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The Challenge of Multiculturalism: Political Philosophy and the Question of Diversity

Christian Fernández

Introduction

The word ‘challenge’ in the title of this chapter refers to the role that multiculturalism has played in political philosophy over the last decades: questioning established norms, criticizing blind spots and neglected areas and reframing central issues and problems. The challenge originates in the conditions of uniformity and assimilation that political membership (often) presupposes. Multiculturalism framed as a challenge serves as a critique of ethnocentricity, discrimination, national chauvinism, cultural repression and more generally intolerance of diversity. But most of all, it is a critique of mainstream political philosophy’s inability to offer a proper theory of how to accommodate cultural diversity – conceptually as much as normatively. Hence the name *multiculturalism*.

Multiculturalism’s challenge has been successful in the sense of bringing about a greater awareness of problems and injustices related to diversity. It has also been successful inasmuch as multiculturalism now is conceived as *the* diversity-friendly position in politics. As the name implies, the central multicultural claim is that many cultures should live together without being merged into one or subsumed under a superior, overarching culture. It denotes an appreciation of cultural diversity, which compares favourably to all other supposedly monoculturalist views that resist or at least lament the diversification of national cultures.

The case studies comprising this volume focus on the incorporation and rejection of multicultural ideas and policies in countries across Europe. This chapter deals with a corresponding incorporation and rejection in political philosophy. More specifically, I am interested in how the multicultural challenge has been met by proponents of another theory that is associated with a strong appreciation of diversity, namely liberalism. The liberal entry point is both

a delimitation of the subject and a conscious choice. It is motivated by the fact that liberalism is a dominating theoretical perspective and key reference point in contemporary philosophy, which means that mainstream liberal philosophy has been and remains the main target of the multicultural critique.

To this end, the chapter will compare the multicultural and the liberal approaches to diversity, and examine how the former has affected the latter. The main purpose is to examine three attempts to incorporate the multicultural critique into liberal philosophy, and to discuss the normative implications thereof. In so doing, the analysis revolves around one central question: *How can differential treatment on the basis of culture be justified?*

The chapter is divided into three sections. In the first I sketch the main themes of the multicultural challenge. The second describes and discusses three different liberal arguments relating to differential treatment on the basis of culture. The third and last section offers some final reflections on the contributions of multiculturalism and its possible decline in political philosophy and political practice.

The multicultural challenge

Multiculturalism comes in different packages with diverse labels: ‘the politics of identity’, ‘the politics of recognition’, ‘the politics of difference’, ‘the politics of pluralism’, among others. What they all have in common is an insistence on the accommodation rather than the suppression of cultural diversity. A just society, according to this view, is a society that recognizes and respects the differences between the various cultural minorities of society through means of differential treatment.

The multicultural critique of assimilation targets the ways in which mainstream societies strive to preserve and disseminate one culture. It is focused on the various norms, rules and laws that favour mainstream culture and/or impose it on minorities: state-subsidized churches, morning prayers in public schools, mandatory Sunday closing, dress code in public schools, prohibition against the building of minarets and so on. Multiculturalists resist these overt forms of assimilation because cultural homogeneity should not be a precondition for political inclusion.

Most liberals share this view – the liberal insistence on religious liberty and the separation of state and church is a case in point – which means that the difference between the multicultural and the

liberal approach to cultural diversity lies elsewhere. It has less to do with attitudes towards assimilation and diversity, and more to do with conceptions of culture and equality. Essentially, the difference can be reduced to two themes. The first relates to the ‘multi’ of multiculturalism, namely the protection of diversity through *differential treatment* of groups, and the second refers to the ‘culturalism’, namely the belief that *cultural belonging* is essential to human flourishing and self-fulfilment. Both clash with the conventional conception of diversity and equality in liberal thought. In order to clearly discern the divergence, a brief comparison is presented.

DIFFERENTIALISM

The liberal norm of equal treatment commands the state to treat all citizens equally regardless of gender, sexual orientation, age, religion and other personal characteristics and affiliations. It can be described as a deliberate indifference, commonly referred to as ‘benign neglect’, of all the small and big differences that make people different from one another despite their being citizens of the same state. The purpose of such neglect is on the one hand to protect everyone’s right to be different (private freedom) and on the other hand to assure that all citizens *qua* citizens are equal. To these ends, the norm of equal treatment is guarded by universal individual rights that protect the private lives of individuals and groups from state intervention. The norm is also guarded by laws designed to protect citizens from varying forms of discrimination in education, on the job market, in politics and so on. Such rights and laws are especially important for minorities, liberals believe, since they protect them from the ‘tyranny of the majority’, to borrow John Stuart Mill’s well-known expression.

