were denied. In addition to rights being secured beyond borders, rights within borders are also coming to fruition with minority rights finding their way into international law[[149]](#footnote-149).

While of course laws can be misapplied or under-applied, it does not negate the very real and important development towards what Soysal would call an acceptance of “universal personhood”, which occurred and has been developing since this time – culminating more recently with supplementary group rights in accordance with individual rights in international law. With the further theoretical construction and UN endorsement of Responsibility to Protect (R2P), we increasingly see multilateral actions to hold governments accountable to their people. Sovereignty is not only a question of power, but also of responsibility. Any sovereign who neglects its responsibility to protect its own people is to be contained/managed for the sake of *prevention* (prior to intervention) of mass atrocities and genocide, with a view to “Rwanda, never again”[[150]](#footnote-150).

##### Sovereignty and Europe

With this discussion on the challenges of sovereignty, I would like to make a small note with respect to the current Eurozone crisis. The current crisis of insolvency threatens to undermine one of the world’s longest standing successful regional unions, or “shared-sovereignty”. Sovereignty in Europe has always been an important and heated topic. One could argue that the current crisis faced is not so much a result of sharing sovereignty, as much as a resistance to it. As Margaret Thatcher put it in the Bruges Speech, in which she argued in favor of strong state sovereignty and a decentralized (weakened) authority for the conglomerate, "Europe will be stronger precisely because it has France as France, Spain as Spain, Britain as Britain, each with its own customs, traditions and identity." (Thatcher, 1988) With Europe now at the crossroads, this is the sort of attitude that Europeans must currently rethink as they look forward to the future, whether their future will be of divided sovereigns, or whether a deepening of European integration in which the common futures of all are protected. In an article entitled, “How to Avoid the ‘Zombification’ of Europe”, senior economic advisor George Magnus neatly lays out that the misdiagnosed roots of the crisis lay in imbalances in competitiveness between member states (Magnus, 2011). He says however, that “common ends have come second to national ones”, and the absence of a joint liability European bond market along with the overall lack of fiscal union and recognition of interconnectedness, means that while sovereign nations may have won, in the end they may all lose.

 Addressing the crisis, Jean-Claude Trichet, President of the ECB has said that while Europe today is highly interconnected, both economically and socially, “fragmented national public discourse” hides this from view and obscures the public debate. Moving forward, he says that the conversation should engage Europeans across state borders and linguistic differences, and aim to spark interest in the other members’ affairs and joint futures, what Trichet calls in German, *die Schaffung einer europäischen Öffentlichkeit*. (Trichet, 2011) While the challenges of uneven competition in Europe may seem baffling, Trichet offers hope by looking backwards at the rise of the very bastion of the European economy today, Germany, which turned itself around from the economically difficult post-war years. Further, following reunification, Germany itself was internally divided and unequal in competition, yet the successful rebuilding of the German economy Trichet says, should offer hope to those European members which are facing difficulties today.

The future of Europe and its integration is of importance not only for Europe, but also for numerous countries and regions worldwide, which look to the European Union as a role-model of a successful regional alliance. Yet, the potential collapse of the EU may not ring the death knell for shared sovereignty. Other regions may begin to innovate more than previously, understanding that imitation is not the best (nor was it ever possible anyhow) (Bosco, 2011), and found their own new ways of regional cooperation.

### The Political Economy of Culture

Speaking of economics, at the very heart of Kymlicka’s writings is a question concerning the socio-economic nature of justice. Yet, despite the economics undergirding questions of sovereignty and the topic of minority rights more generally – this subject remains largely unaddressed by Kymlicka. Kymlicka’s emphasis is focused on the national question to the exclusion of critical socio-economic considerations. This leaves his theory weakened and potentially damaging for reaching his sought-after terms of equality between disparate communities. Ostensibly, poverty and racism can be alleviated under Kymlicka’s schema through democratic liberalism and the fair distribution of resources across social groups. Yet Kymlicka focuses on the cultural rather than the economic aspect of distribution and does not examine the connections between cultural poverty and actual poverty. Further, by limiting his discussion to national minorities, he cuts of many groups of impoverished who also lack access to stable and secure culture.

A critical question that must be asked for anyone seeking to implement Kymlicka’s theory is: to what extent should prioritization of culture override other important questions of equitable distribution between citizens? At stake is whether Kymlicka’s definition of access to a stable cultural structure is really necessary to lead the good life. How do we weigh this with other criteria such as economic development? What types of cultural benefits can be supported? Kymlicka aims to show us that culture (or art) needs to be more than just a luxury of the rich. However, the high costs of official bilingualism and institutional separateness may be more than many countries can afford. Gaining a full picture on minority rights and the applicability of Kymlicka’s theory is possible only if we also factor in socio-economics in our assessments.

#### Nation, Class, and Marshall

Often those whose voices are the loudest are heard the best – and being loud means being empowered enough to have a voice. But what of those other voiceless members of society that are not loud enough to be heard? This is where minority rights come in for Kymlicka. Minority rights must empower, and for Kymlicka empowerment is to be found first and foremost through national rights. Nation, beyond even culture, is the ground for my being, my self-worth and my dignity. My culture is derived from my nation, from my belonging in a community of equals with celebrated traditions and histories. For Kymlicka, the nation-state is the panacea to minority problems, including economic ones. Kymlicka extols the virtues of nationalism and what he believes to be its corollary, the welfare state, for levelling class distinctions and decreasing economic disparities. By absorbing all classes into the “national culture” and cultivating loyalty to this nation as such, the working classes had a way to feel pride and belonging on an equal standing to the higher-ups.

To support this argument, Kymlicka discusses T. H. Marshall’s economic theory, which described how the economically underprivileged in British society in the 20th Century lacked adequate access to social rights, preventing them from taking full advantage of their political rights. Marshall points out how class divisions and poverty removed a great portion of England’s society from full participation in what Kymlicka describes as the common national culture (Marshall’s own words themselves are less national in tone however, and instead focus on “common civilization”) (Kymlicka, 1998c, p. 173). Kymlicka tells us that Marshall pointed out that “to participate actively and responsibly in the political, social and cultural betterment of their community” (Norman & Kymlicka, Citizenship, 2003, pp. 211-2) people must have first had a certain level of socio-economic standing. “Citizenship,” Marshall argues in an oft-quoted passage, “requires a direct sense of community membership based on loyalty to a civilisation that is a common possession” (as cited in Crepaz, 2006, p. 92). Kymlicka echoes this view, believing that the common feeling generated by nationalism is enough to bind together diverse groups, it is the bridge that ultimately brings widely diverse peoples together under one roof and gets them involved and caring about one another.

Building from Marshall’s scheme, Kymlicka states that in today’s societies, it is no longer the lower classes but now sociocultural minorities who lack full participation. Yet even Kymlicka states that Marshall’s theory “does not necessarily work for culturally distinct immigrants,” or for other excluded groups who are marginalized “not because of their socioeconomic status, because of their sociocultural identity – their ‘difference’” (Kymlicka, 1998c, p. 173). For Marshall, class barriers were a result of embedded systems of inequality that were detrimental to the rights of citizenship (which to the contrary were meant to bestow equal rights and duties on all community members). Kymlicka’s theory, in providing national rights to excluded ethnic minorities (belonging to a societal culture) aims to go one step further than Marshall in its attempt to secure citizenship rights. However, this is based on the premise that a sense of common heritage and culture is indeed needed for access to citizenship, and that nationally instituted culture is the best means for providing such citizenship rights.

Kymlicka himself acknowledges that the “integration” of classes on the part of nationalism has not been entirely effective. Indeed, in a language which is itself remarkably elitist, he describes how the “high-culture” of the elite is juxtaposed against the “popular culture” of the working classes. In Kymlicka’s own words:

Whatever the motives, the development of the welfare state has been quite successful in integrating the working classes into national languages, cultures and loyalties throughout the western democracies. To be sure, there are still many class differences between the popular culture of the masses and the high culture of the well-off. The affluent are more likely to prefer tennis to wrestling; or to read newspapers rather than tabloids. But…[the] core national culture bears the imprint of all classes: while it involves exposing working-class children to the high culture of the elites, it also involves exposing upper-class children to the popular culture of the masses (2003, p. 269).

This narrative itself is remarkably privileged, White and Male, and use of the term, “high-culture of the well-off” further indicates the presence of a ruling social group.[[151]](#footnote-151)

Kymlicka uses Marshall’s theory as a springboard to show how national integration and redistribution went hand in hand to give citizens a feeling of solidarity. Marshall himself however, was less optimistic than Kymlicka about the correlation of nationalism and the reduction of class boundaries. Marshall states that nationalism and common identity did not provide a remedy to the ills of class society. In his words, “growing national consciousness…[and] a sense of community membership and common heritage did not have any material effect on class structure and social inequality,” (Marshall, 1998, pp. 105-6) for the masses still were bereft of a truly participatory government and “effective political power” was beyond their reach. As he says,

It raised the floor-level in the basement of the social edifice, and perhaps made it more hygienic than it was before. But it remained a basement, and the upper stories of the building were unaffected (Marshall, 1998, p. 104)

Status and empowerment were solutions outside the purview of national identity; instead, Marshall attributes social integration to the rise of mass production and a decrease in the gap between skilled and unskilled labourers. Marshall says that material affects, more than “sentiment and patriotism”, are what weaved together the newly egalitarian society and eroded class barriers (Marshall, 1998, p. 107).

Indeed, nationalism can hardly be seen as an economic panacea for the poor. This is particularly true with respect to the minority groups with whom Kymlicka is primarily concerned, and who within the nation are deemed, either by themselves or by the majority, to be outside the “historical [intergenerational] community, more or less institutionally complete, occupying a given territory or homeland, sharing a distinct language and culture” (Kymlicka, 1995, pp. 11, 18). Indeed, Kymlicka himself suggests as much, that it is precisely a minorities’ lack of identification with the dominant national culture (and common possession of distinct history, territory and language) that leads to their continued disenfranchisement and diminished ability for meaningful participation in the social and political life of the community. Separate minority rights for national groups moves the ball to another court, but it does not end the game.

Adorno offers a scathing criticism of the “latest phase of class society” and its “elimination of difference from the identity of the masses”, which he describes as a having something of a Lethean affect by making us forget our continuing class division and extreme power divides (2003, p. 96). To the contrary, Adorno opines that “the division of society into exploiters and exploited, not only continues unabated but is increasing in coercion and solidity…Membership in the same class by now means translates into equality of interests and action” (2003, p. 96). Accompanying this breakdown of difference, Adorno points out towards mass society’s tendencies towards monopolies and fascism, offering a grim assessment of the offerings of modernity for class.

Parekh takes issue with Kymlicka’s contention that national identity leads to redistribution. He cites the Thatcher government as one that created a strong nationalist identity in Britain but whose “militaristic and individualistic terms” resulted in the country being behind “the Falklands war and the virtues of free enterprise [more] than about redistribution and social cooperation” (Parekh, 1999, p. 315). Redistribution owes much more to strong “social conscience”, or of emancipation struggles of the impoverished, than arising from a shared national identity says Parekh, which in his view plays at most a minimal role (1999, p. 315). It may conversely be argued that national rights, insofar as they maintain and reify boundaries, may actually inhibit fair redistribution.

#### Nation takes precedence over other marginalized groups

Kymlicka’s focus when speaking about minority rights is on “the sort of ‘multiculturalism’ which arises from national and ethnic differences,” and excludes other marginalized groups such as women, gays and lesbians, the poor, etc. (1995, p. 18). Yet as Walker says, Kymlicka’s main argument is focusing on the disadvantages due to lack of access to secure cultural traditions on the part of ethnic minorities, but this “sense of cultural precariousness is a very widespread sensation in the late twentieth century,” affecting not only minorities but also the mainstream as well (1999, pp. 145-7). If Kymlicka’s argument is correct, says Walker, then not only minority groups but all of us living in these times of globalization face loss of access to secure culture (and hence freedom – if we accept Kymlicka’s argument that culture is the foundation of our choice). If this is the case, then why limit our focus on giving access to culture merely to national groups?

Walker points out that rather than national minorities, “those who are most vulnerable to the ills of cultural deprivation are the persistently poor” (1999, p. 157). Poverty plays a large role in exclusion and lack of access to societal institutions, “not just political parties and trade unions, but even such everyday institutions as banks, hospitals, department stores, and museums” (Walker, Modernity and Cultural Vulnerability: Should Ethnicity Be Priviledged?, 1999, p. 157). The poor, due to their low social standing and difficult material situations face the greatest barriers to inclusion in the political and social systems, as such, Walker says that “if one’s goal is to address the moral difficulties involved with cultural deprivation, then the focus of analysis should be placed on issues of class” (1999, p. 158). Kymlicka’s primary focus on national groups is too limited to address the wider ramifications of the erosion of cultural patterns and traditions and poverty’s role in exclusion – even cultural exclusion. As Brian Walker says, by focusing on the needs of national minorities and instituting societal cultures, the value of culture for *choice* is forsaken in place of what Walker calls “in essence an argument advocating ethnic hegemony,” (1999, p. 151) marking a hefty internal conflict at the heart of Kymlicka’s theory.

Kymlicka however does in fact recognize the systemic injustices that are bound up with majoritarian politics and our democratic societies. He recognizes that governance, thus far, has largely been top-down, and decided by majorities to the exclusion of significant minority communities. Kymlicka uses Dworkin’s resource egalitarianism schema to back his argument for group rights, for minority groups says Kymlicka, are unable to access the same strings and pulls within the society to secure their cultural environment and therefore require additional rights to secure this for them. Why? Because culture is more than just a good, it is the ground of our good itself, and thus all our economic preferences can in fact be seen to be rooted in this pre-existing cultural fabric in which we exist. Lack of this cultural fabric means that we simply do not have enough yarn to spin our web of desires or weave the lives we want to life, in short our economic choices are circumscribed by the majority’s cultural preferences. However, Walker’s critique is still an important one for our consideration; although Kymlicka’s theory touches on systemic injustices towards certain groups in the society, by limiting it to a national discourse, he isolates some of the most fragile and at risk communities from receiving group recognition and equality, not to mention access to cultural choices.

Without looking at economic conditions, there is no way to gauge properly whether minority rights actually lead to equalisation or whether they lead to injustices. It is not easy to determine, but only through addressing the socio-economic conditions of group relations can we determine whether our correctives truly are correctives, or whether they will only contribute to already long-standing inequalities.

#### Nation-building is bound up with maintaining unequal power relations

In his positive stance on nationalism, Kymlicka overlooks the ways in which national identity itself may not only be non-neutral with regard to economic disparities, but may actually reinforce them. I refer here to what Charles Tilly terms "durable categorical inequality" (2005, p. 200), referring to the advantages accrued by organized differences from classification systems such as nation, ethnicity, community, religion, gender, race, etc. Categories themselves, says Tilly, do not create inequalities but only difference. “Inequality however occurs when transactions across a categorical boundary (e.g., male-female) a) regularly yield net advantages to people on one side of the boundary and also b) reproduce the boundary” (2005, p. 200). While Kymlicka’s theory advocates reproducing (and indeed reifying) group boundaries, it does however try to work against yielding net advantages to the majority by insisting on the importance of giving greater jurisdiction and powers to the minority group.

Nevertheless, Kymlicka’s methods focus on symbolic not on economic solutions. In examining how the boundaries which he studies (between minority/majority, societal cultures) arose and have been maintained, Kymlicka takes a purely cultural perspective (histories and languages, and to a lesser extent rootedness in a particular territory). He should begin to further look at the socio-economic side of the growth those same identities (such as uneven power relations, economic advantages accruing to territorial possession and cultural dominance, and the ways which these boundaries have reinforced economic and social marginalization). Although Kymlicka points out how multiculturalism cannot be reduced to “mere symbolism” (2007, p. 82), in effect his own theory must begin to go much further.

In his book “Liberalism, Community, and Culture” prior to developing his theory on “societal cultures” and his version of liberal nationalism, Kymlicka offered a much more nuanced assessment on the issues of power relations, economic injustice, as well as a more solid endorsement of liberal neutrality. As he says, “justice requires that people’s circumstances be evaluated, not only in terms of income, but also in terms of power relations” (1989, p. 95). He spends a great deal of time exploring the ways that society’s institutions are unfair, embedding “assumptions of women’s inferiority”, as well as discussing issues of other minority groups such as homosexuals and he voiced concern in knowing “what institutions and practices would constitute the best non-sexist [or otherwise biased] spelling out of the ideals underlying the principle of neutral concern” (Kymlicka, 1989, p. 92). Yet, discussion of such multiple spheres of oppression vis-à-vis the state recede from view in his later works where the national question comes to the fore and begins to trump his earlier concerns about the role of society’s institutions and practices in perpetuating inequalities.

#### Culture and Economics must go Hand in Hand

As Peled and Brunner rightly point out, cultural protectionism may actually disempower minorities, leaving them rich in culture but poor in autonomy (2000, p. 82). Isolated minority groups when separated from the rest of society may fail to gain the knowledge that would help them to advance or integrate in the surrounding society, and the wider modern world. By limiting them to a narrow cultural scope, it may effectively cut them off from a source of opportunities for growth and exchange, being ill-equipped with “cultural currencies” needed outside the “narrow confines” of their cultural group (Peled & Brunner, 2000, p. 82). Take for example, the circumstances of some traditionally accepted minorities in the United States, which have special exemptions from education, which in turn prevents these members from effectively modernizing. In certain cases, what may be seen as a privilege of culture can be a drawback in terms of socio-economic standing. The ability of the minority to find work and higher education may be limited due to their lack of training or proficiency in the majority language. As Peled and Brunner say, “certain situations of cultural autonomy may function as a form of economic and cultural segregation” (2000, p. 83). Or in other words, ethnocentric or cultural biases in economies, centred not on liberal premise of all are equal but on insularity between cultures.

