Liberalism, Communitarianism, and the Politics of Identity

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In the 1980s and early 1990s, one of the central debates within contemporary political theory was the so-called liberal-communitarian debate. The crucial issues in this debate were never well defined, partly because theorists from the same side often took differing approaches to them, and partly because some of the claims made remained ambiguous. In the 'first wave' of communitarian criticism – put most forcefully in the work of Alasdair MacIntyre, Charles Taylor and Michael Sandel, and, to a lesser extent, Michael Walzer[1] -- the main criticisms seemed to focus on the excessively individualistic nature of liberalism. Communitarians argued that liberalism presupposed a defective, excessively individualistic, and/or abstract conception of the self; that it devalued, neglected or undermined community, which is an important ingredient in a good life; that it failed to account for the importance of unchosen obligations and commitments; and, further, that this rendered the theory non-neutral between conceptions of the good.[2] Although these criticisms formed a fairly coherent line of attack, focused on the individualistic nature of liberalism, they tended to be stated in very abstract terms, and the criticisms were either not clearly deployed against *particular* liberal theorists[3] or they were deployed against one particular theorist but then assumed to apply to the whole liberal tradition.[4]

This lack of clarity encouraged liberals to defend basic liberal values by exonerating them from the above charges and arguing that they were fully compatible with moderate communitarianism.[5] Both Raz and Kymlicka, for example, claimed that it is misguided to conceive of liberalism as fundamentally individualistic or abstract; and they proved their point by justifying liberal political principles in terms of a conception of a valuable life, which supports other (substantive) values. Raz argued that his liberal theory escapes the charge of self-contained individualism because collective goods and communal values are constitutive of his objective conception of the good life.[6] Kymlicka claimed that "liberalism couldn't be based on…[abstract individualism]… If abstract individualism [was] …the fundamental premise [of liberalism], there'd be no reason to… suppose that people are being made worse off by being denied the social conditions necessary to freely and rationally question their commitments."[7] Allen Buchanan offered a detailed account of the way in which liberal rights presuppose the value of communities and work to protect them. The real threat to communities, he argued, comes from totalitarian states and doctrines.[8]

Although many now regard the liberal-communitarian debate as 'sterile' in the sense that the particular points of contention seemed to evaporate on closer examination, it could also be viewed as fruitful, in so far as it has contributed to the articulation of more sophisticated versions of liberalism, and more robust defences of liberal political principles.[9] (Following Buchanan, the rest of this paper identifies liberalism with the liberal political thesis about the proper scope and limits of the state, viz., the thesis that the state is to enforce basic civil and political rights, rather than a more comprehensive conception of the self, society or human nature.[10])

Over the last decade an important challenge to liberalism has come from proponents of what is variously called the politics of identity, the politics of recognition or the politics of multiculturalism. These strands also form a fairly loose 'tradition' – theorists who describe themselves as interested in the politics of identity tend to be more concerned with cultural critique, while multiculturalists tend to focus on particular *political* policies and practices.[11] Indeed, as Homi Bhabha has argued, sometimes it seems that "multiculturalism is a portmanteau term for anything from minority discourse to postcolonial critique".[12] We will not attempt to trace the

relationship between these different theories or characterize their core arguments. Instead, while recognizing that the underlying connections between theorists in the politics of identity/recognition/multiculturalism stream are difficult to define, this paper is concerned with the central plank in the new challenge which they pose together - the view that the presence of deep cultural diversity within modern liberal democratic states poses a significant challenge to traditional liberalism, or indeed, any sort of liberal theory. As with the liberal-communitarian debate, there are many liberals who believe that an adequate liberal political theory can incorporate the legitimate claims of identity/multicultural politics into their theory (although, of course, even these liberals disagree on what constitutes a legitimate claim).[13] Interestingly, many of the criticisms raised by proponents of identity/multicultural politics are similar to, or possibly, more sophisticated or more precise versions of, the criticisms raised during the 'first wave' of the liberal-communitarian debate by so-called communitarians. In this paper, we argue that behind these new theoretical contentions there are serious issues and claims at stake, but these are more fruitfully explored in relation to concrete demands and strategies of accommodation.

The first step in the strategy of this paper is to outline briefly one of the central criticisms made by communitarians against liberalism (the abstract self criticism), and the liberal rejoinder to it. This sets the stage for a comparison with the politics of identity/recognition / multiculturalism, and allows us to examine how similar charges have been re-deployed in the more recent debate about the politics of identity and/ or multiculturalism. We focus on two related arguments through which this resemblance is carried over – the Individualistic Self criticism, and the Structural Injustice objection. The central argument in this paper is that these challenges cannot be resolved at the abstract level, in the way in which they were originally debated in the 'first wave' of the liberal-communitarian debate. This is because they are more fruitfully explored in terms of rival conceptions of the legitimacy of certain types of arguments and claims in the public sphere, and this requires an analysis of what precisely is being claimed, in order to know whether it can be incorporated within a defensible liberal theory. More specifically, this essay argues that liberals can incorporate as legitimate some features of identity politics and identity claims, especially claims that take a rule-and-exemption form, but that there are limits to this accommodation; and that these limits are revealed in more concrete terms through debate about specific proposals, claims and rights. At a general level, then, this essay is a plea for a much more contextual and precise discussion of these issues.

1. **Communitarians and Multiculturalists: conceptions of the person and the neutrality of the liberal state**

One of the most often-repeated criticisms made by communitarians is that liberalism seems to require a conception of the self "as a being prior to its ends"[14], which valorizes choices and is incapable of adequately conceptualizing or incorporating non-chosen commitments. The conception of the person underlying liberal rules of justice, it was alleged,[15] was that of an autonomous chooser for whom community is merely the object and context of choice. The extension of this conception in Sandel's terms was "the priority of the right over the good", in a political sphere of justice where liberal rules where decisive and so were legitimate arbiters of rival conceptions of the good (held by distinct individuals).[16] Rawls's original position metaphor also tended to conceive of all values, commitments and conceptions of the good as

ultimately objects of choice – and insofar as something is an object of choice, the person or chooser must be conceived of as distinct from and prior to it. More generally (than an exegesis of Rawls's argument), it seems that the liberal theory of responsibility is most congruent with an understanding of people as fundamentally autonomous agents, in so far as it is not problematic to hold people responsible for their choices.[17]

Second wave feminism, the Black Civil Rights Movement in the U.S., gay and lesbian liberation, and, to a lesser extent, ethnic and national group claims to recognition, are based on arguments about injustices done to particular social groups. Many of these social movements begin from an analysis of oppression, and especially the idea that membership in certain social groups renders people particularly vulnerable to certain forms of oppression: marginalization, exploitation, cultural imperialism (stereotyping), powerlessness, and group-targeted violence.[18] These five 'faces' of oppression tend to mark those whose identities have been historically neglected, suppressed or interpreted by dominant social groups (e.g., Blacks, women, gays and lesbians, Chicanos, Asians, indigenous peoples, and disabled people). Just as communitarian theorists argued that liberalism was based on an individualistic and abstract conception of the person – and that it was therefore not neutral among conceptions of the good (because biased against more communitarian conceptions)[19] – so proponents of identity politics argue that the liberal model of equal citizenship and political inclusion fails to accommodate fully or authentically people who locate themselves in the social landscape differently.

