

**Gender and Multiculturalism: Analyzing the Relationship Between
Multiculturalism, Liberalism, and Women's Rights**

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Introduction

Cultural pluralism is a red herring that has frequently elicited – and continues to elicit - contentious debate, from the onset of 19th century “New World” immigration, to the passionate clamoring of Civil Rights activists, to the rise of identity politics in the late 1980’s, to contemporary dilemmas pertaining to, for instance, religious symbols in public places.¹ The same old arguments are being made, reaching the point of redundancy: complex issues are still being simplified and grandiose claims, such as the ‘rising threat’ of illiberal minority cultures or the dangers faced by ‘oppressed’ and ‘ignorant’ women of color, still proliferate. Then, as now, the discussion involves the twin difficulties of accommodating multiculturalism amid Western liberal values at the macro-level, and of protecting (liberal) individual rights amid group rights at the micro-level.² For example, the 2004 head scarf controversy in France provides an undeniable sense of déjà vu, having previously reached public attention in 1989 and in 1996.³ The continuing discussions in the United States concerning university affirmative action policies is

another example of an issue that has repeatedly been debated, with no resolution in sight. In both cases, the people involved may be different, but the discussions essentially remain unchanged. Thus, there is a pressing need to reconsider questions surrounding multicultural accommodation within Western liberal states from a different angle, without resorting to cultural stereotyping or simplistic, one-dimensional analysis of the West versus East, liberalism versus tyranny kind.

More importantly, the repercussions of multicultural policies on women have to be addressed from the outset. Although prominent feminist thinkers such as Ayelet Shachar and Martha Nussbaum analyze the tensions surrounding liberalism, multiculturalism, and feminism at the core of their works, the way women are affected by multicultural policies have at times been ignored or only been addressed as an afterthought.⁴ When women's rights are considered, minority women have usually been painted as regressive, Third World victims, with the state needing to protect them from the purported tyranny of their cultures. Women, as the 'bearers of national culture',⁵ are the most conspicuous at-risk group when it comes to the unquestioned promotion of multiculturalism. One therefore constantly needs to interrogate who is speaking on behalf of the minority culture at hand, bearing in mind that cultures are not monolithic entities. If a given policy has detrimental consequences for women, then the policy has to be reconsidered. Women have oftentimes been made to sacrifice for the needs of the group. Albeit campaigning for group rights is a legitimate cause, such rights should not nullify the individual well being of its members, namely women.

This paper seeks to revisit questions surrounding "the paradox of multicultural vulnerability" by examining the tensions between liberalism and multiculturalism, and

between multiculturalism and feminism.⁶ It takes a critical look at attempts to reconcile these purported dichotomies, arguing that such attempts mostly either promote contradictory policies in the form of, e.g., legal inconsistencies or are too removed from political realities to be fully realized, such as discussions surrounding deliberative democracy. Ultimately, political theorists and policy makers should stop falling prey to “white liberal guilt”⁷ and acknowledge the validity of the individual as the core foundation of politics. Doing so is not to acquiesce to (white feminist) cultural imperialism or to reject group rights in its entirety, but to acknowledge the need to protect at-risk individuals while promoting multicultural values.

The preceding arguments are developed in three main sections. The first section provides the framework for the debates that will be assessed later. It discusses classical liberalism and multiculturalism, addressing the liberal state’s responses multiculturalism. It then explores liberal ideals like individualism and egalitarianism, which have been interpreted to perpetuate group inequalities. The state faces two main problems with multiculturalism: how to effectively acknowledge the validity of minority cultural practices beyond the weak policy of non-discrimination and tolerance, and how to provide minority cultures with the best means for representation. This paper asserts that positive discrimination is essential for the recognition of group rights, provided that these do not infringe on the individual’s rights. The second section clarifies the contention that although group rights are valid, one should not assume that the group determines what is best for the individual. This section examines more thoroughly the tensions between women’s rights and group rights. Pivotal notions of free versus coerced choice, as well as agency, are considered, ultimately arguing that although women’s agencies within

restrictive circumstances have to be acknowledged, agency should not be mistaken for choice. Finally, this section analyzes whether individualism truly guarantees well-being. The last section considers the possibility of synthesizing group rights with individual rights, coming to the conclusion that although compromise is feasible, the individual should still remain sacrosanct. It endorses a form of political liberalism that allows for a plurality in cultures and in beliefs, thereby allowing the individual to choose among a myriad of ‘cultural’ choices.

The Western Liberal State and Multiculturalism: Moving from the ‘Individual’ to the ‘Group’

Questioning Classical Liberalism

The Western liberal state refers to multiculturalism as either a “description of empirical reality, a government activity, [or as a form of] symbolic representation.”⁸ Empirically, all Western liberal states are becoming more and more culturally heterogeneous, leading to rapid changes in population cultural demographics. Policy responses to multiculturalism are dependent on the history, traditions and values of the state. Thus, whereas, for instance, Canada may have a policy of official multicultural accommodation with a weak national identity, France may have weaker multicultural policies but stronger nationalist sentiments.⁹ From the symbolic realm, multiculturalism is usually lauded as evidence of a country’s progressiveness and open-mindedness, but theoretical espousals of cultural diversity hide recurrent tensions.

The tensions inherent in multicultural policy rests on how a liberal state that has traditionally prioritized individualism can address the growing need for group recognition. The foundation of liberal conceptions of justice has rested on traditions of

neutrality. Furthermore, ideals of individualism, whereby “individuals are viewed as ultimate agents of moral worth”, and of egalitarianism, whereby “every individual has equal moral status and hence is to be treated as an equal by the government,” are prioritized.¹⁰ More recently and more controversially, the ideal of universalism, which affirms the widespread application of individualism and egalitarianism, is presupposed.¹¹

The state’s guarantees of equal treatment and blind justice obscures the inequities that recur among different individuals’ lives. As Anne Phillips laments, in theory, democracy is founded on equality yet in practice, “it is superimposed on an unequal society, thus ensuring that some people count more than others.”¹² A democracy that presupposes sameness among individuals obscures the differences that mark individuals’ lives, such as social positioning and cultural membership, leading to the creation of social hierarchies. Enshrining equality through constitutional rights that celebrate neutrality conceals how group membership largely determines enjoyment of these rights.

Admittedly, the first wave feminist movement and Civil Rights groups have utilized the language of equality to garner equal rights and have indeed paved an important milestone by enshrining (at least theoretically) equal treatment. Nevertheless, the concept of equality cannot be taken at face value. In fact, the language of equality has been used to justify oppressive treatment towards cultural minorities, as shown by the example of the American court case *Brown versus Board of Education*, where placing black and white students in ‘separate but equal’ schools obfuscates the history of racial discrimination that prevents black schools from being equal to white schools.¹³

‘Equality’ also hides liberalism’s sexist norms. Susan Moller Okin concisely articulates the failings of liberal representation in addressing the needs of women, whose socially

constructed responsibilities like motherhood affect their experience of liberal citizenship.¹⁴ Employment practices that do not consider maternity leave are an example of how treating women like their male counterparts can work to the detriment of women. Although Okin erroneously neglects to mention how liberal citizenship denies the participation of cultural minorities and in later works shows a limited understanding of minority cultural diversity, a topic that this paper will later explore, her original point remains. It is important to acknowledge that individuals do not exist in a vacuum, and that group membership matters. The state claims to prioritize individualism yet it is also complicit in the unequal treatment of groups, as the aforementioned examples highlight. It is erroneous and indeed hypocritical to claim that only the individual carries weight in politics, while at the same time propagating discrimination based on group identity. Thus, liberalism should recognize that diverse forms of identity affect individuals' experiences.