Peled and Brunner criticize Kymlicka for his otherworldliness, the lack of realism in his theories due to his siphoning of the question of group rights into national or ethnic rights alone (Peled & Brunner, 2000). By ignoring other important marginalised groups, such as lower social classes and urban neighbourhoods, he in effect is turning a blind eye towards some of the most fundamental challenges facing minority groups, which suffer not only from cultural deprivation, but more tragically from “economic exploitation and deprivation” (2000, p. 81). They argue that Kymlicka’s theory fails to provide a coherent strategy for evaluating cultural rights claims, and that only by “interrelating economy and culture” can one give a just assessment about whether cultural rights in fact empower those whom they are meant to assist (Peled & Brunner, 2000, p. 82).

Further, Kymlicka’s theory does not examine how the national identification can actually foster systemic inequalities beyond national and cultural identifications. The East Germans for example, do not see themselves as a separate national group in Kymlicka’s sense of a “societal culture”: one that has separate historic roots, language, or other ethnic/cultural separateness from the rest of Germans. Although the circumstances of their history are different from West Germans, those separate and different histories are intertwined and rooted together. The issue at state in East Germany is not one of nationalism, but of economic inequalities and unequal opportunities within a single – but historically divided, “nation”. For such situations, Kymlicka’s theory may in future be tailored along economic lines to provide an answer.

Nancy Fraser, for example, insists on the need to combine recognition with redistribution strategies. Tying identity politics with socio-economics, she says we must challenge ourselves to develop a “*critical* theory of recognition, one which identifies and defends only those version of the cultural politics of difference that can be coherently combined with the social politics of equality” (Fraser, 1995, p. 69). Balancing recognition and redistribution however, is not always so easy. Fraser provides examples of a number of cases, laying them out along the redistribution-recognition spectrum. Those that fall towards the middle of the spectrum, such as gender and race groups, face the most difficult situation of combined both political-economic inequalities as well as cultural de-valuation (Fraser, 1995, p. 78). Deciding on how to address both aspects of oppression is not easy, for often redistribution and recognition are at “cross-purposes” with one another, whereas recognition claims tend towards group differentiation, “affirmation”, redistribution claims have a tendency to do the reverse, “deconstruction” (Fraser, 1995, pp. 74, 87). In Fraser’s view, the current simplistic approach in the US to “mainstream multiculturalism” wed to the “liberal welfare state” is miserably failing and ultimately “generating perverse effects” (1995, p. 93)[[152]](#footnote-152). Instead, Fraser argues that these issues be situated “in [a] larger field of multiple, intersecting struggles against multiple, intersecting injustices” (Fraser, 1995, p. 92). She recommends that we must take a more nuanced stance towards these issues, and provide more tailored solutions aimed at minimizing conflicts and creating conditions of justice and equality.

#### Which takes precedence – cultural rights or economic ones?

If the cultural continuity of my national community is so essential to my human freedom as Kymlicka says it is, then what happens when the pursuance of my culture will impoverish others, or lead to my own impoverishment? To put it succinctly, do cultural rights trump economic rights? How do we gauge when we give one over the other. Certainly, cultural and economic rights need not be in a zero-sum position. Indeed, in his book *Multiculturalism and the Welfare State*, Kymlicka along with his co-authors provide empirical evidence to confute unverified claims that either the introduction of multiculturalism policies (MCPs) or increases in cultural heterogeneity counteract redistribution (in the form of a robust welfare state) (Banting, Johnston, Kymlicka, & Soroka, 2006). Kymlicka should more closely consider the economic variable involved in the recognition strategies he proposes, which I contend must form a part of any policy-making decisions to be taken.

Bannerji makes a useful distinction in two forms of multiculturalism which focus our attention not only on the need for grassroots mobilization that challenge the status quo, but also emphasizes the critical aspect of socio-economic considerations behind multiculturalism policies. Bannerji argues, however that the “politicization of culture” seems to have overtaken the liberal political agenda, relinquishing its “former obligation to issues of class and labor-capital relations” (2003, p. 35). Bannerji describes a split between two forms of multiculturalism. The multiculturalism promoted by communitarians such as Taylor, and inscribed in the Canadian political process for example, are what he calls “*multiculturalism from above*” (Bannerji, 2003, p. 35). Yet instead of challenging the dominant cultural hegemony, these policies ‘otherize’ (or in Bannerji’s words “rope-in” (2003, p. 37)) ethnic minorities, perpetuate the dominant hegemony, and leave minority groups “seeking recognition from the dominant hegemonic core” (2003, p. 44).

Alternatively, there is a different form of multiculturalism he hopes can overcome old racisms and colonial mentality, which he calls “*popular multiculturalism*” or “*multiculturalism from below*” (Bannerji, 2003, p. 36). Contrary to “multiculturalism from above”, this multiculturalism aims at equality (on every level) and is “in-formed with an historical awareness and rejection of socio-economic and political inequalities and marginalizations and therefore challenges cultural marginalization as well” (Bannerji, 2003, p. 36). Marion Young similarly points out the need for challenging marginalization in our societies, as she says, "both a working-class based politics and a group differentiated politics are necessary in mobilizations and programmes to undermine oppression and promote social justice in group differentiated societies” (1995, p. 156). Indeed they can support one another.

Bannerji, in a sleight to Charles Taylor’s “politics of recognition”, says that “Taylor may find this incredible, but many of us – the multicultural others – are not seeking recognition from him” (2003, p. 44). That is not to say, says Bannerji, that minorities do not welcome increased tolerance and mutual respect, as well as growing concern for others that “will nurture the unoppressive social selves of individuals” (2003, p. 44). Before there can be mutual respect, says Bannerji, there must be equality. “Identity is a delicate plant. It cannot grow in the shadow of power, in a deprived social soil” (Bannerji, 2003, p. 44) The bottom line is that economic rights need also to be secured before cultural rights can be ultimately fulfilled, and that cultural rights cannot be understood if separated from economic and power considerations. Lacey puts the challenge nicely,

Much work, practical and theoretical, analytical and imaginative, needs to be done if the notions of neutrality, rights equality, justice are to be understood in their racially, sexually and otherwise oppressively patterned reality, and if they are to be reconstructed in a way which promises the genuine accommodation of different forms of life, different subjectivities (2002, p. 37).

### Power-Sharing as a Vehicle for Peace

Finally, in this last section, I would like to look at asymmetries of power, how power centres can be disaggregated and dispersed, and how power-sharing arrangements can play a vital role in brokering peace, not only between but also *within* states. To a certain extent, Kymlicka’s project is about power-sharing. The crux of Kymlicka’s work is to raise groups to a level of equality – equality within groups and equality between groups. However, the tools Kymlicka gives us do not so much transfer power or authority but instead mark a form of non-interference into the sovereignty of minority (national) group affairs through Kymlicka’s distinction between internal and external restrictions (Kymlicka, 1999a, p. 117). Groups attain a degree of autonomy from one another and semi-independence; the majority is unable to interfere in the choices of the minority group. Such restrictions are not in conflict with liberalism says Kymlicka; instead, they can actually prevent oppression of one group over another. Kymlicka is trying to model Dworkin’s resource egalitarianism and distributing not just resources, but also culture (writ power) to the underprivileged and systematically disadvantaged.

Kymlicka’s strategy to overcome cultural hegemony and to override privilege of choice may in fact work however conversely towards reinforcing them. While power-sharing is indeed an important step forward – the terms of incorporation of these minorities and the ways in which culture and ethnicity become embedded in choice are equally important for our consideration. As we have already seen, to many minority groups – particularly indigenous peoples – Kymlicka’s proposed “non-interference” is not enough. Many minority groups find that “Kymlicka’s Constraint”[[153]](#footnote-153) leaves them nonetheless subject to the authoritative voice and rule of the majority nation legislation, unequal partners – as the ascriptive title “minority group” labels them.

In considering power relations, it becomes clear that the term “minority rights” is itself a misnomer: often oppressed groups do not form minorities (such as women) and likewise oppressors do not always form majorities (such as the whites in South Africa). The genocide in Rwanda is case in point; in the conflict between the Hutus and the Tutsis the issue was not about numerical majorities/minorities but about the vicissitudes of control over the wheels of power. Yet the main formulation of Kymlicka's argument is presently one of scale, not of power politics. For example, Kymlicka cites as justification for the native restriction of mobility that the Indians did not demand 87% of the land or form Bantustans (1989, p. 247). He addresses the same issue in terms of maintaining a numerical majority of Indians for voting, instead of focusing on the underlying systems of domination and colonization which are deeply intertwined in native demands for territory.

There are two aspects of Kymlicka’s theory which he deals with separately but which I believe should be treated as significantly related: the demand for sovereignty (Kymlicka’s national minority rights) and the need to make our societies more pluralistic (or in Kymlicka’s terms polyethnic). In what follows, I will begin with an investigation of the bases for pluralism and then lead into a discussion on the meaning of sovereignty, by which I aim to show that both our de facto pluralism and de jure sovereignty cannot be disconnected from one another and properly speaking should be mutually reinforcing.

#### Unavoidably Side by Side

The starting point for plural societies is to understand what Immanuel Kant over two centuries ago described as our condition of living “unavoidably side by side” in the world. Liberalism, it would seem, is well-suited to this task. Not only Kymlicka, but also other scholars have pointed out that liberalism is the ideal ground for living well with others who are different from us. As cosmopolitan theorist Jeremy Waldron says, the liberal tradition has been premised on the notion of difference, the great liberal thinkers “assume that we are always likely to find ourselves, in the first instance, alongside others who disagree with us about justice” (Waldron, 2000, p. 171). This is at odds with the countervailing communitarian view, which begins with the idea that we belong in a community of those who are similar to us (and similarly the liberal nationalist view which says we should live close to those with whom we share deep associative bonds and familial/historical ties). To the contrary, the liberal tradition prides itself on allowing people space to pursue their own conceptions of the good without others’ (or the state’s) interference. Waldron says that in a liberal society individuals and groups need to be made to feel as if they belong regardless of their differences, and that their contributions and various identities are considered respected and meaningful (Waldron, 2000, p. 171).

John Rawls, the ultimate reference point for liberalism of the 20th century (and the key reference for Kymlicka as well), also believes that our society is composed of many separate and sometimes opposing comprehensive doctrines. His theory articulates a way to mediate between various parties and their diverse attitudes and worldviews, to found a concept of justice and a set of legal norms the people not only accept but are themselves the authors of. Rawls’s solution relies however on individuals being able to articulate through reason their beliefs and values, which has come under attack by the culturalists and the communitarians, including Kymlicka. These critics say that we cannot abstract from our identities, the notion that we can separate ourselves from our culture in order to defend our identity-based choices in rational discourse is an unrealistic one. Further, as Brian Barry warns, defining and defending “good reasons” to the majority culture may be steeped in power issues of domination and authority, which themselves are culturally shaped.

Take, for example, the issue faced in Canada, with the case of a Sikh gentleman, Mr. Baltej Singh Dhillon, who in 1990 became the first officer of the Royal Canadian Mounties allowed to wear a turban in place of the traditional Stetson hat. At the time, the multiculturalism debate was being pushed forward in Canada with authors such as Kymlicka leading the way. Yet, despite the intellectual debates on multiculturalism at the time, many “rational” arguments were given *against* Mr. Dhillon’s adaptation of the official Mountie costume, by detractors who did not adequately understand or take into consideration the importance of wearing a turban as a fundamental religious duty for a devout Sikh male. Pluralism or multiculturalism, through their lens, was mistakenly viewed as a threat to liberal equality, which was confusingly taken to mean equal treatment for all. However, as Kymlicka points out, *equal* treatment is often wrongly confused with *identical* treatment.

Indeed, as we have already mentioned, Rawls’s theory has the potential to go beyond its own conclusions, as Kymlicka also correctly identified. Rawls’s theory describes a “difference principle” whereby difference can be allowed so long as it will be invoked to better the position of the society’s most disadvantaged. In a way that Rawls did not himself propose, Kymlicka connects these sources of disadvantage to cultural ones. Kymlicka points out that the culturally disadvantaged sometimes require accommodation in order to feel accepted within the wider society, or to fully embrace the common shared identity, as in the case of Mr. Dhillon, who clearly was embracing one of Canada’s most revered symbols, in becoming a Mountie, yet doing so on terms which did not conflict with his own worldview.

Yet, I believe for those liberals who would say that Rawls would be in disagreement on the acceptability of Mr. Dhillon wearing a turban have a serious misreading of Rawls. Indeed, it seems to the contrary that this particular case is in fact a great example of why Rawls’s theory does provide us with at least a starting basis for our living together in the world. The “overlapping consensus” which Rawls speaks of can be understood as the point of agreement wherein we bring our various worldviews into harmony – in the case of Mr. Dhillon, situated in the act of wearing the turban alongside the traditional Mountie uniform. At bottom, we are all rational beings, capable of at least describing and explaining to others why the things we hold dear are of value to us. Indeed, this step of “rationalizing”/describing our point of view is an essential step for the meeting of cultures, and indeed the introspection and development of culture itself. Once we accept that others see the world differently (which again, I believe is a fundamental premise of liberalism) then the point of our living side by side together is to look for those “meeting points”, the intersections of agreement from which we can build our common laws and society. When I truly understand and accept that others have different comprehensive doctrines, and I can accept that my own is not universal and hence cannot be seen as authoritative over them, then I open myself to the world, allow myself the possibility to live side by side – not only with others – but also with their multiple viewpoints. I thereby invite the possibility for my own viewpoint to alter with time, as I discover the difference internal to myself, from both within and without.

In a similar vein to what I am arguing, Habermas says with respect to the Sikh headdress, it is “not a question of a mysterious ‘conversion of the universal into a particular’; instead, it is a trivial case of a basic right [religious freedom] taking priority over an ordinary law or public-safety regulation” (Habermas J. , 2005, pp. 14-15). Through multilevel governance we have varied obligations says Habermas. We of course have different obligations towards our community than we do towards strangers; nevertheless, we must have first of all commitment to a shared life, and secondly a commitment to upholding basic human rights for all. It is through the law that “solidarity among strangers” is attained (Habermas, 2000, p. 524; see also Habermas, 2006, p. 85).

The difference between Habermas and Kymlicka goes back to their views on the human person and the different conclusions drawn from this. While Habermas also spurns the idea of the unencumbered self of the Rawlsian “original position”, he differs from Kymlicka and the communitarians in his key insight into the “intersubjective constitution of the self and the evolution of self-identity through communicative interaction” (Benhabib, 1992, p. 42). Habermas makes an even stronger defence of Kantian deontology than Rawls, in asserting that with the fall of teleological views with the birth of modernity, ethics must be deontological with justice coming to the fore (Benhabib, 1992, p. 43). But our intersubjectivity plays an important role in our decisions on justice, as “justice is the social virtue par excellence” (as cited in Benhabib, 1992, pp. 43-4) and thus our understanding of ourselves, of others, and of the Right, are deeply connected.

Kymlicka’s concept of the human person however, does not speak at all about intersubjectivity in the way that Habermas does, which I believe is a key insight needed in his theory. While the self for Kymlicka is ultimately alterable, its linkage to a discrete societal culture makes it somehow contained nevertheless within a bounded horizon.

Instead of focusing on group boundaries as Kymlicka does, Iris Marion Young suggests that the relations *between* various groups is a more fruitful starting point. Beyond essentialism and categorization, it is more important for us to consider the context and the perception of groups than determining its “intrinsic” characteristics (Young, 1995, p. 159). Groups should not be considered as discrete units, “every group has differences cutting across it” (Young, 1990, p. 273). Our imagined communities are precisely such – *imagined*. This means that the “group” is not a “purely present reality” (Young, 1995, p. 159), but is instead, as much a creation and result of the viewer describing it, and therefore subject to shifts in context and perspective. As Young says, groups only exist in relation to others as an experience of difference, not out of their own essential nature (1995, p. 161). To reach a state whereby these differences are accepted, in Young’s words, “political togetherness in difference” (1995, p. 157), former models of assimilation and homogenization should be dropped and instead a new approach to groups should be embraced. This means that groups should not be considered in substantive essentialist terms, but as being “constituted in relation to one another and thus as shifting their attributes and needs in accordance with what relations are salient” says Young (1995, p. 157)..

What are elements of Young’s "relational conception of group difference"? (1995, p. 165) In Arendtian fashion, what is primarily needed is a vibrant public forum that enables the heterogeneous public to resolve their differences and to overcome privilege and oppression by giving fair representation to the marginalized (Young, 1995, p. 157). While Kymlicka does emphasize giving representation rights to the marginalized, “the marginalized” of which he speaks are unfortunately limited to very concrete, specific set of terms that excludes many forms of wider marginalization amongst societies and which takes for granted the unity and tangibility of national groups. He neglects, for example, many other salient points in Young’s solution, such as the need for an inclusive and heterogeneous public space. For Young, defining groups “as Other” is a denial of heterogeneity. It is a denial of difference within groups and “reduces member of the group to a set of common attributes” (Young, 1995, p. 159). Yet, this would seem to be precisely the sort of reductionist approach that undergirds communitarian thinking and similarly the concept of societal cultures.

#### Identity as Sites of Overlapping Contestation and Movement

We simply cannot isolate ethnicity from other spheres of identity. We must look at various levels of oppression and how they overlap. The situations of minorities are gendered for example. Women are often oppressed in minority groups and suffer both the burden of their minority cultural status in addition to a further burden of being prejudiced against on the basis of being women. As Judith Butler writes,

Gender intersects with class, ethnic, sexual, and regional modalities of discursively constituted identities. As a result, it becomes impossible to separate out “gender” from the political and cultural intersections in which it is invariably produced and maintained (2003, p. 31).