There are two aspects to this criticism explored in this paper: one dimension is the claim, which mirrors to a significant extent the 'self as being prior to its ends' criticism of the communitarians, that liberalism is based on an excessively individualistic and/ or abstract self and so cannot properly or fully include people as bearers of concrete and different identities.[20] It can incorporate rights and individual interests, but claims that take the form that 'such-and-such shouldn't be allowed because it violates my religious or ethnic or national identity' or that 'such-and-such is required as an expression of respect for my identity' – are not the sort of claims that can be accommodated within a liberal political order. Liberalism regards legitimate political demands as rooted in interests: fundamental interests, such as the interest in autonomy, are accorded the protection of liberal rights, but other interests, such as those emanating from the individual's connections to particular communities, have to be subject to the give-and-take of democratic politic. Liberal justice is insufficient, critics suggest, because it cannot address the legitimate justice-based demands that arise from group –based identity claims.[21] The second aspect of the criticism concerns the related issue of how liberal rules and rights tend to presuppose a certain type of person, and so are non-neutral to certain people in society, particularly the bearers of historically denigrated identities. Iris Young, for example, has argued that normalizing standards tend to disadvantage members of historically excluded groups, and that the liberal commitment to impartiality tends to mask the particularist standards that lurk behind the impartialist ideal.[22] This latter criticism – which we can label the Structural Injustice objection – is importantly related to the first type of criticism, because it presupposes that identity claims represent legitimate political demands in the first place.

There are two common liberal strategies in responding to these challenges, neither of which is very satisfactory; and, while they may seem opposed, they often appear together in the sense that many theorists adopt them as dual strategies. The first strategy -- which can be called "identity denial" – argues that any claim that is

based on identity or the accommodation of a particular identity is problematic, not just for liberal politics, but problematic in itself, and should not be considered. Waldron argues that identity claims should not legitimately enter political discourse, because they pose an 'incompossibility problem' --- the problem that respecting different people's identities in the same state may not be compossible (possible together) because respecting A's identity may require a policy or proposal that is inconsistent with respecting B's identity.[23] If identity claims conflict in this way, then it will not be possible to set up a constitutional or legal regime that respects everyone's identity to the same extent, since different identities often give conflicting answers to the same set of fundamental questions. This is further troubling because of two characteristic features of identity claims. The first feature refers to the idea that the attachment to something as integral as the very identity of a person enhances the significance of the claim, while by the same virtue rendering it relatively non-negotiable in a way that is detrimental to the give-and-take of democracy. The second feature of identity claims is the relative lack of evidentiary standards related to identity, which makes claims subjective and difficult to verify. In this context, Waldron suggests that liberals, socialist, egalitarians and others are right to be concerned about the elasticity of the concept – which he identifies as related to its subjective character – and worry about whether we can organise a framework of laws and rights to live under which respects everyone's identity. He suggests that, under standard liberal theory, there are only a small number of interests that require the special non-negotiable treatment that is usually associated with rights; and that it is the potential proliferation of identity claims, and their unverifiable nature, which poses a challenge to the liberal order. "The viability of the liberal enterprise", he writes,[24] "depends on claims of this sort being fairly limited."

A second type of response is the suggestion that these sorts of identity claims, insofar as they represent claims to fair treatment, are fully dealt with in the liberal polity. Actually, this response is often part of the first strategy, which is hostile to formulations in terms of particular identities, but still wants to claim that liberal rules of justice [in fact] are based on the fact of pluralism, and can accommodate many different forms of life and conceptions of the good, subject only to rules of justice. On this view, the liberal political thesis should not be seen as dependent on a deeper, highly individualistic philosophy of the self: on the contrary, the rights that the thesis endorses – rights to freedom of religion, thought, association and expression – can accommodate a wide range of different forms of life and conceptions of the good, and protect people so that they can form communities free from state coercion and other forms of interference. Indeed, a key feature in Rawls's argument is the assumption of reasonable pluralism. The fact that people have different conceptions of the good, different aims, identities and interests, is a key justificatory plank in Rawls's argument for liberal principles and rights; these political rules and rights are justified precisely because they are important in protecting people's diverse aims and interests.

At this point, it seems that the argument between liberals and identity politics proponents has reached the same sort of impasse that the liberal-communitarian debate reached, with liberals denying that they do have the metaphysical commitments and hence structural biases that communitarians and identity politics theorists allege. But – in fact – much of this debate has occurred at a more concrete level, and it is at this level that it is possible to see more clearly the range of liberal accommodations available towards the recognition of particular identities. Indeed, our central argument in this chapter is that the only viable direction for this debate is to

leave the abstract level and consider precisely what types of claims can legitimately be incorporated in a liberal theory of justice, and what types can't be.

Thus, although there are different criticisms levelled by proponents of a politics of identity, we want to focus on the implications of the two arguments outlined above for this concrete level of analysis. The first criticism concerning the abstract and individualistic nature of the liberal self demonstrates the reasons why identity is politically important and should not be ignored. The second argument, which is strongly related to the first, presses on the possibility that conceiving of equality as equal treatment, in the context of deep differences in material and social position, and cultural differences, can be unfair. In many cases, this can impose unfair burdens on certain categories of people. The Structural Injustice objection to liberalism also presupposes the validity of identity claims, since it conceives of ignoring or denying forms of identity as *unjust*.

2. Liberal Individuals and their Identities

Identity claims demand consideration precisely on the basis of (typically) collective forms of identity, and in terms of concrete interests, aims and attachments. There are three reasons why we might think that identity claims should be treated seriously, and so ought to be an object of accommodation in a liberal state.[25] We can call these (1) the integrity reason; (2) the ethical commitment reason; and (3) the ascriptive reason.