Of course, it is a misconception to assert that liberalism denies diversity altogether. In fact, pluralism is acknowledged through the plethora of individual preferences and opinions occurring within the state; a refusal to respect an individual's freedom of opinion is anathema to liberals.¹⁵ Multicultural policy is originally conceived as an extension of the already established tradition of individual freedom. Cultural freedom is similar to political freedom; like political freedom, it is conceived through the ability of the individual to practice his or her cultural beliefs. Hence, the community serves the individual, and garners its worth from its ability to foster individual development.¹⁶ Consequently, negative rights, whereby groups like women and members of minority cultures, are protected from discrimination, dictate multicultural

policy.¹⁷ A philosophy of toleration prevails that “rarely challenges the social, economic, and political power relations that perpetuate such inequalities.”¹⁸

Are negative rights sufficient to redress inequalities? Inequalities arising from group membership cannot be rectified by mere protective measures. Mandating equality of opportunity through non-discrimination denies structural and cultural impediments that prevent the full exercise of rights. As Phillips articulates, if the success of equality of opportunity is measured through equality of outcome, it becomes blatantly obvious that there are still vast inequalities that suppress minority groups.¹⁹ Negative rights do little to solve the reality of social and economic inequality that is a by-product of group membership.²⁰ In addition, negative rights assume that minority cultures accept majoritarian values. If there is a plurality of values and of traditions that affect political citizenship, then negative rights merely affirm the liberal status quo. For example, mandating against discrimination in the public sphere is irrelevant for Aboriginals who seek self-government; it is also irrelevant to cultural minorities like immigrant groups, national minorities like the Quebecois in Canada, or religious groups like Jehovah’s Witnesses, who seek the ability to practice their ways of life away from the liberal, public (political) norm.

Hence, positive rights that recognize explicitly the need to pursue cultural pluralism and to minimize inequality arising from group membership are a prerequisite to stability and justice in multicultural states.²¹ Roughly speaking, if negative rights are equated with toleration, positive rights are equated with respect. The manifestation of respect as a political value will lead the state to formally engage with the needs of cultural groups, rather than simply making allowances for their needs through a policy of

non-interference and non-discrimination. The state, in respecting rather than tolerating cultural values, proactively engages with minority cultural groups and understands the distinct needs they face. Hence, cultural minorities residing in Western liberal societies are given a voice rather than forcefully assimilated into their societies' liberal core.²² Positive rights, in the form of measures like quotas and allowances for minority cultural practices to name but a few examples, are deemed an essential move towards recognizing the inescapable reality of multiculturalism.

Still, in admitting that group politics should and *does* influence liberalism, the state is faced with more challenges. It becomes the obligation of the state to balance between respecting cultural diversity without rejecting the liberal ethos of individualism and egalitarianism.

Multiculturalism as the New Liberalism?

This paper has thus far delineated why classical liberal notions of individualism and egalitarianism are not in keeping with the multicultural nature of Western states. It has also addressed why a true promotion of pluralism entails the state's endorsement of both negative rights (toleration) and positive rights (respect). The need to establish *why* this is important - beyond the simple assertion that multiculturalism is unavoidable - becomes imperative, particularly if pluralism is now accepted as a necessary component of liberal states. In other words, how can promoting cultural pluralism be justified under liberal tenets?

At first glance, multiculturalism seems at odds with liberalism. Arguments for different treatment on the basis of group membership are at odds with principles of equality. In fact, arguing that individuals from certain groups should be treated

differently initially appears abhorrent: when one considers historical traditions of minority group persecution, whereby people were persecuted because of group membership, just action subsequently necessitates equal treatment that is indifferent to group affiliation. In fact, group rights seem to violate individual choice by ‘trapping’ people into cultural groupings. In promoting group rights, the state also appears to interfere in the individual’s private decision to affiliate or not affiliate with certain groups. “Like adopting a religion, following a cultural tradition should be an individual private decision, and the state should not interfere in the cultural marketplace by promoting or prohibiting the preservation of any particular culture.”²³

Still, historical realities and ongoing discrimination ensure that much as one’s private identity should not affect treatment, a refusal to acknowledge group identity also promotes injustice. Making the private decision to partake in given cultures is impossible when there are few enabling mechanisms that allow minority cultures to thrive. In as much as individuals should not be discriminated against because of group membership, their group affiliation should also be positively affirmed by the state; positive and negative rights are both necessary. As already discussed, spurious interpretations of equality have been used to defend group discrimination; when individuals are treated homogeneously, without regard for group affiliation, then it is inevitable that some individuals are disadvantaged because of (unacknowledged) group-based inequalities. Thus, according to Will Kymlicka, equality can be more thoroughly endorsed through group recognition. When minority cultures are permitted to thrive through special recognition, then members of these minority cultures are better able to practice their values and exert agency.²⁴ Consequently, minority cultures can freely practice their

lifestyles through mechanisms like special language and religious rights. When the state does not institutionally acknowledge the legitimacy of minority cultural practices, such practices will probably be abandoned; thus, the state in doing so implicitly asserts that only the majority's values are valid, thereby rendering minority cultural values as unequal. Charles Taylor agrees with Kymlicka, asserting that recognition of one's culture as an integral aspect of one's identity is a basic human need; thus, if a state does not proactively endorse cultural identity, this causes severe harm to the individual, and subsequently to the culture at hand.²⁵ This then runs in contradiction to the liberal tradition of equality and of justice.²⁶

From a policy perspective, Michael Walzer argues that there are four enabling mechanisms through which the state can encourage groups to play a decisive role in the state: "First, the state should defend collective and individual rights; second, the state should expand its official celebrations to include not only its history but the history of all the peoples that make up the nation; third, that tax money should be fed into ethnic communities to help in the financing of [multicultural] education, and of group oriented welfare services. [Lastly], if all this is to be done and fairly done, then it is necessary also that ethnic groups be given as a matter of rights some sort of representation within the state..."²⁷ Iris Marion Young suggests in addition that public funding for cultural minorities, the right to create group-specific policies, and the option of vetoing laws that are deemed antithetical to the group's values are crucial.²⁸ Effectively, the motivation behind Walzer and Young's recommendations lies in their desire to ensure group representation.

Unsurprisingly, this is a controversial proposal. Walzer's vague endorsement of group representation and Young's explicit support for group-specific policy-making and the right to veto highlight a robust promotion of positive rights. In any case, the movement from individualistic politics to a more group-oriented politics becomes the general thesis of Walzer and Young's proposals. If in fact formal systems of group political representation are a prerequisite to a more representative politics, then neutral politics will shift towards explicitly acknowledging differences. Difference will replace impartiality, carving the way for a politics of difference, as endorsed by Iris Marion Young.

Young argues that politics should move away from its atomistic nature towards a more revitalized politics of difference, which does not shy away from celebrating group rights. Citizenship as it has traditionally been conceived prioritizes sameness, hence reinforcing an unequal system of forced homogeneity. Differentiated citizenship, in contrast, acknowledges the need to represent group needs beyond interest group politics. It is more than a mere matter of representing the needs of collectives that gather together based on similar interests, such as environmental groups or political groups. The politics of difference sees political representatives from minority groups as acting on behalf of such groups, whose "shared sense of identity" and "similar social locations" require special representation.²⁹ As Melissa Williams expounds, despite the admitted differences in perspective among minority group members, "what members of such groups share is the experience of marginalization and the distinctive matters of public policy that comes of that experience. The social position of group members is sufficiently similar that there are good reasons to believe that members of minority groups, *on average*, are more likely

to represent the concerns and interests of citizens from those groups than are non-members.”³⁰ The idea that there is a ‘general interest’ is refuted.

On this issue, one might find it informative to draw two distinctions, first between interests and identities, second between arguing for group representation for women and members of cultural minorities. Young’s model conceives that representatives are better able to act on behalf of their cultural groups because they have a shared sense of identity, which, as established, carries more weight than merely a shared sense of interests. A close reading of Young shows that although she laments the under-representation of cultural minorities as indeed being oppressive, it is but one symptom of the larger problem of the state’s devaluation of minority cultures.

In contrast, Phillips champions group representation for women because the dominance of men in politics is indicative of injustice; if men were asked to explain their dominance in politics, instead of asking women to explain why they should be included, then gender imbalances are more suspect.³¹ Unlike Young, Phillips endorses a greater female ‘presence’ in politics as an end in itself. Female political representatives are not accountable to other women because of their purported shared identity as women. They are more likely to represent the concerns women face, like issues related to motherhood, sexual harassment, and economic imbalances,³² but nevertheless are not required to do so. Their shared interest, and not shared identities, creates probable ties. Applying Phillip’s arguments towards the representation of cultural minorities presents a compelling twist; the greater presence of members of minority groups in politics would be seen as a good in itself, and there are no requirements of group accountability. It remains to be seen whether mechanisms towards the positive discrimination of members

of cultural minorities will make a difference in how politics is practiced. Perhaps, like a greater female presence in politics, members of cultural minorities will navigate the ebb and flow of politics to consider issues that bear direct relevance to them. Hence, if, as argued, more women in politics has allowed for more attention on issues like sexual violence, perhaps more minority members in politics will urge for the passage of bills that draw attention to cultural discrimination. Nevertheless, although Phillips' arguments for the politics of presence is strongly supportive of a more representative politics, in no way can she be seen as endorsing a group's 'right' to have accountable representatives.