Further, women cannot be lumped together into a single group. As Medina writes, women of colour have been unable to related to the “unitary subject postulated by feminist theory”, and calls feminists to realize that issues of gender cannot be detached from class, ethnicity, and racial oppression (2003, p. 666). Bannerji also powerfully affirms, “denial of difference within ethnic communities silences women, socialists, gays and lesbians and other ‘others’ as culturally inauthentic and deviant” (2003, p. 37).

We cannot assume that national identity is *the* umbrella identity that subsumes all of our other identities leaving us with a level playground. This is dismissive of the fact that national identity itself is gendered, racial and class-based. The more one deviates from the normatively imposed national identity, the more marginalized and excluded one is. There are many inter-ethnic tensions in Canadian society and these are not limited to an English-French dichotomy, or a Canadian-Indigenous or Quebecois-Indigenous one either for that matter. There are systemic patterns of discrimination across all societies, many of which are perpetrated by the nation-state model. We need to examine these patterns of discrimination and oppression and respond to them equitably. Indigenous peoples are often at the bottom of the ladder of development, if only for this reason alone, we must seek to redress their inequitable situation. That means dialogue with the indigenous peoples, encouraging bottom-up mobilisation to change their current conditions.

Particularly, we have to examine the role of women in fostering social change and welfare. If minorities are disempowered socially and economically, then minority women are at the bottom range of the scale. The intersection of gender and ethnicity points out core groups which in and of themselves need to be acknowledged. We cannot isolate ethnic group oppression from other spheres of social identity. The interplay of gender and ethnicity can have a significant impact on the outcome of our group rights and attempts to provide lasting equality.

Lisa Wedeen, an expert in comparative politics, aims to avoid outdated essentialism through examining culture from the prism of dynamism: focusing on cross-fertilization of semiotic practices within historical movements and changing power relations (Wedeen, 2002, p. 714). Wedeen sees symbols (in text, practices, and images) as sites of contestation and examines the fragility, diversity, ambiguities, and even resistance to prevailing norms. She says that to avoid cultural essentialism, we must look at culture in a new light, and identity the “ongoing processes by which ongoing practices and systems of meaning change, are sites of political struggle, and generate multiple significations within social groups” (2002, p. 716). Similarly, Niels Nørgaard Kristensen, in his study on political empowerment in Danish society, concludes that,

In a modern world it apparently is not necessary for the individual to identify with a certain community, a certain group or with a certain set of preferences [nor] can this be said to be [a] determinant for the individual’s understanding of power or identity. We identify ourselves with many different groups. While solidarity has not disappeared, it is no longer exclusively associated with specific groups or to a shared ‘we’ (2005, p. 61).

The evidence found in Kristensen’s study, that we have multiple identifications and no longer form our lives according to “monological” group narratives (Kristensen, 2005, p. 61), indeed runs counter one of the key assumptions underlying Kymlicka’s theory, that “our capacity to form and revise a conception of the good is intimately tied to our membership in a culture” (1992, p. 140). Moving beyond this limited notion, minority rights must be grounded in a more discriminating political conception that understands the multiplicity and dialectical nature of our identity.

Our identity is formed from overlapping social spheres of varying importance, each taking a claim on us (Parekh, 1999, p. 310). Jacob T. Levy in “Multiculturalism of Fear” says that culture properly understood does not run in concentric circles, but overlapping ones; “between family and humanity there are any number of imagined communities to which we belong” (2000a, p. 122). [[154]](#footnote-154) As Edward Said famously wrote: “No one today is purely one thing,” he continues,

Labels like Indian, or woman, or Muslim, or American are not more than starting-points, which if followed into actual experience for only a moment are quickly left behind. Imperialism consolidated the mixture of cultures and identities on a global scale. But its worse and most paradoxical gift was to allow people to believe they were only, mainly, exclusively, White, or Black, or Western, or Oriental. Just as human beings make their own history, they also make their cultures and ethnic identities. No one can deny the persisting continuities of long traditions, sustained habitations, national languages and cultural geographies, but there seems no reason except fear and prejudice to keep insisting on their separation and distinctiveness, as if that was all human life was about (Said, 1994, pp. 407-408).

As Said says, we are many things together and our human existence is defined by much more than what separates us. Indeed, history shows that the greatest cultural vistas of humanity have been found, not in stable and historically continuous communities, but along caravan routes and silk roads where cultural boundaries were overcome and cultural blending led to discoveries and great intellectual renaissances.

To focus exclusively on labels and categories misses a big part of the greater picture. We form our identity in relation to others. This of course is not to negate the importance of national feelings, but it does negate prioritising any one form of identity over others, particularly if that form of identity – such as nationalism – has a distinct tendency to silence other spheres of identity and to type people under certain labels.

#### Fostering Cross-group Solidarity

Instead of focusing on what makes us stand apart, we must look to the shared waters of a single lonely planet. Finding ways to bridge diverse peoples is not a new idea; indeed, it echoes throughout the long corridors of the history of liberalism. Kant and Hobbes both encouraged us to find ways of living side by with those who are different from us. For Arendt, (as for Habermas and Young), an active and inclusive public space is the key to holding diverse peoples together. Rawls took this to a new level with his shared conception of justice, and newer authors like Slaughter and Connolly move the discussion to a new place with their discussion of cross-state / transgovernmental citizen networks. The question is, does Kymlicka’s theory remain faithful to Rawls’ vision, and can he go further?

One major issue with Kymlicka’s theory is that through its separation of rights according to group membership it undermines cross-group solidarity. Moving beyond the nation to secure safe access to waters for all, we need to look past what divides and build bridges, to form what have been dubbed “rainbow coalitions”. As John Joseph Borrows says, national rights run the risk of focusing “on autonomy to the exclusion of interdependence” (Borrows, 2000, p. 338). Kymlicka himself questions the sources of unity in a multi-nation state. He provides the example of Switzerland as a good example of a multi-nation state that overrides division and has come to see themselves with a strong sense of unity. However, the identity of Switzerland as three separate nations is itself questionable (Stojanovic, 2003).

Further, Kymlicka himself acknowledges that there is more of a tendency towards strife in multi-nation states than unity, as seen in places such as Lebanon and Yugoslavia, or another example (which he cites often as a good example of minority nationalism rights at work) the near collapse of the Belgian government over several decades due to internal national divisions (Kymlicka, 1998c, p. 180). Kymlicka admits that multi-nation federations are prone to conflict and that “competing nationalisms” become an inevitable “source of deep tensions and conflicts” (Kymlikca & Raviot, 1997, p. 43). Indeed, his conclusions about the fate of multination societies should give us pause when considering the efficacy of a theory advocating precisely such states.

Everything we know about multinational federations suggests that they are, and will remain, deeply divided societies, which are never going to achieve the level of social and political unity characteristic of countries with a single, shared national identity. Effective leadership can help to manage certain conflicts for a period of time, but the underlying conflicts are *endemic and enduring* (Kymlikca & Raviot, 1997, p. 43) (italics mine).

In other words, Kymlicka himself acknowledges the difficult tensions embedded in his own solution of remedial national rights: divisions exist and they will be enduring. His solution, rather than trying to look beyond divisions and find a way for those divided to still share the planet together is to define those divisions further by institutionalizing culture and attaching rights to group membership, thickening the lines drawn between peoples. Yet such a theory, to be effective, must at the very least begin to look at how those different groups can operate and live in peace together.

What becomes important then is not to focus on the boundaries between cultures and how to preserve them but to shift focus on the relationships between them. Not on defining boundaries but on creating channels of respect. To open spaces for meeting and for learning about each other and ultimately our selves. In “The Souls of Black Folk”, W. E. B. Du Bois remarks on the so-called “Negro Problem”, Du Bois explains that the sort of thinking which labels the Negro as a problem can be likened to a veil. Those living under the veil, are opaque to those on the outside, understood only through filters and oppositions. The resolution to this problem is to “pierce” and eventually “lift” the veil (Du Bois, as cited in Medina, 2003, p. 676). Recognition is about restoring the balance, or forming it in cases where there never was a balance. As Beiner says,

The issue here is not whether every nationalist movement will turn into a Rwanda-style bloodbath or a Yugoslav-style free-for-all of ethnocentric hatred. The issue is whether it is morally and politically attractive to give political priority (as nationalists do) to questions of national sovereignty and cultural self-affirmation (1999, p. 13).

Beiner asks us: what are the political consequences of national rights? Is it theoretically sound to prioritize culture and national rights above other forms of belonging, or above liberalism itself – if the two are faced at odds with one another? Division into separate group memberships (“distinct societies”, or “societal cultures”) is simply not a practical reality in today’s world, if it ever has been. The Quebecois and the Ojibwa will continue to live side by side, no matter how we draw the borders around them; despite the fact that they do not feel a shared identity, *they still share the same waters*. The question that is important is not how to sustain solidarity with one’s nation and nurture national identities, but rather, how do different groups who value differently learn how to share the same waters. How can justice and fairness be done to each group, without one monopolising the waters to the exclusion of others? While such questions inevitably have much to do with values and identities, the identities are not the key to be promoted; instead, it is the identities and differing values that have to be mediated.

#### De-normalize to Create Conditions of Plurality

Kymlicka’s solution to oppression and privilege is to provide special compensation to the minority group, taken as enduring measures. Young differs on this point entirely. Instead of providing “special compensation to the deviant until they achieve normality,” the institutions themselves need to be “denormalized” and plurality created within them (Young, 1998, p. 286). Kymlicka himself however, does not dwell long on questioning the institutions themselves, or on the specifically nationalist and monoculturalist drives that have helped shaped them. Instead of challenging the dominant metanarrative and seeking to make this more inclusive, Kymlicka sees the need for minority nations to engage in their own systematic nation-building efforts to ensure the diffusion of their own metanarrative over their society. As Kymlicka says:

The minority must also engage in its own *competing form of modern, state-sponsored nation-building*. Nationalists [in minority nations]…must use the same tools that the majority nation uses in its *program of nation-building.* (1998a, pp. 194-5)(italics mine).

The important question is how to make the societal culture itself less static and more open, dynamic, less ethnic, and less “White and Anglo.” This in itself is a critical point, for which Kymlicka later is dragged into murky waters by his ready acceptance of the national system by stating that *even English Canada would be better off if it became more “nationalistic” and Anglo*. Far from advocating a theory of multiculturalism, his theory at this point takes a dive into advocating monocultures sitting complacently side by side (or as Bannerji might put it, maintaining the “hegemonic nature of the dominant culture – elite European/white” (2003, p. 36)). While in a theoretical world this might suffice, add a touch of realism to the mix (money, power, and land) and Kymlicka’s theory can lead us perilously towards “otherness” and exclusion.

Instead of focusing on ways of making our governments more culture specific and breaking them down into smaller subunits based on these fragmented national cultures, another solution is to try to find ways of deconstructing the overall political framework. We should acknowledge the difference between a country which is firmly committed to the ethnicity of its members vs. an immigrant country such as Canada which has ethnically neutral symbols (such as the maple leaf). Perhaps the dominant Canadian social narrative is still overwhelmingly White, Male, Anglo and heterosexual; but if it is, then this is to the detriment of the great majority of its inhabitants who do not fall under these categories (including women and other marginalized groups beyond just ethnic minorities).

In following the works of Marion Young, it is not enough to merely give groups representation rights, but we need to try to re-establish the main *political order* in a way that is more representative of the total society, to turn it into a framework that is capable of accepting and hearing all the multifarious voices which compose it, and for providing a much needed forum for these different perspectives and peoples to call each other to justice and to build a mainstream space for tolerance.

Alice Feldman, who has done extensive studies on indigenous hearings in the US Congress and found overwhelmingly “insurmountable and sometimes pathological” barriers to hearing the indigenous perspectives in the legislative process (Feldman, 2000, p. 560), proposes that this prevailing “anti-dialogics” can be challenged through critical pedagogy, involving both sides (insider and outsider) in creating critical social change (Feldman, 2000, pp. 574-5). Feminist author Sherene Razack also speaks about how one of the most difficult aspects of group rights is that it is often hard for the dominant group to fully witness the oppression of the minority group. Caring about rights, she says, must begin first with learning to shift our perceptions and *seeing* (Razack, 1994, p. 7).

Habermas, similar to Rawls, says that when we live in a society of others we need to be able to explain the basis of our beliefs in a reasoned way that others who do not share those beliefs can accept. Benhabib eloquently captures the theory of Habermas, and says that in modernity we can no longer speak of a common good, instead:

We have to conceive of the faculty of reason not in the image of a homogenous, transparent glass sphere into which we can fit all our cognitive and value commitments but more as bits and pieces of dispersed crystals whose contours shine out from under the rubble. (Benhabib, 1992, p. 48)[[155]](#footnote-155)

Habermas says that the just political system should be inclusive of all groups, and give recognition to group identities, affirmative rights may be needed to redress group-based oppression. For O’Neill, as with these other above-mentioned authors, this entails the need for an inclusive public space separated from our social groups. The public space offers members equal citizenship and an equal voice, and is “inclusive of all significant groups”, without privileging a dominant cultural group above them (O'Neill, 2003, p. 227).

As Simone Chambers says, its “voices [not] votes” that count. (Kymlicka & Norman, 2000, p. 9). Chambers speaks also about a “conception of public reasonableness” which is not only a mirror of the dominant culture but instead is reflective and also accessible to all of the various groups that compose the society. Chambers defends Canadian society and sees Canada’s open cultural environment as a strength and a sign of its “commitment to rights and recognition” (2000, pp. 64-5). The clearest symbol of this, says Chambers, is the continuing inability of Canada to ratify its constitution. For Chambers, the failure to ratify this document is not a failure in itself; instead, it is a sign of Canada’s own diversity and its “ongoing conversation” which continues over the years to accommodate “new voices and new claims” and to bring accountability to all of its citizens (Chambers, 2000, pp. 64-5). James Tully agrees on this point and echoes Chambers in saying that contrary to “consensus on forms of recognition” we need to “aim to place the free and self-determining activity of struggling over recognition within a continuous process of discussion” (Tully, 2001, p. 29). Such “struggles” are important because they ensure plurality of expression and an openness (non-definitive) towards future accommodation. Tully warns that any “definitive” rapprochement on the other hand, should be held “with suspicion, as the voice of anti-democratic domination” (Tully, 2001, p. 30).

#### Peace and Power-sharing

The classic study of minorities, Gurr et. al *Minorities at Risk*, of which Kymlicka is himself a contributing author, the authors of the book conclude that ethnic conflict is best managed by power-sharing arrangements and by granting minorities a degree of autonomy (Gurr, Harff, & Marshall, 1993). Sean Byrne, in his studies on the peace process in Ireland also reaches this conclusion, prior to 1985 all four attempts at peace had failed, it was only when a shift towards power-sharing and recognition was introduced that the negotiations were successful (Byrne, 2001). Kymlicka helps us to understand power-sharing, but leads us in to frame it in cultural terms instead of looking at sovereignty more squarely as a purely political phenomenon. Byrne, in his article on peace-making in Ireland, states that prior to 1985 there had been four attempts at peace which all failed. Since that time, peace became possible because of two central elements: recognition and inclusiveness.

Instead of focusing on giving national groups separate rights and maintaining a status quo that reinforces such national and cultural boundaries, a healthier standpoint would be to look at how we can mediate conflicts of interests between groups. Pursuance of our cultural preferences cannot be done with disregard for others. When two groups encounter a conflict of interest, the preconditions for negotiating such evaluative claims are mutual recognition and understanding. This is especially true in the case where peace and coexistence are the end goals of ethnically riven populations; equal respect must come first. As Habermas says, it is more important than other’s valuing your culture equally with their own (which is an untenable demand), what is needed most by diverse groups living together is to have their right to culture equally respected (1994, pp. 129-30).

Ultimately, culture is one thing, but the right to live and to sleep in peace is another. Sometimes the choice between peace or economic and social parity may come at the expense of culture and the survival of the social group. What then?

Survival of the group is something Kymlicka does not support unconditionally in the way that he claims the communitarians do[[156]](#footnote-156). The group has a right to survive so long as the group decides it is worthwhile surviving; its survival is not to be limited from those outside the group but is only subject to continuance based on the vision of its internal members. But what if, as is often the case in conflict situations or deeply divided nations, the majority group in question also feels that its survival is at stake? Their decreasing numbers, occurring perhaps due to a lower birthrate, lower immigration rate, high assimilation (to other national group/cultures) threatens the right of the group members to exist into the foreseeable future? In reifying culture in national terms, may Kymlicka inadvertently have opened the door for existential excuses for any number of illiberalisms in the name of group survival.

While collective privileges according to Kymlicka’s theory are only be given if they redress an imbalance and provide equitable recognition for a disadvantaged group, in practice it becomes difficult to draw such lines. Access to state power encapsulated in a national/cultural framework runs the risk of just the opposite, entrenching hierarchies of power and forms of control and domination of one particular cultural group over another. The crisis of minorities is not a crisis of values. On the eclipse of Huntington’s catastrophic prophesy of the doomed clash of cultures, the quandaries presented by minorities does not represent a clash of values, or of cultures, but a clash of interests – economic, military, political, and perhaps cultural interests, but not due to a lack of capacity for these cultures to coexist, but often from *a lack of interest* for them to do so.

#### Sovereignty as Relational and Non-Domination

As Rainer Forst powerfully says a “critical theory of justice” must begin with “the fact of multiple domination…one can say therefore that the question of power is the first question of justice” (2001, p. 167). Iris Marion Young has developed one of the most compelling cases for reinterpreting sovereignty as non-domination (Young, 2005), and the one which I believe offers the most insight into how to redress imbalances between groups and move forward the theory of Kymlicka. For Young, conceptualizing sovereignty as non-domination starts from the fact of the multiple spheres of oppression and injustice that determine the outcomes of our societies. While Kymlicka primarily conceives claims for sovereignty (or minority national rights) in terms of pre-existing national cultures that have dominion over large swathes of bounded contiguous land (as in the case of the Quebecois for example), taking a point of view that combines both feminist and neo-Republican[[157]](#footnote-157) theory, Young says that this is an unrealistic starting point to think about the majority of group claims worldwide (Young, 2007, p. 46). The majority of people who demand sovereignty often live across non-contiguous land, deeply enmeshed within another opposing group. The history between the two groups is often marked by large disparities in power and oppression of the weaker group. This is reflected, says Young, in the situation of the majority of indigenous peoples worldwide, which contrary to the theory of Kymlicka, Young takes as her starting point and the model upon which she bases her theory of sovereignty (Young, 2007, p. 44).