When someone claims that something is central to his/her identity, it suggests an integral relationship to the self. One's identity is linked, causally, with one's sense of self, or one's integrity as a person. It is the basis on which one's other (non-identity) interests, values and preferences are based. This suggests that we should think very carefully about enforcing rules and policies that derogate people's identities, or require people to act contrary to what they regard as central to their sense of self. At the very least, the state should have very good reasons for policies that force people to act in a way that they experience as a violation of the fundamental aspects of their identity, such as system of moral belief, cultural expression, religious conviction, etc.

Second, and following from the integrity notion, one's identity is strongly linked with the moral core of the person. It is generally accepted that there is a strong relationship between one's sense of self and one's essential ethical commitments. It is often thought to be unreasonable for the state to demand that the person conform to rules an policies that are directly counter to his/her strongest moral beliefs, or, at least, that it shouldn't do so for trivial or even utilitarian reasons.

Finally, the ascriptive aspect of many identities is relevant to how state requirements bear on people's identities. There are at least two bases on which identities can be described as non-voluntary: the first is whether they are hard-wired or biologically-based; the second is whether they are ratified by others, regardless of whether or not the person identifies with them. For example, in their grievances against the unequal treatment that they experience at the hands of the state gay men and women have maintained that their identities are biologically based: that they are not *mere* preferences, but are hard wired, as it were. Unequal treatment of the two different sexual orientations is therefore profoundly unfair. Others focus on the aspect that identities have to be ratified by others: there is a limit to the identities that are genuinely available to one; and some identities are difficult to escape. This does not imply merely that the identities that one comes to have are partly the product of

involuntary socialization and education by others, since all identities may be described this way, but suggests that identities depend in a much deeper sense on how others see one and identify one. Both types of non-voluntariness are morally relevant since it may be thought that the state has a responsibility not to impose onerous burdens on the bearers of particular (unchosen) identities.

It is interesting that the appeal to identity is [at one] removed from a direct appeal to the beliefs that a person has, which is typically the object of liberal pluralism.   The claim to accommodation of an identity is unlike a claim based on a particular conception of the good in the sense that an identity claim by its very nature appeals to a generalizable interest in having an identity of a certain kind and the implications of this. Consider the difference between saying, for example, "X is required by my religion" and "X is required by my religious identity". The former refers to the reasons for the belief. It states the origin of the person's belief, the motivational and possibly justificatory reasons for his/her actions, but in the context of religious diversity, this explanation is not helpful to resolving disagreements about the policies or practices of the society. The reference to identity, by contrast, appeals to a generalizable interest, which everyone can understand, in having an identity of a certain kind, in having deep moral commitments and a sense of self. It appeals, that is, to the underlying integrity, moral commitment and sense of self arguments. The appeal to identity, rather than the values directly implicit in the identity itself, makes sense especially in the context of diversity. It is not an argument that one would make when appealing to someone within one's identity group, an interlocutor who already accepts one's religion or the importance of one's cultural practices. But it is an argument that one would make to outsiders, who may not be convinced by the truth of the religion, or the superiority of the practice, but can at least understand its significance, and that it bears on the person's very sense of self.[26]

These three elements – the integrity, moral commitment and ascriptive features – do not bear on all identities, and are not perfectly aligned. Some religious identities may be reasonably voluntary, especially in the case of a convert, but tend to rank quite high on the dimension of importance to the person and relationship to the core ethical commitments of the self. A racial or gender identity may be more ascriptive, but may not be as closely bound up with the normative commitments of the self. On the other hand, because they are rooted in some biological facts about the person, they may be experienced by the person as central to his or her sense of self, as closely bound up with his or her integrity. Although these considerations do not map neatly on each other, and none independently represents a necessary condition for the recognition of an identity, they are the kinds of reasons we have for thinking that identity-related claims should be taken seriously. They help explain the normative force of particular identity claims.

If we accept the above argument for why identity claims represent a legitimate type of claim in a liberal-democratic polity, and why a full theory of social justice should be attentive to such concerns (which doesn't mean that it should accommodate automatically each and every claim), then we have gone some way to accepting the argument of identity politics proponents. Of course, the central question becomes whether a liberal order is fair to diverse types of identities, and this can only be resolved by examining precisely how, and the extent to which, the liberal order has the resources to accommodate diverse identity claims and practices.

3. Liberal Rules and Structural Injustices: rules-and-exemptions

This brings us to the second, most compelling criticism of liberalism, which is that the liberal state has structural biases against the bearers of particular kinds of identities. Designated earlier as the Structural Injustice objection to liberalism (SIO), this criticism bears on the second element of the liberal response to the identity /multicultural challenge, namely that liberalism is capable of accommodating and responding to all sorts of diversity (including, implicitly, diversity of identities). Indeed, we might accept the first view – that identity claims represent an important claim to justice which should be accommodated – but still think that liberalism has the conceptual resources to fully accommodate and address these sorts of claims. This, then, is the most important argument that both the communitarians and the identity politics proponents have made.

In order to deal with the Structural Injustice Objection, it is necessary to consider the concrete ways in which the neutral liberal state might be thought to be biased against the bearers of particular identities, as well as the types of accommodations that are consistent with liberalism, which a liberal state could, and often does, make.

Many of the claims put forward by multicultural groups are attempts to ensure that state policies do not unfairly disadvantage certain groups: they are arguments for acceptance of particular practices, not simply in the sense that the practice is de-criminalized, and so open to the individual in the private sphere, but in the deeper sense that institutions don't facilitate the unfavourable treatment and circumstances of members of the identity group. Muslim girls in France and Quebec have challenged rules denying them the right to wear headscarves in schools, Sikhs in Canada have argued that motorcycle helmet laws and the code of appropriate dress in the Royal Canadian Mounted Police –where the uniform includes a hat that is not compatible with a turban – discriminates against them. Orthodox Jews in the United States military have sought the right to wear the yarmulke. Gays and lesbians in many countries have argued that the definition of the family in law and in state policies has served to exclude them and to deny them the benefits accorded to heterosexual married couples.