Making the assumption that cultural identity motivates stronger representation becomes tricky when the question of justifiability arises. The issue of representation is particularly murky because one has to question voice and legitimacy: who has the right to speak on behalf of the group? Deveaux admits that some groups like Aboriginal groups find it easier to find a common voice compared to other groups, such as immigrant groups.³³ In addition, what groups have a right to carry special recognition? If, as Young asserts, a history of oppression and cultural values binds members of cultural groups, what happens when there is disagreement within these cultures?

To be fair, campaigns for cultural recognition are too diverse to merit disavowal. Cultural groups run the gamut from national minorities such as the Quebecois in Canada to Aboriginal groups to recent immigrants to ethnic minorities like the African American population in the United States. Hence, all cultural claims are not created equally. For groups like the Quebecois and the Aborigines, special language and representation rights are not in contradiction to liberal traditions of equality; they promote equality because

they allow space for language and cultural practices distinct from the majority. Even positive discrimination for under-represented minorities like African Americans are still in keeping with liberal traditions because they have the end goal of better creating equality. It is when cultures blatantly evoke ‘illiberal’ norms and show evidence of hindering individual’s rights that the issue of voice and legitimacy becomes contentious. As Ayelet Shachar asserts, “multiculturalism begins to present a problem whenever state accommodation policies intended to mitigate power differentials between groups end up enforcing power hierarchies within them.”³⁴ Women become the most conspicuous victims as cultural practices are misconstrued to accommodate the demands of dominant group members. Therefore, although state endorsement of multiculturalism has to be maintained, it has to be revised to more sufficiently assess the needs of the individual within minority groups.

Interrogating Multiculturalism: Moving from ‘the Group’ to the ‘Individual’

Multiculturalism as the Enemy

‘Rescuing’ the individual from the ‘oppressive’ strictures of the group has become a divisive feminist campaign. Susan Moller Okin is one of the main feminist critics of multiculturalism. In contrast to Kymlicka’s group-differentiated approach and Young’s espousal of a politics of difference, Okin endorses a re-universalized citizenship model, whereby minority cultures cannot be accommodated if they are deemed illiberal, in particular towards women.³⁵ Her assertion that multiculturalism is indeed bad for women is at the heart of the debates surrounding multiculturalism’s ‘suppression’ of individual needs. Okin makes the case against multiculturalism by asserting how the majority of cultural claims are reliant on the oppression of women by men.³⁶ Cultural

oppression of women occurs in two primary ways. First is through the deliberate control of women by religions like Judaism, Islam, and Christianity, and cultures in Latin America, Asia, and Africa. Myths like the biblical story of Adam and Eve imply that female subordination is religiously mandated. Second is through the control of female sexuality by men. Okin observes that there are no economically viable options other than marriage for women in most countries; thus, women subject themselves to procedures like female genital mutilation to enhance their marriage chances. Regressive rape laws are further evidence of the denigration of female sexuality.³⁷

Moreover, Okin accuses the state's policy of giving umbrella recognition to all minority claims as being reductionist because it assumes that simply being a minority group necessitates state protection, i.e., that all minority groups, in their campaigns to be treated differently from the majority, should be treated the same. Indeed, according to Okin, advocates of group rights who make their arguments on the basis of racial and cultural equality fail to thoroughly examine the debilitating implications of recognizing group rights in the private sphere, where the bulk of destructive cultural practices are manifested.³⁸

Catherine Coleman agrees with Okin's thesis. She asserts further that Western liberal states are progressive, providing women with protective structures through which female equality is guaranteed.³⁹ The lamentable trend of offering blanket recognition for minority cultural trends jeopardizes women's rights and legal uniformity. Hence, the oppressiveness of minority culture entails stronger anti-discrimination laws; regardless of group rights claims, the individual has to be rescued. If, according to Coleman, the

liberal's dilemma depends on having to recognize multiculturalism or feminism, liberal tenets of equality and justice entails the rejection of the former and support for the latter.

The conflicting terrain of women's rights within minority cultures can best be comprehended through a discussion of key cases that have galvanized and divided feminists. There are three cases that particularly merit discussion in this regard, all of which occurred in the United States. The first case involves the abduction and rape of a Laotian-American woman by a Laotian man; the man was subsequently acquitted after claiming that this is a traditional tribal method through which Laotian men choose their spouses.⁴⁰ The second case concerns the release of a Chinese-American man after he bludgeoned his wife to death; according to him, it is Chinese custom to seek revenge for thwarted family honor after the unfaithfulness of a spouse.⁴¹ The third and final case involves a Japanese-American's woman's justification of her attempts to drown her two children, and her subsequent attempted suicide, through the 'traditional' Japanese custom of parent-child suicide following a husband's infidelity.⁴² The defense in all cases rely on the claim "my culture made me do it," as Bonnie Honig accurately describes.⁴³

Unsurprisingly, Okin and Coleman's provocatively claim that these cases prove their thesis on the oppressiveness inherent in minority cultures. After all, cultures that exonerate sexual violence against women and justify the loss of a woman's life in cases of marital infidelity appear nefarious. However, although their intentions to promote the well being of women was never in question, their sweeping claims and cultural generalizations arouse resentment. Rejecting multiculturalism altogether seems a rather drastic move; it is true that certain cultural practices harm women, but they should not be deemed as evidence that the minority culture in question, as a whole, should be vilified.

Cultures, far from being homogenous and unified, are “constant creations, recreations, and negotiations” that have conflicting interpretations.⁴⁴ Indeed, conflating culture with the state is specious; culture, unlike the state, is not a stable force subject to set laws and regulations.⁴⁵ Furthermore, when state endorsement of cultural practices is reliant on the interpretation of the privileged set, namely men in positions of power and authority, then the type of culture being promoted is one-sided.⁴⁶ As Naussbaum succinctly summarizes, “the voices that are heard when the group speaks are not magically the voice of a fused organic entity; they are the voices of the most powerful individuals.”⁴⁷ Thus, interpretations of culture propagate race and gender hierarchies.

Consequently, Okin and Coleman’s indictment of minority cultures as being uniformly deviant on the basis of these cases does not stand. Okin and Coleman neglected to consider among members of the cultures in question the outcry during the trial period and following the verdict, with key group members decrying the flawed interpretation of their cultural practices. Honig suggests that one person or one group’s interpretation of cultural traditions should not be taken at face value but should be investigated because cultures are hardly “univocal”.⁴⁸ Interrogating diversity with cultures becomes particularly important when such claims are being made in a law court, where the ruling will carry repercussions on future verdicts. Furthermore, according to Homi Bhabha, using these cases as examples of minority cultural oppression disregards the context upon which the cultures were represented.⁴⁹ The cultural defense attorneys in all three cases were motivated by the desire to acquit their clients. Hence, deliberately presenting a ‘reasonable’ explanation of their clients’ actions through a one-sided account

of culture made sense at the time; allowing for gray areas through the inclusion of accounts that highlight cultural nuances did not.

Bhabha and Honig are as concerned about promoting women's rights as Okin and Coleman, but are more careful in the conclusions that they draw about minority cultures. Whereas Okin and Coleman pillory minority cultures as uniformly harmful towards women, Bhabha and Honig see the situation as being more complex. Explications of cultural practices rely on the hands of a select group of people, who may have a vested interest in ensuring the oppression of women in order to propagate their dominance within their culture. Thus, one must condemn the homogeneous account of cultural practices and the individuals championing these flawed accounts, rather than the culture as a whole. There is a subtle but significant difference.