Young rightly says that indigenous forms of sovereignty are quite different from Westphalian sovereignty (which closely matches the national minority rights of Kymlicka). Westphalian sovereignty, as we have already touched on earlier in this Chapter, primarily conceives of sovereignty as non-interference. Indigenous sovereignty on the other hand, looks not to the isolation of groups, but to their relatedness to the whole – not only to other groups, but also (addressing a gaping hole in western normative theory), a critical interconnectedness with nature and the earth as well (Clarke & Whitt, 2007, p. 19). This is really a more realistic look at how groups really exist side-by-side or together in the world. As David Kahane says, “the contours of any particular cultural identity are developed through interaction and struggles between groups” (Kahane, 2004, p. 37). The principle of non-interference says Young, is simply inadequate in addressing the bigger issues of power relations at the root of divided populations and demands for sovereignty. Further, it radically undermines the fact of our “being-together-in-difference”, that even communities that do have clear borders separating them – still *share* a border (Young, 2005). Focus too much on borders and we forget that there are also many bridges, and that the various groups and allegiances that exist in our societies are created from and beside one another, not in a vacuum.

In most cases, the borders that do divide are porous and populations on either side are to some degree mixed. Decisions taken within one side often have implications for those living on the other side. Young provides the example of the Skull Valley Band of Goshutes who wanted to lease some of their land bordering the state of Utah for dumping nuclear waste (Young, 2007, p. 54). Since the location of nuclear waste near the border would have implications for the health and well-being of people within Utah, the decision to lease the land is one, Young argues, that needed to involve both stakeholders. Sovereignty, rather than seeing groups in isolation to one another, as the principle of non-interference tends to do, requires instead a relational approach, a form of mutual responsibility or shared-sovereignty. Further, non-interference is linked to the mistaken concept of autarky, but this is simply unrealistic says Young. Groups are never in isolation – economically or socially – but are always formed jointly and have obligations to one another.

The second aspect of Young’s concept of sovereignty is that it should be primarily considered as *non-domination* as opposed to merely non-interference. What exactly is the difference between the two? Young says that sovereignty can be construed as non-interference in a way that still marginalizes groups, making them weaker parties against an oppressor that dominates them culturally and economically. Non-interference does not guarantee that the more vulnerable group will in fact be protected from the domination of the larger one. Kymlicka’s theory, which does not address such power issues, looks at the principle of non-interference strictly through the lens of autonomy and choices for the minority group, but offers no way to conceive of balancing powers between the two groups, or for how and when the majority group can interfere if those choices among members are being restricted. Young’s insistence on non-domination, I believe, gives Kymlicka’s theory this missing link and a helpful approach to keep some of the core issues of group iniquities in focus. Further, Young says, in a way that really captures the (healthy) plurality of indigenous societies in particular, and of all societies more generally,

Extending political theoretical concepts of individual freedom to a people appears to reify or personify a social aggregate as a unity with a set of common interests, agency, and a will of its own. In fact, however, no such unified entity exists. Any tribe, city, nation, or other designated group is a collection of individuals with diverse interests and affinities, prone to disagreements and internal conflicts.

Young says that Indigenous demands, rather than non-interference and institutional separateness, “are better understood as a quest for an institutional context of nondomination” (Young, 2007, p. 50). Many indigenous peoples still suffer from disenfranchisement and colonization; these are not mere historical legacies but unfortunate living ones that could be otherwise. Self-determination as non-domination means that sovereignty rights must be tied to empowering the weaker party and preventing domination by the other group through creation of a public forum based on mutual respect for resolving their conflicts, sometimes involving a third-party who is less involved in the dispute, as well as supporting weaker units to a point where they can not only pursue their lives meaningfully but also negotiate with other “self-determining units” on a more even-footing. (Young, 2007, p. 66) Under such conditions, Young hopes that divided communities can create enabling conditions for justice and human agency and ultimately remove themselves from the cycle of violence.

Jacob T. Levy, in the paper “Self-determination, Non-domination and Federalism” (2008) disputes Young’s dismissal of the concept of non-interference. Levy says that the concept of non-interference is an important one that should not be so easily disregarded, because it establishes in the rule of law who has the authority or primacy in making decisions. Looking towards the practical implementation of Young’s theory, he says that involving the two contesting groups in a process of debates over every step which the minority group takes would we debilitating, leading to long and protracted (and perhaps irresolvable) court cases. Non-interference however, establishes first the right of priority in the decision-making, if an self-determined group is given right of non-interference in their affairs, this affirms that they can first act without being, perhaps intentionally, delayed by the another group from acting. He says that this does not negate Young’s need for viewing both groups in relational terms, or her demand for creating open channels of communication and negotiation. Once the initial rights have been allocated then the other side can “persuade” the acting side to abandon their project if they so desire. Yet, Levy’s argument can easily work against him as well, and I believe Young would take issue with it. Non-interference (on matters of import for both groups) may allow the acting group the time to create “facts on the ground”, to start projects which might negatively hinder the other group before they can even raise objections, and from which it becomes immensely harder to retreat once they have been established. Levy and Young do express a common concern however, that the arbitration of decision-making should be done with a view to decreasing patterns of domination and Levy says that Young is perfectly correct in setting non-domination as an evaluative criteria for judgement (Levy, 2008, p. 72).

The challenge for Kymlicka, and other post-Rawlsian philosophers, summed up nicely by Bader and Engelen, is to “take the pluralism of our moral universe, the multi-layeredness of our social reality, the indeterminancy of our normative principles and the complexity of our practical reasoning seriously” (Bader & Engelen, 2003, p. 375). Does Kymlicka help us to get there? Well, somehow. Kymlicka gives us our first step forward. For Kymlicka and Norman, multi-ethnic societies need the values and institutions of democratic citizenship as much as “mono-ethnic” ones do[[158]](#footnote-158), in many respects the greater the diversity, the greater the need for “public reasonableness, mutual respect, critical attitudes towards government, tolerance, willingness to participate in politics, forums for shared political deliberation, and solidarity” (Kymlicka & Norman, 2000, p. 11). However, by framing his theory in discrete “societal cultures” Kymlicka focuses more on cultural separation than togetherness.

MacMullan says that we must, “appall people into action,” open their eyes to how their prejudices affect the other (MacMullan, 2005). We must move beyond blame, and see how the futures of all peoples are inherently tied together. We live on a small planet, and we must share the same limited resources. National stories have the problem that they focus far too often on the role of the “victim”. But as Taylor contends, so long as the stance of the victim is held, no true reconciliation can occur, no true meeting of the Other can take place (1998b, p. 155). Nationalist struggles are often fuelled by drive for dominance – economic, societal, and symbolic. When we begin to see minority rights as a way of conversely building bridges, we can take the next step forward towards embedding minority rights in conflict resolution and facilitating coexistence. Rights and recognition can provide the security and dignity that allow peaceful coexistence to be possible, whereas abrogation of such rights and recognition only leads to downward spiral of domination and abjection.

## Chapter 8Multicultural Citizenship Redefined

This book began with a number of seemingly intractable questions:

* + *How do we accord appropriate recognition to minorities?*
	+ *Where do we draw the line between culture and human rights?*
	+ *How do we avoid imposing our own conceptions of the good?*
	+ *How do we include the manifold voices of the oppressed without institutional chaos?*
	+ *How do we achieve unity without being the same?*

Will Kymlicka, the main author under consideration in this book, has devoted his life’s work to answering the above. It was the task of this book to analyse his work, and to evaluate whether the answers he developed were adequate to address group rights within the framework of liberalism, and whether his suggestions strengthened or conversely posed a challenge to liberalism itself. In this final chapter, I will summarize what I consider to be Kymlicka’s main achievements, highlight the areas of his theory in need of strengthening, and then propose adjustments to bring his theory closer in line with his own intended results (the profusion of multicultural and multinational societies) within the context of the changing geopolitical realities of the 21st century.

### Kymlicka’s Key Contributions

Without a doubt, Kymlicka has taken on a monumental task. Unwilling to forsake liberalism, yet dissatisfied with liberal neglect of culture, Kymlicka sought to find a way to explain the persistence of national identities in the world today, and their increasing emergence and demands for recognition worldwide. To his credit, he has given modern liberals a way of thinking about difference, and a way of acknowledging the importance of culture and of cultural communities. Multiculturalism and group rights are becoming increasingly tied up with our notions of democracy and liberalism, much to the credit of authors such as Kymlicka. Indeed, Kymlicka was one of the first to make a systematic attempt to connect notions of multiculturalism/minority rights with citizenship and liberalism.

As Caren’s says of *Multicultural Citizenship*, “one of the virtues of Kymlicka’s book is that it provides the materials for a more satisfactory position than the one he himself adopts. The key to this is to adopt a more flexible, open-ended view of culture and of why it matters morally” (Carens, 1997, p. 44). Kymlicka himself in recent years has attempted to broaden the scope of his theory. I find that Kymlicka’s first book, *Liberalism, Community and Culture* (1989) was his most philosophically interesting one, the one that spawned the great debate about multiculturalism, which at the time was really a turning point in discussions about minority rights. In this book, very importantly, he asks the right questions and is open to exploring in many ways the limits and potential of the intersections of group rights and identity. In the books that follow, I find there is a narrowing of this philosophical inquiry, as Kymlicka focuses on developing and justifying his theory in face of his critics. It is, of course, a theory which due to its theoretical elegance has really stood strong on its own against its critics, and as I mentioned previously, scarcely an author today can work on the topic of group rights without at least touching on his theory. In later years, Kymlicka has tried to expand the range and application of his theory through editing books focusing on other regions beyond the Canada/Quebec example, from eastern Europe, to Asia, to Africa, provoking ideas from around the globe on how liberalism (or illiberalism in some places) can sit comfortably with minority rights.

In the following concluding chapter, I will review what I believe to be Kymlicka’s key insights and then suggest how to expand on the important ideas captured in his theory.

 **Among Kymlicka’s key achievements are the following:**

#### Kymlicka has shown us why culture matters.

Kymlicka has given us a reason to protect culture. More than this, he has given us a *liberal* justification to protect culture. Building on the key insights of the communitarians, Kymlicka showed us how culture provides invaluable meaning to our lives. Holding a value greater than merely emotional affectations, Kymlicka shows us how our culture is a crucial tool for our ability to navigate the world and effectively speak and be heard within the social realm.

Culture, identity, and memories are of no small consequence; they are, says Kymlicka, the *fundamental cornerstones of human freedom*. For Kymlicka, freedom is always situated in a social context. Without a cultural heritage, we cannot be free. It is only from the meaningful world provided to us by our culture that we can make choices, without this heritage, the world around us would carry no meaning. Culture thereby provides us with a horizon of choice, indeed, is our *context* of choice. The deliberate privation of culture and the imposition of other dominant identities therefore mark a fundamental loss of human freedom and liberty.

Yet while culture is the ground for our freedom, it too says Kymlicka, like everything else, can change over time. As humans we have the ability to reflect and question our *a priori* assumptions. This alterability does not negate, however, the value culture holds for individual freedom cautions Kymlicka. Culture is the context for our choice, the basis of our human autonomy, and as such, it is one of the most valuable social goods in need of fair distribution. Kymlicka’s key insight is that that minority rights are not meant to protect the community but to protect the individuals who compose the community. In other words, culture must be valued only insofar as it belongs to the realm of human choice, not the other way around.

#### He has shown us why difference is important to liberalism.

Kymlicka tells us that “minority rights are not only consistent with individual freedom, but can actually promote it” (1995, p. 74). In tying our human autonomy to culture, Kymlicka has shown us why difference is indeed inseparable from liberalism. He has salvaged liberalism from its detractors, who argued that liberalism was incapable of dealing with pluralism, and was hence becoming increasingly ineffective in light of our ever greater pluralistic societies. Kymlicka not only theoretically blended liberalism and culture in his own theory, but he pointed out precedents for the successful marriage of the two throughout the history of the liberal tradition and described the reasons why difference and group rights ultimately came to be shunned by liberal theorists by linking theory to concrete stages in history which strongly influenced this perception.

What is most important about Kymlicka’s work is that he shows us how difference is essential to the liberal project. Difference is an integral part of all human communities, living in and between our communities. As human beings we are cultural beings, richly diverse, with different sources of meaning and widely differing life projects. The challenge for any liberal democracy is to treat all members of the society as equals, equally entitled to respect, to their unique voices, and to their own conceptions of the good. This is only possible, if we can promote the diversity of our liberal democracies. According to Kymlicka, this means that sometimes we need to provide group rights to raise minorities to a level of equality with the majority, and also by making our systems more inclusive and fair.

Kymlicka’s theory shows us that we can have equal but different voices, equality does not mean that we are all to be treated *the same*, but instead, means that we are treated with the *same dignity*. But, for Kymlicka, this is to be embedded into a common vision of well-being for all members of the community into the future. In other words, the only common vision expected of members of the polity is the mutual welfare of all (Young, 1990).

Reinforcing the work of other scholars in the politics of recognition, Kymlicka not only showed us why culture is important to us, but also the need for us to give recognition to the existence of the other, to name it (or rather allow it to name itself), and to try to raise it to a status of equality – not just individual equality, but also the need for equality between groups. In doing so, Kymlicka underscored one of the key lessons from his writings: that different can be equal, and that sometimes – in order to reach equality, difference is needed.

Kymlicka attempts to secure this equality between groups while maintaining his commitment to liberalism, through making his distinction between Internal and External restrictions, allowing groups to inwardly change on the one hand, while at the same time protecting them from unwanted outside intervention which could be destructive to the continuity of a fragile group. External impositions on the group are allowed, to give the group the breathing room to grow and develop at its own pace. Internal restrictions however are disallowed on the basis that it would be unjust for the group itself to impose restrictions upon its members, since the group – and the cultural values it carries forward – need to be adaptable and subject to individual choice and overall change. While I have problematized the distinction between Internal and External restrictions in this book, Kymlicka’s commitment to showing us that equality does not always mean the same, is itself a correct point. His focus on non-interference as established through the internal/external separation may be the wrong focus, or it may conversely be a stepping-stone for further development and disaggregation of sovereignty.

#### He has shown us how our western systems are unrepresentative.

Kymlicka speaks about the ways that our systems in western democracies are considered “unrepresentative”,

Legislatures in most of these countries are dominated by middle-class, able-bodied, white men. A more representative process, it is said, would include members of ethnic and racial minorities, women, the poor, the disabled, etc. The under-representation of historically disadvantaged groups is a general phenomenon (1995, p. 32).

Although I believe he needs to develop this further in his own theory, Kymlicka has nevertheless brought to our attention they ways our supposedly “neutral” democratic systems in the west, have failed cultural minorities and are, in fact, largely still rooted in a particular set of norms stemming from a particular cultural tradition. He has shown us how “liberal” and “civic” concepts of justice have at times been used to oppress pluralism, and indeed he warns that human rights language rooted in universalistic conceptions too can pose a challenge for numerous minority groups worldwide.

Moreover, Kymlicka has pointed out to us, that there are significant segments of our society, who are ill-served by majoritarian rule, and that under such a system, large minority groups may find it a challenge to obtain the social goods their culture/group deems vitally important, because they may be at odds with majority preferences. Group rights are Kymlicka’s solution to this challenge.

Everyone wants to feel they have a voice and a say in their future. Kymlicka shows us the reasons why smaller cultures are concerned for their futures, and why preserving their language and heritage is more meaningful for them than to be subsumed into other larger cultural spheres. Vulnerable minority groups need to feel that their cultural context is secured. They tie the securing of their culture with greater rights and freedoms. How can smaller cultures ultimately be sustained against the tides of colonization and one-sided globalization, wherein dominant cultures excel and proliferate and smaller ones cling for survival? Particularly non-industrialised, indigenous populations who wish to retain pre-“modern” way of life? Do they have the right to reject outside influences? Do they have the right to reject influx of new people on their land? Kymlicka says yes.

As Kymlicka and Norman say, “Despite…long-standing mutual suspicions, it is increasingly recognized that any plausible or attractive political theory must attend to both the claims of ethnocultural minorities and the promotion of responsible democratic citizenship” (Kymlicka & Norman, 2000, p. 1). As a result, assimilatory, homogenous models are considered outdated, in addition to a pervasive feeling that our democracies are out of touch and unaccountable to large swathes of citizens, who increasingly voice their demands to be heard. It is important that minorities be involved in the process of state-formation. Since our political systems are generally majority concentrated, Kymlicka presses us to find ways to integrate minorities so that their input is also reflected in the growth and transformation of our political communities.

#### He has explained why national identity remains a potent force.

Kymlicka has provided an explanation for the seemingly irrational stance of rising minority groups claiming national rights across the globe. Against the trend towards lessening national importance in our lives and globalization, national minorities seem like an oddity in today’s ever more de-nationalized world. Yet, Kymlicka explains to us the reasons why national minorities remain a significant, if not a growing phenomenon worldwide: because national minorities were *unwillingly* brought under the national majority rule. Often through coercion, national minorities had previously existing “societal cultures” prior to the advent of the state, and were forced to live and be ruled by another cultural group. Forced into an undesired union, these groups were in most cases not even given rights to be represented politically. Through granting such representation rights, Kymlicka hopes to forge a middle path somewhere between secession and assimilation.