In all these cases, the basic claim is to be treated fairly, to ensure that a particular cultural practice or way of life is included in the larger society. In many cases, a claim about fairness is conceived as a claim to accommodation which can take the form of exemption to a rule.[27] In all the above cases, the offending practice encompasses unwilling subjects and the person argues that the practice effectively penalizes her religious, sexual orientation, gender, cultural or national identity. Many of the legal cases which arise from such claims are couched as seeking exemptions from a state-wide rule or practice. In most of the cases above, the exemption argument advanced by the identity group constitutes an argument for toleration. It is an argument for toleration of a particular religiously-associated form of dress, or exemptions (for *halel* and *kosher* meats) from animal cruelty laws to allow or permit a certain religiously-orientated practice. In each case, the state-wide law had the effect of disadvantaging the minority. Further, in none of these cases was Waldron's concern about incompossibility a potential problem: these demands do not require that the rule be scrapped in favour of a new (state-wide) rule, as a condition of *my* identity, but only that the practice or dress or ritual be tolerated by the majority society.

It is hard to see what is particularly *illiberal* about accommodating this type of identity claim. For example, there is a long-standing acceptance in liberal theory of conscientious objection (to war), which takes precisely the exemption-from- rule form, and which has a long history of accommodation within liberal states. In this case, the state admits exemptions for a whole category of people (typically, those who can demonstrate either membership in a pacifist religious group, such as the Quakers, or people who can demonstrate a long-standing moral commitment to pacifism).[28]

Moreover, the exemptions asked for do not reify the cultural practices in question, because they only apply if the person in question is actually a practicing member of a particular religious group. Consider, for example, the demand that Sikhs should be granted an exemption from certain rules regarding head gear to permit them to wear a turban. It may be thought that the exemption is over-inclusive in the sense that there may be 'beneficiaries' of this exemption who do not care much about their religion. However, if the claim to accommodation is a claim for an exemption from a state wide rule (on the basis of an identity claim), there is no problem related to including people who should not be granted an exemption. Exemptions, by their very nature, do not require the person to take them up. A non-practising Sikh, who does not conform to Sikh dress codes, would have no use of such an exemption.

Now, at this point, the Structural Injustice Objection can be reformulated as follows: although it is true that blatantly unfair applications of rules can be dealt with by exemptions, this isn't fully adequate. It fails to address the issue that there is still a rule or standard, which is presented as normalizing, and which define certain categories of people as deviant. This can be called the Structural Injustice Objection 2 (SIO2).

It is hard to know how to respond to this formulation of the objection, since it seems to have a wide application (far beyond specifically liberal rules) to any laws or rules in modern large-scale bureaucratic societies that take a general form. In many cases, there are very good reasons for general rules and so it does not seem wise (nor possible in a modern bureaucratic society) to avoid all general rules.[29] In the case of motorcycle helmet legislation, for example, the general justificatory argument is in terms of a safety requirement. This safety concern still applies to Sikhs, but it is deemed overridden by the religious requirements. Moreover, many of the proposals on offer within the multicultural / identity literature are 'guilty' of the Structural Injustice Objection 2. Consider, for example, Iris Young's own proposals for a deliberative forum in which different groups are included and their input is important in shaping the rules under which people live. This is not mere hopeful thinking, since Young makes some concrete institutional proposals for how this might be effected, such as a veto over areas that are of particular concern to particular groups.[30] Much can be said both for and against this proposal, but what is interesting here is that it raises the same structural problems as the rule-and-exemption proposal. It carves out a particular area of jurisdictional authority, a particular area of interest for groups, and doesn't permit outside interference in that area. It is therefore subject to the normalizing standard objection (SIO2), and for precisely the same reason, viz., elsewhere jurisdictional authority takes a general form, and people can see themselves as collective authors of the rules under which they live and the conditions of their existence, except in cases where an argument can be made that this rule shouldn't apply.

In conclusion, it seems that liberalism is capable of responding to the first and most coherent version of the Structural Injustice objection, and it is capable of doing so because liberalism is a theory that takes equality seriously. The 'equality' principle

implicit in most justifications of liberalism is admittedly an abstract principle, but it is not purely formal: it embodies a particular substantive value – namely, equal treatment by the state. On the interpretation of equality as equal treatment, then, in cases where equal treatment has profoundly and demonstrably unfair results there is a strong argument for remedying this. However, interestingly, this only makes sense if one takes seriously the possibility that interpreting equality as requiring equal treatment might, in the context of deep differences in material and social position, and cultural and identity diversity, have unfair results; and this is a claim that many liberals can, and do accept. One way to view that challenge is that it has forced liberals to focus on the need to attend to, rather than abstract from, such difference; and the need to contextualize the specific requirements of liberalism. Rules and exemptions do not represent a systematic way to ensure such a contextualization of the equality requirement,[31] but they do suggest the need to examine the specific ways in which liberal rules and principles are institutionalized in concrete settings.

4. Liberal Toleration and Structural Injustice: Equality as Recognition

In the previous section, we argued that multicultural and identity politics claims that take the form of demanding an exemption from a general rule do not pose a fundamental challenge to liberalism, but are fully in accord with a certain interpretation of equality, which is a fundamental principle of liberal theory. However, other demands pose a deeper challenge to liberal theory, at least in so far as they suggest the insufficiency of the traditional liberal model of toleration, and the supposed neutrality of the state on decisions that are essentially moral.

The argument by gay and lesbian activist groups for a change in the definition of the family to include gay and lesbian marriages is, in our view, entirely consistent with the liberal commitment to equal treatment of all citizens, and public neutrality on moral questions. Gays and lesbians in many countries have argued, compellingly, that the definition of the family in law and state policies has served to exclude them from recognition and to deny their families the benefits (both financial and symbolic) accorded to heterosexual married couples. In many ways, this is similar to the Structural Injustice Objection, since it points out a deep inequality in the structure of the laws and policies of (supposedly) liberal states where the liberal principles regarding equal treatment of citizens and public neutrality on questions of the good life ought to apply. For this reason, liberals should have no difficulty accommodating this particular identity-related claim.

However, it is interesting to note, first, that in this case the remedy to the injustice that they face (change in marriage laws) is somewhat different from the ones discussed in the above section. Gays and lesbians do not seek simply *toleration* of their practices and ways of life by the wider society but full recognition and acceptance in the rules and practices of the society. They do not seek merely exemptions from state-wide rules, but, rather, to alter the rules of the over-arching society and thereby claim equal status for their way of life.