It is enlightening to note that similar cases involving individuals from cultural minorities on one hand, and from mainstream society on the other hand, result in differing judgments. Leti Volpp examines how court cases that involve minorities are more likely to draw assumptions about minorities' 'cultures', whereas court cases that do not involve members of minority groups stay clear of cultural interpretations; this occurs despite the fact that the case involving immigrants and the case involving majority group members have close parallels.⁵⁰ For example, the Akers/Compton case and the Quintana/Soledo cases both involve marriage between a minor and an adult. In the former, the judge decreed that Wayne Compton, who was 29 years old, was guilty of sexually abusing Tina Akers, a 13 year old. In the latter, Pedro Soledo, a 22 year old, was acquitted of charges of the statutory rape of Adela Quintana, a 13 year old, following the explanation that Mexican culture 'made Soledo do it.' Volpp asserts that the different

ways the two cases were ruled proves how racialized culture is “hyper-visible”, whereas hegemonic culture is invisible.⁵¹ Whenever individuals from minority cultures elicit attention, there exists a fixation on their culture, using their culture to explain their actions. As a result, media accounts of the Quintana/Soledo case focused on the two individuals’ cultural roots. In contrast, media accounts of the Akers/Compton case focused solely on the issue of sexual perversion.

Another set of court cases involves the issue of forced marriage. The Kingston case revolves around the forced marriage of a 16-year-old Mormon girl to her 32-year-old uncle, resulting in a 10 year jail sentence for the latter. The Al-Saidy case involves an Iraqi immigrant father’s coercion of his 13 and 14-year-old daughters to marry his 28 and 34-year-old friends. Once again, the media outcry surrounding the Al-Saidy case highlights reductionist interpretations of culture. The threat of multiculturalism to liberalism was proclaimed, and the tyranny of Iraqi culture was condemned. Conveniently, media accounts forgot Western traditions of early marriage; cultural reflexivity at the moment of minority cultural indictment was improbable.⁵² Interestingly, although the Kingston case was almost identical to the Al-Saidy case except with different characters, Mormonism was never taunted as a threat to American culture.

Three conclusions can be made in this regard: first, the actions of individuals from hegemonic culture are justified on the basis of individual motivation, whereas the actions of individuals from cultural minorities are justified on the basis of individual motivation *that is directly derived from* cultural practices. Second, the state desires to be the epitome of liberal tolerance, leading to a fear of appearing judgmental towards others’ ‘cultural

practices'. This then leads to the continued persecution of at-risk groups within minority cultures, particularly women. Third, in contradiction to the second conclusion, the state is only all too willing to make sweeping cultural assumptions. It does not hesitate to issue vitriolic indictments on the basis of the actions of only a few individuals within the culture in question. This leads to the oppression of women. In short, the liberal state takes an all-or-nothing approach. There is complete acceptance, where individual violations are neglected for the sake of 'pluralism,' or there is complete denigration of minority cultures, where female agency is restricted through the portrayal of 'backwards, oppressed' minority women being in need of rescuing. In either case, women are rendered vulnerable.

The 'liberals dilemma' becomes clearer. Although the multicultural fabric of Western liberal states necessitate acceptance of cultural pluralism, there would still have to be some limitations placed. Ascertaining what types of limitations to impose is difficult, lest the state be charged of cultural imperialism. The fear of being labeled imperialist is particularly rampant, especially because "white liberal guilt" following historical maltreatment of minority groups has never been stronger.⁵³ As a result, Western liberal states adopt a politically schizophrenic policy, alternating between becoming culturally relativistic like in the Kingston case and condemning minority cultures as a whole like in the Al-Saidy case.

It therefore becomes the onus of liberal states to acknowledge that because cultures are not monolithic, there are conflicting accounts of what counts as valid cultural practice. Condemning harmful practices justified in the name of culture is not to be imperialistic because there is no agreement within the culture to begin with. By the

same token, making holistic conclusions about a given culture's 'backwardness' and 'tyranny' will not hold, for the same reasons. Ultimately, the state should not be afraid to make judgments about a cultural practice; there is a gulf between condemning *a given practice* and *condemning a culture*. Accepting group rights does not entail accepting all types of group practices. The state must maintain the balance between respecting group rights, and ensuring individuals' well being.

Of course, it is all very well and good to make assertions about a culture's internal diversity and the resultant need for the state to uphold the rights of individuals within these groups, but what happens when the dominant group within a minority culture holds such decisive influence that women willingly choose to partake in denigrating practices? The issue of agency and consent thus has to be analyzed.

Coerced versus Informed Consent

According to Bhiku Parekh, the most common forms of controversial cultural practices lead to the control of women; these include marriage and sexuality norms, and public sphere restrictions.⁵⁴ Measuring women's consent pertaining to these practices is cumbersome, particularly when one considers the complexity of decision-making.

Usually, culture is not the sole motivating force behind someone's actions, and to argue that this is the case is to be reductionist. To take the examples of voluntary and coerced marriage mentioned earlier, arguing that Mexican and Iraqi culture 'naturally' led to the occurrence of marriage uses culture as a convenient excuse without analyzing other factors.

A lack of economic alternatives and social stigmatization, for example, when *intersected* with pervasive cultural norms, may additionally be relevant. As

Isabelle Gunning argues, it is important to “see any event or norm as part of a larger, complex, organic social environment.”⁵⁵

The example of female genital mutilation highlights how factors beyond stereotypical conceptions of culture inform an individual’s decision to partake in certain traditions. Female genital mutilation (FGM) has traditionally been seen as an odious practice, a direct result of a culture’s barbaric nature. Although it is undeniable that FGM causes severe physical harm to the woman, including the loss of sexual pleasure and varied health risks, it presents women within given cultures, namely in certain African countries like Egypt and the Sudan, an opportunity to ensure their economic well-being through the enhancement of their marriage options.⁵⁶ One should bear in mind that marriage is usually the only viable alternative for women because of the taboo against women undertaking work in the public sphere. As well, beyond the option of marriage, working as mid-wives allows women is one of the rare ways women can be economically secure. If FGM were then outlawed because of charges that FGM is a direct result of the ‘pernicious’ influences of culture, one would be arresting mid-wives and mothers, i.e., those who are placed in a restrictive socio-economic bind and face few alternatives to FGM. As Gunning articulates, “would we want women, already struggling against disproportionate advantages in contrast to men, to face this additional burden? It would seem quite ironic if the use of law for eradication purposes resulted in the systematic imprisonment or economic collapse of the most relatively powerful and economically independent women within the culture.”⁵⁷ Consequently, it is too vague to argue that solely cultural reasons lead to the practice of FGM. When one takes a holistic account of

the situation, one incorporates the role of female agency and therefore adopts more nuanced solutions.

Adopting ‘intersectionality’, as Leti Volpp advocates, makes it easier to see the intersection of different vectors of oppression.⁵⁸ For example, applying intersectionality in the case of FGM makes it clear that economic prejudice, coupled with cultural restrictions on female sexuality, lead to its practice, rather than mere cultural dictates. Hence, oppression does not occur solely on a “single-axis” framework but may be manifested through different ways as a result of different but intersecting types of prejudice.⁵⁹ Ruth Frankenburg and Lata Mani redefine intersectionality through “post-modern conjuncturalism,” which they claim is more circumstantially specific to the “specific concrete conjuncture” of identities; the intersection of different types of oppression cannot be neatly measured.⁶⁰ Despite these semantic quibbles, both terms crucially highlight the specificity of women’s circumstances. Specifically, in the realm of group rights, one ‘rescues’ the perspective of women in minority cultures by showing how women may experience minority cultures distinctly compared to their male counterparts, at least in terms of the restrictions they face arising from race, class, and gender identities. It also shows that women within minority cultures and underprivileged sectors, such as members of the lower and working classes, experience prejudice differently from other women. As a result, a ‘one size fits all’ solution to the plight of women is not applicable. A nuanced analysis that considers intersectionality takes a more encompassing and consequently a more sophisticated view of the situation.

Applying intersectionality also makes it easier to see how women have complex, fractured, non-linear identities that need to be negotiated for the promotion of their well-

being. For example, this may lead some women to prioritize combating adverse economic conditions instead of trying to rectify gender and racial prejudice. This is true for women who choose to work in environments where their identities as women and cultural minorities make them vulnerable, such as in the case of women employed as live-in domestic helpers, where women's racial, gender, and class identities are deemed to justify their employment in paid domestic worker.⁶¹ Another example involves cases of women choosing to involve themselves in anti-racist and anti-colonialist struggles, prioritizing group-rights campaigns to such an extent that they sometimes hide incidents of sexism within their groups lest this undermine the larger group's goal emancipation and rights recognition. In these cases, it is difficult to promote the larger cause of anti-sexism when restrictions like a lack of economic opportunities or pervasive racism or other similar factors are present. Painting women as uniformly oppressed ignores the diversity of women's lives.