#### He has de-linked the nation from the state.

Kymlicka has decoupled the traditional nation-state connection and has advocated strongly for states worldwide to acknowledge their multi-national character and grant rights to national minority groups within the main state infrastructure. Believing that there are routes available other than full separation or secession, Kymlicka aims to promote the co-existence of multiple semi-independent yet united groups, within a single polity.

#### He has provided a theory of justice supporting group rights.

Recognizing the global nature of the rising demands by minorities, Kymlicka has taken on the difficult task of creating a generalized theory of liberal minority rights that could be applicable worldwide. While many critics have argued precisely against this sort of a theory and the difficulties for the terminology Kymlicka uses being understood and applied across different countries worldwide, nevertheless, his theoretical work and the definitions he has attempted to standardize have at least laid the conceptual groundwork that has supported a global dialogue on the topic of liberalism and minority rights, and prepared the way for its entry into codification in international law.

Indeed, since the time of Kymlicka’s first writing, numerous treatises on group rights and recognition have come into effect in international law.[[159]](#footnote-159) Not only have group rights and ethnicity been given more recognition due to authors like Kymlicka, but the nation state itself is becoming recontextualized and the link between “nation” and “state” is increasingly becoming severed. As Adorno bluntly expresses the fate of the nation-state, “in the age of international communication and supranational blocs, nationalism cannot really believe in itself anymore and must exaggerate itself to the extreme in order to persuade itself and others that it is still substantial” (2003, p. 32). Yet, the days of the exaggerated nation-state too are slowly fading as nationalism becomes increasingly inconsequential on the global stage.

### Areas of Consideration for Kymlicka

Indeed, with such strong theoretical achievements behind him, there is much positive to say about the contributions of Kymlicka’s theory. While Kymlicka’s theory is theoretically very elegant, when one begins to put theory into practice, it opens new perspectives. Many critics of Kymlicka voice that it is precisely his lack of first hand experience in dealing with minority conflicts worldwide that comes through in his writings. He “connects the dots” elegantly they argue, but ultimately, the theory itself is untenable, and if it is – then it is only within the very specific Canadian context for which Kymlicka sculpted its writing, and his version of “liberal pluralism” is not, in fact, exportable.

Certainly, there are areas in Kymlicka’s writings, where his own recommendations about implementation run counter to many of the key elements of his theoretical deductions and his insistence on liberalism. Even still, there is a current that runs thoughout his writing that is somehow inherently contradictory, as I have pointed out throughout this book, but most clearly in Chapter 6.

Yet, given the above-mentioned achievements, we should not easily forsake Kymlicka’s writings and their contributions to the debate on the state and status of minorities worldwide. What we can do however is examine how we can strengthen his theory, identify where the inconsistencies are (as this book has attempted to do), and then make recommendations, if possible, for how to overcome them.

The following summarizes the areas where Kymlicka’s theory encounters difficulties, so that we can look to how we can overcome them:

#### Overly categorical treatment of minorities

Kymlicka is trying to establish a theory that backs group rights within the context of liberal pluralistic societies. Yet, as a starting point, Kymlicka’s own treatment of social groups has itself been judged as overly categorical and hence unable to normatively represent the complexity of social groups themselves, or their interactions. Kymlicka’s theory divides (ethnic) minorities into three groups: Immigrants, Indigenous peoples, and National Minorities. Yet the distinction he draws between the definitions of the three groups runs the risk of slotting disadvantaged groups into moulds they do not fit, or would prefer not to be defined by. For example, take the Metis in Canada (the mixed offspring of the aboriginals and the French), would they need a separate nation to protect their cultural rights? Under which national category – Quebecois, or Native American, should they be considered?[[160]](#footnote-160). Further, there are highly significant minority groups for whom Kymlicka’s theory fails to represent, such as the African-American community. For a theory being developed in North America, Kymlicka’s omission in this respect and failure to address wider racial issues is glaring in light of it being a theory of multiculturalism and minority rights.

Moreover, the focus in Kymlicka’s theory ends up on considering these groups in very essentialist terms, with defined boundaries. Instead, a more helpful approach may be to follow Brubakers “Beyond Groupism”, and to focus not on groups themselves – that groups are not satisfactory units of analysis at all (in doing so, the tendency to see the group in monolithic terms often results), but instead to analyse how race, ethnicity, nation actually “work” (Brubaker, 2004a). Iris Marion Young says something along similar lines, that any group cannot be considered on its own, but only in relation to others, and that our identity itself is multi-layered and complex.

#### “Immigrants” misconstrued

One of the key groups that Kymlicka writes about after national minorities is that of immigrants. Yet this terminology, which Kymlicka uses quite extensively through his writings, is absolutely inadequate to capture the group he aims to discuss. This definition should be modified on a number of levels.

Firstly (resulting from his definition of societal cultures), Kymlicka says that any person who does not have access to a secure societal culture is at a disadvantage. And that immigrants, who have willingly chosen to leave their home nation and immerse themselves in a new language and new historical culture, are akin to living “a life of perpetual poverty”, because he warrants that without our home culture we are at a profound loss in this world. While next generation children will grow up more easily within the new societal culture, the original immigrant family has a very difficult time to adapt. While the difficulties in being uprooted from one’s home and adapting to a new culture may be partially true (particularly in the case of refugees where this is not a matter of choice but of circumstance), the case of immigrants seems to defy Kymlicka’s own case for the connection between liberalism and freedom, as immigrants often do thrive and contribute even politically and certainly with great success socially to the new cultures to which they belong, especially in Kymlicka’s own Canada. The success of these minority groups is attributable not to a strong Canadian nationalism (or if so, then to a completely non-ethnic and open definition of nation), but to Canada’s strong policies on multiculturalism.

Second, the “immigrants” Kymlicka primarily refers to in his writings are deep-seated communities who have been living in Canada since before its Confederation, and who have a sizable portion of the overall population. To label them indifferently as “immigrants” is a sleight to these communities and to their historic contributions to building Canada. The term “immigrants” similarly faces problems in other countries, where many such communities have also been rooted within surrounding majority cultures, sometimes for generations or even centuries (such as the Jews or the Roma in Europe), and is also an inadequate term of reference for people like the African-Americans who were forcibly brought into new lands through colonization.

Third, Kymlicka’s theory, despite its mention of “immigrants”, is largely dismissive of this topic on the whole, as the focus is on national minorities. Yet, while Kymlicka admits that immigrants are in an undesirable position without the security of their home societal culture, he does not mention any need to compensate these groups for lack of access to their culture in the way he does for national minorities, as he insists immigrants leave by choice – which is a simplistic view of global migration currents. If societal cultures are truly necessary for our freedom, as Kymlicka says they are, then it would seem that there should be more attention in his theory devoted towards addressing the needs of immigrants. I suggest however, that the answer lies only partially in Kymlicka’s need to devote attention to other (non-nationally defined) ethnic groups through revisiting his concept of societal culture itself and what it means for group identity and liberalism of culture.

#### Lack of indigenous voices

Contrary to immigrants, indigenous peoples are considered by Kymlicka to be “national minorities” and hence are able to access the minority group rights for which he is arguing. However, national minorities are a category Kymlicka subdivides into two: one being “sub-state nations” (such as the Quebecois) and the other indigenous peoples. Arguably, the bulk of Kymlicka’s theory is designed with the former in mind and not the latter. Even Kymlicka’s definition of those groups with a previously existing societal culture (those for whom minority group rights are applicable) seem entirely contrary to most indigenous bands/tribes, criteria such as: territorially contiguous, a single language, pre-existing societal institutions (media, uniform education system) to disseminate the societal culture. All of these describe sub-state nations very well, who themselves are in many cases also a product of the monocultural drive of western modernity/nationalism, but are hardly in keeping with the diversity of languages and cultures characteristic of indigenous groups. The western nationalist language in addition to the top-down institutional settings which Kymlicka recommends for addressing the needs of minority groups, do not match well with the needs of indigenous communities.

Kymlicka should also more strongly acknowledge the history of violence committed towards indigenous groups, and their continued oppression – not only culturally but also economically. Geoffrey B. Levy, who offers a more cautionary account on the status of indigenous bands in Australia, says that even if they were “resident aliens” or citizens in “trapped enclaves”, they would deserve better respect than most indigenous groups have received, for

Even such aliens have a right not to be exterminated, not to have their goods expropriated, not to have their children stolen away. And even such aliens would have a right to restitution or compensation for many of those past wrongs (Levy, 2000b, p. 318).

Turner and Simpson similarly express, what they consider the continuing colonization of their people which not only wove a long stretch of their history but also continues to define their relationship with the “newcomers” in “the *present*”. As they say,

Colonialism is the reason why our people still have difficulty getting back loans, why there is *not* a national crisis over the missing or murdered native women in Canada, why there are barricades and protests by our people over land issues every two to five years, and why some of our people hold cards that declare that they are Indian and some (who we know are) do not (May 2008, p. 8).

Kymlicka places the locus of their concerns as being solely rooted in cultural preservation, while neglecting to draw attention to their demands for self-rule. In doing so, his theory may at times be used against indigenous demands for sovereignty. Under “Kymlicka’s constraint” indigenous tribes are not granted self-rule, but are still subsumed under the banner of Canadian nationalism, and ultimately any independent courts which they would be granted would still have a higher Canadian judicial authority above them. In the case of many indigenous peoples, this remains an undesirable situation.

#### Emphasizes nation to exclusion of other groups

Overall, Kymlicka underestimates the impact of majority rule and grand (nationalist rooted) narratives for a wide spectrum of other minorities. By separating national groups, he does not de-normalize the overarching metanarrative. Women for example, or homosexuals. These significant minority groups, under the rule of national minorities who rule according to historical cultural practices, may find themselves in a more difficult situation to foster change and acceptance of diversity in their community if the core values of the group become institutionally enshrined. As much as Kymlicka says that minority groups granted semi-independence must maintain their liberal nature, the lines between culture and liberalism become increasingly blurred, and it is difficult to safeguard the internal change Kymlicka says must be met for group rights to remain liberal.

#### Reification of culture

The institutional aspect of Kymlicka’s definition of societal cultures is something that can stifle the dynamic internal change he seeks to allow by reifying group identity and building separations between groups. As Frank Cohen warns, institutionally reinforcing ethnopolitical groups is a risky approach to conflict management, and can potential aggravating already existing ethnic tensions towards violent conflict through reinforcing dissent and boundaries (Cohen, 1997, p. 628). When dealing with situations of minority grievances, particularly in conflict situations, this approach to culture risks exacerbating already difficult disagreements through the creation of myth and symbol – separate versions of history and of struggle - to conceptualize otherness. Finding a more bottom-up approach that emphasizes shared identities may be one way forward for deeply divided socieities.

It must be acknowledged that national minority rights may actually diminish pluralism or multiculturalism instead of increasing it, if policies of selectivity (such as immigration control) with respect to endorsing continuity of a particular culture are at stake. Moreover, a more subtle risk is that an institutional approach to cultures will lead to cultural reification through state-induced planning of “communities”. As Goonewarda and Kipfer warn, the politics of multiculturalism often descends to “the *hegemony* of multiculturalism”: an institutionalized strategy structured by the elite and new middle classes which churns multiculturalism into processes of “bourgeois urbanism” (2005, p. 671), leading to alienation of citizens of non-European origin and the commodification of difference (2005, p. 672). Goonewardena and Kipfer envision a far more open horizon for plurality, going beyond the Canadian Multiculturalism Act of 1988 which speaks of “’communities whose members share a common origin’ and therefore a diversity of ‘common cultures’” (2005, p. 673). Seeking to avoid confining ethnicity to “common origins”, they radically critique cultural reductionism and instead point towards more dialectical approaches to identity and difference. As Goonewardena and Kipfer suggest:

Here we must recognize that the promise of the city consists *not* in simply celebrating the plurality of *actually existing differences* given to us under the signs of ‘cultural diversity’: multiculturalism, diaspora and creolization. Rather, the future lies, to adopt a phrase from Perry Anderson (1992: 45), in a plethora of produced differences in everyday life, aimed at a genuinely socialist ‘diversity founded on a far greater plurality and complexity of possible ways of living that any community of equals, no longer divided by class, race or gender, would create’. For only in a disalienated city produced by citizens in their everyday life can we as creative human beings hope to find our true identity amidst real difference (Goonewardena & Kipfer, 2005, p. 676).

Goonewardena and Kipfer’s anti-reductionist stance and attention to empowering the subaltern, brings a critical dimension of feminism and anti-racism missing from the writings of Kymlicka as well as captures a greater complexity behind the workings of cultural politics and their implications for formations of new cultures.

#### Risks of Illiberalism

Kymlicka defends his theory as a liberal justification of group rights. Yet, at times, his cultural liberalism is much more cultural than it is liberal, as sometimes culture seemingly trumps liberalism when it comes to a conflict between the two. This is evinced in statements by Kymlicka such as English Canadians should become more Anglo, and even more dangerously, Kymlicka’s allowance of small “illiberalisms” in order to avoid, what he says, would result in the growth of ethnic nationalism. How acceptance of illiberalism on a small scale would pre-empt the rise of ethnic nationalism remains unsubstantiated by Kymlicka. More importantly, Kymlicka’s support of non-neutrality as a goal leads him to such questionable statements.

Kymlicka must first, revisit the aims of civic nationalism and recognize that there is a clear difference between a country like Canada that advocates polities of multiculturalism vs. a country like France which aims far more to neutralize difference and promote “French-ness”. If placed on a spectrum, liberal nationalism that Kymlicka describes veers much more to the side of the ethnic, than does, for example, the similar but more open theory of his Israeli counterpart Yael Tamir. Tamir herself says that when there is a tug of war between culture and liberalism, ultimately one needs to win. For his theory to truly adhere to the liberal standards which Kymlicka aims it to reach, he needs to re-examine some of his conclusions and ensure that they are in keeping with that proposed vision.

#### Advancing globalization not reflected in his theory

Finally, Kymlicka theory was originally developed towards the end of the 80s. Well before the dot.com boom and bust or the advent of social media. At a time when a “world without borders” was still a far-off notion, despite the bringing down of walls and vastly changed landscape in Eastern Europe. The Internet generation, those who grew up using computers and having access to the Internet, was only then babies. Today, this generation is transforming the world in ways that Kymlicka could hardly have anticipated 20 years ago.

Culture, ethnicity, race, borders, migration, nationality. All of these are being recontextualized through the proliferation of telecommunications. Otherness is gradually diminishing as the world becomes increasingly smaller and diverse cultures come into closer contact. Identity, now more than ever, is seen to be porous, dynamic, and relational more than substantive. Even nationalism itself, is increasingly becoming articulated as an acultural legal status, void of the substance Kymlicka attributes to it. In light of these developments, Kymlicka needs reinforce his avowal to “polyethnicity” and “dynamic cultures” and to do so, he will need to modify or at least question some of the assumptions behind his societal cultures.

### The Path Forward for Multiculturalism and Group Rights

To fortify his theory, and to bring it more in line with the rapidly shifting nature of human communities and cultures, there are a number of modifications that can be made to Kymlicka’s theory to maintain its relevance.

#### Widen the net of those eligible for group rights

As we have already discussed, there are many other groups who need their rights protected, not just national ones. Kymlicka needs to widen the net of those who are eligible for group rights. Focusing on Kymlicka’s insight that identity is a cornerstone of human freedom, we need to allow that there are other instances, other than the narrowly defined ones which Kymlicka sets forth, where identity is of importance and deserves our recognition and representation to ensure those minority voices are not ruled out through majority influence.

#### Reinforce a commitment to pluralism

Kymlicka describes his position as being one highly committed to pluralism, and yet, there are numerous instances in his conclusions where he veers away from the “dynamic”, “polyethnic” cultures he aims to protect. To commit to pluralism, Kymlicka needs to modify the following aspects of his theory:

* + No longer talking about national identities in terms of them being “rooted” in historical communities (subsequently privileging older ethnic members over newer immigrants).
	+ No longer aiming for protected cultures to be carried into the indeterminate future (undermining his support for cultural dynamism and the natural growth of all cultures to rise and fall over time).
	+ Not imposing limitations on immigration with respect to matching it with the “societal culture”, whether it be shared language, history, or race (which inevitably descends to ethnocentrism).
	+ Dropping the language of needing a “secure” or “stable” culture (this is not only a contraction to his commitment to dynamic culture, but in practice it can serve as a pretext for exclusion or racism, threat of outside change or foreign elements).
	+ The definition of societal culture must itself needs to come under question, particularly for its inability to describe the ethnic challenges faced by “non-national” minorities (Kymlicka’s so-called “immigrants”) and also for not being suitable even for indigenous groups.

#### Not endurable cultures but endurable equity

To enhance his commitment to dynamic cultures, Kymlicka should treat rights only as temporary measures not enduring ones. Language advocating group preservation, in Kymlicka’s words, to a common cultural (national) group and perpetuating its “distinctive” cultural traits (such as language, habit, tradition and history) should be strongly reconsidered.

#### De-normalize the system

One of Kymlicka’s key insights is into how our liberal western democracies are failing to provide adequate recognition for numerous groups within our society. To build on this key insight, Kymlicka must go beyond separating powers for different cultural groups, and look more closely at the ways our system itself underprivileges and excludes voices. The goal of neutrality may never be attainable, but it does not negate the goal itself. We must find ways to reimagine belonging and continually appraise whether our systems are themselves adequately pluralistic, and if not, then to challenge them to grow and change until they match more closely the fabric of our societies, and in particular, protect and give voices to those most marginalized – whether culturally, or economically, or otherwise.

#### Need to marry rights to economics and non-domination

For Kymlicka, and also those trying to implement his theory, to have a proper chance at fairness between groups, his theory must integrate economics, which Kymlicka does not adequately address in his writings. Power relations are also important. Kymlicka needs to look more clearly at the sources of oppression that line minority grievances, which go far beyond access to a secure cultural structure, to properly ensure that group rights do not become illiberal.