It is useful to compare the old liberal model of toleration literature with this new demand for recognition.[32] The standard liberal toleration doctrine, which developed in the 17th Century, as a means to reconcile divergent religions, assumed moral pluralism – not social and cultural pluralism.[33] In the case of classical regimes of toleration, toleration revolved around the privatization of diverse (religious) identities: people would privately view certain religious expressions as profoundly

worrying, even heretical, but they would tolerate them. The term 'toleration' in this sense does not mean celebrating others' practices or beliefs or in any way affirming them: indeed, it has a certain 'grit-your-teeth' component when faced with objectionable beliefs and practices, which nevertheless have to be tolerated in the sense that the state cannot justifiably interfere with them. Privatization of religious beliefs was necessary for mutual coexistence, while at the same time it did not require the tolerant person to acknowledge the value or validity of the offending or immoral practice (so in that sense wasn't based on a deeper scepticism).

Clearly, classical toleration is insufficient from the standpoint of gays and lesbians, who do not seek decriminalization (and therefore privatization) of homosexuality, but its affirmation as a valid way of life. In that sense, the demand for a change to the unfair marriage laws does not represent a mechanism to accommodate pluralism: it involves precisely the rejection of the religious person's views of the sanctity of heterosexual marriage, and establishing laws, not on the basis of mutual accommodation, but on the basis of equality. Similarly, the U.S. Clinton Administration's doctrine regarding homosexuality in the military –the famous 'don't ask-don't tell' policy was, like classical liberal toleration, focussed on the privatization of diverse identities and orientations. It was also similarly inadequate in dealing with the deep structural biases of the military's policies in the first place.

Interestingly, however, this case does not affirm Waldron's argument about the relationship between identity claims, which have a strongly subjective element, and incompossibility (the problem that it might not be possible to create general rules that respect or affirm different sorts of identities). At first glance, it might seem to raise issues of incompossibility, in so far as these identity claims require a change in the marriage law, and this might conflict with a more conservative religious person's identity claim, which links their religious identity with the view that marriage is a union of a man and a woman. In fact, however, the gay and lesbian claim, like the multicultural claims examined above, is a claim for equality, for the removal of a structural injustice, not a claim that is appropriately conceived as a method to achieve stability in the context of moral pluralism.[34]

This suggests that the original roots of liberal toleration, which developed in the context of religious diversity, as a means to avoid conflict and violence, may result in a different prescriptive proposal than claims rooted in the principle of equal treatment by the state of various different identities. The original model suggested privatization of all identities, and was mainly defended in terms of the need to *regulate* diverse views. By contrast, the new politics of recognition, based as it is on a substantive reading of the equality principle, suggests equal treatment of all citizens and identities by the state. This tradition implies that equality as a norm has a significant substantive content, which cannot always be reconciled with different moral conceptions. Liberal rules can be neutral among individuals in the sense that their justificatory argument is not based on a particular conception of the good[35] – as liberals have argued in their defence of justificatory neutrality – but it requires a fundamental commitment to individual equality, and in practice this will conflict with some moral conceptions.

5. Structural Injustice and Jurisdictional Authority

There are cases where the claim on the part of identity groups to equal treatment poses a serious challenge to the neutral liberal state. These are cases where there is limited public space over which identity groups contest; where such groups demand a change in state policy or structure; where state retreat from the contested area is not possible (as it was in the case of religious diversity); and where fairness is difficult to achieve in practical terms.

In this section, we discuss two examples, which illustrate the above cases: demands for linguistic fairness on the part of minority language groups; and demands for self-determination by minority nationalists. In both types of cases – as in the gay and lesbian family case – the group in question is making a basic demand for fair treatment or neutral treatment or equal treatment. Typically, they are advancing their claim in a context where the background or baseline is unfair. Minority language groups, for example, often operate in states where the minority language is relegated to the private sphere, and some other (usually, majority) language is the language of the state's courts, bureaucracy, education system, and so on. Minority language groups are not making a claim for special treatment, but for equality.[36]

Traditional liberal theory, which is concerned to regulate conceptions of the good and justify rules and practices in a way that is neutral between conceptions of the good, does not address this sort of structural unfairness. This is because liberals (and democrats) have often operated with convenient simplifying assumptions: they have been concerned to justify and argue for the rule of law, the practice of distributive justice, democratic governance, and respect for human rights, but have failed to consider the domain of the rule of law, democracy or distributive justice. They have considered what rights we (ought to) have, but not which language the rights have been written in, or what language(s) should the business of the courts or the legislature be conducted in.

While the basic claim is one of fairness, it is clear that the reproduction of language requires a public sphere, so that state decisions on language teaching in public schools and language requirements in the state legislature and bureaucracy are crucial to the success or demise of particular languages. Privatization is not an option, because the modern, bureaucratic state cannot escape some decisions on these issues.[37] Moreover, the deep functional imperatives of the state dictate that full equality of linguistic identities or neutrality among them are not viable options. These aspects of the public domain make it difficult to discern what precisely fairness requires.[38]

As Gellner has argued, since the rise of the modern bureaucratic state, with mass literacy and increasingly standardized modes of interaction, the state is inextricably linked with the reproduction of values and cultures.[39] It is not possible to have a modern state and give equal recognition to all the languages spoken in diverse cosmopolitan cities. Signs, education, public debate has to be in one or two or three languages – there is clearly an upper limit here – but there is certainly a need for some common language(s), in which different people meet and discuss their commonalities and recognize each other as fellow citizens.

This difficulty in no way suggests that identity claims in the public sphere lack legitimacy, as Waldron and Barry propose. The impossibility of absolutely equal treatment, such as multilingualism, doesn't diminish the fundamental commitment to treating diverse people with equal respect, but makes the content of that respect less straightforward. Unfortunately, it is not clear what a liberal state, which seeks to treat

its diverse identities fairly, or at least seeks to balance identity related interests with other legitimate interests of a more functional kind, would do. It is not clear whether fair treatment of linguistic identities, requires a policy of official bilingualism, for example, or whether it is a fairer model to opt for a norm and exemption approach.[40] Alan Patten has offered reasons for thinking that official bilingualism is the fairer model, but much would seem to depend (as he says) on the context one is operating with, such as: how many linguistic groups there are, and how accommodation affects people's non-identity related interests in communication and their interests in having a functioning modern state.[41]