Despite the constricting situations women oftentimes find themselves experiencing, there are always opportunities where agency can be exercised. Admittedly, seeing women as deluded individuals acting without agency is tempting. Sometimes, using 'agency' as a justification of individuals' actions is a convenient excuse *not* to campaign for change. More ominously, agency has oftentimes mistakenly been associated with choice. The fact that women try to exercise some form of resistance or try to empower themselves within restrictive situations makes it appear as though the next logical argument is that they freely choose being in these positions. Ignoring the role of agency outright or misreading the exercise of agency within restrictive contexts as

tantamount to free choice harms the larger goal of rectifying intersecting forms of inequality.

At this point, it might be useful to point out the patently obvious but important parallels between classical liberalism and Western-based liberal feminism. Classical Liberalism's tendencies to make totalizing generalizations about how to promote the well-being of *all* of its citizens denies the relevance of group membership; microcosmically, liberal feminism's assumptions that its tenets are applicable to all women also leads to the detrimental rejection of diversity. Hence, women from minority cultures are placed in a predicament. Arguing for the promotion of women's rights within multiculturalism seems initially like a Catch-22: if one issues judgments against certain cultural practices, one becomes guilty of imperialism and of ignoring female agency. If one does not do so, however, one falls into the trap of relativism. Using the argument of choice and consent as a way to solve this dilemma seems unrealistic because how can 'informed choice' truly be ascertained? More importantly, even after one assesses the social context under which choices are made, would it not be misleading to assume that 'informed choice' nullifies the harmfulness of the tradition at hand? Furthermore, if one accepts that one makes an informed choice in agreeing to partake in a harmful cultural practice, does the state attempt to offer a solution regardless of choice?

Measuring informed choice through an assessment of alternatives provided for the individual is a logical move. Not all choices are made equally. A woman who decides to participate in a given practice, *despite* cultural and societal norms that *do not* oblige her to do so, is making an informed, free choice. If, on the other hand, the alternative to refusing to undergo such a practice damages her personal security or presents pernicious

economic and social risks, then free choice does not truly occur. It is imperative to assess the context under which choices are made. Nussbaum's explanation of how free choice can be detected through an understanding of different capabilities that are available to individuals as result provides a useful distinction. Nussbaum holds that there are two thresholds of capabilities. The first threshold of capability is a capability to function beneath which a life will be so impoverished that it "ceases to be human."⁶² The second threshold, in sharp contrast, is a capability to function beneath which those characteristic functions are available in such a reduced way that human life is adequate but not good. Clearly, states should not be satisfied with meeting the first threshold capability and should endeavor to rise above the second threshold. Furthermore, merely meeting the first threshold capability means that individuals do not have free choice. Choice does not really become a factor when it comes to capabilities in the first threshold. The right to life, for example, is not really a matter of choice. In particular, victims of female infanticide did not choose to die, nor did their mothers really have much of a choice in endorsing this action in light of restrictive macro-level cultural, social, and economic circumstances that prioritize male infants' lives.

To use a less extreme example, this paper thus returns to the recurring example of FGM, where women who see FGM as a way to guarantee their reputation, personal safety, and economic well-being are not really willingly choosing FGM. If they are obligated to choose FGM because the consequences will put them below the first threshold of capability that they are treated inhumanely, they are placed in a decisional straitjacket. To put it facetiously, if their choice is reliant on undergoing FGM or being murdered for 'sexual deviance', death clearly is an option most women would avoid.

They are, however, exercising agency. Women do not merely choose to undergo these procedures because they are backwards, repressed, or simply do not know better, but because they realize all too well the direness of the alternatives offered. This does not make FGM any less harmful but at least it highlights other larger problems like the social and economic straitjackets women find themselves occupying. Classifying certain actions under the first or second thresholds of capabilities provides a helpful way of understanding when free choice occurs.

It should also be noted that there is a difference between ‘free choice’ and ‘agency’ in this case; a woman may not be exercising free choice but she is, however, exercising her agency. In other words, she is using the limited means available to exercise some form of empowerment. By drawing this distinction, one gets a better grasp of what solutions to offer. Recognizing individuals’ struggles to act despite severe restrictions provides solutions that are not patronizing or paternalistic.

The role of brainwashing or ‘preference deformation’ must also be mentioned. Through preference deformation, women have “internalized their oppression so well that they have no sense of what they are justly entitled to as human beings.”⁶³ In essence, dominant individuals within these cultures are “making allies out of the deprived” and preventing women from assessing for themselves what choices to make.⁶⁴ To illustrate the difference between free choice and non-coerced (i.e., non-brainwashed) choice, Martha Nussbaum asserts that a woman who has never been given access to formal education but is taught to see female education as inherently evil does not freely choose to be uneducated.⁶⁵ To provide a more specific example, Nussbaum narrates the story of a Pakistani woman who decides to go into *pardah* after being publicly educated and

joining the labor force. In this instance, she is not being coerced into *purdah* but merely decides that this is the lifestyle she would rather have. When Nussbaum asks her if she thinks as a result of her actions that all women should follow her decision, she says no, asserting that women should be given the option of being in *purdah* or being allowed outside it.⁶⁶ A similar case is Bhiku Parek's example of white British women in Britain who have been educated in a liberal Western system but later choose to accept traditional Islamic models for femininity.⁶⁷ Hence, in delineating the difference between informed versus forced choice, Nussbaum is making the critical point that being given the ability to exercise rational, non-coerced choice *over and beyond* cultural constructs determines true gender equality.

Preference deformation may also occur more subtly. Socially constructed norms of gender behavior and differential gender expectations may lead women to assume that they are being treated equally, when in reality, they are being oppressed. Amartya Sen cites the example of familial 'co-operative conflicts' that assume the male head of household will act altruistically for the benefit of the family in such aspects like food distribution.⁶⁸ Because male needs are prioritized over women and because there are more options available for men, women's needs are devalued. Thus, for example, it would make more sense from an efficiency-oriented perspective to minimize women's share of food because if men fell ill and were unable to work, the household will suffer economically. It would also seem more practical for women to stay at home and take care of the children – if it were a choice between male employment or female employment – because men make more money than women. When assessed empirically, Sen discovers that women's well being, measured not merely in terms of physical health

but also mental health and emotional satisfaction, suffers. In light of these circumstances, women's 'free choice' does not exist because subtle cultural pressures demand compliance.

To return to the question of whether informed choice nullifies the 'harmfulness' of a tradition, one has to accept that the presence of alternatives to the tradition in question negates the legitimacy of liberak intervention. Hence, the Pakistani woman Nussbaum cites should not be stopped by the state from living in purdah. No matter how questionable a tradition might appear to outsiders, the decisions an individual makes freely should be respected. It thus follows that in answer to the question of what role the state should play in this regard, this paper responds by stressing that the state should guarantee free choice through the presence of realistically viable alternatives, bearing in mind that culturally and socially constructed norms might exert subtle preference deformation. It is only when women enjoy several options, as well as physical and psychological health *equal to* men, that free choice occurs. Obviously, measuring grey areas presents the most pressing concern. What if, for example, a woman undergoes a certain practice, such as polygamy, that is illegal but which she deems is her right, as a free agent, to undertake? Again, however, a holistic analysis taking into account intersectionality will make it easier to see if free choice occurs. In the case of polygamy, if a woman has the alternative not to enter into a polygamous relationship, i.e., she does not face economic and social castigation for not doing so, and if a woman's physical and psychological health does not suffer as a result, she is in all probability making a free choice. Choices do not occur in a vacuum, but provided that they satisfy the twin

requirements of having alternatives and guaranteed sound physical and psychological health, free choice can be more easily deduced.