#### A realistic assessment of the dangers of illiberalism

Kymlicka waxes lyrical about group rights and minority nationalism, however he mostly glosses over the potential risks and challenges both can hold. A more honest, and realistic assessment of the potential dangers would allow those who seek to implement his theory a chance to develop practical and realistic guidelines for areas with a history of conflict and violence.

#### Relational strategy for group rights

Kymlicka needs to view groups through not a single lens of national/societal culture, but through the multiple aspects of identity at play. Groups should not be taken as discrete units, but as having porous ill-defined borders. Instead on focusing on the unit of the group itself, focus should be shifted towards the relations between groups, and how groups develop their own self-definitions based on those relations.

Further – particularly in areas of conflict – emphasis needs to be laid not on defining barriers and histories of groups, but on how bridges can be built. Instead of focusing on boundaries, Kymlicka needs to focus much more on the bridges that can allow us to live together, how to create open channels for sharing and overcoming our differences, how to create shared identities. If he does this, I believe his theory may offer us new perspectives on sovereignty and serve as a justification of multiculturalism and representation rights – in fact better serving those least addressed by his theory (those who fall under his label “immigrants”) and beyond.

In today’s world, walls are falling. Identity, culture, global migrations are all being redefined. Kymlicka’s theory still has much to offer us for its lessons about the importance of culture and its meaning for human freedom. Kymlicka offered us a valiant attempt to bridge universalism and particularism, a way to think difference and equality at once. He has shown us the importance of group recognition, and the need to give others equal voices. We should continue this effort, but through a lens that is as dynamic and variegated as the cultures under our study. Instead of “securing” diversity and stable cultural frameworks, we can best realize Kymlicka’s vision through the creation of open, inclusive societies, aimed at fostering positive group relations and countering marginalization. And perhaps, we should keep in mind the words of Kymlicka’s great mentor Rawls, who clearly said,

In a society marked by deep divisions between opposing and incommensurable conceptions of the good, justice as fairness enables us at least to conceive of how social unity can be both possible and stable (1998a, p. 71).