Minority nationalists, too, make a claim to structural injustice, similar to the claims made by various cultural groups, gays and lesbians, and minority language groups. Minority nationalists have argued that the liberal state is not in fact neutral amongst various national identities, for the state in fact is crucial to the reproduction of particular national groups on the territory. Minority nationalists have argued that political borders – or, more precisely, where political borders are drawn – can privilege some groups and not others. They do not mean here simply economic or material 'privilege' but are also referring to the fair treatment of certain kinds of identities. Indeed, in the case of national identities, where a crucial component of being a national group is having a political identity as a member of a potentially collectively self-governing group, the state structure is crucial to whether this aspiration is realized.   In most cases, national groups have the capacity to be democratically self-governing; to dispense justice and create a common, public life in which people can participate. Related to this, they are generally sufficiently territorially concentrated that the exercise of self-government is possible, and is only denied by a state order, in which they are a minority, and which typically permits some other (e.g., majority) group to be collectively self-governing. The state cannot be disconnected from this issue: whether the minority national identity is recognized or denied, the group's aspirations fulfilled or unfulfilled, is inextricably bound up with the institutional structure of the state and majority's willingness or unwillingness to countenance changes to the state structure. It is the state, typically controlled by the majority national community, which either functions to facilitate this political self-government through devolved power, or some other institutional expression of this aspiration, or serves to deny it. Indeed, in the current political order, where the state is inextricably linked with the reproduction of identities, fairness to national groups is often assumed to require either a fair multi-national state, in which the minority national group realizes some sort of collective self-government (short of secession), or secession from the state to become its own state.

Liberals – or at least liberal multiculturalists and liberal nationalists – have gone some way towards addressing the minority nationalist version of the structural injustice objection. Their particular form of accommodation is typically based on two inter-connected arguments. The first involves accepting borders as in some sense consistent with liberal theory. The second consists of a more complex argument to the effect that minorities may require group-differentiated rights – and included here is a right to political autonomy or jurisdictional authority -- to equalize their condition vis-à-vis majority groups.

The first claim concerns whether political boundaries are defensible in the first place, on liberal theory. This is contested: on the one hand, boundaries represent a significant embarrassment to the universality and moral worth of persons, which undergrids most liberal theory, in so far as it is clear that people's life-chances, opportunities, well being and exercise of autonomy – and indeed the protection of

their rights –depends on where they are born. As Joe Carens has argued, people born on one side of the Rio Grande are born into the modern equivalent of the nobility, while people born a few miles on the other side of the border are born into the modern equivalent of serfdom.[42]   On this view, boundaries are not themselves justified on liberal grounds; however, liberal theory can proceed, pragmatically, as it were, to assume their existence as a baseline from which theory proceeds, since political cosmopolitanism is not likely in the foreseeable future.

There is, however, another liberal argument, argued for suggestively by John Rawls in *Law of Peoples*, that differentiated political authorities are necessary protection for liberty, in so far as centralized power is more susceptible to abuse, and inefficiency, and dispersed power is more consonant with effective, and yet restrained government. Rawls writes: "These principles [of global justice] …will not affirm a world state. Here I follow Kant's lead in *Perpetual Peace* (1795) in thinking that a world government – by which I mean a unified political regime with the legal powers normally exercised by central governments -- would either be a global despotism or else would rule over a fragile empire torn by frequent civil strife as various regions and peoples tried to gain their political freedom and autonomy."[43]

Having established that political boundaries are either justified or are a baseline from which (non-ideal normative) reasoning should proceed, the next, and indeed crucial, element in the argument is the claim that minority nationalists need some jurisdictional authority, some political self-government, to equalize their condition vis-à-vis the majority national group on the territory. This argument proceeds in several steps. First, as Will Kymlicka, the most famous exponent of this position, has argued, liberal rules are justified in terms of their role in facilitating personal autonomy; and culture is an important background condition for the exercise of autonomy. A central move in this argument is the claim that culture provides the context from which individuals' choices about how to live one's life can be made. According to Kymlicka, "individual choice is dependent on the presence of a societal culture, defined by language and history."[44] Culture provides the options from which the individual chooses, and infuses them with meaning, so that self-forming autonomous beings have some conception of value with which to guide their choices. The next step in the argument is the claim that, since a rich and flourishing culture is an essential condition of the exercise of autonomy, liberals have good reason to adopt measures that would protect culture. At this point, the argument has only shown that the existence of a (or some) flourishing cultural structure is necessary to the exercise of autonomy, but not a particular culture. However, he then makes the empirical point that "most people have a very strong bond to their own culture".[45] Kymlicka further points to the equality principle to justify jurisdictional authority for minority groups: it is unfair for majorities to have the protection of their culture which comes from being a majority in the state, for this places an unfair burden on minorities, who find that they have to bear the costs for maintaining their culture. This supports his conclusion that minority national (or societal) cultures should be supported as a context in which personal autonomy is exercised.[46] This takes a number of forms[47], but the one of interest to minority nationalists is political autonomy, or jurisdictional authority, which is explored (in Kymlicka's work) within the state context, although it seems that this type of argument would justify secession from the state if this is necessary to ensure that the group has the jurisdictional authority to protect its own culture.

This kind of argument – indeed, the minority nationalist claim to structural injustice -- does raise incompossibility issues, in so far as it is not possible to make a

decision that fully satisfies the identity-related demands of diverse groups. Moreover, in this sort of case, unlike in the case of rule-and-exemption, the claim is to a change in the basic laws, policies or structure of the state; and this raises the potential for including or applying to people who are not members of the identity group in question. This raises the possibility of imposition on people who do not share the identity.   Interestingly, however, the problem does not seem intrinsically connected to identity claims, as such, as Waldron and Barry both claimed. It arises because of the limitations of jurisdiction of the state as territorially (and not compositionally) based: indeed, in the context of a multinational state like Canada, Waldron's proposal (of making identity claims inadmissible) simply represents *de facto* support for the Canadian national identity and a denial of the legitimacy of minority (e.g., Quebec) national identities. The liberal multicultural response is at least an attempt to equalize, as far as possible, the unfairness attached to the policies and structure of the contemporary territorial state.

6. Conclusion

In this paper, we have assessed two related criticisms of liberal political theory, which have been deployed by both communitarians and proponents of multiculturalism or identity politics. These are (1) the criticism that the liberal self is excessively abstract and individualistic; and (2) that there are biases associated with liberalism, viz., that liberalism is either non-neutral or biased against particular (communal) ways of life and communities (communitarianism) or against certain categories of people (politics of identity).

One theme of this paper has been to note the similarities between the criticisms of communitarians and multiculturalists. The central argument, however, is that these sorts of criticisms can only be considered and assessed by examining precisely *how* liberal rules are supposed to be unfair, and whether liberalism has the resources to accommodate these concerns and address these sorts of unfairness.