The norm of equal treatment is based on several assumptions or approximations. One is the assumption of a *common public interest* that supposedly unites all citizens and creates an equal relation between them and the state. This common public interest is based on norms and values that are shared by all citizens. In his later works John Rawls (1987, 1993) refers to this common interest as an ‘overlapping consensus’, emphasizing its constitution through the convergence of particular ways of life and beliefs – ‘comprehensive doctrines’ in Rawlsian terminology – and not from some inherently free-floating conception of good citizenship. The unifying bond of liberal citizenship ideally derives from nothing more, and nothing

less, than this overlapping consensus and, more concretely, the rights and liberties that confer on citizens the power to negotiate and renegotiate it. (How negotiable the overlapping consensus really is can be questioned since it is constricted by and derived from various principles that specify the fundamental terms of a just, liberal order (cf. Rawls 1993: 144ff).)

Within the boundaries of the overlapping consensus, citizens are regarded as an abstract mass of equals, the diversity of which the state benignly neglects for egalitarian reasons. Outside these boundaries, however, they are all unique individuals and groups who should be left alone to pursue, maintain and reproduce the different comprehensive doctrines that endow their private lives with a sense of meaning and purpose. According to a common phrase, the state should be *neutral* vis-à-vis these doctrines. This means two things: on the one hand, that the state should refrain from favouring or disfavouring certain ways of life – say, Catholicism over Calvinism, or heterosexuality over homosexuality – and, on the other hand, that the state should disregard and be unsusceptible to demands that derive from comprehensive doctrines and particular conceptions of the good. The boundaries of the overlapping consensus ideally limit the authority of the state to actions that can be justified by public reasons.

The liberal norm of equal treatment through benign neglect and state neutrality is closely related to a presumption of *separateness*, that is, to the view that different spheres of society can and should be separated and contained from one another. These separations are defining elements of liberal societies, for example, the separation of state and church, of civil society and political community, of democracy and the market, and of office and property (cf. Walzer 1984: 315). This idea of separateness is a way of enabling both liberty and equality. As Michael Walzer explains:

we can say that a [...] society enjoys both freedom and equality when success in one institutional setting isn't convertible into success in another, that is, when the separations hold, when political power doesn't shape the church or religious zeal the state. (Walzer 1984: 321, cf. Walzer 1983: 6–17)

The realization of the common public interest and state neutrality presuppose this separation of spheres, then, as it protects the 'purity' and autonomy of each sphere from the distorting influences of other spheres. In culturally diverse societies, it supposedly ensures both the

common bond of citizenship and a flourishing diversity of ethnic and religious identities.

The multicultural critique departs from these liberal assumptions. Just as socialists and feminists have done before, multiculturalists question the liberal separation of spheres although in slightly different ways and with different consequences. A number of objections are raised that allegedly disqualify the liberal notion of the neutral state and the viability of equal treatment. One of them is that personal identities cannot be switched on and off as citizens enter and exit the public sphere in the way that liberals assume or hope. Identities are deeply rooted and pervasive social affiliations. They define for people who they are, configure their interests and aspirations and inform the choices people make and why they make them. Therefore it is misleading, multiculturalists argue, to assume that one's identity as a woman, homosexual, devout Christian or parent can be separated or 'bracketed off' from the role of the citizen. Such identities influence citizenship, not just with respect to how individuals exercise their rights, for example how they vote, but with respect to the very institution of citizenship itself and how that institution is shaped by the experiences and interests of people. It is therefore inevitable, multiculturalists claim, that the institution of citizenship and the common public interests more generally come to reflect the needs and interests of the majority rather than the minorities. The fictitious neutral liberal state functions as a cover-up for a mainstream culture that systematically benefits the majority (Taylor 1994; Galeotti 2002; Parekh 2000).

The liberal state is an assimilationist state in yet another sense, according to multiculturalists. Despite its purported neutrality, liberalism and liberal societies consistently favour some ways of life over others, namely the ones that reflect the liberal ideal of personal autonomy (Galston 1995; Macedo 1995 and 2000). The public culture and its institutions are based on this ideal, which implies a preference for some values over others: individualism and self-fulfilment over collective loyalty and solidarity, secularism and moral relativism over religious devotion and deep faith, social mobility and self-sufficiency over familial ties and obedience. A society based on the ideal of autonomy, multiculturalists insist, is from the very outset a society that encourages and sponsors a certain way of life at the expense of others.