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1. Kymlicka says that France is one of the only western democracies that still adheres to an assimilationist model with respect to immigration. On the topic of French Republican nationalism, Bader says that from the beginning there was a tension in its “proclaimed universalism” and its actual commitment to a distinctly ethnic conception of what it meant to be French (Bader, 1997, p.778) [↑](#footnote-ref-1)
2. In this way, Kymlicka very smartly marries choice and circumstance, by making circumstance the ground of our choice. [↑](#footnote-ref-2)
3. Kymlicka calls himself a liberal nationalist, however in many respects his theory depicts a very culturalist perspective which though it is not strictly an ethnic nationalism, is also admittedly non-neutral with respect to culture. For more on this, see Ch. 7. [↑](#footnote-ref-3)
4. Kymlicka cites the introduction of the Canadian Charter of Rights and the subsequent minority protests that arose in objection to it. As Kymlicka points out, liberalism was at a loss to explain why these groups did not wish to be granted equality in rights. Kymlicka explains however that the opposition was not warranted on the basis of denial of equality but on the pretense that the Charter would restrict their equality and independence and thus subject minority groups to unfair laws not of their own design (Kymlicka, 2001b, p. 84). [↑](#footnote-ref-4)
5. For representative early writings see: Vernon van Dyke, “Justice as Fairness: For Groups?” (van Dyke, 1975); Alasdair MacIntyre, *After Virtue* (1981); Michael Sandel, *Liberalism and the Limits of Justice* (1982); Michael Walzer “Liberalism and the Art of Separation” (1984); Charles Taylor “Atomism” (1985); and James Anaya, “The Capacity of International Law to Advance Ethnic or Nationality Rights Claims” (1995). [↑](#footnote-ref-5)
6. Such as sequestering the “mad” into solitary confinement, mad houses, etc. away from “nice” society and public view or discomfort. [↑](#footnote-ref-6)
7. Bader believes that similar scrutiny will reveal a great deal of “outdated and stupid ethnocentrism and nationalism” as well. (Bader, 1997, p.792). [↑](#footnote-ref-7)
8. As Hellsten says, “For Hegel and for contemporary communitarians then ‘I,’ as a person, am free when I identify myself with the institutions of my community, feeling myself to be a part of them, and feeling them to be a part of me, whereas for Kant and the contemporary liberal, ‘I,’ as a person, am free when I can distance myself from my community and from its institutions” (Hellsten, 1998, 336). [↑](#footnote-ref-8)
9. Kymlicka himself however, believes that the language of “priority of the right over the good” is “misleading”. (Kymlicka, 1988, p. 174). He says that the confusion is rooted in Rawls’ rejection of utilitarianism, which itself was based on a misunderstanding of the utilitarian doctrine which is as “’deontological’ as any other” (1988, p. 178). [↑](#footnote-ref-9)
10. What Taylor calls “instrumental rationality”, as he says, “by ‘instrumental reason’ I mean the kind of rationality we draw on when we calculate the most economical application of means to a given end. Maximum efficiency, the best cost-output ratio, is its measure of success” (Taylor, 1991, p. 5). The use of intrumental reason has become sweeping with the death of the old moral orders, serving as a “yardstick” for each aspect of our lives, measuring value according to utility. Enchantment and the sacred are lost, “the creatures that surround us lose the significance that accrued to their place in the chain of being, they are open to being treated as raw materials or instruments for our projects” (Taylor, 1991, p. 5). [↑](#footnote-ref-10)
11. Freedom is considered by communitarians in more Republican terms as the “freedom to” the things which constitute and sustain their cultural structure. [↑](#footnote-ref-11)
12. MacIntyre argues that “postmodern bourgeois liberalism…[is] the decay of moral reasoning” (1983, p. 591) This argument is somewhat ironic as the postmoderns would say that the absence of cohesive narratives brings us to a better understanding of different perspectives and different cultures. [↑](#footnote-ref-12)
13. See Putnam (1995) and (2000) for the decline of civic participation and associations in American public life. [↑](#footnote-ref-13)
14. See also Taylor (1992c, p. 500) where Taylor lists how this train of thought runs through De Tocqueville, Mill, Kierkegaard, and Nietzsche. Kierkegaard for example, describes society as a network of relations between individuals. Modern society is an abstraction which speaks for everyone and for no one, bound together by the press (Kierkegaard 1962, 59 as cited in Taylor 1992c). [↑](#footnote-ref-14)
15. This is the argument that Kymlicka ascribes to in his theory. [↑](#footnote-ref-15)
16. According to Hegel, *Moralität* is the result of Enlightenment thinking, the belief that individuals within the society may use their reason to derive a universal morality, as epitomized by Kant. *Sittlichkeit* is what preceded modernity and characterized parochial society. It refers to the belief that ethics are derived from a particular communal setting, with established roles and meaning, and that separate communities have a right to self-determination. Hegel wrote against the Kantian deontology of a universal ethics. He believed that a universal political association was impossible, and that particular cultures needed closure and have the right to protect their distinctive cultures from outside influence (Gauthier, 1997). [↑](#footnote-ref-16)
17. This logic however leads to a strange paradox: If people are so inundated by the atomist doctrine, and so thoroughly convinced of it, then this too is a kind of cultural understanding, given to us by birth and it too is a culture that is in need of protection (Walzer, 1990, p.20). [↑](#footnote-ref-17)
18. Strangely, the communitarians insist how powerfully our identities define us, and yet they do not see the contradiction in saying that we live now in an age that is no longer characterized by such roles. [↑](#footnote-ref-18)
19. Note that Walzer’s argument here is not so far from that posed by Kymlicka as we will uncover in the coming chapter. [↑](#footnote-ref-19)
20. Taylor borrows this concept from Bourdieu. As Shusterman argues, for Taylor, the habitus “not only provides a middle-ground for purposeful behavior without explicit purposes or rules consciously in mind, but it also offers a better way of understanding personhood. For it includes two crucial aspects that intellectualist first-person accounts of agency neglects: the body and “the other”. The habitus acts through its bodily incorporation of social relationships and meanings (i.e. those involving reference to others) but without needing to articulate them in terms of explicit rules or reasons”. (Shusterman, 1999). Indeed, Taylor takes Bordieu’s habitus as a way of explanation for how rules assume normative value in our lives, the habitus is an “embodied understanding” expressed through living patterns that “activate” rules for us (Taylor, 1999, p. 42). [↑](#footnote-ref-20)
21. Elsewhere Walzer has framed it as “The community is itself a good – conceivably the most important good.” (as cited in Bader, 1995, p. 219.) [↑](#footnote-ref-21)
22. Habermas believes that communitarians such as Taylor and Walzer, in disputing the neutrality of the law, are jeopardizing the foundations of the liberal tradition. (Habermas, 1994, p. 109-110) [↑](#footnote-ref-22)
23. Favell believes that Kymlicka’s work is a watershed for political sciences, a long overdue movement to bring political philosophy into practical application in the real world. While he finds that Kymlicka’s own attempts at bridging empiricism and normative theory are too ad hoc and contextually insensitive, he nevertheless applauds Kymlicka for beginning the attempt. He summarizes his point with regard to the future of the discipline, “This may well then be a case of a discipline faced with crossing the Rubicon: forward into an empirical and theoretical closeness to case material that makes the general ambitions of a work such as *Multicultural Citizenship* impossible; or back to ideal theory and the crystalline charms of theories of justice. It will be an interesting decision for its practitioners to make” (Favell, 1998, p. 26). [↑](#footnote-ref-23)
24. Ironically, Kymlicka points out, the same ruling *Brown v. Board of Education* which struck down the system of segregation in the United States, has been used both in Canada and in America as a pretext for denying Aboriginal rights (Kymlicka, 1995, pp. 59-60). [↑](#footnote-ref-24)
25. Kymlicka notes this same assumption was also present in socialist thinking as well (1995, p. 70). [↑](#footnote-ref-25)
26. What Kymlicka fails to point out however, is that Acton argues *against* cultural nationalism in his essay on Nationalism (see Acton, 1922). [↑](#footnote-ref-26)
27. The classical utilitarian position is typically associated with Bentham and Mill, however, as Gutmann notes, the utilitarianism in Mill “may be more apparent than real”, “perhaps the most significant different between the two theories is that in Rawls’s terms an individual’s rational interest in primary goods is the baseline for measuring justice, whereas in utilitarian terms individual happiness or preference is the basic valued good” (Gutmann, 1980, p. 142). Even this distinction is muted, says Gutmann, when we have an adequate understanding of Mill, for whom ultimate happiness is determined through “a rational system of desires” (1980, p.142). [↑](#footnote-ref-27)
28. Emil Fackenheim points out an ambiguity in Kantian moral freedom, on the one hand man is free to act as he chooses but his will is determined by the moral principle, yet in other places Kant emphasizes man is free to choose evil. “The free or autonomous will liberates itself from the domination of inclination, and determines itself toward obedience to the moral law” (Fackenheim, 1996, pp. 24-26). “Kant has tried to understand moral freedom by viewing man as subject to two laws: the laws of nature governing his inclinations, and the moral law governing his will” (1996, p. 26). [↑](#footnote-ref-28)
29. See Rawls, 1971, p. 269 for his account of the prisoner’s dilemma. [↑](#footnote-ref-29)
30. Bader and Engelen chastise that Rawls’s “difference principle” betrays a gross naivety on his part, for its “gross neglect of the political consequences of socio-economic inequalities” (Bader & Engelen, 2003, 389). [↑](#footnote-ref-30)
31. Similarly, Deveaux argues that “cultural groups that seek special constitutional status would be prevented by neutral liberalism’s deliberative constraints from appealing their community’s distinct traditions, language, history, and ways of life to justify their political claims and proposals” (Deveaux, 2000, p. 94). Further, many minorities political demands are precisely for addressing the issues of marginalization which they face, which Deveaux argues cannot be “articulated in terms of reasons that are sufficiently neutral” (Deveaux, 2000, p. 95). [↑](#footnote-ref-31)
32. Rainer Forst disagrees with the normative basis of Kymlicka’s theory. He argues that instead of grounding multicultural justice on the notion of personal autonomy and culture as an important context of choice, we should instead be founding our concept on the premise of what he terms, “moral autonomy” and culture as a necessary “context of identity”. In doing so, Forst hopes to avoid some of Kymlicka’s pitfalls, such as the inadequately answered question regarding why the culture that is important to me is the one I was born into (and did not in any way choose) (Forst, 1997, pp. 66-7). [↑](#footnote-ref-32)
33. See also Judith Shklar for a critique of Walzer’s view (Shklar, 1998, p. 380). [↑](#footnote-ref-33)
34. See Lehman (2002) for an analysis of anti-globalisation trends in communitarianism more generally and in Charles Taylor’s thought in particular. [↑](#footnote-ref-34)
35. As cultural lines are never distinct, there are always grey areas between “minority” and “majority” cultures that overlap in tradition and language. The large English-speaking population in Montreal, Quebec is just one example. If English speakers were to gain in number and start insisting on the dual English character of Quebec society, there are many French-speaking members (particularly from other areas within the province outside of Montreal) who would be concerned that this would negatively affect Quebec’s claim to be a distinct society apart from the rest of Canada. [↑](#footnote-ref-35)
36. For Kymlicka, it is a requirement of a liberal society to schoolchildren not only in their own traditions but also in other ways of life by providing free access to information. “These aspects of a liberal society only make sense on the assumption that revising one’s ends is possible, and sometimes desirable, because one’s current ends are not always worthy of allegiance” (1995, p.82). [↑](#footnote-ref-36)
37. A clear example of this is the people of the Hilltribes (‘chao khao’) in Thailand. As Mika Toyota says, “recognition” in this case essentialized culture such that “the rhetoric of ethnic distinctions” becomes justified and minorities can becomes trapped “in the representation of ‘the isolated noble savage’, something that is far from the reality [they live in]” (Toyota, 2005, p. 135). [↑](#footnote-ref-37)
38. Many feminists however are against such measures and find that group rights may lead to repressive conditions for those traditionally oppressed within minority group societies. If women hoping for change wish to appeal to override traditional structures that disempower them, such group rights as those which Kymlicka and the communitarians propose may make it much more difficult for women in the society to advocate change. Kymlicka wishes to override this problem, by saying that such individual members may then appeal to the wider community outside of the group – such as the Canadian or American government; however, it is not clear what benefit this would lead to if the larger government had a mandate of non-interference with the sub-group. [↑](#footnote-ref-38)
39. Communitarians, by contrast, might argue that this would be considered an unfair outside imposition on a fragile cultural group, which may threaten the structure and values that compose the minority society and therefore should not be allowed. [↑](#footnote-ref-39)
40. The risk here, from a feminist perspective, as described by leading feminist author Susan Okin in a paper entitled, “Is Multiculturalism Bad for Women?” is that the majority of ethnic group claims relate to “personal law” – affecting areas typically affecting the domestic sphere such as right to divorce, marriage, inheritance, property, etc. As Okin says, most scholars on group rights, including Kymlicka, ignore the differences *within* minority cultures and therefore fail to address the fact that all cultural claims are in fact “gendered”. This is an unrealistic assessment of minority rights says Okin, for the majority of ethnic group claims center around difficult questions which negatively affect women such as clitoridectomy, forced marriage, child marriage, denial of divorce rights, purdah, and polygamy. Thus, by providing group rights the freedom and equality of women within the minority culture may be diminished. [↑](#footnote-ref-40)
41. Kymlicka speaks for example about indigenous land rights. The value of the land is of extreme importance for the Native Americans because it allows them to maintain their traditional lifestyle of hunting. If their preference is unfulfilled they will be at a considerable disadvantage for seeking the "good life" vs. the relatively low disadvantage of the majority who would use the land for forest harvesting or development (Kymlicka, 1995, p.43; see also Kymlicka, 1989, p. 147). [↑](#footnote-ref-41)
42. A critique of the concept of “societal culture” will be explored in Part Three. [↑](#footnote-ref-42)
43. As Kymlicka says, the most “relevant” society is one’s nation. [↑](#footnote-ref-43)
44. Kymlicka uses the term nation and culture synonymously in his writings. [↑](#footnote-ref-44)
45. Politics for Kymlicka is always “politics in the vernacular” (Kymlicka, 2001b), those who can talk the political talk and gain advantage are those whose political language is their own tongue, arising from their own historical development. [↑](#footnote-ref-45)
46. I would add here, often in violent opposition to it in many places worldwide. [↑](#footnote-ref-46)
47. National minorities represent a more significant threat to the legitimacy and stability of the nation than immigrants do because they do not feel committed to the state and as Kymlicka says “wish to weaken the bonds of the political community” (1998c, p. 174-5). [↑](#footnote-ref-47)
48. As Kymlicka says, it is obvious that these groups see themselves as nations from their own self-labels as “First Nations” and the naming of the Quebec “National Assembly” (Kymlicka, 1995, pp. 196-7). [↑](#footnote-ref-48)
49. Canada has three national groups: English speaking (the majority of Canadians), the Quebecois (the French speaking minority primarily located in the province of Quebec), and the First Nations (an amalgam of Canada’s many aboriginal peoples, distributed territorially throughout the country but also geographically situated on many aboriginal reserves (also known as bands) across the country). [↑](#footnote-ref-49)
50. A backlash is often felt by immigrants from the majority culture – such as against the Sikh request for exemption from traditional headgear of national police force – considered by some as an insult to a revered “national symbol”, yet “[t]he fact that Sikh men wanted to be part of Canada’s national police force is ample evidence of their desire to participate in and contribute to the larger society, and the exemption they were requesting should be seen as promoting, not discouraging, their integration.” (Kymlicka, 1998a, p. 203). [↑](#footnote-ref-50)
51. Polyethnic rights are not described in great detail by Kymlicka other than a general description that they exempt immigrants from laws that disadvantage them and that they are aimed at making the overall system more fair. He cites some examples of what such laws would look like, such as “revision of history and curriculum to give recognition to cultural groups, bilingual education, “institutional adaptation”. Institutional adaptation includes revision of work schedules, dress codes, holidays to accommodate religious practices, prohibition of racism in workplace, guidelines for media to prevent stereotyping and defamation, public information campaigns (against racism and cultural diversity training for government employees), cultural development programs (funding for ethnic festivals, ethnic studies programs), affirmative action (preferential treatment of minorities in education, training, employment), language classes in the immigrant’s mother tongue. (Kymlicka, 1995, p. 6; 1998a, p. 197). For a fuller discussion on Kymlicka’s treatment of polyethnic rights and immigrants see Chapter 4. [↑](#footnote-ref-51)
52. As Kymlicka says, “some people use ‘multicultural’ in an even broader way, to encompass a wide range of non-ethnic social groups which have, for various reasons, been excluded or marginalized from the mainstream of society…such as the disabled, gays and lesbians, women, the working class, atheists, and Communists…I am using culture (and ‘multicultural’) in a different sense. My focus will be on the sort of ‘multiculturalism’ which arises from national and ethnic differences…I am using ‘a culture’ as synonymous with ‘a nation’ or ‘a people’” (1995, p. 17-18). [↑](#footnote-ref-52)
53. See Kymlicka (1998b, 106-9) for a discussion of group representation and (1998b, pp. 142-3) for a discussion of assymetry in Canadian federalism. [↑](#footnote-ref-53)
54. Kymlicka too acknowledges the importance of our ability to modify our culture; indeed, it is one of the central arguments of his theory, but this argument is not mirrored throughout the rest of his writings and remains really isolated to his mentioning of the reasons why culture is valuable for our freedom and why we need to prevent internal restrictions. [↑](#footnote-ref-54)
55. This is very similar to the view of nation by Anthony D. Smith, whose theory is explained in Chapter 5. [↑](#footnote-ref-55)
56. A term which Taylor himself rejects as inherently discriminating (see Bouchard & Taylor, 2008, p. 202). [↑](#footnote-ref-56)
57. Kymlicka associates himself with Tamir among other scholars who define themselves as Liberal Nationalists, an overview of their theories is presented in Chapter five. [↑](#footnote-ref-57)
58. Of course they are not discrete, borders are never thick. [↑](#footnote-ref-58)
59. For example, the over 500 year old Catholic University of Leuven which had been run entirely in French though in Flemish territory was subject to a number of nearly unresolved disputes and an entirely new campus for French had to be established in Wallonia as the university came under Flemish control. [↑](#footnote-ref-59)
60. Kymlicka himself concedes that despite the presence of territorially concentrated minorities, the majorities in the ECE are very hesitant to concede autonomy to these groups. [↑](#footnote-ref-60)
61. It is an intractable situation, such as that of the Israeli-Palestinian conflict, where both national groups have labeled Jerusalem as their capital and both identify the wider territory in question as critical to their cultural and physical survival. We have a similar intractable circumstance in Belgium where Brussels is predominantly French-speaking surrounded by a Flemish-speaking land cut off from other friendly “co-national” Walloons (French-Belgians). The tensions towards the large English-speaking population in Montreal surrounded by an otherwise primarily French-speaking province is another case in point. [↑](#footnote-ref-61)
62. If we consider liberalism to be the amount I can flail my arms around until it reaches my brother’s nose, then we are pretty much fine so long as “my brother” and I have a big backyard with plenty of room to move and run around in. But what happens when we have to share a bed in the nursery? Incidences of getting hurt are inevitably higher. It is these circumstances - of being in bed together - that Kymlicka’s theory fails to address. [↑](#footnote-ref-62)
63. As Tamir says, “Are Israeli Jews an immigrant or a national group? The same question could be asked with regard to the Palestinians, and if one looks back a century or two, with regard to most national groups.”(Tamir, 1999b, p. 78-79). [↑](#footnote-ref-63)
64. As Kymlicka says of immigrants, “The experience to date suggests that first- and second-generation immigrants who remain proud of their heritage are also among the most patriotic citizens of their new countries. Moreover, their strong affiliation with their new country seems to be based in large part on its willingness not just to tolerate, but to welcome, cultural differences” (1998c, p. 171). [↑](#footnote-ref-64)
65. This is not particularly true however, there are numerous Chinese language associations, and indeed, in the province of British Columbia, which has the strongest concentration of Chinese-Canadians, Mandarin Chinese is recognized as an official language alongside English and French. [↑](#footnote-ref-65)
66. It excludes, for example, consideration of the reported 1.2 million refugees along the Rwandan borders or both Tanzania and Zaire, which fed the 1996-7 Zairean War (Adelman & Rao, 2004). [↑](#footnote-ref-66)
67. The icy reception with which these developed nations have received these guests and new citizens has been marked by “colonial histories and discourses, by lingering cold-war thoughts, by racist stereotypes or ‘otherised’ representational images’ (Bannerji, 2003, p. 36). [↑](#footnote-ref-67)
68. But if that is the case, then by the same logic should we not deny national minority rights to the Quebecois, and insist that only France – their mother nation – ought to provide them with their rights? Why do new immigrants not warrant our protection of their societal culture, while older waves do? [↑](#footnote-ref-68)
69. At the start of 2011, there are approximately 10.4 million refugees worldwide that fall under the mandate of the Office of the United Nations High Commissioner for Refugees. The 1951 Refugee Convention describes a refugee as a person who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country." As the UNHCR website states, since refugees have no protection from their home countries, “if other countries do not let them in, and do not help them once they are in, then they may be condemning them to death - or to an intolerable life in the shadows, without sustenance and without rights” (UNHCR, 2011). [↑](#footnote-ref-69)
70. More dangerously, if we begin to apply this line of thinking Y in our national policies – if we want freedom for all, then should we not transfer all French speakers to Quebec and all English speakers out of Quebec? Although this sounds extreme, ethnic transfer in “the name of freedom” and cultural purity is a dangerous and very real threat in many countries worldwide. [↑](#footnote-ref-70)
71. Modood has served on the UK Commission for Racial Equality, 1985-90. Source: http://www.parliament.uk/biographies/bhikhu-parekh/26764 [↑](#footnote-ref-71)
72. In fact, if we can focus on immigrant communities alone (cultural minorities extend beyond this label) many immigrant communities have a stronger drive to maintain their cultural distinctiveness from the dominant culture than other “minority nations”. Even Kymlicka acknowledges that Quebecois became more culturally similar to the rest of Canada after the Quiet Revolution than previously as the same time that they began to become more vociferous about demanding their rights and separation from the rest of Canada. [↑](#footnote-ref-72)
73. Further insights may be had by looking towards Asian values as well. In a study that contains insightful revelations into Hindu and Buddhist traditions, Feminist author Luce Irigaray outlines how in the East, ethical traditions focused much more on cross-cultural “between-traditions” as opposed to the homogenizing tendencies of the West. Dallmayr suggests that this can be extended to the Far East as well, in particular in learning from Confucianism. He cites Tu Wei-Ming who has pointed out the dyadic (or “differential”) relationships marked by the Confucian tradition wherein a balance of mutual trust and friendship is sought as “resonating with Irigaray’s differential respect” (Dallmayr, 2003, p. 433). [↑](#footnote-ref-73)
74. Source: Minority Rights Group International, 2011. [↑](#footnote-ref-74)
75. The argument disregards socio-economic considerations and internal colonization of the indigenous peoples of North America, and instead places the sources of the problems they face on a lack of a “secure cultural” setting and lack of adequate cultural role models as compared ostensibly to suburban youth in other mainstream North American cities. [↑](#footnote-ref-75)
76. First Prime Minister of Canada [↑](#footnote-ref-76)
77. Beiner points out that Bernard Yack offers a variation on Andersen’s statement which is more to the point, “there are no great theoretical texts outlining and defending nationalism. No Marx, no Mill, no Machiavelli. Only minor texts by first rate thinkers, like Fichte, or major texts by second rate thinkers, like Mazzini” (1999, p. 2). Beiner does not try to explain why no one has theorized nationalism before (though he does suggest others find it “involves too much local mythmaking” rooted in particulars to yield the universalistic conceptions needed for “articulation of a coherent political philosophy [of nation]”). His work can be seen as an attempt to fill the gap and ask the difficult theoretical questions about nation which have not been asked before. [↑](#footnote-ref-77)
78. See: Connor, *“Nationalism and Political Illegitimacy”,* (1980), Breuilly *Nationalism and the State* (1982), Gellner *Nations and Nationalism* (1983), Anderson, *Imagined Communities* (1983), Hobsbawm, *The Invention of Tradition* (1983), Smith, *The Ethnic Origins of Nations* (1987), Giddens, *The Nation-State and Violence* (1987), Bhabha, *Nation and Narration* (1990), Greenfield*, Nationalism: Five Roads to Modernity* (1992), Tamir, *Liberal Nationalism* (1993), Pfaff, *The Wrath of Nations*, (1994), Billig, *Banal Nationalism* (1995), Miller, *On Nationality* (1995), Ignatieff, *Blood and Belonging* (1995), Brubaker, *Nationalism Reframed* (1996), Canovan, *Nationhood and Political Theory* (1996), Nairn, *Faces of Nationalism*, (1997), Guibernau, *Nations without States* (1999), Beiner, *Theorizing Nationalism* (1999). Seymour, *The Fate of the Nation State* (2004), The scope of this thesis prevents a full survey of their works, however the leading authors and trends will be covered in the following pages. [↑](#footnote-ref-78)
79. See for example MacInyre, *After Virtue* (1981), Bellah, *Habits of the Heart* (1985), Etzioni, *The Spirit of Community* (1993), Walzer, *Thick and Thin* (1994), Margalit, *The Decent Society* (1996), Sandel, *Democracy’s Discontent* (1998), Putnam, *Bowling Alone* (2000), Taylor, *Modern Social Imaginaries* (2004) [↑](#footnote-ref-79)