Deveaux disagrees with Nussbaum's advocacy of rational free choice and the different 'layers' of choice, and makes the thought-provoking point that "a community that does not promote its members independence may still provide their members with well-being and protection."⁶⁹ The examples of Amish communities that foster strong group protection but place restrictions on its members immediately come to mind, as do some Muslim families where women are relegated to the private sphere in exchange for stability and protection. A careful reading of Deveaux may lead us to assume that she is making the claim that prioritizing individualism over group rights is erroneous because, at least for some groups, guaranteeing members' well being is more important. If this were the case, the situation becomes especially complicated when an individual's perception of his/her well being differs from that of the group, particularly when well being cannot be separated from individualism. Much as it is homogenizing to assume that the majority's values are universally applicable, it is also homogenizing to assume that the minority's values resonate among all of its members.

In order to resolve this dilemma, proponents of group rights have listed several caveats in their advocacy of pluralism. The next section will evaluate the proposed synthesis of group rights with individual rights.

Group Rights + Individualism?

Evaluating Attempts at Synthesis

Kymlicka supports group rights only in so far as they do not contradict individual rights. In fact, the guarantee of the right of exit, for Kymlicka, is highly important. An

individual who chooses to abstain from cultural practices must be given the means to do so. Although it is unjust to bind cultural minorities into majoritarian practices, it is also unjust to bind members of cultural minorities into minority cultural practices. If group claims work to the detriment of the individual, such rights cannot be endorsed.⁷⁰ Thus, Kymlicka is endorsing group rights, but with restrictions.

Similarly, Seyla Benhabib offers three limitations to group rights. First, she endorses “egalitarian reciprocity,” where members of cultural minorities are given the same rights as the majority in terms of both groups’ equal abilities to practice their beliefs. Second, through “voluntary self-ascription,” she argues that the state should not place undue power to define and control the group in the hands of a select few, at the expense of individual choice. Lastly, she echoes Kymlicka and Deveaux’s support for freedom of exit and association.⁷¹

On the whole, Kymlicka and Benhabib present cogent and necessary limitations to group rights. The right of exit, however, is severely problematic. Making the claim that individuals should not be locked to a group they want nothing to do with is a fair statement. Unfortunately, the right of exit does not include current group members who are unable to exit from the group because of pressures to remain within the group. Kymlicka and Benhabib assume that people are unencumbered by social relationships. Exercising the right of exit is thus not as easy as they make it appear because individuals are tied to other group members. Also, the right of exit does nothing to protect the rights of individuals still remaining within the culture. Hence, the right of exit is a false solution, presenting an “either you accept the entirety of our culture or you leave” approach. It implicitly justifies the continued practice of harmful practices by saying that

group members always have the option of leaving if they do not agree with it; hence, the onus is on the group members to change, either by accepting the culture or by leaving, ensuring that the culture at hand remains unquestioned. It creates no incentives for change within the culture. Although Kymlicka does assert that illiberal cultures should not be granted group rights, there are so many gray areas that it would be difficult to identify what merits disqualification from ‘valid, liberal’ group status.

Shachar presents what she considers a sound alternative to the right of exit. She makes the pragmatic suggestion of transformative accommodation, which synthesizes group rights with individual rights by providing group leaders with incentives not to ignore individual members’ well being.⁷² She sees group leaders as akin to politicians whose ability to speak on behalf of the group depends on their continued legitimacy. Thus, once leaders see that they will relinquish their powerful statuses if they ignore group members’ individual needs, they will be more likely to curb harmful practices. Once at-risk group members see that they can influence their leaders’ policies by threatening to withdraw their support, they will become not only “culture-bearers” but also “rights-bearers” who are capable of purging their culture of derogatory group practices.⁷³ In turn, the state’s interests in protecting the rights of individuals within cultural minorities while protecting group rights will also be fulfilled. Group leaders and the state can form a mutually beneficial relationship that would enhance diversity while maintaining individualism.

Shachar’s espousal of transformative accommodation is laudable in that it understands that the right of exit simply is not an option most group members can take for the very reasons already highlighted. That she is attempting to encourage a shift in

cultural values towards better accommodating all of its members' needs, rather than solely being locked in an unchanging system of beliefs that benefits only the elites of the group, is also remarkable. Unfortunately, for all of its goals, transformative accommodation is not practicable. First, her understanding of leadership structures within cultural groups is flawed. Group leaders are usually not appointed in official elections. Although certain religious group leaders are appointed by clerics, in no way does the leadership of most cultural groups resemble a democracy. (Aboriginal groups are obviously an exception). Group leaders derive their authority from 'natural', traditional rights, thus explaining the ability of cultural leaders like Islamic imams to act as group representatives without democratic election. Second, because leadership structures are not democratic, group members do not exercise bargaining power when it comes to purging certain traditions. Furthermore, the fact that traditions are so widely contested to begin with means that consensus in this regard is unlikely. If anything, protests over harmful cultural practice by individual group members may lead group elites to tighten the reigns of control among group 'rebels'; indeed, such rebellion may be used as further proof highlighting why a 'return to culture' is desperately needed, particularly when living abroad. Lastly, Shachar does not make allowances for preference deformation. Even in the event that group members are able to exercise some form of collective influence to decide which traditions to maintain, the effects of socialization might in some cases lead to an inability to think beyond the confines of 'culture'.

This does not mean that attempts at synthesis have to be abandoned altogether. Transformative accommodation may not be politically feasible, yet Kymlicka, Benhabib, and Shachar's suggestions for the need to instigate dialogue remain important. Dialogue

will show why certain practices are being maintained in the first place, hopefully highlighting the effects of intersectionality. For example, through dialogue, women in Senegal were able to see that the reason FGM was widely pervasive was through the effects of social and economic pressure; thus, through continued discussion that stressed a participatory educational approach and a gender-accessible program, FGM was gradually eradicated.⁷⁴ In its ideal form, some variant of deliberative democracy will thus lead group members to reevaluate certain practices, and to determine through discussion how such practices affect everyone, particularly at-risk individuals. Based on these discussions, cultures can then be redefined to encompass the needs of everyone. Although the same criticisms leveled against transformative accommodation can also be leveled against deliberative democracy, especially in the way it allows privileged perspectives to dominate, one should not deny the overall benefits of *at least* attempting to engage all group members in dialogue.

Hence, a holistic promotion of group rights is harmful. Even adherents of group rights recognize its limitations. For example, although Deveaux heatedly disagrees with proposals that seem to detract from group rights, even she concedes that it is necessary to ascertain “whether individuals have the capacity to affirm as well as to refuse the ideas and social and political arrangements of the group as a whole;”⁷⁵ indeed, in her endorsement of the “basic reciprocal duties of respect,” she holds that cultures that refuse to respect its members will suffer from the withdrawal of their distinct group rights.⁷⁶ Hence, even despite Deveaux’s refusal to equate well being with individualism, she still holds that ultimately, the individual should still have the option of abstaining from cultural practices. Indeed, Deveaux appears to be backtracking. If a culture has the

obligation to respect its members' wishes, especially the right of exit, this seems to affirm the continuing validity of individualism at the final analysis.

Political Liberalism: Promoting Individual Choice and Group Rights

Making the assertion that the individual's needs should be prioritized before group rights can be given does not necessarily have to be imperialistic. Cultural outsiders may seek to understand cultural practices and make recommendations, but always with the knowledge of their own biases; moreover, they should always be self-reflexive because practices that they decry as characteristic solely of minority cultures may in fact have Western parallels. In contrast to Okin's claims that "the committed outsiders may often be better critics of social injustice than those who live within the relevant culture", this paper believes that attempting to speak for cultural insiders, rather than allowing them to speak for themselves, *is* imperialistic.⁷⁷ Although it is tempting to reform a culture based on Western notions of morality, engaging in dialogue with minority women will show that attempts at resistance and recommendation for change among these minority women proliferate. Indigenous traditions of revolt and individual expressions of agency within oppressive contexts should not be denied.⁷⁸ Although imposing a universal form of feminism is tempting, this is not feasible, nor is it desirable. Giving voice to women within minority cultures is particularly important because they are already denied a voice within their cultures – denying them a voice within feminism is to place them perpetually on the margins.