Multiculturalism is not a denunciation of the liberal aims of equality and freedom but a differing view on how these aims should be

pursued in diverse societies – a view that proposes *differential treatment* of groups as a complement and sometimes replacement of equal treatment of individuals. Justifications of differential treatment come in various guises (as we see in the following sections); the general aim is to dissolve the connection between equality and assimilation so that the latter ceases to be a precondition for the former. The ethos of differential treatment is equal respect for and recognition of all members of society, not just as individual members of the state (citizens) but as members of groups within the state. The recognition of group membership, multiculturalists claim, is an affirmation of the differences that make people into what they are. It enables them to maintain their way of life and collective identity without being marginalized, and to be equal without being assimilated.

CULTURALISM

Differential treatment is a means by which groups are singled out and granted rights, freedoms and resources not offered to other citizens. This is not a new idea in political theory and practice: the redistribution of material resources through progressive taxation and social welfare programmes is a well-established system of differential treatment, whereby low-income groups are given preference over high-income groups. Preferential treatment of women (sometimes) at the expense of men is also a form of differential treatment, whereby women are compensated for gender discrimination in society. Egalitarian liberals tend to support both forms, but especially the first.

Differential treatment on the basis of culture is a more difficult and controversial matter, however. While money and sex are fairly straightforward categories, cultures are notoriously subjective and amorphous. There is no simple way of delineating cultures, no simple way of deciding how culture and identity inform and constrain individual choice and, most importantly, no simple way of deciding who belongs to which culture – as opposed to income group and sex. Because of these difficulties, most modern political philosophers (not just liberals) have been reluctant to defend culture as a reason for differential treatment.

The typically liberal approach to cultures is to conceive of them as voluntary associations, which means emphasizing the subjective and self-ascriptive nature of cultural identity. This is how John Locke (2003: 219f) once described congregations and this is how liberals

have tended to think of all other groups that mediate the relation between state and citizen. The reasons are obvious. If cultures are voluntary associations between individuals, they are no business of the state. And, if cultures are analogous to voluntary associations, they are compatible with the liberal insistence on personal autonomy and can be assessed accordingly. Indeed, the existence of a rich diversity of such cultures facilitates social mobility and free choice since it offers a large variety of lifestyles to choose and (perhaps) combine (Raz 1986: 369ff).

While this may be a valid approximation of some lifestyle cultures – veganism, goth, Falun Gong, and so on – it misrepresents the deeper cultural diversity that also characterizes plural societies. We do not *choose* in the proper meaning of the term to be raised as Muslims, Turkish-Germans or Basques. It is a choice that is made for us, not by us. Such cultures are better conceived as involuntary organizations that we enter by birth, not choice, and that to varying degrees shape and mould us into what we grow up to be (Walzer 2004: 44ff; Jones 2006). A more serious attempt to unpack the black box of culture is noticeable from the 1980s. This ‘cultural turn’ was initiated by the so-called communitarians in the late 1970s and 1980s, many of whom became influential multiculturalists in the 1990s and after. Simplified, the communitarian thesis emphasizes the social and cultural contingency of personal identity, and the ontological (and normative) priority of the community over the individual (cf. Taylor 1985; Sandel 1982). Communitarians rarely concretized what the term community refers to, but it was mostly assumed to be a *national* community with a fairly homogeneous culture.

The multicultural challenge echoes and builds on the communitarian conception of culture and its implications for personal identity and politics, although from a much more pluralist viewpoint. While the communitarian critique targeted a liberal ignorance of the importance of community and cultural homogeneity, the multicultural critique uses similar ontological premises for very different normative purposes – diversification, pluralism and protection of minorities. Differential treatment is an empirical recognition of the importance of culture and the diversity of cultures in modern societies, and it is a normative prescription in favour of state-sanctioned protection of such diversity. If the wearing of religious symbols is vital to cultural identity, then exemptions should be made to secular dress codes. If official bilingualism is fundamental to the cultural preservation of a minority nation, then public education should be provided in two

languages. If group representation is crucial to cater to the special needs of minorities, then preferential treatment should be applied to marginalized, powerless groups. Such recommendations presuppose a replacement of equal treatment for differential treatment.

Questions remain, however: What is a culture? Which fundamental human values are contingent on cultural belonging? And how should individuals be matched with cultures? The following section examines three attempts to answer these questions.

The justification of culture

The early debate on multiculturalism was a more or less direct confrontation between communitarian insights on culture and identity on the one hand, and liberal principles of individual autonomy and state neutrality on the other. Initially, the multicultural challenge took the shape of an external critique of liberalism. Gradually, however, the focus shifted from the question ‘what’s wrong with liberalism?’ to ‘how and why should liberalism accommodate cultural diversity?’ The shift of focus marks a steady convergence of multicultural and liberal agendas, but also a relative relocation of the debate from the boundaries to the heart of liberal theory (cf. Kymlicka 2002: 336ff).