80. Gilligan, *In a Different Voice* (1982), Frye, *The Politics of Reality* (1983), Iragaray, *This Sex Which is Not One* (1985), Pateman, *The Sexual Contract* (1988), Taylor, *Sources of the Self* (1989), Young, *Justice and the Politics of Difference* (1990), Gutmann, *Multiculturalism* (1994), Fraser, *Justice Interruptus*, (1997) Butler, *Gender Trouble* (1999), Connolly, *Identity\Difference* (2002), [↑](#footnote-ref-80)
81. The prevailing idea that a wave of nationalist conflict was unleashed by the end of the Cold War is disputed by Aryes, who uses datasets to examine violent nationalist conflicts before and after the fall of the Soviet Union. As Aryes says, while new nationalist conflicts were introduced following the Cold War, they were outnumbered by those that were peacefully negotiated. (Ayres, 2000, p.115). This is also reaffirmed by Gurr who also noted a decrease in violence and increasing management of ethno-political conflict through a politics of accomodation. (Gurr, Harff, & Marshall, 1993, p. 275). [↑](#footnote-ref-81)
82. Fukyama foreshadowed in Hegelian fashion that we had reached the final progression of human political ideologies with the rise of liberalism, which he projected would spread following the collapse of communism (in both political and economic form) throughout the world. [↑](#footnote-ref-82)
83. The works of the Liberal Nationalists (covered in Ch 6) are case in point. [↑](#footnote-ref-83)
84. Where Kymlicka and Gellner differ however, is that Gellner considers nationalism to have been a diffusion of high culture from the elites to the masses. Kymlicka sees the process of nationalism as a two-way diffusion, on the one hand exposing the masses to elite culture, but simultaneously exposing the elite to the culture of the masses. As Kymlicka says, nationalism “involves exposing working-class children to the high culture of the elites, it also involves exposing upper-class children to the popular culture of the masses” (2003, p. 269). [↑](#footnote-ref-84)
85. See for example Connor (1993), Smith (1995), Smith (1998). [↑](#footnote-ref-85)
86. Kymlicka detracts from his own argument here however in admitting that this leveling of the classes, particularly with respect to its cultural aspects, did not fully occur and that there are still broad cultural divides along class lines, including the fact he states that the upper “affluent” classes still prefer tennis over lower-class choices for wrestling and tabloids (Kymlicka, 2003, 269). [↑](#footnote-ref-86)
87. Hobsbawm here makes a sharp-witted comparison between historians of nations and biblical literalists: “no serious historian of nations and nationalism can be a committed political nationalist, except in the sense in which believers in the literal truth of the Scriptures, while unable to make contributions to evolutionary theory, are not precluded from making contributions to archaeology and Semitic philology” (1990, p. 12). [↑](#footnote-ref-87)
88. Kymlicka also takes a counterview here as well by emphasizing that nationalism is championed by the working class because of its liberating effects in their lives (the promotion of literacy, better health care, etc.). [↑](#footnote-ref-88)
89. Almond and Verba say that these monarchies used a growing civic culture to “mitigate their rationalism” and shift sacredness from the traditional authority of the church, onto the modern creation of nation. (Almond & Verba, 1963/1989 p.6) [↑](#footnote-ref-89)
90. Though Kymlicka attributes his view to a modernizing theory of nationalism, to a certain extent the nationalism he describes also mirrors that of Smith in that it includes historic elements and cultural artifacts passed down from generation to generation (i.e., nation is not created ex nihilo for Kymlicka either). [↑](#footnote-ref-90)
91. For example, Smith argues, “Ancient beliefs in divine election have given modern nationalisms a powerful impetus and model”. In other words, much of the passion and conviction behind nationalism has its origins not in modern nationalism itself, but in prior myths of identity – in this case, specifically monotheistic religious myth. (1999a, p. 331) See also (1995, p 17). [↑](#footnote-ref-91)
92. Smith adds several examples here of such renewals of traditions, such as the discoveries of the Tomb of Tutankhamun, the ruins of Teotihuacan, or the recovery of Hatsor and Masada. Yet even these examples are themselves telling. In Recovered Roots (1997), Yael Zerubavel, describes how sacred history for example represented the inhabitants of the Masada fortress as having remained and fighting bravely, and yet historical documentation records that there was a mass suicide. The story of Masada was given prominence as a triumphal nationalist story recounting heroism and bravery, but which strayed from historical evidence of the event (Zerubavel, 1995, p. 220). [↑](#footnote-ref-92)
93. Though for Smith territory is important insofar as the nation has associations for its members, usually historic, with a particular place but not necessarily ownership of it, as is the case with Kymlicka. [↑](#footnote-ref-93)
94. An important term discussed widely in the politics of recognition and identity. See in particular Taylor (1991). [↑](#footnote-ref-94)
95. Herder’s conception of the world’s nations is that each represented something valuable and unique adding to the richness of human experience, which together ought to be harmonious like the music in an orchestra. This view is also shared by Margalit who writes: “There are people who express themselves ‘Frenchly’, while others have forms of life that are expressed ‘Koreanly’ or … ‘Icelandicly’” (as cited in Levy, 2000a, p. 102) or in the writings of Berlin, “The ‘physiognomies’ of cultures are unique: each presents a wonderful exfoliation of human potentialities in its own time and place and environment. We are forbidden to make judgments of comparative value, for that is measuring the incommensurable” (Berlin, 2000, p. 233). [↑](#footnote-ref-95)
96. As Smith words it, “the desire for what is unmixed and uncontaminated by alien elements” (Smith, 2001, p. 443). I would argue however that in light of the horrendous ethnic cleansings and genocides of the past century, any such talk of “cultural purity” should be eyed with extreme caution and skepticism. [↑](#footnote-ref-96)
97. The Quiet Revolution was a silent transformation of Quebecois society that occurred in the 1960s which saw the diminishing importance of church and conservative values in Quebecois life. For Kymlicka, what is especially poignant about this example, as we will see again later on, is that although Quebec society became culturally more similar during this period to English Canada, its demands for sovereignty did not diminish but instead intensified. [↑](#footnote-ref-97)
98. Yael Tamir also shares this view. She ties the weakening of national bonds due to globalization with the rise of economic injustice. Nationalism, says Tamir, brought about cross-class coalitions which kept extreme nationalisms in check and brought economic justice to the poorest in our societies. (Tamir, Class and Nation, 2004). [↑](#footnote-ref-98)
99. Note however, that when Kymlicka speaks about the “dignity” that national identity provides for all members, he omits mention of ethnic nationalism’s history of extreme violence towards minorities or “non-members”, and further omits his own insistence (which appears in other places of his writings) on civil nationalism’s similar history of exclusion. Nor does Kymlicka in any way relate the rise of nationalism with the rise of totalitarianism either in Europe or in the decolonized south. [↑](#footnote-ref-99)
100. For a defense of a nation’s right to historic territory by Kymlicka, see Ch. 3 “The forms of Liberal Multiculturalism” in Multicultural Odysseys (2007). See also Ch. 6, “The European Experiment” where he derides European generic strategies for diminishing the normative claims of national minorities to ownership of specific territory, and further de-emphasizes the role which territory played in the violent conflict in the Balkans by downplaying authors who link the two. [↑](#footnote-ref-100)
101. Indeed although Renan believes that nations are perfectly needed for his time, he has the foresight to anticipate their end. Like all human systems, nations will have their beginning and their end says Renan. Renan believes for example, that they will most likely be replaced by a European confederation. Renan’s apprehension about a single world government or world citizenship is a theme that we see again and again rising against cosmopolitan visions such as those of Immanuel Kant or Jurgen Habermas. Kymlicka too has his own suspicions about the imperatives behind international agendas, particularly with respect to Human Rights claims. (Renan, 1996, pp. 41-55, see especially pp. 52-54). [↑](#footnote-ref-101)
102. In a sense there is both top-down (institutional) and bottom-up (grassroots) modification of one’s national culture, which is why a stable institutional setting is necessary, Kymlicka believes, for the flourishing of national cultures or of culture more generally. [↑](#footnote-ref-102)
103. He insists that his version of nationalism is not an ethnic one, that the nation should be open to new immigrants and should encourage pluralism. [↑](#footnote-ref-103)
104. This is more evident here in Kymlicka’s work than in the work of Smith who, by contrast, describes the malleability of this ethnic core and how nationalists fashion this over time to suit changing public perception and ideology based on historic data and pre-existing mythologies. Kymlicka is clearly saying here that it is not the myths themselves that are unchanging, but an abstract indefinable something-or-other which runs deeper, more centrally to our core perceptions of who we are and to where we bear our allegiances. [↑](#footnote-ref-104)
105. Bader argues that this simplistic bifurcation into the “ethnocentric” vs. “cosmopolitan” alternative is “blocking our thinking and practices” and hence “needs to be overcome” (Bader, 1997, p. 773). [↑](#footnote-ref-105)
106. These themes are recurrent in the literature on the ordering of human societies and are of particular importance in the wake of post-modernism. The nationalist debate over the ethnic and civic aspects of nations intersects with the ongoing effort by liberals, multiculturalists, and communitarians try to balance equality and difference, which they all value differently. While communitarians tend to value the importance of a community of descent and common culture, multiculturalists lean towards the other side and tend to emphasize a commitment towards pluralism – though some liberal critics point out that through their advocacy of group rights, multiculturalists emphasize too greatly sectarianism and hence potentially jeopardize equality. For an example of this line of argument see Susan Okin’s article, “Is Multiculturalism Bad for Women?” (1999). [↑](#footnote-ref-106)
107. Historical nations for Marx and Engels were England and France, constituted by strong middle classes and which achieved cultural unity to cement the conditions of capitalism. Non-historical nations included for example, the southern Slavs, which lacked a middle class. Their lack of assimilation impeded the transition to capitalism. (Gans, 2002, p.8-9). [↑](#footnote-ref-107)
108. Notably, Greenfeld indicates that even the world “people” was used “in the plural” by the Americans, as a “plural divided sovereignty” which was “composite, not unitary….Thus any nation, in principle, was a *federal* structure, in the sense that it was based upon the good faith (from the Latin *foedus* – treaty, derived from *fides* – faith) of its members in one another, or a social contract…Membership did not imply the dissolution of the individual in the community.” (1992, pp. 426-7). [↑](#footnote-ref-108)
109. Smith eloquently puts it as such: “chosen peoples, sacred territories, golden ages, and the commemoration of the glorious dead” reveal the fundamental religious underpinnings of so much modern ‘secular’ nationalism (Smith, 1999c, p. 39). [↑](#footnote-ref-109)
110. Kymlicka quotes here from Gerald Johnson: “It is one of history’s little ironies that no polyglot empire of the old world has dared to be so ruthless in imposing a single language upon its whole population as was the liberal republic ‘dedicated to the proposition that all men are created equal’” (as cited in Kymlicka, 1998a, p. 180; 1999a, p. 103-4). [↑](#footnote-ref-110)
111. This expectation on the part of Americans has been no different in Kymlicka’s native Canada. Of the differences typically attributed to Canada vs. America, Kymlicka says, “some people say both countries are multiculturalist, others say we’re both assimilationist” (Kymlicka, 2001, p. 27), yet Kymlicka himself does not believe in the traditional “melting pot” vs. “mosaic” characterization of American vs. Canadian societies. [↑](#footnote-ref-111)
112. In a similar vein to Kymlicka, Brubakers says that ethnic nations are dissassimlationist while civic nations are assimilationist “It is one thing to want to make all citizens of Utopia speak Utopian, and quite another to want to make all Utopiphones citizens of Utopia. Crudely put, the former represents the French, the latter the German model of nationhood…France took over [the belief] from the Roman tradition, that the state can turn strangers into citizens, peasants – or immigrant workers – into Frenchmen” (Brubaker, 1992, p. 8). [↑](#footnote-ref-112)
113. In Resnick’s words, “civic nationalism in itself is no guarantee of comity” (Resnick, 2000, p.283). [↑](#footnote-ref-113)
114. As Tamir asks, “why are partiality and favoritism so morally worrisome?” (1993, p. 112). [↑](#footnote-ref-114)
115. Although a part of Kymlicka’s argument, somewhat contradictorily to his statement that liberal nationalism is “non-ethnic”, is that “a non-cultural definition of civic nationalism is implausible” (Kymlicka, 1995, p. 200). Yet despite this critique of the civic model of nation the line Kymlicka draws between ethnicity and culture is unclear. [↑](#footnote-ref-115)
116. This first criterion however, though admirable in theory, is less practicable in reality, particularly if we do consider cultural identity as in “flux” and constant growth as Kymlicka claims. Anytime culture becomes part of “official” state policy it will achieve a set, standardized form which will not always (or necessarily easily) reflect the changing currents of cultural change within the society, or reflect the way that culture is perceived and valued by all group members. Thus, to claim that national culture can be a matter of individual self-identity covers the implicit priority of the group over the individual within this claim. [↑](#footnote-ref-116)
117. This premise is sound when there is an alternative culture or group to which the unsatisfied individual can turn and join in place of his or her current group, however when this is not the case, it is hard to see how national culture can be maintained as a true reflection of all members of the society’s self-identification. [↑](#footnote-ref-117)
118. This seems to contradict however Kymlicka’s commitment to post-ethnic nationalism, if national identity also encompasses these other spheres of identity: religion, history, and language. [↑](#footnote-ref-118)
119. See also Archibugi (2003) for an elucidation on the development of the definition of self-determination and its complications. As Archibugi says, “an objective criterion for defining a people has never existed, and never will” (Archibugi, 2003, p. 491). [↑](#footnote-ref-119)
120. See also Ignatieff (1999) who calls nationalism a narcissistic form of identity. [↑](#footnote-ref-120)
121. Interestingly, Kymlicka cites the European Union as an example of the taming of liberal nationalism (Benhabib, 2006, p.133). Benhabib however believes that Kymlicka is mistaken to see the EU as merely a beacon of liberal nationalism for it is accomplishing a “far more ambitious devolution of sovereignty” (2006, 170). [↑](#footnote-ref-121)
122. I am referring here not only to Kymlicka, but also other authors such as Walzer and Taylor. [↑](#footnote-ref-122)
123. Rawls himself distinguishes between four different types of neutrality. As he says, “we may distinguish procedural neutrality from neutrality of aim; but the latter is not to be confused with neutrality of effect or influence. As a political conception for the basic structure of justice as fairness as a whole tries to provide common ground as the focus of an overlapping consensus. It also hopes to satisfy neutrality of aim in the sense that basic institutions and public policy are not to be designed to favor any particular comprehensive doctrine” (Rawls, 2003, p. 70). [↑](#footnote-ref-123)
124. As Beiner eloquently puts it in Theorizing Nationalism: “It doesn’t require any blindness to the importance people place upon their linguistic and ethnic heritage to say that the Czechoslovak and Yugoslav federations embodied a noble impulse, and their collapse in the face of nationalist agitation in each case conveys a real tragedy, not just for the peoples concerned but for all human onlookers…” (1999, p. 14). [↑](#footnote-ref-124)
125. Among these negative outcomes Tamir includes: “forced assimilation, oppression of minorities, political exclusion and, in some extreme cases, expulsion and physical annihilation” (1999a, p. 90). [↑](#footnote-ref-125)
126. See Ch. 11 for a more detailed description. [↑](#footnote-ref-126)
127. See UNDP, 2004. Full report available at: hdr.undp.org/en/media/hdr04\_complete.pdf [↑](#footnote-ref-127)
128. As Canovan says of nationalism: “not only is [it] a sticky cobweb of myths and meditations, guaranteed to repel the clear-minded: worse, it seems also to be the source of a fundamental contradiction in political theory” (1998, p. 139). [↑](#footnote-ref-128)
129. See for example, his unsubstantiated argument about the sense of anomie experienced by Inuit Children due to lack of role models and secure cultural structures as described in Chapter 4. [↑](#footnote-ref-129)
130. By this, Dusche is making reference to Leibnitz’s theory, using the concept of monads to describe nations. “The nation monads each form their own integral cosmos and are, in Leibniz’s words ‘without windows’. Leibniz’s monadology also encompasses the idea that a prestabilized form of harmony exists between monads.” (Dusche, 2000, p.27). Dusche rejects this view however, because he says there is no harmony between nations and that any attempt to culturally define a nation ends up in exclusionary measures creating “second-class citizens with secondary rights” (2000, p.27). While the monadic paradigm still is the dominant one guiding international relations and political sciences, Dusche argues that this is a wrong reflection of present economic and social realities (2000, p.28). [↑](#footnote-ref-130)
131. This is an anachronistic reference of course, J. S. Mill did not understand nationalism in the same way the “liberal nationalist” authors of today do. [↑](#footnote-ref-131)
132. He says that a narrative with much “currency today” is that Canada’s official bilingualism stems from constitutional arrangements embedding a “legacy of an unequal distribution of power” (Coulombe, 2000, p. 283). [↑](#footnote-ref-132)
133. Indeed, in the intervening years since Kymlicka wrote this, there are now 193 recognized states, with South Sudan the newest among them. [↑](#footnote-ref-133)
134. Note: ‘small’ and ‘sizeable’ minorities are not defined elsewhere by Kymlicka, though he does refer to “sizeable minorities” throughout his writings. [↑](#footnote-ref-134)
135. Clare Chambers disputes Kymlicka on the “myth of ethnocultural reality”, say argues that he is false to assert that liberals view culture in this light, it is neither widely disseminated or believed by liberal thinkers. (Chambers, 2003) [↑](#footnote-ref-135)
136. Soysal points out the interesting example of the transformation of the Vikings from “warrior forefathers to spirited long-distance traders”(Soysal, 1998, pp. 210-1) [↑](#footnote-ref-136)
137. As Einstein famously remarked, “We can’t solve problems by using the same kind of thinking we used when we created them.” [↑](#footnote-ref-137)
138. As one article in Wired Magazine from 2002 put it so aptly, “In 20 years from now, the idea that someone looking for love won’t look for it online will be silly, akin to skipping the card catalog to instead wander the stacks because ‘the rights books are found only by accident’.” (Giscom, 2002) [↑](#footnote-ref-138)
139. I am inspired here by Jeremy Waldron’s depiction of the rise of the Cosmopolitan man. The cosmopolitan man is not bound by culture, not constitutive of him in way that communitarians describe – not the rigid Kantian view of ethical unity, but “the chaotic coexistence of projects, pursuits, ideas, images, and snatches of culture within an individual” (1995, p. 94). “The cosmopolitan may live all his life in one city and maintain the same citizenship throughout. But he refuses to think of himself as defined by his location or his ancestry or his citizenship or language….He is a creature of modernity, conscious of living in a mixed-up world and having a mixed up self.” (1995, p. 95). [↑](#footnote-ref-139)
140. The singular locus of power which nation-states once held is being undermined by many diverse challenges. As the 1997 World Bank Development Report said, “People are now more mobile, more educated, and better informed about conditions everywhere…involvement in the global economy tightens constraints on arbitrary State action” (World Bank, 1997, p. 12). As the Vienna Declaration of the 1993 World Conference on Human rights laid out, “The promotion and protection of all human rights is a legitimate concern of the international community” (Vienna Declaration and Programme of Action on Human Rights, Article 4). “Non interference” is becoming increasingly challenged, in is place a matrix of power is divested across numerous fronts and a new trend in “Responsibility to Protect” is arising. [↑](#footnote-ref-140)
141. Anne-Marie Slaughter is an international lawyer, Dean of the Woodrow Wilson School at Princeton University, and former Director of Policy Planning for the US State Department from January 2009 to February 2011. [↑](#footnote-ref-141)
142. MacCormick says that we must move the debates from claims over territory and populations to questions of allocation of political authority in a transnational community. [↑](#footnote-ref-142)
143. As Martha Nussbaum says of cosmopolitanism, it “requires a nation of adults, who do not need a dependence upon omnipolitical parental figures.” (Nussbaum, 1997, p.11) [↑](#footnote-ref-143)
144. I disagree however with Nussbaum on her imagery of concentric circles however, but prefer to see identity as overlapping ones. [↑](#footnote-ref-144)
145. Kant himself was worried that a single world state would lead to despotism. (Eriksen, 2002) [↑](#footnote-ref-145)
146. Anne-Marie Slaughter and Thomas Hale argue that the rise of transgovernmental networks offer a way to democratize global governance as they are composed of official state units (sanctioned by the elected parliments) and therefore overcome the legitimacy problem of many supra-national bodies. (Slaughter & Hale, 2010) [↑](#footnote-ref-146)
147. Held describes historical progress of democracy and postulates that for democracy to continue progress in the world today it needs next to be on the global level. Held proposes a “cosmopolitan model of democracy” through regional parliaments, referendums, democratization of international organizations and entrenched rights. [↑](#footnote-ref-147)
148. As Billig points out, such notions are recent and historically contingent too, for “a glance at mediaeval and modern maps shows the novelty of the bounded state” (Billig, 1995, p. 20). [↑](#footnote-ref-148)
149. As far back as 1966, the UN General Assembly adopted the International Covenant on Civil and Political Rights (ICCPR). Article 27 of the ICCPR contains the only universal legally binding norm on minority protection, introducing minority protection firmly into the body of human rights (Heinze, 1999, p. 2). Then, in 1973, the Conference for Security and Co-operation in Europe (CSCE) produced the first politically binding document containing detailed commitments towards minorities (Heinze, 1999, p. 3). This document established the conditions for minority protection with international legal measures, to resolve minority problems within the framework of democratic political systems. Thereafter, a process began which eventually culminated in the 1995 Framework Convention for the Protection of National Minorities (FCNM) of the Council of Europe (CoE). [↑](#footnote-ref-149)
150. For more on this, see this UN site on “Lessons from Rwanda: the United Nations and the Prevention of Genocide” http://www.un.org/preventgenocide/rwanda/neveragain.shtml [↑](#footnote-ref-150)
151. Typically, “high culture” is, as in Kymlicka’s example, culture which adheres to standards cast by western elite and is juxtaposed against more traditional cultures which are considered along the anthropological scale to be of a “lesser” nature due to their reticence to adopt or conform to modernity. [↑](#footnote-ref-151)
152. Indeed, taking a different approach than Fraser, Walzer argues that “it is a harsh fact of political life that the extension [of citizenship rights] has been most successful, the welfare system strongest, in the most homogenous Western states”. He says that it is America’s diversity, more than anything, which has led to the “shoddiness of our welfare system (Walzer, 1995, 248)” In a Reply article, Bader refutes Walzer’s statement by citing examples of well-developed welfare systems in multicultural countries such as Canada and Australia, as compared to relatively late developments of welfare systems in culturally uniform places like Japan (Bader, 1995, 251). [↑](#footnote-ref-152)
153. See Chapter 4, “Aboriginals” for an elaboration of “Kymlicka’s Constraint” by Dale Turner. [↑](#footnote-ref-153)
154. Indeed, Connolly points out the dangers of viewing our identity as concentric circles, particularly within a nationalist framework. He says that this reinforces the idea of what a healthy identity is, with nation as its “authoritative centre” inevitably minority identities become “defined as satellites ranged around the national center, either to be tolerated or persecuted.” (Connolly, 2001, p.350) [↑](#footnote-ref-154)
155. Benhabib’s example of reason not as a single glass sphere but as dispersed crystals is reminiscent of the Jewish mysticism (Lurianic Kabbalah’s) story of creation, wherein God (pure truth/reason) put himself into vessels of light which were shattered in order to create the world. [↑](#footnote-ref-155)
156. Walzer however agrees with Kymlicka on this point, he says that the state can provide the means for the group to flourish, but it cannot guarantee flourishing or survival (Walzer, 1995, p. 152). [↑](#footnote-ref-156)
157. By Neo-Republican, presumably Young was influenced by the writings of Philip Pettit who in *Republicanism: A Theory of Freedom and Government* aimed to resuscitate non-domination as the major principle behind Republicanism at the heart of deliberative democracy (Pettit, 1997). Petit defines non-domination as “the absence of domination in the presence of other people, not the absence of domination gained by isolation” (Pettit, 1997, p. 66) [↑](#footnote-ref-157)
158. Anthropologically speaking it seems highly doubtful such a mono-ethnic country exists anywhere in today’s world, perhaps with the exception of isolated countries like North Korea. [↑](#footnote-ref-158)
159. These include the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992), the Declaration on the Rights of Indigenous Peoples (2007), the Council of Europe’s 1995 Framework Convention for the Protection of National Minorities, and the Universal Declaration of Linguistic Rights (1996). Other important developments include the Council Recommendation 1201/93/EC of 1 February 1993 on an Additional Protocol on the Rights of National Minorities to the European Convention on Human Rights, (1993), Parliamentary Assembly of the Council of Europe, 22nd Sitting, Doc. 6742, Article 5., the Ad Hoc Committee for the Protection of National Minorities (CAHMIN), and the mandate of the OSCE High Commissioner on National Minorities (HCNM).

Further, the 1966 International Covenant on Civil and Political Rights (ICCPR), affirms both the sovereignty (the right to “freely determine their political status”) and right to culture (to “enjoy their own culture…in community with other members of their group”) for all “peoples” through Article One, and the second provision, of Article 27 of the same Covenant. Of additional noteworthy mention is the 1997 European Convention on Nationality, which defines ‘nationality’ as “the legal bond between a person and a state and does not indicate the person’s ethnic origin. European Convention on Nationality and Explanatory Report, 1997, By Council of Europe, Council of Europe publishing, Strasbourg Cedex, p28, volume 71. [↑](#footnote-ref-159)
160. As Cairns says, Canadian policy towards the Metis can be best summed under the labels “The Forgotten Peoples” and even “The Non-People” (Cairns, 2000, p. 21). [↑](#footnote-ref-160)