Thus, the larger cause of group rights must not sacrifice individual rights. Presenting ways to synthesize group rights with individual rights ironically results in leaving little room for recourse for individual group members. The right of exit, as

mentioned, enshrines a ‘consent to my culture or get out’ mentality, whereas transformative accommodation, and, to some extent, deliberative democracy, reinstates the dominance of privileged elites. Rather than addressing individualism as a brief aside or as a minor caveat, it should be acknowledged from the outset. Claiming that individual rights should matter within group rights will not make pluralism weaker. On the contrary, if it is accepted that pluralism provides individuals with a plethora of cultural options, individuals can then decide the best way to pursue his/her own conception of the good life, beyond hegemonic influences. As discussed, individual members of cultural minorities benefit from the promotion of negative rights which protects individuals from being discriminated against because of group membership, as well as positive rights, which actively promotes cultural diversity through positive discrimination. If it is accepted that individual rights within group rights should be promoted from the beginning, then a stronger case for enshrining choice within group rights is promoted. Group rights should be promoted to promote group needs, such as self-government or special rights (i.e., affirmative action), but should exist alongside, and *not* in spite of, individual rights.

Consequently, a political liberal approach, rather than a comprehensive liberal approach, allows for the existence of pluralism while paying respect to the notion of choice. Nussbaum’s advocacy of political liberalism rests on the belief that the state, under pluralism, should also make provisions for different individual choices, instead of locking members of cultural minorities into their cultures. Nussbaum stresses, however, that making provisions for choice is not similar to prioritizing autonomy, which, under Okin’s comprehensive liberal approach, argues that only cultural practices that respect

female autonomy should be sanctioned.⁷⁹ The difference between making the case for individualism through choice, rather than individualism through autonomy, lies in the fact that a woman may freely choose to relinquish her ‘autonomy’ in favor of cultural traditions. Thus, for example, the Pakistani woman who willingly went into *purdah*, though entering a lifestyle that is not autonomous by Okin’s definition, still exercised individual choice, and should therefore be respected.

Conclusion

It is now essential to revisit key questions raised during this essay in order to see how they would be resolved within the larger framework of political liberalism and group rights. More specifically, this essay will now look at the issues of representation, and assessing true consent within gray areas. It argues that group rights claims should not use a monolithic definition of culture to promote the needs of minority cultural elites. Furthermore, respecting the choices made by individuals within minority cultures is of paramount importance, even though such choices may not be compatible with ‘liberal’ ethics.

Representation

Earlier, this paper argued that positive discrimination is necessary in order to ensure the presence of minority cultural members. These individuals, however, should not be made accountable to the group; doing so makes the assumption that there is one way through which cultures can be represented. Thus, the increased presence of minority cultural members is a good in itself. The fact that this may result in a shift in policy-making towards including issues that are more relevant to cultural minorities is a beneficial side effect.

Of course, representation through special cultural rights is a different issue altogether. Allocating special language rights, or special rights for self-government, is important, provided that they do not lead to the dominance of one specific group of elites within the group. If self-government is defined to include only the perspectives of male elites, then this has to be interrogated because it does not provide at-risk group members the choice to act as group representatives themselves. If special cultural rights involve making women assume positions of inferiority, with women's safety being jeopardized if they say no, then these rights have to be redefined to allow women alternatives other than the lifestyle proffered by cultural elites.

Hence, with regards to representation, positive rights are integral in order to integrate minority group members within liberal political structures. On the other hand, special rights that provide specific provisions for the minority culture also has to protect the interests of at-risk group members. Enabling the representation of minorities, whether through traditional liberal political structures or special group structures, is necessary in order to ensure more accurate representation.

True Choice and Gray Areas

The controversial issue of choice and true consent versus false consent needs to be addressed once again. If true consent is defined as making a decision on the basis of several alternatives, rather than being locked into only one alternative, the case of preference deformation presents a challenge.

On one hand, there are clearly 'cultural' practices that are derogatory and damage individual well being. Examples of these are the Indian practice of wife-burning, female infanticide, and FGM. Conducting a holistic analysis leads to a more in-depth

understanding of the reasons why women may choose to partake in these practices.

Using choice as a justification for the continuation of these practices is invalid because economic, social, and cultural restrictions negate the presence of other viable alternatives.

On the other hand, there are ‘cultural’ practices that may appear abhorrent by Western standards but do not have obvious pernicious effects on individual well being. Provided that individuals within the minority culture are not coerced into assuming these traditions, then the state has no right to interfere. For example, the recent hijab controversy has focused on how adopting the hijab is a sign of forced acquiescence to ‘regressive’ Islamic standards that prioritize female seclusion. However, much as it is convenient to conclude that the hijab symbolizes female subordination, when there exists no law compelling *all* women to wear the hijab, then one has to concede that individual choice has led women to adopt this practice. Social and cultural pressure might indeed be a factor, but to make the grand claim that culture has ‘brainwashed’ women is to be patronizing. The hijab case parallels Nussbaum’s example of women choosing to go into purdah. Thus, Nussbaum’s version of political liberalism enshrines the validity of individual choice above all. Political liberalism puts limitations on choice only in so far as they do not damage individual well being (defined roughly as the individual’s right to a healthy existence). Thus, ‘good’ and ‘bad’ choices are acknowledged within its framework, recognizing that putting restrictions on the types of choices one makes is to be paternalistic. Promoting pluralism is important within culturally diverse societies. It is not merely enough for the state to assert that blanket protection against discrimination is offered for all citizens.

¹ The term ‘multiculturalism’ officially originates from Canadian theorist John Porter’s observation in 1965 that Canada is a multicultural “mosaic”; in 1971, Canadian Prime Minister John Trudeau developed an official policy of multiculturalism for Canada, with other countries later adopting the term. Tepper, Elliot L. “Multiculturalism and Racism: An Evaluation.” The Silent Debate: Asian Immigration and Racism in Canada Eds. Eleanor Laquian, et al. Vancouver, BC: Institution of Asian Research (1997), p.52.

² Mandatory British citizenship classes, immigration policies and affirmative action agendas, and Canadian and Australian aboriginal self-government are examples of issues pertaining to the former, whereas the French scarf affair and female genital mutilation in the UK are examples of the latter.

³ Kastoryano, Riva. “France’s Veil Affair: National Institutions and Transnational Identities.” Inroads 15 (Summer/Fall 2004) pp.63-72. p.64-5.

⁴ For example, theorist Monique Deveaux makes vague, theoretical references to the threat of illiberal cultures, without delineating *precisely* how such illiberal cultures affect individual autonomy. That such individuals are usually women, though mentioned in generalities, seems on the whole to escape notice. See Deveaux, Monique, Cultural Pluralism and the Dilemmas of Justice. Cornell, NY: Cornell University Press (2000). Another example from a policy perspective shows how recent studies on multiculturalism and racism in the Canadian educational system deny the effects of gender in multicultural policies; although author Kogila Moodley notes that “like women, ethnic minorities are seldom portrayed as active agents...”, the question of how women within these ethnic minorities are affected remains unanswered. Moodley, Kogila, “The Role of Education in Combating Racism in Canada,” The Silent Debate: Asian Immigration and Racism in Canada Eds. Eleanor Laquian, et al. Vancouver, BC: Institution of Asian Research (1997), p.351.

⁵ Rai, Shirin. The Political Economy of Development. Cambridge: Polity Press (2002), p.29.

⁶ Shachar, Ayelet. Multicultural Jurisdictions. Cambridge: Cambridge University Press (2000), p.29. This paper concentrates on Western liberal societies. Other countries outside this framework clearly face problems surrounding multiculturalism, but spatial considerations and the need for a more focused analysis limits the discussion.

⁷ Benhabib, Seyla. The Claims of Culture: Equality and Diversity in the Global Era. Princeton, NJ: Princeton University Press (2002), p.90.

⁸ Tepper, p.51.

⁹ Resnick, Philip. “Republicanism, Multiculturalism, and Liberalism.” Inroads 15 (Summer/Fall 2004) pp.77-79. p.78.

¹⁰ Kymlicka, Will. Liberalism, Community, and Culture. Oxford: Oxford University Press (1989), p.140.

¹¹ Kukathas, Chandran. “Are There Any Cultural Rights?” The Rights of Minority Cultures. Ed. Will Kymlicka. Oxford: Oxford University Press (1995), p.229.

¹² Phillips, Anne. “Democracy and Difference: Some Problems for Feminist Theory.” The Rights of Minority Cultures. Ed. Will Kymlicka. Oxford: Oxford University Press (1995), p.80.

¹³ Naussbaum, Martha. Sex and Social Justice. Oxford: Oxford University Press (1999), p.64.