This section examines liberalism’s internal struggle with the multicultural challenge. On the one hand liberals have come to recognize that cultures constitute part of the framework of ideals and norms that help define people’s conception of the good, of what it means to lead a meaningful and prosperous life. On the other hand liberals worry that protection of cultures works as a collectivist restraint on individual freedom that imposes limits on social mobility and free choice. The following three arguments represent different attempts to alleviate this tension.

IN DEFENCE OF AUTONOMY

The first argument in support of incorporating culture into the liberal equation of freedom and equality is filtered through the traditional liberal emphasis on personal autonomy. Cultural embeddedness is a precondition for autonomy, according to this thesis, because it confers meaning to the choices people make. The development and practice of autonomy is endogenous to cultures and anyone who values the former must also be concerned with the latter (see

Kymlicka 1989 and 1995; Miller 1995; Raz 1994 and 1998; Tamir 1993).

Among the best-known proponents of this position is Will Kymlicka (1989, 1995) who has sought to reconcile mainstream liberalism with a theory of cultural rights. Kymlicka departs from the conception of 'societal culture', by which he means a 'vocabulary' of traditions and conventions as well as the language that perpetuates them. These vocabularies make up the context within which passions and interests, convictions and goals, develop and become worthwhile pursuing (cf. Dworkin 1985: 228ff). They include common memories, values, institutions and customs that permeate most areas of human interaction, for instance schools, the media, the economy and public administration. Due to the comprehensive character of these cultures it is virtually impossible for anyone to fully take part in public and social life without sharing the key tenets of the culture (Kymlicka 1995: 84ff).

Kymlicka's justification of societal cultures is based on their instrumental value for autonomy. It is not the culture as such that should be protected and preserved but the functions it fulfils for the realization of autonomy. He describes societal cultures as 'contexts of choice' that enable autonomous lives. It follows that the state should protect societal cultures from decay. In the case of national majority cultures, no special means are required and the principle of state neutrality should prevail. But in the case of minority cultures preservation often requires specific, group-based cultural (that is, differential) rights. Just like social rights serve to compensate for economic inequality and keep the latter from engendering political inequality, cultural rights serve to compensate for inequalities between majority and minorities by assuring the latter some degree of protection through specific cultural resources.

This means that the ultimate purpose of differential rights is to achieve greater equality between cultures which supposedly leads to greater equality of opportunities for individuals of different cultures; the purpose is not to preserve any particular culture for the sake of its uniqueness and inherent value. In Kymlicka's opinion, there is no contradiction between the protection of endangered societal cultures and the endorsement of liberal rights because most minorities seek empowerment and liberal emancipation through their culture, not seclusion from mainstream society. He contends that it is important to ensure that the external protection of cultures through differential rights does not entail internal restrictions of individual rights.

Accordingly, internal unity and homogeneity must not be achieved at the expense of basic liberal rights such as freedom of belief and expression (Kymlicka 1995: Ch. 3). Again, the value of societal cultures is contingent on their significance for personal autonomy and free choice, not the other way around. This means that rights protecting internal dissent must trump those protecting the integrity of the culture.

Because of its entrenchment in the concept of societal culture, Kymlicka's theory of cultural rights provides a strong defence for some groups and virtually no defence for others. It applies primarily to minority nations, such as Quebec, Scotland, Catalonia and the Basque Country, and to indigenous populations, such as the Indians and Inuits of North America, the Maori of New Zealand, the Aborigines of Australia and the Sami of Scandinavia. Both types of minorities have (rightful) claims to a particular territory and tend to be geographically concentrated, which of course facilitates cultural reproduction. The existence and widespread use of a minority language is an especially salient and persuasive manifestation of cultural distinctness.

Conversely, Kymlicka's theory offers few if any cultural rights to immigrated (ethnic) minorities. His justification for this combines normative and empirical reasons. Unlike minority nations and indigenous groups, the position of immigrant minorities is not the result of colonization and forced annihilation but of voluntary choice – more or less – which makes any claim to self-determination or cultural protection weaker. Furthermore, and more importantly, since ethnic minorities do not have and are unlikely to establish societal cultures, their members' safest way to personal autonomy goes via access to (assimilation into) the mainstream national culture. Such assimilation is not to be lamented as long as ethnic minorities are allowed and able to maintain bits and pieces of their original culture in the form of hyphenated, hybrid identities (Kymlicka 1995: 96ff).