As long as liberal theorists are prepared to accept the possibility that conceiving of equality as equal treatment might be unfair in contexts of deep division of individual and social position, and cultural difference, they will then accept the need for a contextual assessment of the operation of the rules of justice or principles of liberalism in the society. Liberalism is fundamentally committed to equal treatment, and this principle does not in itself preclude more contextual assessment of rules and policies in the interests of equality.   Indeed, in examining these various claims, we have argued that the liberal commitment to equality -- the commitment to equal respect which underlies human rights and rules of justice – supports granting exemptions in the case of demonstrated burdens and changing rules and policies when these discriminate against individuals in society.

This paper argues that forms of accommodation that take a rule-and-exemption form are the easiest to implement and the least problematic, but that general changes in the rules and structure of society to address unfairness can be justified. We have argued that these are sometimes problematic. First, they can conflict with the regulatory dimension of liberal justice (as when people's moral conceptions conflict with the equality principle) and, second, there might be no way to equalize fully the position of all people in a large, bureaucratic and law-governed society. Nevertheless, since the main criticisms are in terms of equality and since liberalism is fundamentally a theory that takes equality seriously, it is capable of

being extended in directions that address the claims of structural injustice raised by theorists and activists in the multicultural/ politics of identity camp.

[1] Alasdair MacIntyre, *After Virtue; a study in moral theory* (London: Duckworth, 1981); Alasdair MacIntyre, *Whose Justice? Which Rationality?* (Notre Dame, Ind.: Notre Dame University Press, 1988); Michael Sandel, "The Procedural Republic and the Unencumbered Self", *Political Theory* 12/1, (1984), 81-96; Michael Sandel, *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982; Charles Taylor, *Philosophy and the Human Sciences: Philosophical Papers, vol.ii* (Cambridge: Cambridge University Press, 1985); Michael Walzer, *Spheres of Justice; A Defense of Pluralism and Equality* (Oxford:Blackwell, 1983).

[2] This list is mainly drawn from Allen Buchanan, but the relevant criticisms are clear enough in..

[3] See Charles Taylor's critique of liberalism in "Atomism" *Philosophy and the Human Sciences: Philosophical Papes, Vol. ii,.* (Cambridge: Cambridge University Press, 1985);

[4] See Sandel's critique of Rawls in *Liberalism and the Limits of Justice*

[5] See Will Kymlicka, *Liberalism, Community and Culture* (Oxford: Oxford University Press, 1989); Allen Buchanan, "Assessing the Communitarian Critique of Liberalism", *Ethics*, 99/4 (July, 1989), 852-882.

[6] Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon Press, 1986), 216.

[7] Will Kymlicka, *Liberalism, Community and Culture*, 18.

[8] Buchanan, "Assessing the communitarian critique", ..-threat to communities comes from totalitarianism…

[9] Often this is within a tradition that emphasises well-being, rather than just individual autonomy. See James Griffin, *Well-Being; its meaning, measurement and moral importance* (Oxford: Oxford University Press, 1986); Martha Nussbaum, *Women and Human Development; the capabilities approach* (Cambridge: Cambridge University Press, 2000); Sen and so on.

[10] Allen Buchanan, "Assessing the Communitarian Critique", 853.

[11] Iris Marion Young, William Connolly, Judith Butler and Bonnie Honig are interested in 'difference' theory and what we call here the politics of identity.

[12] Homi Bhabha, "Cultures in Between", in Bennett, ed., *Multicultural State: Rethinking Difference and Identity* (London: Routledge, 1998), p. 31.

[13] Liberal multiculturalists – or multicultural liberals –such as Joseph Raz, Will Kymlicka, Jacob Levy and Margaret Moore in a recent book – tend to go further than other liberals in incorporating such concerns into the theory, whereas many liberal theorists tend to think that these concerns are not legitimate. See Kymlicka, *Multicultural Citizenship* ; Jacob Levy, *Multiculturalism of Fear* (Oxford: Oxford University Press, 2000); Joseph Raz, "Multiculturalism: a Liberal Perspective", *Dissent* (Winter,1994), 67-79; Margaret Moore, *Ethics of Nationalism* (Oxford: Oxford University Press, 2001).

[14] Sandel, *Liberalism and the Limits of Justice*, 86.

[15] Sandel, *Liberalism and the Limits of Justice*,55-9; Taylor, *Hegel and Modern Society* (Cambridge: Cambridge University Press, 1979), 75-8 .

[16] Buchanan argued, persuasively, that this could be explained solely by the fact of pluralism. He wrote: "..

[17] Indeed, Dworkin and Rawls both attempt to adopt an endowment-insensitive and choice-sensitive theory of distribution, which reflects that conception of responsibility. See Ronald Dworkin, "What Is Equality? Part II:Equality of Resources", *Philosophy & Public Affairs*, vol. 10/4 (1981), 283-345; John Rawls, *A Theory o f Justice* (London: Oxford University Press, 1971), 7.

[18] See Iris Marion Young, *Justice and the Politics of Difference* (Princeton: Princeton University Press, 1993), 39-65.

[19] There were two distinct elements of the 'abstract self' criticism. One element, emphasized by Sandel, is that this seems to negate the possibility of basing the society or community on a shared

conception of the good. See Sandel, "The Procedural Republic and the Unencumbered Self", 81-96. .The first criticism is easily addressed: liberalism does not presuppose an 'empty' self; indeed, it is entirely consistent with the view that the self is often embedded in a range of social practices. Rather, liberals presuppose only that the conception of the good, or ends of life, are revisable and change over time (within a life). This, they claim, is sufficient to justify liberal rights to protect the pursuit of people's liberty. Another criticism – developed more clearly by Charles Taylor in his essay on "Atomism" is that this (the liberal view of the self) fails to consider properly the social environment that provides meaningful choices, and supports the development of the exercise of autonomy. This is a good point made against libertarian liberals, and has been accepted as a fair point (not contrary to liberalism) by many liberals.

[20] There is an enormous debate around the metaphysical tension between identity and difference, and particularly the problem of essentialism in the face of the fluidity and hybridity of identities. See Elizabeth Spelman, *Inessential woman: Problems of Exclusion in Feminist Thought* (Boston: Beacon Press, 1988); Jane Roland Martin, "Methodological Essentialism, False difference, and Other Dangerous Traps", *Signs*, 19, 630-657. See, however, Gayatri Spivak, *The Post-Colonial Critic: Interviews, Strategies, Dialogues* (New York: Routledge, 1990) for an argument that identity claims should be regarded politically and strategically, but that they need not imply a deeper unity.