¹⁴ Okin, Susan Moller. Gender, Justice, and the Family. New York: Basic Books Inc. (1990), p.67.

¹⁵ Deveaux, p.30.

¹⁶ Kymlicka, Liberalism, Community and Culture, p.140.

¹⁷ *Ibid.*, p.26.

¹⁸ Deveaux, p.13.

¹⁹ Phillips, Anne. “Defending Equality of Outcome.” Journal of Political Philosophy. Vol. 12, No.1 (1994), p.18.

²⁰ Phillips, Anne. “Must Feminists Give Up on Liberal Democracy?” Political Studies 150 (1992), pp.68-82, p.70.

²¹ Deveaux, p.26.

²² *Ibid.*, p.61.

²³ Valadez, Jorge M. Deliberative Democracy, Political Legitimacy, and Self-Determination in Multicultural Societies. Boulder, CO Westview Press: (2001), p.158.

²⁴ Kymlicka, Will. Multicultural Citizenship: A Liberal Theory of Minority Rights Oxford: Oxford University Press (1995), p.75.

- ²⁵ Kymlicka and Taylor have several key disagreements, although both uphold the importance of group rights. Their motivations behind espousing group rights might differ, but their end goals are similar. For a more thorough analysis of the two theorists points of clash, Kymlicka's "Liberalism, Community and Culture", especially Chapter Five, provides a thorough delineation. Taylor, Charles. "The Politics of Recognition." Multiculturalism: Examining the Politics of Recognition. Ed. Amy Gutmann, Princeton, NJ: Princeton University Press (1994), p.39.
- ²⁶ The allegation mentioned earlier that such positive forms of recognition invariably leads to individuals being trapped to their group is a controversial one, especially for certain women from minority cultures. This paper will discuss this at great lengths later, but suffice it to say at the moment that the notion of choice versus coercion colors much of the debate over multiculturalism.
- ²⁷ Walzer, Michael. "Pluralism: A Political Perspective." The Rights of Minority Cultures. Ed. Will Kymlicka. Oxford: Oxford University Press (1995), p.149.
- ²⁸ Young, Iris Marion. "Polity and Group Difference: A Critique of the Ideal of Universal Citizenship." Ethics Vol. 61 (1989), p.261.
- ²⁹ Young, Iris Marion. Justice and the Politics of Difference. Princeton, NJ: Princeton University Press (1990), p.186. Also in McLaughlin, Janice. Feminist Social and Political Theory. London: Palgrave (2003), p.37.
- ³⁰ Williams, Melissa. Voice, Trust, and Memory: Marginal Groups and the Failings of Liberal Representation. Princeton, NJ: Princeton University Press (1998), p.6.
- ³¹ Phillips, Anne. "Democracy and Representation." Feminism and Politics. Ed. Anne Phillips. Oxford: Oxford University Press (1998), p.228.
- ³² Phillips, Anne. The Politics of Presence. Oxford: Clarendon Press, p.67.
- ³³ Deveaux, p.161.
- ³⁴ Shachar, p.17.
- ³⁵ Ibid., p.65.
- ³⁶ Okin, Susan Moller. Is Multiculturalism Bad for Women? Eds. Joshua Cohen, et al. Princeton, NJ: Princeton University Press (1999), p.13.
- ³⁷ Ibid., p.15.
- ³⁸ Ibid., pp.12-13.
- ³⁹ Coleman, Catherine. As quoted in Volpp, Leti. "Talking Culture: Gender, Race, Nation, and the Politics of Multiculturalism." Columbia Law Review. Vol. 96 (6). P.1576.
- ⁴⁰ Benhabib, p.90.
- ⁴¹ Ibid., p.89.
- ⁴² Benhabib, p.87.
- ⁴³ Honig, Bonnie. "My Culture Made Me Do It." Is Multiculturalism Bad for Women? Eds. Joshua Cohen, et al. Princeton, NJ: Princeton University Press (1999), p.39.
- ⁴⁴ Benhabib, pp.4-6.
- ⁴⁵ Peach, Lucinda Joy. "Are Women Human? The Promise and Perils of 'Women's Rights as Human Rights.'" Negotiating Culture and Human Rights. Eds. Lynda S. Bell, et al. Columbia, NY: Columbia University Press (2001), p.173.
- ⁴⁶ Ibid., p.173.
- ⁴⁷ Naussbaum, p.109.
- ⁴⁸ Honig, p.39.
- ⁴⁹ Bhabha, Homi. "Liberalism's Sacred Cow." Is Multiculturalism Bad for Women? Eds. Joshua Cohen, et al. Princeton, NJ: Princeton University Press (1999), p.83.
- ⁵⁰ Volpp, Leti. "Blaming Culture for Bad Behavior." Yale Journal of Law and the Humanities (2000), p.92.
- ⁵¹ Ibid., p.95.
- ⁵² Ibid., p.110.
- ⁵³ Benhabib, p.90.
- ⁵⁴ Parekh, Bhiku, quoted in Benhabib, pp.83-4. More specifically, for Parekh, the twelve most common practices are, "female circumcision, polygamy, methods of animal slaughter, arranged marriages, marriages within prohibited degrees of relationships, scarring children's cheeks or other parts of the body, Muslim withdrawal of girls from coeducational practices, hijab, Sikh turbans, Gypsy/Amish refusal to send their children to school after a certain age, and cremation."

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- ⁵⁵ Gunning, Isabelle. "Arrogant Perception, World-Travelling, and Multicultural Feminism." Columbia Human Rights Law Review. Vol.23, p.213.
- ⁵⁶ *Ibid.*, p.215.
- ⁵⁷ *Ibid.*, p.230.
- ⁵⁸ Volpp, "Talking Culture," p.1581.
- ⁵⁹ *Ibid.*, p.1581.
- ⁶⁰ Frankenburg, Ruth and Mani, Lata. "Crosscurrents, Cross-Talks,"
- ⁶¹ It is easier to imagine lower-class minority women of color working as maids and nannies, rather than their mainstream counterparts. The term 'Filipino', for example, brings popular images of the stereotypical Filipino nanny to mind, at least in countries like Hong Kong, Italy and Singapore, where there is a huge population of expatriate Filipino live-in domestic helpers.
- ⁶² Nussbaum, Development, p.78.
- ⁶³ Okin, Susan Moller. "Inequalities Between the Sexes in Different Cultural Contexts." Women, Culture, and Development: A Study of Human Capabilities. Eds. Martha Nussbaum and Jonathan Glover. Oxford: Oxford University Press (1995), p.292.
- ⁶⁴ *Ibid.*, p.292.
- ⁶⁵ Nussbaum, Martha. Women and Human Development. Cambridge: Cambridge University Press (2000), p.130.
- ⁶⁶ *Ibid.*, p.131.
- ⁶⁷ Parekh, Bhiku, "A Varied Moral World," Is Multiculturalism Bad for Women? Eds. Joshua Cohen, et al. Princeton, NJ: Princeton University Press (1999), p.73.
- ⁶⁸ Sen, Amartya. "Gender Inequality and Theories of Justice." Women, Culture, and Development: A Study of Human Capabilities. Eds. Martha Nussbaum and Jonathan Glover. Oxford: Oxford University Press (1995), p.261.
- ⁶⁹ Deveaux, pp.135-6.
- ⁷⁰ Kymlicka, Liberalism, Community and Culture, p.139.
- ⁷¹ Benhabib, p.106.
- ⁷² Shachar, p.148.
- ⁷³ *Ibid.*, p.148.
- ⁷⁴ The Population Council, "The Tostan Story: Breakthrough in Senegal Ending Female Genital Cutting," <http://www.popcouncil.org/rhfp/tostan/tostan.html>, 18 Aug. 2004.
- ⁷⁵ *Ibid.*, p.13.
- ⁷⁶ *Ibid.*, p.38.
- ⁷⁷ Okin, Women, Culture, and Development, p.293.
- ⁷⁸ Bhaba, Homi K. "Liberalism's Sacred Cow," Is Multiculturalism Bad for Women? Eds. Joshua Cohen, et al. Princeton, NJ: Princeton University Press (1999), p.83.
- ⁷⁹ Nussbaum, Martha. "A Plea for Difficulty," Is Multiculturalism Bad for Women? Eds. Joshua Cohen, et al. Princeton, NJ: Princeton University Press (1999), p.110.