An additional and possibly more profound restriction derives from the emphasis placed on autonomy as a justifying condition for cultural protection. This emphasis implies that only minorities that embrace personal autonomy and its associated values – individualism, self-sufficiency, independence – are eligible for differential group rights. Only minorities that are internally liberal in a way similar to mainstream society deserve external protection. On this view, several indigenous groups may be ruled out since cultural protection would imply preservation of traditional ways of life in which

patriarchy, monotheism and subordination to authoritarian leaders are key elements. For the same reason it may rule out deeply religious minorities that live in seclusion from mainstream society, for instance Hasidic Jews, Amish and Mennonite Christians, and Salafist Muslims (Kymlicka 1995: Ch. 8).

Given these caveats, Kymlicka's theory of cultural rights offers significantly less protection for minorities than he claims. His cultural rights are premised on conditions that seem to have a much more assimilating influence on minorities than he is willing to admit (cf. Patten 1999). The equality between societal cultures, which is the ultimate aim of differential treatment in Kymlicka's theory, presupposes internal liberalization/modernization of conservative and traditional groups. What are preserved, then, are the boundaries of the group, not its distinctiveness and authenticity. Put differently, while the group maintains a considerable degree of autonomy, it is likely to wind up losing its defining cultural traits.

IN DEFENCE OF DIGNITY

The second argument for the protection of minority cultures is based on the connection between culture and dignity. It stresses the comprehensive nature of societal cultures and their importance for personal identity. Public recognition of such cultures is essential for people's dignity and self-esteem, according to this thesis, because it is an affirmation of the beliefs, values, customs and traditions that define people for themselves and others. Cultural protection, then, is both a question of preserving cultures through differential rights and of affirming their equal value through public visibility and recognition (Galeotti 2002; Margalit and Halbertal 1994; Margalit and Raz 1990; Taylor 1994; Tully 1995; Young 1990).

My reconstruction of this position focuses mainly on two articles (Taylor 1994; Margalit and Halbertal 1994). Both depart from a conception of culture which is more explicitly communitarian than Kymlicka's. The right to culture, Margalit and Halbertal argue, is not a right to just any culture that can release the individual's potential for autonomous action. It is the right to one's own culture; a culture which is intertwined with self-perception, personal identity, self-esteem and dignity. The philosophical underpinnings of this position can be traced to Herder and Hegel, and have in contemporary philosophy been applied to multiculturalism by Charles Taylor and Axel Honneth. Taylor's influential essay 'The politics of recognition'

(1994) examined the connection between personal identity and culture. It conceived of culture as an expression of authenticity and originality that reflects the unique experiences and history of a group of people. The culture is a source of identification that helps members define who they are in relation to one another and the world. Cultures develop dialogically in a complex interplay with 'significant others', by which distinct notions of difference emerge and are maintained. Such dialogue is a constantly ongoing although historically contingent process. It presupposes interaction with other cultures because without it there can be no contrast and distinction, no reflection of originality and authenticity, indeed no sense of a *We* (Taylor 1994: 31ff).

Taylor's main concern is not the preservation of cultures but the recognition of personal identities. Unlike Kymlicka, however, Taylor's theory builds on a holistic approach that does not lend itself to instrumentalism. Culture is inextricably linked to personal identity, which means that recognition of the person requires recognition of his or her culture. Conversely, the withholding of recognition amounts to a form of oppression because it constitutes a denial or rejection of the defining traits that make people into who they are – a deprivation of their authenticity (Taylor 1994: 36). In a similar way, Margalit and Raz (1990: 447ff) declare that cultural belonging is important because it has a 'high social profile'. It affects how people perceive and treat one another, and as such it plays an important role in how personal identities are shaped. This signifies that a people's self-respect is contingent on how their culture is esteemed by others. Therefore, 'the right to culture' is synonymous with 'the right to secure one's own personal identity' (Margalit and Raz 1990: 502).

Securing the cultural survival of minorities requires a non-neutral state that actively supports vulnerable cultures. The purpose of such support, however, is not just to provide minorities with secure access to a culture but to secure the survival of minority cultures 'as they are'. Unlike Kymlicka, proponents of this position are not indifferent to the internal transformation (liberalization) of such cultures because survival implies preservation of authentic cultural traits rather than just the cohesion of its adherents. Arguably this enhances the state's responsibility for restoring and conserving endangered cultures, approximating what might somewhat provocatively be described as the role of the curator. It is a role that markedly supercedes that of merely protecting groups from the external forces of assimilation.