[21] Cite iris young here.

[22] Sometimes this is presented as necessarily implicated in the quest to arrive at universal standards. She writes: "Moral reason that seeks impartiality tries to reduce the plurality of moral subjects and situations to a unity by demanding that moral judgment be detached, dispassionate, and universal. But.. such an urge to totalization necessarily fails. Reducing differences to unity means bringing them under a universal category, which requires expelling those aspects of the different things that do not fit into the category. Difference thus becomes a hierarchical opposition between what lies inside and what lies outside the category, valuing more what lies inside than what lies outside." Young, *Justice and the Politics of Difference*, 103.

[23] Jeremy Waldron, "Cultural Identity and Civic Responsibility", in Will Kymlicka and Wayne Norman, eds., *Citizenship in Diverse Societies* (Oxford: Oxford University Press, 2000), 155-174.

[24] Waldron, "Cultural Identity and Civic Responsibility", 159.

[25] The discussion here mirrors a similar discussion in my article, Margaret Moore "Identity Politics and Identity Claims; a limited defence" in Igor Primoratz and Aleksandar Pavkovic, eds., *Identity and Self-determination* (London: Ashgate, 2006).

[26] The argument in terms of respect for one's identity contains within it an implicit recognition that other people also have identities, which are important to them. The way the argument is formulated suggests that one could not argue for the imposition of *shariah*, for example, as a requirement of respect for my religious identity. It might be a requirement of my religion, properly understood. But an argument in terms of my religious identity refers to the importance of having an identity, and in so far as that is a generalizable interests, it recognizes that other people, too, have identities, possibly of different kinds, and it would be wrong to require things of them that would violate their deeply-held commitments and identities.

[27] However, as we will show below, the gay and lesbian argument against the definition of the family in many liberal states does not take this form.

[28] Amy Gutmann talks about this case at length. Historically, exemptions were accorded to members of pacifist religious groups only – such as the Quakers – but the relevant moral distinction – between conscientious and nonconscientious objection – does not map neatly on the religion –non religious distinction. For this reason, there is now a move to include nonreligious but still demonstrable and moral commitments to non-violence as possible cases of conscientious objection. See Amy Gutmann, *Identity in Democracy* (Princeton: Princeton University Press,2003), 180-2.

[29] Indeed, it is not clear that it is generally desirable to seek to avoid general formulations of laws and rules, since this formulation may be helpful in avoiding nepotism and elite interests, and less general formulations may have the negative consequences of exacerbating fragmentation and division.

[30] Iris Young, *Justice and the Politics of Difference, 184-188.*.

[31] Deliberative democratic theory does try to offer a more systematic way in which different voices are included in the formulation of policies. Also, many theories of justice – most notably, Rawls's theory – does have a systematic requirement consider how rules and principles get operationalized. This is one way to interpret his methodological commitment to reflective equilibrium.

[32] See here Anna Elisabetta Galeotti, *Toleration as Recognition (* Cambridge: Cambridge University Press., 2002).

[33] For a debate that the requirements of liberal toleration are quite different from modern demands for recognition, see John Horton and Susan Mendus eds., *Aspects of Toleration* (London: Methuen, 1985); Steven Smith, "Toleration and Liberal Commitments", in Jeremy Waldron and Melissa Williams, eds., *Toleration* (NOMOS volume forthcoming) ; Bernard.Williams, "Tolerating the Intolerable" in Susan Mendus,ed., *The Politics of Toleration in Modern Life* (Duke University Press, 2000).

[34] Moreover, I argue in "Identity Claims and Identity politics; a limited defence", it is wrong to interpret the conservative religious person as making a claim about identity. The conservative Christian cannot legitimately claim that her very identity requires a heterosexist interpretation of the family: rather, such a view of the family is an important element of her religious belief. Her basic argument here is that gay marriage or, indeed, a gay way of life, is wrong. The gay person, by contrast, *is* making an identity claim, which, like the others, is centrally about toleration of his/her community's practices: he/she is accepting that there are different versions of the family and asking only that her type of family also be included *as a family*.

[35] For an excellent discussion of justificatory neutrality, see Brian Barry*, Culture & Equality: An Egalitarian Critique of Multiculturalism* (Cambridge, MA: Harvard University Press, 2001)

[36] For this reason, it is wrong to claim, as Waldron does, that the claim is for the protection of identity-related interests, in the same way as other types of interests (which are then treated as rights). The basic claim is to equality. He is right to point to the difficulty of meeting these various sorts of claims, however.

[37] This is different from Will Kymlicka's recent emphasis on the relationship between nation building by the dominant state and minority nationalist mobilization behind self-determination projects. This is a valid empirical point, and one which puts the burden on the majority-dominated state, but it is wrong to think that nationalist conflict can be avoided simply by avoiding coercive forms of nation-building. There are certain structural imperatives in the modern state, which may have a side effect of creating unfairness. Moreover, simple minority status, in itself, does not – contra Young's analysis in *Justice and the Politics of Difference* – seem to warrant the charge of 'oppression'.

[38] The argument about the functional imperatives of the modern state is drawn from my book: Margaret Moore, *Ethics of Nationalism* (Oxford: Oxford University Press, 2001), chapter 5.

[39] Ernest Gellner, *Nations and Nationalism* (Ithaca, NY: Cornell University Press, 1983), 17-40.

[40] Alan Patten, "Liberal Neutrality and Language Politics", *Philosophy & Public Affairs*, 31/4 (Autumn 2003), 356-86.

[41] Patten, "Liberal Neutrality and Language Politics", 379-86.

[42] Joe Carens, "Aliens and Citizens: The Case for Open Borders", *Review of Politics* 49/3 (1987), 251-73.

[43] John Rawls, *Law of Peoples with "the Idea of Public Reason Revisited"* (Cambridge,Mass.: Harvard University Press, 1999), 36.

[44] Kymlicka, *Multicultural Citizenship*, 85-6.

[45] Kymlicka, *Multicutlural Citizenship*, 8.

[46] Of course, this argument only justifies group-differentiated rights which provide external protections – that is, rights which are designed to defend groups from external threats to their existence. It does not justify internal restrictions, which are limitations on rights that groups impose on their members to maintain group identity. Kymlicka, *Multicultural Citizenship*, 34-48.

[47] Kymlicka, *Multicultural Citizenship*, 34-48. Polyethnic rights, self-governments rights and special representation rights are all designed to equalize the position of majority and minority groups.