Does this mean that recognition of cultural authenticity is a conservative enterprise? Not necessarily. Conservation or progression is of secondary importance to the recognition of cultural identities. Taylor's defence of recognition is couched in emancipatory terms. His main focus is public visibility and the inclusion of marginalized, discriminated or ostracized groups – say, homosexuals and the Roma. But the argument lends itself just as easily to the claims of conservative minorities which seek isolation from mainstream society in order to be able to preserve their traditional customs and beliefs. For instance, Margalit and Halbertal defend public protection through seclusion of Ultra-Orthodox Jews in Israel because of the need to preserve personal identities. Their way of life is not sustainable in mainstream Israeli society and everything they do is dictated by a stern religious doctrine that derives from the Torah. The state's recognition of this way of life means assisting the group in its self-inflicted isolation (Margalit and Halbertal 1994).

Justifying culture in the interests of securing personal identity and dignity constitutes a challenge to the liberal emphasis on the primacy of the individual before the collective. In Kymlicka's theory of cultural rights, the collective serves individual ends, or at least collective ends compatible with individual ends. In the communitarian approach of Taylor and others, the order of priorities is less clear cut since individual and collective ends are entangled in a way that makes them indistinguishable from one another. This has problematic normative implications for a liberal theory of cultural rights. Is every practice that contributes to the preservation of an authentic cultural identity legitimate? If not, where should the line between tolerable and intolerable practices be drawn? And how should such a line be justified if the criterion of personal autonomy is ruled out?

Neither Taylor nor Margalit and Halbertal offer answers to such questions, although the latter makes a passing reference to the Millian harm principle (Margalit and Halbertal 1994: 498). Other liberals have suggested a softer conception of personal autonomy: if a particular way of life is endorsed by members of the group, it does not constitute a violation of individual rights even if it presupposes gender inequality, strict obedience of internal authorities and other illiberal norms (Spinner 1994; Spinner-Halev 2000). The criterion of voluntary endorsement seems insufficient in enclosed and secluded communities where contact with the outside world is limited and the social costs of dissent may be unbearable or insurmountable,

especially for women and children (cf. Arneson and Shapiro 1996; Okin 2005; Fernández 2010).

The recognition argument for cultural rights supports a wide array of potential claims. From a liberal viewpoint the most compelling are ones subsuming the discriminated and marginalized minorities where recognition means inclusion and empowerment without assimilation. The most difficult cases, on the other hand, are ones implicating the deeply conservative groups which overtly reject basic liberal values. At the same time, it is precisely to the latter that Taylor's and Margalit and Halbertal's communitarian conception of culture is most applicable. Not many people in modern societies are as reliant on a comprehensive culture for personal identification as Ultra-Orthodox Jews. In most cases, to be properly recognized as an authentic subject involves a more individualized process in which minorities and majorities alike combine and revise their cultural attachments rather than compete to maintain just one of them. In such cases, recognition of groups employing Taylor's conception – to dig out and affirm the cultural identity that makes people into what they really are – is an inadequate strategy. It applies an implicitly monolithic, essentialist notion of culture to individuals who have several cultural attachments and multiple identities (cf. Appiah 1994: 155f; Benhabib 2002: 61–4).

IN DEFENCE OF VOLUNTARISM

The third argument for the protection of cultural minorities is libertarian and probably the most permissive of cultural diversity. Its point of departure is a minimalist conception of the state, whose role is to intervene as little as possible in the private lives of citizens, and to impose as few conditions as possible on people's ways of organizing themselves. It defends cultural diversity on the basis of voluntarism and anti-paternalism, not of an assumed right to culture (Kukhatas 1992; cf. Galston 1995 and 2002; Gray 2000; Stolzenberg 1993).

My account of the voluntarist position relies primarily on an influential article by Chandran Kukhatas (1992). It does not advocate group rights or state-sanctioned protection of endangered or marginalized cultures but instead is grounded on a neutral conception of the state. In this sense, Kukhatas is not a multicultural theorist. Nonetheless, his minimalist state and laissez-faire liberal society offer more leeway for deep-seated cultural diversity than any of the previous positions we have reviewed. This is not a mere side-effect of his

libertarian agenda but a principled defence of toleration in the widest possible sense. Although Kukhatas repudiates the need for group rights, his primary concern is the ability of cultural minorities to preserve their ways of life to the best of their abilities. In this respect he is a multicultural theorist, or at least a liberal with far-reaching multicultural concerns.

Kukhatas emphasizes the fluid and contingent character of cultural groups. 'Groups are constantly forming and dissolving in response to political and institutional circumstances,' he argues, which means that they 'do not exist prior to or independently of legal and political institutions but are themselves given shape by those institutions' (Kukhatas 1992: 110). This makes for a less rigid and essentialist understanding of culture than Taylor or Margalit and Halbertal. Kukhatas stresses the fundamental importance of external incentives and constraints that influence which particular group traits become salient and defining in particular contexts, as well as internal heterogeneity that often creates tensions within the group. This does not mean that cultures are unimportant but that they cannot be treated as given, homogeneous entities with coherent, uniform interests. The problem with cultural rights, then, is that they help construct and reconstruct what they are supposed to preserve; they forge homogeneity where there is heterogeneity.

Kukhatas' conception of the relation between individuals, cultures and legal-political contexts leads to a defence of the classical liberal view of cultures as voluntary associations. The protection of cultures is best achieved through a strong right to *freedom of association*. Kukhatas avoids making primordialist assumptions about cultures and group identities – for him, cultures are whatever their adherents want them to be. This position appears to offer little protection to minorities since the preservation of cultures becomes a private enterprise without support from public authorities. In Kukhatas' view, however, this privatization is a form of protection because it liberates the group from the assimilating conditions that accompany public support and differential treatment. Thus conceived, the individual right to free association 'gives a great deal of authority to cultural communities' because it 'does not require them to be communities of any particular kind' (Kukhatas 1992: 117). It confers on members of the group the right to protect whatever practices and beliefs they deem necessary for the preservation of their way of life and identity, regardless of whether they are compatible with the liberal values of mainstream society.

Viewing cultural groups as private and voluntary associations implies a default understanding of membership as freely consented by individual members. While this allows for a less deterministic conception of culture, it implies other problems for liberal theory. The voluntariness of cultural membership is best interpreted as a metaphor, according to Kukhatas, because it is rarely freely chosen and rarely granted to outsiders. It is voluntary, however, in so far as every member is free to leave the group – to terminate membership; as long as members do not leave they are presumed to be content with their membership (Kukhatas 1992: 116). This is the default understanding upon which Kukhatas' accommodation of cultural diversity rests. It is not difficult to see how this private freedom of cultural groups may lead to grave limitations on the rights of members, limitations that the state would have to interpret as freely consented and therefore it would be obliged to tolerate. It may command the state to tolerate deeply illiberal practices such as clitoridectomy and denial of basic education to children, or just girls. In the case of children, individual protection seems non-existent; in Kukhatas' society of 'voluntary associations' their fate is entirely in the hands of parents. This parental right is only restricted by a (vaguely formulated) prohibition against direct physical harm.

Kukhatas' vision of the liberal society is a society of semi-autonomous cultural communities. What is legally recognized in such a society is the individual right to free association (Kukhatas 1992: 126), although this right amounts to a *de facto* recognition of groups. The only thing that guards individual liberty in this society and protects individuals against the cultural community's potential abuse of power and repression is the exit option (cf. Kukhatas 1992: 133). Kukhatas recognizes the importance of the right to exit, but he devotes little attention to what the necessary conditions for exit should be. The formal right and actual ability to exit may be very different in the secluded, non-transparent communities that his tolerant libertarian state must permit. According to him, the 'most important condition which makes possible a substantive freedom to exit from a community is the existence of a wider society that is open to individuals wishing to leave their local groups' (Kukhatas 1992: 134). But if the existence of an open yet passive mainstream society is the only barrier standing in the way of cultural communities turning into radical sects, there seem to be good reasons for liberals to be sceptical of Kukhatas' theory. In sum, it offers much freedom of manoeuvre to elites and political

leaders of illiberal minorities, but little to the ordinary people who for one reason or another might wish to exit (see Barry 2002; Fernández 2010; Okin 2005; Spinner-Halev 2000).

Conclusion

Is there a place in liberal societies for extending differential treatment on the basis of culture? It depends on who you ask. In this chapter I have focused on two affirmative answers and one negative, although all three of them share a concern for cultural minorities and the value of group identities. It should be noted that not all liberals share this concern. The three positions I have reviewed are noteworthy in that each struggles with the tensions between recognition of the individual and the group, between individual liberty and collective autonomy, and between social mobility and the preservation of different ways of life. These are tensions that characterize a typically liberal take on differential treatment.

Kymlicka's solution builds on the belief that the tensions are exaggerated, that the two sides can be reconciled and that most claims for differential treatment are claims for personal autonomy. Taylor's solution has a more communitarian bent and builds on the belief that the tensions themselves are deceptive since all values – even personal autonomy – reflect and reproduce a certain conception of culture and community. Kukhatas' solution, finally, recognizes the tensions but rejects the idea that liberal societies have to consist of people who cherish individual liberty and other basic liberal values.

My assessment of the three positions has dealt with the normative implications of differential treatment on the basis of culture. My focus on liberal philosophy is motivated by liberalism's central place in contemporary political philosophy. But this centrality is not limited to philosophy; it applies to politics and society as well. People across the West live in capitalist, liberal-democratic, post-industrial, diverse, hybrid and highly individualized societies that are imbued with liberal values and liberal culture. To a large extent people throughout the West lead 'liberal lives' which revolve around the pursuit of personal autonomy, self-realization, voluntary affiliations and relations, and upward social mobility. Liberalism, then, is as much a reflection of an existing society as it is a normative theory about how that society should be organized and governed (cf. Taylor 1985; Walzer 1990). To reject liberalism implies much more than merely voting for a socialist or conservative party; it means rejecting

a standard and mainstream way of life altogether. Multiculturalism's most valuable contributions to political philosophy, I believe, have to do with this realization.

The multicultural challenge has successfully exposed the conflation of mainstream culture with liberal culture, of state neutrality with liberal values and of diversity with individualism. It has revealed the pervasive and assimilating effects of liberal culture. It has also made political theorists aware of the costs associated with denouncing or resisting liberalism for the sake of alternative, non-liberal ways of life. It is obvious that the principle of equal treatment can sometimes disadvantage minorities in deeply divided societies and, conversely, that measures of differential treatment can protect such minorities from being acculturated, assimilated or marginalized. But the extent to which such measures can be justified on liberal grounds remains contested. Is a society that permits arranged marriages and religious indoctrination through home schooling still a liberal society? Is a society that defends the individual liberties of most but not all of its citizens still a liberal society? Such questions have no simple answers. We may have to accept that the room for genuine cultural diversity is bound to be limited in the liberal society – just like in any other society – and that some ways of life are bound to be favoured over others, notwithstanding the intended neutrality of the state.

The 'easy' cases of diversity, on the other hand, are ones in which differential rights are a temporary means to overcome discrimination or past injustices. That is, they represent cases where the end goal is integration into mainstream, liberal society rather than protection from it. The challenge of multiculturalism in such cases is not how to establish a *modus vivendi* among alternative ways of life, but how to combat discrimination against minorities which want to lead liberal lives, participate in mainstream society and want to belong. These cases are 'easy' inasmuch as they do not contest the idea of liberal society as such, 'only' its imperfect political realization. Does this distinction between difficult and easy cases tell us anything about the alleged demise of multiculturalism? To answer this question I wish to propose a somewhat provocative and tentative thesis.

The early European multicultural policies of the 1970s and 1980s – which were not multicultural in any elaborated sense – were modelled on the easy cases of diversity. They departed from the benign and slightly naïve assumption that most if not all minorities want integration, and from the implicit assumption that cultural differences represent minor, private differences. Whatever problems

arose from increasing (immigrant) diversity, such as discrimination, marginalization and social inequality, could be solved through more effective means of integration and tolerance.

From the 1990s on conceptions of diversity have drastically changed. Policies on cultural diversity are increasingly modelled on the difficult cases, as evidenced by debates on parallel societies, enclavization and ghettoization. These debates, which focus on minorities that allegedly do not want to be a part of society, have changed the conceptual frame of policy as well as understandings of multiculturalism. Even though most minorities continue to be 'easy' cases, they tend now to be perceived as 'difficult' ones, especially Muslims and immigrants from the Middle East. This is noticeable in political philosophy as the focus has shifted to the relation between individual liberty and cultural diversity, the necessary limits of liberal toleration and the distinctions between liberal and illiberal values. It is also discernible in political practice, evidenced in the conflation of liberal with Western society.

This shift is partly a consequence of the multicultural challenge, I suggest, because the challenge has brought about a greater awareness of the importance of cultural identity, the pervasiveness of such identities, and the religious and ethnic undertones of Western liberalism. Indirectly it has pointed out the difficulties of integration and the fallacy of assuming that people are more or less 'all the same'. The success of multiculturalism has been to show that what is normally called integration really means assimilation, and that assimilation is an unjust demand that causes real harm. This is also one of the reasons for the disenchantment with multiculturalism in Europe, I believe: it has led decision-makers and opinion-makers to think of cultural diversity as a threat to public unity and the liberal way of life. Although liberalism was always based on the accommodation of religious and other forms of diversity, it is nowadays conceived as incompatible with the beliefs and practices of many minorities. In this sense – but only in this sense – the *twilight* of multiculturalism derives from the *success* of multiculturalism.

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